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

IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
DIVISION FOR THE PURPOSE OF
CONSIDERING:
Case No. 24683

HEARING
DATE: Friday, October 24, 2025
TIME: 9:00 a.m.
BEFORE: Hearing Officer Felicia Orth
LOCATION: Pecos Hall
Wendell Chino Building
1220 South St. Francis Drive
Santa Fe, NM 87505
REPORTED BY: Ryan Auten
JOB NO.: 7626628

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A P P E A R A N C E S

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

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

ON BEHALF OF OIL CONSERVATION COMMISSION COUNSEL:

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ALSO PRESENT:

Allison Marks, SLO Witness (by videoconference)
Anthony Harris, EMNRD (by videoconference)
Calder Ezzell, IPANM Witness (by videoconference)
Madai Corral, EMNRD (by videoconference)
Loren Diede, OCD Witness (by videoconference)
Douglas Emerick, NMOGA Witness (by
videoconference)
Phillip Goetze, EMNRD (by videoconference)
Brittany Hall, EMNRD (by videoconference)
Andrea Felix, NMOGA Witness (by videoconference)
Clay Arrington, Public Attendee (by
videoconference)
Kyrie Buffa, Public Attendee (by videoconference)
Gregory Chakalian, EMNRD (by videoconference)

1 A P P E A R A N C E S (Cont'd)

2 ALSO PRESENT:

3 Gabrielle Gerholt, Public Attendee (by
4 videoconference)

5 Maegan McGowen, Public Attendee (by
6 videoconference)

7 Rachael Ketchledge, Public Attendee (by
8 videoconference)

9 Gerasimos Razatos, EMNRD (by videoconference)

10 Rosa Romero, OCD witness (by videoconference)

11 Benjamin Shelton, Public Attendee (by
12 videoconference)

13 Cory Smith, Public Attendee (by videoconference)

14 Tiffany Wallace, OXY Witness (by videoconference)

15 Albert Chang, Director (by videoconference)

16 Felicia Orth, OCC Hearing Officer (by
17 videoconference)

18 William Ampomah, OCC Council (by videoconference)

19 Greg Bloom, Commissioner (by videoconference)

20 Sheila Apodaca, Commission Clerk (by
21 videoconference)

22 Nicholas Maxwell, Sunshine Audit Inspector (by
23 videoconference)

24 Mikah Thomas, Public Attendee (by
25 videoconference)

1 A P P E A R A N C E S (Cont'd)

2 ALSO PRESENT:

3 Christine Gerbode, Public Attendee (by
4 videoconference)

5 Dean McClure, EMNRD (by videoconference)

6 Ellen Dueweke, Public Attendee (by
7 videoconference)

8 Erica Gordan, EMNRD (by videoconference)

9 John Garcia, EMNRD (by videoconference)

10 Joseph Thompson, Public Attendee (by
11 videoconference)

12 Justin Wrinkle, OCD Witness (by videoconference)

13 Kelley A. Montgomery, OXY Witness (by
14 videoconference)

15 Michael Buchanan, EMNRD (by videoconference)

16 Robert Mathes, Public Attendee (by
17 videoconference)

18 Sarah Clelland, EMNRD (by videoconference)

19 Shanna Smith, EMNRD (by videoconference)

20 Stacy Sandoval, EMNRD (by videoconference)

21 Zachary Pavlik, Public Attendee (by
22 videoconference)

23 Robert Wright, Public Attendee (by
24 videoconference)

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

ALSO PRESENT:

Shannon Baxter, Public Attendee (by
videoconference)

Charles Goodmacher, Public Attendee (by
videoconference)

Kenneth Brennan, Edgewood Mayor (by
videoconference)

Leo Lermuseaux, Public Attendee (by
videoconference)

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I N D E X

WITNESS(ES):	DX	CX	RDX	RCX
ROSA ROMERO				
By Mr. Tremaine	22			
By Mr. Suazo		37		
By Ms. Tripp		47		
By Mr. Rankin		77		
By Mr. Nykiel		108		
By Mr. Tremaine			111	
JUSTIN WRINKLE				
By Mr. Hall	120			
By Ms. Tripp		134		
By Mr. Suazo		169		
By Mr. Rankin		184		
By Mr. Hall			203	
BRANDON POWELL				
By Mr. Tremaine	206			

1	E X H I B I T S		
2	NO.	DESCRIPTION	ID/EVD
3	Case 24683:		
4	Exhibit 7	Justin Wrinkle Direct	121/121
5	Exhibit 8	Resume of Justin Wrinkle	121/121
6	Exhibit 9	Visual Aid of Justin Wrinkle	121/121
7	Exhibit 10	Direct Testimony of	
8		Rosa Romero	22/119
9	Exhibit 11	Resume of Rosa Romero	23/119
10	Exhibit 12	Visual Aid of Rosa Romero	23/119
11	Exhibit 13	Visual Aid Justin Wrinkle	207/
12	Exhibit 14	Powell CV	207/
13	Exhibit 15	Brandon Powell Slides	207/
14	Exhibit 16	Active Well Production Report	
15		FY 24	207/
16	Exhibit 17	Master Orphan Spreadsheet	
17		070225	208/
18	Exhibit 18	ALFC 062425 Item 4 Policy	
19		Spotlight Orphaned Wells	208/
20	Exhibit 19	OCD LFC Report Comparison	208/
21	Exhibit 21	Inactive Well List with ACOI	
22		Excluded TA Excluded 080825	209/
23	Exhibit 22	Inactive Well List with ACOI	
24		Included TA Excluded 080825	209/
25			

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E X H I B I T S (Cont'd)

NO.	DESCRIPTION	ID/EVD
Case 24683:		
Exhibit 23	Inactive Well List with TA	
	Included ACOI Excluded 080825	209/
Exhibit 24	ACOI List	209/
Exhibit 28.A	Photograph	24/119
Exhibit 28.B	BRC Maderna 1 - After	24/119
Exhibit 28.C	Double L Queen - Before	24/119
Exhibit 28.D	Double L Queen - During	24/119
Exhibit 28.E	Double L Queen - After	24/119
Exhibit 28.F	Cano TB	24/119
Exhibit 28.G	Reed Estate - During	24/119
Exhibit 29	Financial Assurance Report	209/
Exhibit 30	Rebuttal Testimony of Brandon	
	Powell	209/
Exhibit 31	Powell Rebuttal Slides	209/

1 P R O C E E D I N G S

2 THE HEARING OFFICER: Good morning. My
3 name is Felicia Orth, hearing officer appointed by the
4 Oil Conservation Commission to conduct a hearing in
5 OCC 24683 relating to wells and financial assurance.
6 We're on day five of the hearing and we have come to
7 our eighth opportunity for public comment.

8 Just a few things about public comment.
9 I will ask you to spell your first and last name. I
10 will ask you to swear or affirm that you will tell the
11 truth pursuant to commission rules, and I will ask you
12 to keep your oral comments to three minutes.

13 You may submit comments of any length
14 in writing to Sheila Apodaca, the commission
15 administrator if the oral comment opportunity is not
16 sufficiently long for you.

17 Let's see. This morning, can we start
18 with Robert Wright?

19 Mr. Wright, can you unmute yourself?
20 You may have to press control shift M.

21 MR. WRIGHT: Hey, can you hear me?

22 THE HEARING OFFICER: Ah, yes. Now I
23 can. Would you spell your first and last name please?

24 MR. WRIGHT: Robert, R-O-B-E-R-T
25 Wright, W-R-I-G-H-T.

1 WHEREUPON,

2 ROBERT WRIGHT,

3 called as a witness and having been first duly sworn
4 to tell the truth, the whole truth, and nothing but
5 the truth, was examined and testified as follows:

6 THE HEARING OFFICER: Thank you. I'll
7 start your time.

8 MR. WRIGHT: Thank you for allowing me
9 to attend this meeting. My wife and I moved to New
10 Mexico three years ago as she has major family
11 relationships here. Some of the family settled in New
12 Mexico before statehood. We care about the state and
13 its future. About my background, I graduated from the
14 Colorado School of Mines, worked for Mobil Oil as a
15 petroleum engineer and then earned an MBA at Columbia
16 University.

17 I worked on Wall Street as an
18 investment banker dealing with the energy industry.
19 I -- and I was involved with mergers, acquisitions,
20 corporate financing for the industry. I represented a
21 number of oil companies in California, Texas, New
22 Mexico, Colorado, and Wyoming. Following my
23 investment banking career, I ran a small oil and gas
24 company with operations in Wyoming and Colorado. When
25 gas prices fell, we could not operate with existing

1 regulations, severance tax, and operating expenses.
2 We were forced to cease operations.

3 Recently I've been involved with New
4 Mexico oil and gas companies in the reclamation of
5 produced water. We have the ability to clean produced
6 water to the level that can be used in agriculture.
7 As New Mexico is a water deficit state, this would be
8 benefit -- could benefit from the reclamation of this
9 water and lessen the deficit issue.

10 The oil and gas industry is critical to
11 our nation's economy and security. New Mexico being
12 the second largest oil producer is an important player
13 in dealing with the nation's energy needs.

14 Importantly, the state's education is dependent on
15 funding the oil industry. With the state's education
16 being ranked 50th, the state is now more dependent on
17 the industry to assist in improving our children's
18 performance. Without satisfactory education, the
19 state cannot, will not, be able to expand and attract
20 future businesses such as artificial intelligence.

21 Also, AI uses large quantities of water
22 and retained produced water could attract this
23 industry. The proposed regulation would materially
24 negative impact the industry. This regulation could
25 damage the state's ability to fund its education needs

1 and future growth. I urge you to oppose this
2 regulation, thereby saving the state from a potential
3 economic disaster. Thank you.

4 THE HEARING OFFICER: Thank you, Mr.
5 Wright.

6 Charles Goodmacher?

7 Sheila, I think the screen might have
8 frozen.

9 MS. APODACA: And I don't see
10 Charles Goodmacher on the platform yet.

11 THE HEARING OFFICER: All right, you're
12 going to Shannon Baxter next.

13 Hello?

14 MS. BAXTER: Good morning.

15 THE HEARING OFFICER: Good morning.
16 Would you spell your first and last name please?

17 MS. BAXTER: Yes, ma'am. Thank you
18 commissioners. My name is Shannon Baxter,
19 S-H-A-N-N-O-N B-A-X-T-E-R.

20 WHEREUPON,

21 SHANNON BAXTER,
22 called as a witness and having been first duly sworn
23 to tell the truth, the whole truth, and nothing but
24 the truth, was examined and testified as follows:

25 THE HEARING OFFICER: I'll start your

1 time. Thank you.

2 MS. BAXTER: Thank you. I am a 40 year
3 resident of New Mexico. I chose to move here from
4 Maryland to attend graduate school at New Mexico
5 Highlands University. I fell in love with New Mexico
6 the moment I crossed our state line. I have chosen
7 this place as my home and I married a native New
8 Mexican hot air balloon pilot and we raised our family
9 in Albuquerque. I even convinced my parents and my
10 brother to move here.

11 My dad fell in love with Silver City
12 and he opened a small shop on Bullard Street while my
13 mom worked at the Gila Regional Medical Center. They
14 lived there happily for many years. I'm retired from
15 state government and during my tenure I saw firsthand
16 how much revenue the oil and gas industry provides to
17 New Mexico. After retirement, I chose to become
18 involved in education for a number of years. Again, I
19 saw the effects of oil and gas revenue because it
20 provided opportunities for our students in education.

21 As we continue our attempts to improve
22 low reading and math scores through various programs,
23 and additionally, with the advent of free early
24 childhood education, we will continue to need strong
25 revenues to support these endeavors and to lift up our

1 New Mexican children and improve future outcomes.
2 Onerous regulations that affect the revenue stream
3 from small and large oil and gas producers directly
4 impact our ability to improve the lives of our
5 youngest New Mexicans.

6 I ask each of you for your support in
7 limiting regulation and encouraging continued revenue
8 streams to ensure the future progress of our children.
9 Thank you for your time this morning.

10 THE HEARING OFFICER: Thank you, Ms.
11 Baxter.

12 Do we have Karen Bowler on the
13 platform? Karen Bowler.

14 Sheila?

15 MS. APODACA: I believe she signed up
16 for the afternoon session.

17 THE HEARING OFFICER: Oh, all right.
18 Is there anyone else on the platform who would like to
19 offer public comment at this session? Our next
20 session is at four o'clock. If you have called in,
21 you can raise your virtual hand by pushing star five.

22 All right. And I don't see anyone in
23 the room here to offer public comment. So let's
24 return to the technical case. Again, our next public
25 comment session is at four o'clock today.

1 So Mr. Tremaine or Mr. Hall, are we
2 calling Ms. Romero next?

3 MR. TREMAINE: Yes, we are,
4 Madam Hearing Officer.

5 THE HEARING OFFICER: Okay. Terrific.

6 MR. TREMAINE: Good morning everyone.
7 Madam Hearing Officer, Commission. Again, this is
8 Jesse Tremaine for the Oil Conservation Division.
9 Happy Friday. And this OCD calls Rosa Romero. As
10 hearing officer, I'd also like to have permission to
11 screen share the visual aid for Ms. Romero, and I'll
12 endeavor not to take us on any more Windows Paint
13 excursions.

14 THE HEARING OFFICER: All right, thank
15 you very much. And I forgot to mention, I see
16 Commissioner Bloom on the platform. So we have all
17 commissioners here with us.

18 Ms. Romero, would you please spell your
19 first and last name?

20 THE WITNESS: Good morning. Name is
21 Rosa Romero, R-O-S-A. Last name R-O-M-E-R-O.

22 //

23 //

24 //

25 //

1 WHEREUPON,

2 ROSA ROMERO,

3 called as a witness and having been first duly sworn
4 to tell the truth, the whole truth, and nothing but
5 the truth, was examined and testified as follows:

6 THE HEARING OFFICER: Thank you very
7 much.

8 Go ahead, Mr. Tremaine.

9 DIRECT EXAMINATION

10 BY MR. TREMAINE:

11 MR. TREMAINE: Good morning, Ms.
12 Romero. Could you please tell the Commission what
13 your position and job is with the OCD?

14 THE WITNESS: Yes, my name's
15 Rosa Romero, again. I am the environmental bureau
16 chief here at OCD.

17 MR. TREMAINE: And in preparation for
18 this hearing, did you prepare direct written testimony
19 which is labeled as OCD Exhibit No. 10?

20 (Exhibit 10 was marked for
21 identification.)

22 THE WITNESS: Yes.

23 MR. TREMAINE: And did you also prepare
24 your resume, which is labeled as OCD Exhibit No. 11?

25 //

1 (Exhibit 11 is marked for
2 identification.)

3 THE WITNESS: Yes.

4 MR. TREMAINE: And a visual
5 demonstration or demonstrative aid PowerPoint
6 presentation labeled Exhibit No. 12?

7 (Exhibit 12 is marked for
8 identification.)

9 THE WITNESS: Yes.

10 MR. TREMAINE: Did you also provide
11 copies of records you relied upon in preparation of
12 your direct testimony and visual aid, including a
13 spreadsheet labeled, "Well production," including
14 release as Exhibit No. 20?

15 (Exhibit 20 was marked for
16 identification.)

17 THE WITNESS: Yes.

18 MR. TREMAINE: And a revised initial
19 grant performance report that you relied upon in
20 reference labeled Exhibit No. 26?

21 (Exhibit 26 was marked for
22 identification.)

23 THE WITNESS: Yes.

24 MR. TREMAINE: Did you also provide a
25 copy of document titled, "Implementation of Digital

1 C141," which you relied upon labeled Exhibit No. 27?

2 (Exhibit 27 was marked for
3 identification.)

4 THE WITNESS: Yes.

5 MR. TREMAINE: And did you provide full
6 size copies of photographs referred to in your
7 demonstrative aid and testimony labeled Exhibits 28 A
8 through G?

9 (Exhibit 28.A through Exhibit 28.G were
10 marked for identification.)

11 THE WITNESS: Yes.

12 MR. TREMAINE: Okay. Are there any
13 corrections that you need to make to your direct
14 testimony?

15 THE WITNESS: I do have one
16 clarification. On page two, on line six, it --
17 "release air." That was supposed to read, "Release
18 contaminants to air."

19 MR. TREMAINE: Thank you. This
20 morning, do you adopt -- strike that.

21 All of the exhibits that I previously
22 mentioned, are they true and accurate incorporating
23 that correction to the best of your knowledge?

24 THE WITNESS: Yes.

25 MR. TREMAINE: And do you adopt your

1 direct written -- direct testimony as your testimony
2 here today?

3 THE WITNESS: I do.

4 MR. TREMAINE: And are you prepared to
5 provide a summary of your testimony for the
6 commission?

7 THE WITNESS: I am.

8 MR. TREMAINE: Please proceed. I am
9 sharing on screen visual aid OCD Exhibit No. 12. THE
10 WITNESS, please indicate when you'd like me to switch
11 screens sign.

12 THE WITNESS: Okay, let's go ahead and
13 start with the next screen. So, OCD Environmental
14 Bureau reviewed the proposed rule in consideration of
15 how the rule will affect or benefit environmental
16 goals, which are to reduce contamination and -- and
17 how it would affect environmental operations.

18 So I did this overview based on data
19 and based on my experience here at OCD for the last
20 three years. These are programs that -- that are
21 related. Mostly the orphan well project.

22 Next slide please. So what I used for
23 this data was fiscal years '23 through '25 for orphan
24 well costs for projects completed under Environmental
25 Bureau's oversight. Plugging has gone on for

1 significantly longer. We've heard some testimony that
2 alludes to that. I don't know exactly how long it's
3 been gone on, but we really didn't begin our big
4 environmental projects until we received federal grant
5 money in 2023.

6 So estimates for wellbore plugging, it
7 does not encompass environmental costs. These are
8 costs that are entirely separate from that program.

9 Next slide please. A couple of
10 definitions I've included. As stated, the other
11 exhibit, the C141 guidance document was published in
12 2023. That guidance document was -- included most of
13 these definitions. I just wanted to clarify because
14 sometimes we do use things like remediation and
15 reclamation interchangeably. And so just wanted to
16 specify what we're referring to. And so that guidance
17 document is included as part of those formal
18 definitions.

19 Remediation, when I'm referring to it,
20 is more about the cleanup of the contamination. I've
21 got a visual aid here just kind of showing -- you can
22 see the large staining in aerial photos. That is the
23 contamination that we cleaned up in the second picture
24 where the contamination is gone.

25 Next slide, please. Contrast to that,

1 we also talk about reclamation. Reclamation is
2 usually about what's going on on the surface of the
3 site. Sometimes that includes the removal of sludge,
4 deconstruction of equipment, surface equipment,
5 salvaging of equipment. Really sometimes this is for
6 sites that we're -- we're starting, but we haven't
7 done the complete remediation on. So we haven't gone
8 to the full extent of finding all the contamination.
9 But there was a need to act in order to alleviate the
10 immediate public health risk.

11 As you can see from this photo sludge
12 on the ground, we do want to eliminate those risks.
13 And so sometimes those immediate actions take place
14 before the full remediation happens.

15 Next slide please. So this is cost
16 overview. OCD does not have a significant amount of
17 data. As I said, we just started this project in
18 2023. We did start with some of our larger sites.
19 These sites are in no way routine. They're large
20 sites. They are costly sites. And this again, is for
21 environmental cost only. As you can see, I did kind
22 of calculate an average here. I did exclude the Cano
23 Tank Battery from that average just based on the fact
24 that that that particular site has not completed
25 complete remediation.

1 We only did surface work on that
2 particular site. But between the two larger sites
3 that we did complete, we average about 126 per yard
4 for soil and contamination that's been removed.

5 Next slide please. As you can see
6 here, the reason we started with the large sites was
7 because of additional public health risk. The Reed
8 Estate had groundwater between 50 and 100, but there
9 was a surface playa north of it within 100 feet of the
10 release. The Double L Queen also pictured here, had
11 groundwater at less than 50 feet, was considered a
12 high cost area. And this is the reason that OCD
13 started with some of these larger sites was to
14 mitigate some of those risk factors.

15 Obviously, that's not enough data for
16 statistical analysis. I just want to give the
17 commission an idea of what cost looks like for some of
18 these sites that -- that OCD is -- ends up under
19 oversight.

20 Next slide please. And this is
21 another example of a site we did surface reclamation
22 only. Since we've started this project, we've
23 reclaimed a little over 650,000 square feet of -- of
24 acres, acreage. About 15 acres total. Most well
25 sites are about one acre per well bath site. This

1 particular example, as you can see from the photos,
2 was very close to town. We had reports of kids
3 playing on the equipment. And so we felt it necessary
4 to at least do the surface reclamation to ensure
5 safety.

6 So for some of these sites that we've
7 done surface reclamation only on them, the average
8 cost per site is about 36,000 plus. We've got five or
9 six well sites included on this. And -- and when I
10 say these sites have been cleaned up, this doesn't
11 account for associated facilities. Things like tank
12 batteries or -- or lines. Sometimes there's miles and
13 miles of lines that we end up cleaning up from these
14 sites that -- that are included in that.

15 In the direct testimony, I've gone into
16 a lot more detail on the specific actions we've taken
17 on these sites for the commission's understanding
18 of -- of the work that we've done as far as -- as what
19 the site cleanup on. So even on a site where we're
20 doing just basic surface reclamation and -- and some
21 investigation, we're looking at about \$36,000.

22 Next slide please. So this data does
23 not -- I know this slide -- I'm going to start with
24 explaining kind of how -- what I did with -- with our
25 data. I pulled and I had our -- our IT pull from our

1 permitting system 2024 data. The reason I -- it was
2 an arbitrary decision, 2024, just being the most
3 recent complete year. I'm going to see a little bit
4 of differences between what John pulled because I
5 believe he did fiscal year. We did not coordinate
6 before. We did our -- our evaluations entirely
7 separately. So I just want to highlight that and keep
8 that in mind.

9 What I found is -- is when I broke
10 things out, it did not indicate that any particular
11 type of well was more or less likely to have a
12 release. We're -- we're about one in five across the
13 board. Environmental data going pre-2024, even in
14 back to about 2018, still shows about one in five.
15 That does not account for some of these scenarios
16 of -- of -- all of our data is operator reported. So
17 these are releases that have been reported by the
18 operator to OCD and that we have data for.

19 There are times when things do go
20 unreported. For example, the Reed Estate had a
21 plugging order in 2018. At that time, we received the
22 plugging order they had no releases reported. And
23 from what we saw on the previous screen, that was a
24 very large release that we had -- that -- that OCD
25 became responsible for. --, the one we did surface

1 reclamation on, the operator had four reported
2 releases, but three of those had been unresolved when
3 the plugging order took place.

4 The Double L Queen site, the large site
5 that we started with with the aerial footprint had
6 been an unreported site. And so I'm not making the
7 claim that any one type of well is going to have any
8 more. I am going to go to some more detail looking at
9 strictly marginal -- marginal wells just because that
10 is what we are looking at as part of this rulemaking.
11 But I am not making the claim that one is going to be
12 more likely to have a release than another.

13 Next slide please. So again, I -- I
14 pulled BOE for the year 2024. That was just my
15 decision looking at this independently. I compared
16 this with all of our environmental data. So not just
17 data from 2024. The -- what I was really doing is the
18 burden for -- burden for mediation would fall towards
19 OCD in certain examples. And so I was trying to kind
20 of make a consideration for what -- what that could
21 possibly look like. If -- if these were -- wells were
22 abandoned, what would that look like to our
23 Environmental Bureau?

24 So again, unresolved unreported
25 incidents that have nothing to do with this. So as

1 you can see from the data on the left, this is total
2 incidents by production. So the data on the -- the
3 right on the left graph is 900 to a little over 1,000.
4 So I kind of went a little over what the rule said
5 just on the basis of those wells could feasibly go
6 either way. They could increase production and I
7 would never see anything to do with them. Or the --
8 so as you can see, the oldest, the lowest producing
9 wells are the ones that we have the most incidents on.

10 So that's between 0 and 299 BOE for the
11 year 2024. Those had the most incidents on them.
12 More important to that though is probably the graph on
13 the second -- the second graph here. That second
14 graph actually shows that out of those incidents, the
15 operations takes care of most of them historically,
16 but there's still a significant number of them that
17 remain outstanding. In other words, under OCD rule,
18 under a part 29, cleanup is supposed to happen within
19 a certain timeframe. This is showing that those have
20 remained active beyond those -- those timeframes. And
21 so those incidents have been -- remained unresolved.

22 And so those lowest producing sites are
23 the ones that we see issues with. This is important
24 to me, important to Enviro, because even -- again,
25 we're not talking associated facilities with these

1 wells. We're not talking any additional financial
2 assurance being associated with these releases. But
3 even with 1,000 sites that Environmental could end up
4 with at \$36,000 per site, that's \$35 million.

5 Next slide please. The reason this is
6 important to me is because some of these sites, the
7 lack of revenue of inactive sites just leaves some of
8 these operators more likely to walk away from these
9 sites. We're not necessarily saying that smaller
10 operators are going to be example more prone to any of
11 these issues, but there is some financial instability
12 there. And if you're looking at a -- you know my
13 examples of what we've seen so far, if you're looking
14 at a \$10 million site and you don't have \$10 million
15 of -- of -- on inactive wells that are not producing
16 and not making any revenue.

17 Next slide, please. To continue on
18 that, I want to give kind of an outline of how OCD
19 environmental handles noncompliance. So in these
20 cases, typically we reach out to operators and notify
21 them of outstanding issues that we find. Sometimes
22 they respond, sometimes they don't. If -- if we don't
23 get resolution informally, then -- then the process
24 would move to a notice of a violation. Notice of
25 violation would then go through our legal process.

1 Oftentimes that all is several meetings back and forth
2 with legal and with technical to address any concerns.

3 Our only real identifiable option is to
4 either docket this for hearing or that the NOV is --
5 is settled with an admission of the violations and --
6 and a way to perform remediation either by the
7 operator or at times that we've seen by OCD. This is
8 a pattern that we see for most NOVs, but more
9 specifically a pattern we regularly see with smaller
10 and midsize operators.

11 Next slide, please. Now I realize this
12 is anecdotal, but this is a realistic example of the
13 type of conversations that Environmental is having
14 when attempting to enforce and to gain compliance on
15 some of these environmental issues. This is a
16 redacted email that I received that -- that disclosed
17 basically the operator throwing their hands up saying
18 that, "We don't have the money to complete all the
19 remediation projects that are -- that are listed on --
20 on the NOV. What do we do about it?"

21 And so this leaves Environmental trying
22 to negotiate ways to gain remediation through --
23 through our processes with operators that don't have
24 the capital to do so.

25 Next slide, please. Like I said, I

1 realize that's highly anecdotal, but this is a common
2 conversation that I've had when trying to -- sometimes
3 after the NOV, but sometimes even before the NOV when
4 we're informally trying to resolve these issues.
5 This, to me -- the biggest thing here to me is that
6 this rule is not changing any part of environmental
7 permitting, environmental financial assurance, any
8 portion of that.

9 But to me this is putting some of that
10 obligation back on to these operators to both do the
11 due diligence associated with obtaining these wells as
12 well as planning for the inevitable closure of the
13 wells as well as some of the environmental costs
14 associated with that. With that being said, you know,
15 none of this is well bond amounts that we've -- we've
16 evaluated for this rule. That's -- that's not me.

17 I didn't evaluate any of those. But on
18 to some extent if OCD is better able to get costs
19 associated back with those operations, there will be
20 more leftover in the rec fund to be able to compensate
21 for some of the remediation and reclamation processes
22 that we have.

23 Next slide please. This has kind of
24 been said multiple times. This data is both from our
25 initial grant report, which is attached, as well as

1 from the LSC report, which we've also talked some
2 extent. This is just indicating another risk factor
3 associated with wells that have been abandoned.
4 Methane leaks in over 60 percent from both reports.
5 They -- they encompass different dates and different
6 amounts of wells, but we all know methane contaminates
7 groundwater and can pose long term environmental
8 health risks.

9 One more slide. So there -- to me
10 there is benefit. There's also a lot of assistance on
11 where we're going to spend this funding. So we have
12 limited funding for environmental impacts. Recovering
13 costs with financial assurance to me is a benefit to
14 Enviro based on having more funding available for
15 these very costly environmental cleanups.

16 As I said, these are not statistical
17 and they're maybe not always what we're going to see,
18 but they are costly enough that they do deserve some
19 consideration and are -- these costs do serve New
20 Mexico as a way to prevent public health -- or to
21 promote public health and accountability. Thank you

22 MR. TREMAINE: Madam Hearing Officer,
23 that concludes Ms. Romero's summary of her direct
24 testimony. We do not offer rebuttal or surrebuttal
25 through this witness. So at this time I would move

1 admission of OCD Exhibits 10, 11, 12, 20, 26, 27, and
2 28 A through G. And I would offer the witness for
3 cross-examination.

4 THE HEARING OFFICER: Thank you,
5 Mr. Hearing Examiner.

6 Ms. Tripp?

7 MS. TRIPP: Yes, ma'am. So we would
8 object to the graphs in the slides. We've not had a
9 chance to cross-examine Ms. Romero about the source of
10 that data and how it was promulgated. And so if we
11 could reserve that objection and conclusion until
12 after her testimony is complete.

13 THE HEARING OFFICER: All right, I will
14 take up the admission of exhibits once cross-exam is
15 over. Are you going to begin our questioning,
16 Ms. Tripp?

17 MS. TRIPP: I believe Mr. Suazo --

18 MR. SUAZO: We'll start with cross,
19 Madam Hearing Officer.

20 THE HEARING OFFICER: Go ahead,
21 Mr. Suazo.

22 CROSS-EXAMINATION

23 BY MR. SUAZO:

24 MR. SUAZO: Ms. Romero, good morning.

25 THE WITNESS: Good morning.

1 MR. SUAZO: You said you're the
2 environmental bureau chief at OCD; correct?

3 THE WITNESS: Yes.

4 MR. SUAZO: And your background's
5 environmental science, water resources. Not petroleum
6 engineering or economics. Is that accurate?

7 THE WITNESS: That is accurate.

8 MR. SUAZO: And just to confirm the
9 scope of your testimony, it's limited to environmental
10 compliance and cleanup projects. You're not opining
11 on statutory authority or bonding; correct?

12 THE WITNESS: I am not.

13 MR. SUAZO: Okay. Let's talk a little
14 bit about some of the case studies that you brought
15 up. You testified about the Reed Estate and the
16 Double L Queen Tank Battery Projects, which had costs
17 between five and \$7 million; correct?

18 THE WITNESS: I did.

19 MR. SUAZO: Okay. But you also cited
20 the Artesia Metex and the BRC Madera, which cost a
21 fraction of that; right?

22 THE WITNESS: I did.

23 MR. SUAZO: And those costs were more
24 in the tens of thousands of dollars; correct?

25 THE WITNESS: Yes. To specify this is

1 the difference between remediation costs and
2 reclamation costs.

3 MR. SUAZO: Sure. So I guess the
4 average cost figure of \$6.37 million per site in your
5 slides is driven by two, what I guess you could
6 consider extreme outliers. Is that accurate?

7 THE WITNESS: It's the data that we
8 have available. Again, we have not done as many of
9 these sites as I would like, but --

10 MR. SUAZO: Sure.

11 THE WITNESS: -- that -- those are the
12 sites that I had data on.

13 MR. SUAZO: Okay. But you're just
14 showing those as the extreme end of how expensive
15 these sites could be compared to what they typically
16 are?

17 THE WITNESS: Could be. Not
18 necessarily typically be. The reclamation sites, for
19 example, are the minimum. That is the -- the sites
20 that we did the bare minimum on. We did surface
21 reclamation, we did a little bit of salvage, but these
22 are sites that did not go into the detail of, you
23 know, digging and hauling and some of the -- the
24 sampling and all of the stuff that is included with
25 reclamation. I'm sorry, remediation.

1 And so the reclamation portion, those
2 lower end sites are -- are the bare minimum sites and
3 these bigger sites are where we did everything.

4 MR. SUAZO: But I guess I just want to
5 make sure that I get the correct takeaway from your
6 testimony and your slides. And that is that most of
7 these sites to remediate or reclaim costs far less
8 than six point whatever million dollars. Right?

9 THE WITNESS: My testimony is that that
10 can be highly variable and that we really don't know
11 until you start doing cleanup.

12 MR. SUAZO: But you would still say
13 that 6 million, 7 million, that's an outlier type of
14 project.

15 THE WITNESS: I'm saying that we have a
16 very small sample size, so I don't think we can really
17 determine what an average -- an accurate average would
18 be.

19 MR. SUAZO: Okay, that's fair. Moving
20 on, well, I think you said that roughly one in five
21 well sites report some sort of release regardless of
22 what type of well they are; correct?

23 THE WITNESS: Yes.

24 MR. SUAZO: So that means that, you
25 know, marginal wells are not necessarily a source of

1 release problems. It can be high production wells
2 also; correct?

3 THE WITNESS: One in five regardless.
4 Yes.

5 MR. SUAZO: And just to confirm what
6 you said, you testified that current OCD remediation
7 projects are often at sites where there was no release
8 reported; right?

9 THE WITNESS: This example sites, the
10 sites that we do have statistics for were, unreported
11 sites.

12 MR. SUAZO: Well, I guess my question
13 is, compliance with OCD's rules and enforcement
14 depends on whether or not the operator reports those
15 releases. Is that correct?

16 THE WITNESS: I -- I really can't
17 speculate on things that have not been reported. I --
18 I am tied to what has been reported to OCD.

19 MR. SUAZO: Okay. Now you said
20 non-compliance is a predictor of orphaning and
21 essentially, I guess as I understood your testimony,
22 that's based on examples of small operators who failed
23 to respond to NOV's Is that correct?

24 THE WITNESS: That has to do more --
25 yes. It's -- it's to NOV's primarily. What we're

1 looking at is -- is if we've notified an operator that
2 they have an issue and they're responding that they're
3 not able to resolve their issues.

4 MR. SUAZO: Okay. And just to be
5 clear, the division is not -- or I guess applicants
6 have not proposed changes to OCD rules to assist with
7 remediation and reclamation projects. Right?

8 THE WITNESS: None of this rule affects
9 anything in the spill rule. It -- there's no
10 financial assurance associated with any changes to
11 environmental programs.

12 MR. SUAZO: Right. And so the purpose
13 of your testimony in this proceeding is to show that
14 these are other associated costs that pertain to well
15 sites. And if these rules that are not related to
16 remediation and reclamation or past that OCD will have
17 more funds to deal with the issues you face. Is that
18 a fair characterization?

19 THE WITNESS: Yes.

20 MR. SUAZO: I want to understand.
21 Earlier you said that you did not begin certain
22 reclamation projects until after you had received
23 federal funds. Can you help me understand that a
24 little bit better?

25 THE WITNESS: I -- prior to twenty -- I

1 received this position in 2022. It was my
2 understanding that most of our additional reclamation
3 funds had been being used on plugging. That --
4 Brandon may be able to allude to more details on that,
5 but we received grant funding in 2023, and that is
6 when we started these environmental projects.

7 MR. SUAZO: Okay. So it's your
8 understanding that OCD was not performing remediation
9 and reclamation projects because they didn't have the
10 funds and were needing federal funds? I just want to
11 understand what the --

12 THE WITNESS: I didn't -- I was not a
13 part of that program at that time, so.

14 MR. SUAZO: Okay. I can save that
15 question for Mr. Powell. Let's go back to the Double
16 L Queen and the Reed Estate. Those were, I guess,
17 essentially legacy or historic contamination sites.
18 Correct?

19 THE WITNESS: We'd have to define
20 historic or legacy. As they were unreported, I cannot
21 say when -- when they happened or how long they'd been
22 there.

23 MR. SUAZO: So you don't know if those
24 incidents at those two sites occurred prior to the
25 current OCD rules being in effect?

1 THE WITNESS: I could not say. Again,
2 we are reliant on operators to report them and they
3 had not been reported, so I could not say.

4 MR. SUAZO: Has OCD conducted a
5 statewide study of the average remediation costs for
6 operator managed sites?

7 THE WITNESS: I am not that -- not that
8 I'm aware of.

9 MR. SUAZO: Okay. Is that something
10 that you think would be useful?

11 THE WITNESS: I am tied to using our
12 statewide purchasing agreement. If operations had
13 costs that they can present, I would be happy to look
14 at them, but their costs are always going to be
15 slightly different than ours.

16 MR. SUAZO: Okay. In your slides and
17 in your testimony, you did not present any data
18 showing how often operators complete reclamation
19 successfully without OCD involvement; correct?

20 THE WITNESS: If we can bring up the --
21 the side by side slide, I can kind of explain a little
22 bit better.

23 MR. SUAZO: Okay. Can you tell us
24 which slide you want us to pull up?

25 THE WITNESS: Let me -- I want say it's

1 either nine or ten. Hold on actually, slide eleven.
2 Okay. Just as an example. And again, this is -- this
3 is strictly looking at lower producing wells. On the
4 right we have total incidents. That's -- that's a
5 total number. So it looks like about 1500. I'm
6 sorry, on the left.

7 On the right we have active incidents
8 meaning unresolved. 600 or so. And so you guys can
9 kind of do the math here. So for these particular
10 ones that, you know, 600 are unresolved, the rest of
11 them were taken care of by operations.

12 MR. SUAZO: But that's just what OCD
13 knows about, I guess? I mean, I know operators are
14 required to report releases above a certain threshold
15 and they're classified as major and minor and so
16 forth. But do you know whether operators clean up
17 their own spills and then not report it?

18 THE WITNESS: Anything over five
19 barrels should be reported to OCD. So even if the
20 cleanup is happening, that would be not in compliance
21 with OCD rules.

22 MR. SUAZO: Okay.

23 THE WITNESS: Anything under five
24 barrels, they should be cleaning up. Those would --
25 are not reported. So I could not -- I mean, they are

1 technically supposed to clean them up, but I could not
2 testify to any of that as that's not something that
3 would be reported to us.

4 MR. SUAZO: Okay. So I mean it sounds
5 like there's some data gaps, but that's a helpful
6 explanation. Let me ask you this because I know that
7 funding for reclamation and restoration projects is an
8 issue. And in your view, these rules would help free
9 up funds to do the work that you're tasked with at
10 OCD. Are you actively pursuing any other sources of
11 funds to address remediation and reclamation efforts
12 through the division?

13 THE WITNESS: Not that I am personally
14 doing or that I'm aware of.

15 MR. SUAZO: Okay. And I guess my last
16 question is, with respect to the well sites that you
17 discussed in your testimony, do you know what
18 financial assurances were in place for those sites?

19 THE WITNESS: I am not the bond
20 administrator. I do not.

21 MR. SUAZO: Madam Hearing Officer, no
22 further questions for Ms. Romero. Thank you for your
23 time.

24 THE HEARING OFFICER: Thank you,
25 Mr. Suazo.

1 Ms. Tripp, will you be going next?

2 MS. TRIPP: Yes, Madam Hearing Officer.

3 CROSS-EXAMINATION

4 BY MS. TRIPP:

5 MS. TRIPP: Ms. Romero, can you hear me
6 okay?

7 THE WITNESS: Yes.

8 MS. TRIPP: Just want to make sure I
9 can get through the process. Okay. And so thank you
10 again for being here. We appreciate your time and
11 your expertise. I'm an attorney for the Independent
12 Petroleum Association of New Mexico. And so I'm going
13 to ask you a couple questions about your testimony and
14 your slide that we've been provided with.

15 And I'll try to avoid the areas that
16 Mr. Suazo's already covered. So I think I'd like to
17 just start with your slides. And it's probably
18 easiest for me to share my screen as we go through so
19 we are both looking at the same thing. If I could get
20 that permission?

21 Okay. Ms. Romero, are you looking at
22 these? Let me scroll to the very top so we are on the
23 same one. This is OCD Exhibit 12. Is that what you
24 see on your screen?

25 THE WITNESS: Yes.

1 MS. TRIPP: Okay. Apologize as we move
2 through. First in terms of the remediation data that
3 you pulled for projects years fiscal year '23 to '25.
4 With respect to OCD project costs; what does that
5 refer to?

6 THE WITNESS: This is just the Orphan
7 Well Project. I -- this is for strictly the
8 remediation and reclamation projects. This does not
9 include OCD staff or anything to that extent. Just
10 the -- the funding that was spent on these project --
11 large projects.

12 MS. TRIPP: And who gathers those
13 numbers? And where did they come from?

14 THE WITNESS: That is OCD environmental
15 numbers. They are all --all of these invoices are
16 public information. The last page of my testimony,
17 the direct testimony actually, I included a graph that
18 has all of those numbers drawn out specifically.

19 MS. TRIPP: Okay. And so the numbers
20 are from invoices that OCD is contracting with
21 environmental reclamation or remediation services?

22 THE WITNESS: Yes.

23 MS. TRIPP: And are those costs subject
24 to the statewide price agreement?

25 THE WITNESS: Yes.

1 MS. TRIPP: And so in your role, do you
2 review those invoices and approve them?

3 THE WITNESS: To some extent, yes.

4 MS. TRIPP: Can you expand on that?
5 What do you mean by to some extent?

6 THE WITNESS: I'm not always picking
7 which fund they come out of or getting approval for,
8 but I am the one typically requesting funds and my
9 staff and I are the ones reviewing invoices that come
10 in and referring them to our financial people.

11 MS. TRIPP: Okay. And when you review
12 those invoices, typically what things are you looking
13 at?

14 THE WITNESS: That they comply with
15 statewide price agreement.

16 MS. TRIPP: And so you most likely have
17 a much better understanding of how the statewide price
18 agreement works. Can you expand on or explain that?

19 THE WITNESS: Vendors -- most of these
20 contractors in -- in short become vendors that are
21 listed on the price agreement. Costs are set by that
22 price agreement. For example, a trucking -- a truck
23 or a professional is going to be paid at the rate
24 listed on the price agreement. And so any bids that
25 we receive, we review to have to reflect those costs

1 associated that are -- that are already listed on the
2 price agreement.

3 MS. TRIPP: And so to distinguish it
4 from other sort of state procurement projects where
5 it's a single project and you have several contractors
6 submit bids to complete the entire project. You know,
7 soup to nuts. Start to finish. The statewide price
8 agreement actually specifies the line item costs. Is
9 that right?

10 THE WITNESS: Line item costs are
11 listed on there, but we also do get bids from multiple
12 associated contractors.

13 MS. TRIPP: And are you familiar with
14 where those contractors are located in the state of
15 New Mexico?

16 THE WITNESS: I'm sorry?

17 MS. TRIPP: Where the contractors that
18 are performing these services under the statewide
19 price agreement; where they're located?

20 THE WITNESS: I am not sure. Like
21 physically located?

22 MS. TRIPP: Yes, ma'am.

23 THE WITNESS: Like a base of
24 operations? Is that what you're asking?

25 MS. TRIPP: Yes, that's correct.

1 THE WITNESS: Okay. Variable places.
2 We -- I believe there may be even a couple of
3 nationwide places, but most of them seem to be New
4 Mexico based.

5 MS. TRIPP: Are there any provisions
6 under the statewide price agreement where you're
7 picking contractors that are more local or
8 geographically closer to the area of remediation or
9 reclamation that's going to be performed?

10 THE WITNESS: I'm not sure if that is
11 written specifically. We prefer to pick closer just
12 for sort of cost savings purposes.

13 MS. TRIPP: And so is that within your
14 discretion as the environmental bureau chief?

15 THE WITNESS: We do look at that when
16 we are looking at bids, yes.

17 MS. TRIPP: But your area of review is
18 limited to the reclamation or remediation process that
19 comes after the plugging of the well. These aren't
20 bid all together; is that correct?

21 THE WITNESS: No, they're not bid
22 together.

23 MS. TRIPP: And so in the slide number
24 six of Exhibit 12, the real world project examples.
25 So the Reed Estate. The Reed Estate was a well; is

1 that correct?

2 THE WITNESS: It was a well.

3 MS. TRIPP: Okay. And then the Double
4 L Queen tank and the Cano tank battery, those were
5 both tank batteries; is that right?

6 THE WITNESS: Yes.

7 MS. TRIPP: Okay. And you said in the
8 graph on page six that you excluded the Cano tank
9 battery costs because those were incomplete. And this
10 orange line then represents the cost of the Double L
11 Queen, the Reed Estate and the Chuza tank battery. Am
12 I understanding that graph correctly?

13 THE WITNESS: Also not included. The
14 Chuza's also incomplete.

15 MS. TRIPP: Okay.

16 THE WITNESS: Since -- yeah. Since
17 this was created and submitted to the hearing's
18 office, we've found additional contamination at Chuza
19 and that bonding has increased by at least 1.5
20 million.

21 MS. TRIPP: And I'm sorry. Can you
22 explain what you mean --

23 THE WITNESS: I'm sorry, not bonding,
24 I'm sorry. That was my -- the -- the purchase order
25 has increased by about 1.5 million.

1 MS. TRIPP: Okay, I understand. And so
2 by average you're simply adding the 5.3 million and
3 the 7.3 million together and dividing by two. Is that
4 the process?

5 THE WITNESS: Yes.

6 MS. TRIPP: Thank you. But as you said
7 earlier, this Double L Queen and the Reed Estate are
8 somewhat extreme examples for the size of reclamation
9 or remediation required.

10 THE WITNESS: Again, this alludes to
11 mostly within my experience here at OCD. Most of the
12 sites we're not seeing are that big, whether reported
13 by operators or -- or sites that we're -- we're
14 looking at doing reclamation of remediation of them.
15 Most of them are not that large.

16 MS. TRIPP: And when you're deciding on
17 which project to start next or which needs the most
18 attention, is there a prioritization schedule that you
19 follow within the engineering department? Or I'm
20 sorry. Environmental department.

21 THE WITNESS: Could you repeat that
22 please?

23 MS. TRIPP: Yes. So with respect to --
24 so I don't know if you're familiar with this
25 legislative finance committee report. Have you seen

1 that at all?

2 THE WITNESS: Some of it, yes.

3 MS. TRIPP: Some of it. Or you've
4 heard it referenced throughout the proceeding this
5 week.

6 THE WITNESS: Yes.

7 MS. TRIPP: So within that report,
8 there's an appendix that reports prioritization
9 factors for the division in determining which wells to
10 be plugged. And immediacy. Do those same factors
11 apply to reclamation and remediation projects?

12 THE WITNESS: They would. They would.
13 We -- we do have to consider the scope of the project
14 versus the cost of the project when -- when making
15 those kind of decisions. I -- I'm not wholly
16 responsible. Those are done by the division as a
17 whole. We do have recommendations that we would send
18 to -- to the leaders in the division on that.

19 MS. TRIPP: Can you expand a little bit
20 on that process in terms of how the decision is made
21 of which well or which reclamation project is to be
22 approved?

23 THE WITNESS: Again, my recommendation
24 is what I would submit to my upper management. And --
25 and I base that probably more than engineering does or

1 equally to. I -- we do that entirely separately, but
2 I base that on risk factors, cost. Sometimes we are
3 looking at location to try and get one close to the
4 other so you're not looking at as much travel costs.

5 There's -- there's multiple factors.
6 That's why we do have to look at what the scope of
7 work is associated costs and -- and make
8 recommendations to our management.

9 MS. TRIPP: And when you refer to the
10 upper management group, who are you considering in
11 that?

12 THE WITNESS: That would be both deputy
13 directors and the director of -- of our -- of the
14 division.

15 MS. TRIPP: And so it's your testimony
16 here today that the decision made about which
17 projects, the ordering or the prioritization, that
18 happens between the deputy director and the director?
19 Am I understanding that right?

20 THE WITNESS: I would believe so.
21 Well, again, I -- I make recommendation. That doesn't
22 necessarily -- I am not always aware of how much
23 funding is available. And so that does include
24 management.

25 MS. TRIPP: And so when you talk about

1 what funding's available, do you have any -- I believe
2 in your testimony, you do refer to the reclamation
3 fund. So what's your understanding of that fund and
4 how it exists?

5 THE WITNESS: I know we have a
6 reclamation fund. It tends to -- we do a lot of our
7 plugging on that side. I know that that happens from
8 the reclamation fund. For example, some of these
9 projects that we started with federal dollars, when
10 federal dollars ran out, there were times we requested
11 funding from reclamation fund to be able to complete a
12 project.

13 But again, that -- that's not a
14 decision I make. I'm not aware of how much is in it.
15 I don't keep any of that kind of stuff. What I do is
16 make my recommendations in order to finish these
17 projects.

18 MS. TRIPP: Okay. And so you're not
19 aware of the sources that funnel into the reclamation
20 fund?

21 THE WITNESS: I am not.

22 MS. TRIPP: Okay. But you're
23 testifying today in support of the proposed rule
24 changes; is that correct?

25 THE WITNESS: I am.

1 MS. TRIPP: Okay. And so to the extent
2 that you believe there will be more funds available
3 for reclamation or remediation projects, how does the
4 proposed rule increase those funds?

5 THE WITNESS: Now -- how do I want to
6 word this? We have multiple sources of funding. We
7 all are aware of that. I am not doing a line by line
8 evaluation of the proposed changes here. A lot of
9 that is going to affect other agencies. And -- and I
10 do believe you will see a line by line from OCD in the
11 upcoming testimony.

12 It is my understanding and my
13 evaluation of this that if OCD is better able to
14 reclaim funds from a financial assurance source in
15 order to do plugging and to complete the cost of
16 plugging, some of other sources of funding that we've
17 been utilizing for plugging could be utilized to
18 complete more of these reclamation projects or
19 remediation projects.

20 MS. TRIPP: So it's your testimony that
21 the proposed rules would result in a reallocation of
22 funds within the reclamation.

23 MR. TREMAINE: Objection. Misstates
24 testimony. And I'll leave it at that.

25 THE HEARING OFFICER: Ms. Tripp?

1 MS. TRIPP: Well,
2 Madam Hearing Officer, she's testified -- in her
3 direct testimony, she states that there are impacts on
4 the reclamation fund. And in her slide summary, she
5 testified that she's in support of this rule. So I'm
6 trying to understand. Trying to put the whole picture
7 together. If this is the environmental bureau chief
8 for the division, and I would anticipate that she has
9 the expertise to make that evaluation.

10 THE HEARING OFFICER: So Mr. Tremaine,
11 she did mention the reclamation, but --

12 MR. TREMAINE: She did, but that's a
13 misstatement of her testimony. What she testified to
14 is the fact that if OCD as a whole recovers financial
15 assurance that is returned to the reclamation fund.
16 Putting more money back in the reclamation fund makes
17 more money available potentially, if appropriated, in
18 the reclamation fund. That's the entirety of what her
19 testimony stands for.

20 It's not a reallocation or a
21 repurposing of the reclamation fund. Ms. Tripp is
22 eliciting a very nuanced legal conclusion from
23 Ms. Romero. That's not appropriate. I understand the
24 underpinnings of the question, but that's not what she
25 testified to.

1 THE HEARING OFFICER: All right, so Ms.
2 Romero, if you would please avoid offering legal
3 interpretations. But if you have anything to add to
4 your earlier testimony, you can say it.

5 THE WITNESS: I believe I've answered
6 the question.

7 BY MS. TRIPP:

8 MS. TRIPP: So Ms. Romero, and I
9 understand you haven't performed a line by line
10 review, but have you discussed at least the effects of
11 the impact of the proposed rule?

12 THE WITNESS: The impact? Please
13 elaborate.

14 MS. TRIPP: The changes. Have you
15 reviewed what the changes are proposed? Either within
16 financial assurance or operator registration or
17 plugging and abandonment of wells.

18 THE WITNESS: I -- I've read the rule,
19 yes.

20 MS. TRIPP: And have you reviewed the
21 proposed rule changes?

22 THE WITNESS: I've reviewed the
23 proposed rule changes.

24 MS. TRIPP: And so is there a plan
25 within your department to implement the rule changes?

1 THE WITNESS: As I stated earlier, the
2 proposed rule changes are not changing any portion of
3 the rule that I would manage.

4 MS. TRIPP: But at page 11 of your
5 testimony, the Table A, total costs and line four on
6 page 11, you state, "Additional financial assurances
7 deter under capitalized operators." Did I read that
8 correctly?

9 THE WITNESS: Yes.

10 MS. TRIPP: And so explain to me again
11 the link there between operators and financial
12 assurances.

13 MR. TREMAINE: Asked and answered.

14 MS. TRIPP: I haven't asked that
15 question, Madam Officer.

16 THE HEARING OFFICER: Yeah, I don't
17 remember that that particular question was answered.
18 Ms. Romero?

19 THE WITNESS: It was answered a little
20 bit differently. What I'm specifically saying here is
21 that -- undercapitalize as in if -- if you don't mind,
22 can we bring it up on the screen?

23 MS. TRIPP: Yes, ma'am. Just a second.

24 THE WITNESS: Okay. Specifically what
25 I'm saying here as it relates to environmental

1 financial assurance is -- is just in a different way
2 of saying an operator should be doing their diligence
3 and obtaining their assets and preparing for
4 inevitable end of life of that well.

5 Whether financial assurance does not
6 include any environmental costs, but if they're better
7 prepared for plugging and abandoning of the well and
8 they're better prepared for the environmental
9 associated cost as well.

10 BY MS. TRIPP:

11 MS. TRIPP: Thank you. But you're not
12 offering any opinion then about the sources of funding
13 of the reclamation fund or how the proposed rules may
14 affect those sources. Is that my understanding?

15 THE WITNESS: I'm not -- I'm not
16 offering any opinion on that. I -- I -- it is outside
17 of my -- outside of my expertise.

18 MS. TRIPP: And when you're reviewing
19 the invoices that are related to the reclamation or
20 remediation projects, are you reviewing for the
21 reasonableness of those charges?

22 THE WITNESS: Yes.

23 MS. TRIPP: And would it be reasonable
24 for a contractor to charge for ten employees per diem
25 but only submit pay tickets for four employees?

1 THE WITNESS: I'm not understanding
2 exactly what you're asking.

3 MS. TRIPP: Well, the statewide price
4 agreement provides for a per diem allocation. Is that
5 correct?

6 THE WITNESS: When it's needed. That
7 doesn't necessarily mean that's -- I -- I'm not sure
8 what you're asking here.

9 MS. TRIPP: And so when you receive an
10 invoice, typically there's supplemental material with
11 that invoice; is that correct?

12 THE WITNESS: Yes.

13 MS. TRIPP: And so there are employee
14 work tickets which demonstrate which employees worked
15 which days and which hours. Is that fair? Are you
16 familiar with that?

17 THE WITNESS: At times. I'm not always
18 directly reviewing these invoices, but.

19 MS. TRIPP: Are there other members in
20 your department or division that are reviewing these
21 invoices for that?

22 THE WITNESS: Yes.

23 MS. TRIPP: And then are you approving
24 the invoices?

25 THE WITNESS: Not solely, but yes.

1 MS. TRIPP: And so if you looked at an
2 invoice that reported and charged for ten employees,
3 but work tickets were only provided for four
4 employees, would that be a reasonable charge?

5 THE WITNESS: That would be a
6 reasonable and appropriate time to ask for additional
7 information.

8 MS. TRIPP: And is there a procedure or
9 a protocol that's followed within the division in
10 terms of reviewing invoices and what steps to take?

11 THE WITNESS: We review invoices
12 according to their accuracy. If there's anything that
13 is flagged for being unable to be answered, we would
14 reach out -- back out to the -- the vendor and ask
15 additional questions to clarify.

16 MS. TRIPP: And so similar question on
17 invoices. If a remediation project was targeting --
18 was assigned for two tanks that were located within a
19 quarter mile of each other, would you be reviewing
20 mileage on each of those invoices?

21 THE WITNESS: We do have to look at
22 them separately.

23 MS. TRIPP: I agree. You have to look
24 at them --

25 THE WITNESS: Per project. Yeah, these

1 are per project. I -- I'm not really sure where we're
2 going here.

3 MS. TRIPP: Sure. So to the extent
4 that a contractor is charging 200 miles for transit
5 from their base to the reclamation site and there are
6 two reclamation sites that are located a quarter mile
7 from each other; would you be reviewing that the 200
8 mile charge is not showing up on both invoices?

9 THE WITNESS: Well, that would be an
10 appropriate time to ask, "Is this the same person
11 going to two different places? Or is this two
12 different people going to two different places?" And
13 that would just merit some additional questions. I
14 don't know.

15 MS. TRIPP: Okay. And that's why it
16 would be important to have that supplemental
17 information and to review the work tickets for the
18 specific employees. Is that correct?

19 THE WITNESS: Yes.

20 MS. TRIPP: Okay. Thank you. Okay.
21 And so I'd like to ask you some questions about OCD
22 Exhibit 12. It's page 10 and I'll share my screen.
23 And this is the chart of reported releases for
24 marginal and non marginal wells. And I think in your
25 direct testimony, you mentioned that you worked with

1 an IT person within the division to grab the
2 information or the data that's underlying this pie
3 chart. Is that correct?

4 THE WITNESS: Yes.

5 MS. TRIPP: Okay. And so when you
6 explained that IT person of what wells should be
7 considered marginal, what parameters did you give
8 that?

9 THE WITNESS: I actually used just over
10 1,000 so that I could encompass some additional
11 details. I believe the number was anything below
12 1200.

13 MS. TRIPP: So it's your testimony here
14 today that in this pie chart on page 10 of OCD Exhibit
15 12, marginal status refers to wells producing less
16 than 1200 BOE. Or I'm sorry. BOE equivalent is
17 redundant. But per year. Is that right?

18 THE WITNESS: Yeah. Can you rephrase
19 that? I -- I'm misunderstanding.

20 MS. TRIPP: Sure. So the parameters
21 that you gave your IT employee to review and create
22 this chart for a marginal well. A marginal well would
23 be defined as less than 1200 barrels of oil equivalent
24 per year. And for the year you used 2024 production
25 data.

1 THE WITNESS: Okay. This is where I
2 was misunderstanding. I had an IT person pull all
3 wells. All wells in order to compare BOE to incident
4 data. I use a filter and -- and I did under 1200 just
5 so I could encompass some additional details. And so
6 the creation of this pie chart was based on my
7 filtering of under 1200.

8 That -- again, that was just my
9 decision and ability to look at this data. Really,
10 I -- I just was generally looking to see if there was
11 any patterns. And so it is 2024 calendar year,
12 important to say, BOE data. But it is all incident
13 data. And -- and for all wells. That includes
14 whether they're marginal status or not.

15 For this particular one -- and -- and
16 when I say 1200, that is actually for the next screen.
17 For this screen we just use the 1,000. And just to --
18 to kind of get a gauge for if there was any particular
19 well that was going to have more incidents. They all
20 seem to be about average. The same.

21 MS. TRIPP: Okay. So to clarify, OCD
22 Exhibit 12, page 10 is a filter that you applied that
23 is 1,000 BOE per year. Is that right?

24 THE WITNESS: Was it -- I -- I'm sorry.
25 What page are -- we're talking about this particular

1 page; right?

2 MS. TRIPP: Same page. Yeah.

3 THE WITNESS: This particular page is -
4 - is not -- is filtered by 1,000 BOE. Yes. Some of
5 these had zero reporting. Those I included
6 separately. That included temporary and abandoned
7 wells. I included that separately and then I included
8 all other wells. And so that is -- is just navigated
9 to -- to say that one in five of all of those types of
10 wells typically has a release

11 MS. TRIPP: And just so everyone in the
12 room and the Commission understands as well as me. So
13 the data for the production is only calendar year
14 2024. But the incidents is the entire well history;
15 is that correct?

16 THE WITNESS: All reported incidents.
17 Yes.

18 MS. TRIPP: All reported incidents.
19 Thank you. All right. And to be sure here, and I'm
20 sorry if we're reviewing again and again, but there
21 was some discussion yesterday. So you've reviewed the
22 proposed rules, but you did not use the parameters in
23 the amended petition for marginal well in this
24 analysis of average of incidents.

25 THE WITNESS: In this analysis I did

1 for average of incidents. It's the next screen that
2 I -- I kind of went a little outside.

3 MS. TRIPP: Did you incorporate any
4 filter for production days to define marginal wells?

5 THE WITNESS: I did not.

6 MS. TRIPP: Okay. And you're aware
7 that the proposed definition of marginal well is a
8 well that produces less than 1000 BOE and, not or as
9 we discussed yesterday, 180 days production.

10 THE WITNESS: I am not the Excel guru
11 that Mr. Garcia is. I -- I tried to keep this as
12 simplistic as possible. When I determined that there
13 was not a significant differences in the number of
14 releases these wells are -- were having, I moved on.

15 MS. TRIPP: So all we should really
16 take from page 10 of your slides, which is Exhibit 12,
17 is that the number of reported incidents or the
18 percentage of reported incidents is relatively even
19 across all categories of wells.

20 THE WITNESS: Yes. That is all I was
21 saying here.

22 MS. TRIPP: Thank you. And so then the
23 next page, which is page 11 of your slides, this is
24 where you're referring to marginal wells. And the
25 filter that you used is less than 1200 BOE.

1 THE WITNESS: Yes. And -- and you can
2 see that, too. On the far right on the very bottom of
3 that graph will show what -- what that looks like.

4 MS. TRIPP: Okay. And I was a little
5 bit confused here. So the sub header that states,
6 "Wells with less than 1000 BOE," this chart is
7 including wells with less than 1200 BOE.

8 THE WITNESS: It does. It does. My
9 focus was mostly on the oldest of those. I'm sorry,
10 the lowest producing of those. I don't always mean
11 oldest. Those don't necessarily mean oldest, but the
12 lowest producing of those. And so while I did use
13 that filter, and maybe I a -- I probably should have
14 labeled that a little bit better. My focus was on the
15 lowest producing, which would've been the below 300.

16 MS. TRIPP: Okay. And so then I have
17 another question about labels where it says X
18 incidents, YBOE. And I would interpret that as to
19 mean that the x axis is reporting incidents and the y
20 axis, which is typically vertical, is barrels of oil
21 equivalent. Is the chart different?

22 THE WITNESS: This may --

23 MS. TRIPP: Yeah, go ahead.

24 THE WITNESS: This may have been my
25 interpretation. I -- I changed this a couple of times

1 to make it a little more visual. I -- I think those
2 may have gotten reversed. But just to be clear, the
3 zero to 1800 and -- is -- is -- what I'm referring to
4 is incidents. And the very bottom line is what I'm
5 referring to is BOE.

6 MS. TRIPP: And these are categories of
7 wells that are grouped into purely BOE output.
8 There's no consideration of days' production.

9 THE WITNESS: No. I did not use days'
10 production in this.

11 MS. TRIPP: Thank you. Actually, I
12 should have left that up on the screen, so let me pull
13 it back up. Okay. The next page of your slides,
14 non-compliance is a strong predictor of future orphan.
15 And we heard this several times throughout your direct
16 testimony. And the statement you have here in the
17 first bullet is that, "Operators who are non-compliant
18 with regulations related to site remediation or
19 reclamation are more likely to leave wells unplugged
20 and sites un reclaimed after ceasing production."

21 And did I read that bullet correctly?
22 Ms. Romero? Are we looking at the same slide?
23 Page --

24 THE WITNESS: Yes.

25 MS. TRIPP: Page 12. Page 12 of

1 Exhibit 12. Thank you. So when you say more likely,
2 was that based on any analysis of the master orphan
3 well spreadsheet? OCD Exhibit 17.

4 THE WITNESS: Not specifically.
5 Although all of the wells on the master orphan list
6 would be considered non-compliant.

7 MS. TRIPP: Yes. However, it's my
8 understanding of your testimony is that non-compliance
9 is a predictor. And so in order to be a predictor,
10 there needs to be some type of linkage or analysis.
11 And so did you review the history of those orphan
12 wells on Exhibit 17?

13 THE WITNESS: I did state on my -- my
14 testimony that this was based on my experience here at
15 OCD.

16 MS. TRIPP: Okay. And we've heard that
17 phrase a couple times throughout the proceeding. That
18 the proposed rules are based on OCD staff experience.
19 And so you stated earlier, I believe you started
20 working in 2022. And so is your opinion about a
21 predictor being -- I'm sorry. Let me restate this
22 question. Is your opinion about non-compliance being
23 a predictor based on any quantitative analysis?

24 THE WITNESS: This is based on my
25 experience and what I typically deal with when looking

1 to enforce on non-compliant operations. When -- when
2 faced with non-compliant operators, I see a very
3 typical pattern.

4 MS. TRIPP: And that pattern is based
5 on your experience from 2022 to today; is that right?

6 THE WITNESS: It is.

7 MS. TRIPP: Okay. And in developing or
8 identifying that pattern, did you review any select
9 cases? Did you, you know, make a chart of all the
10 people or all the operators you've enforced against
11 and whether their wells became orphaned?

12 THE WITNESS: I did not.

13 MS. TRIPP: Thank you. And then page
14 15 of your slides. Key points summarizing your
15 testimony. I have it highlighted here, but you state
16 that -- and it may not be a statement. I'm not sure
17 if it's a quote from your direct testimony. But here
18 it says, "The petition prevents high remediation costs
19 by encouraging compliance while operators are active."
20 Can you expand on that? How the petition, meaning the
21 proposed rules, encourages compliance among operators.

22 THE WITNESS: Encouraging wells to
23 remain active in producing usually means that there
24 are funds available to -- to counter remediation
25 costs.

1 MS. TRIPP: So operators having the
2 ability to maintain wells online and producing is an
3 important source of revenue to address remediation and
4 reclamation costs.

5 THE WITNESS: I'm saying that a source
6 of revenue and remediation costs should be part of
7 operator's business plan.

8 MS. TRIPP: Well, then maybe I should
9 back up again. So for us, you highlighted three
10 examples in your direct testimony and today during
11 these slides. And the first one was the Reed Estate
12 number one. Do you recall that?

13 THE WITNESS: I do.

14 MS. TRIPP: Okay. In preparing your
15 testimony or in that reclamation and remediation
16 project, did you review any of that well file? Or
17 that well history?

18 THE WITNESS: I -- not personally.

19 MS. TRIPP: Would it have been somebody
20 in your staff that reviewed it to then provide you
21 with this information?

22 THE WITNESS: Yes.

23 MS. TRIPP: Okay. And so you also
24 talked a bit about enforcement and compliance and the
25 OCD process in terms of issuing notices of violation.

1 Do you recall that?

2 THE WITNESS: I do.

3 MS. TRIPP: Okay. And so in picking
4 the Reed Estate number one as an example of
5 reclamation and remediation costs. You didn't look to
6 the fact that OCD actually took authority of that well
7 and plugged it in 2015.

8 THE WITNESS: Can you restate? I'm not
9 sure what you mean here.

10 MS. TRIPP: You weren't aware of the
11 fact that the Reed Estate was plugged by OCD in 2015.
12 Is is that fair? Or you were aware?

13 THE WITNESS: I was not aware.

14 MS. TRIPP: Okay.

15 THE WITNESS: I do believe the plugging
16 order was in 2018. So I -- I didn't even work at OCD
17 at that point, so I -- I don't have any information
18 for what happened in 2015.

19 MS. TRIPP: Okay. But you are familiar
20 with the notice of violation and the enforcement
21 process that the division uses?

22 THE WITNESS: Yes.

23 MS. TRIPP: Okay. And would it
24 surprise you that the first notice of violation in the
25 Reed Estate number one, I believe was in July 2008?

1 THE WITNESS: I would not. It does
2 take some time to work on these

3 MS. TRIPP: And that the next notice of
4 violation or letter of violation was issued in January
5 of 2011.

6 MR. TREMAINE: Objection. She closed
7 that door. THE WITNESS doesn't know anything about
8 the compliance history and the plugging enforcement of
9 that well. She's already testified to that. This is
10 effectively Counsel testifying.

11 THE HEARING OFFICER: I think she did
12 close that door, Ms. Tripp. Let's see. Oh, you have
13 nine minutes.

14 MS. TRIPP: Thank you,
15 Madam Hearing Officer.

16 BY MS. TRIPP:

17 MS. TRIPP: But you did state that it
18 takes some time for the division to get an operator
19 either into compliance or take authority of a well.

20 THE WITNESS: Generally.

21 MS. TRIPP: And is that timeline driven
22 by any specific regulations or rules?

23 THE WITNESS: I would say probably in
24 2015 I don't believe they had reclamation fund for
25 that, but I could not testify to that exactly. I

1 think that question would be left better to
2 Mr. Powell.

3 MS. TRIPP: What about now? Are there
4 reclamation funds available for wells that the OCD has
5 issued letters of violation or notices of violation?

6 THE WITNESS: I do not know. That
7 would be a better question for Mr. Powell.

8 MS. TRIPP: And so is the timeline
9 different when there are reclamation funds available
10 for the OCD?

11 THE WITNESS: Different for what?

12 MS. TRIPP: Different in that you say,
13 "I can't testify about what happened in 2015. I
14 wasn't there." But now you are at OCD and you've been
15 there since 2022. And so is the timeline different
16 with federal funds or with \$66.7 million in the
17 reclamation fund?

18 THE WITNESS: From what I aware -- from
19 what I am aware, our allotted rec fund dollars went to
20 mostly plugging and -- and to what extent we could do,
21 but that question is probably better left for
22 Mr. Powell to go into further detail.

23 MS. TRIPP: And just a second. I'm
24 going to check and make sure that I covered all the
25 areas that I had. I think that's all I have for you

1 today. Thank you, THE WITNESS.

2 THE HEARING OFFICER: Thank you,
3 Ms. Tripp.

4 Mr. Sayer, do you have questions of
5 Ms. Romero?

6 All right, Mr. Rankin?

7 MR. RANKIN: I do,
8 Madam Hearing Officer. It's about 10:20. Is it an
9 okay time to take a mid-morning break? Or do you want
10 me to proceed? I probably have close to my time for
11 my questions.

12 THE HEARING OFFICER: All right. Yeah,
13 no, that's fine. Let's come back at 10:35.

14 MR. RANKIN: Thank you.

15 (Off the record.)

16 THE HEARING OFFICER: Extended break.
17 Let's see. Ms. Romero was on the platform, and it is
18 Mr. Rankin's turn to ask questions.

19 CROSS-EXAMINATION

20 BY MR. RANKIN:

21 MR. RANKIN: Good morning, Ms. Romero.
22 How are you?

23 THE WITNESS: Good. Thank you for
24 asking.

25 MR. RANKIN: Good. So yeah, I'm

1 Adam Rankin. I represent Oxy in this case. And I do
2 have a couple questions for you. I'll try again not
3 to retread ground, but there are some areas that I do
4 feel I want to clarify or explore a little bit more
5 deeply with you.

6 Just to start out, I'm going to share
7 my screen and just confirm my understanding of the
8 scope of your testimony and then we'll dig in from
9 there. But my understanding is that your testimony is
10 focused on the process standards and costs associated
11 with the division's remediation and reclamation of
12 orphaned wells in the state. Is that right?

13 THE WITNESS: Yes.

14 MR. RANKIN: Okay. But as I understand
15 from your testimony that the costs associated with
16 those activities are not included in the assessment of
17 the one well plugging bond for marginal wells that's
18 being proposed under this rulemaking. Correct?

19 THE WITNESS: They're not.

20 MR. RANKIN: And isn't it true that
21 cost remediation and reclamation are not part of the
22 statutory scheme for bond financial assurance under
23 the Oil and Gas Act?

24 MR. TREMAINE: Objection. Legal
25 conclusion.

1 THE HEARING OFFICER: Ms. Romero,
2 please just remember not to offer legal
3 interpretations.

4 MR. RANKIN: I can rephrase it.

5 BY MR. RANKIN:

6 MR. RANKIN: Ms. Romero, do you have an
7 understanding that remediation or reclamation costs
8 are not included under this regulatory scope of
9 financial assurance under the Oil and Gas Act?

10 THE WITNESS: Remediation costs are not
11 identified.

12 MR. RANKIN: Okay. At the bottom of
13 the same page, you state that the division has an
14 orphan well program that's focused on plugging and
15 reclaiming abandoned oil and gas wells. And I
16 understand from your testimony that that program
17 started in 2023. Is that correct?

18 THE WITNESS: The plugging and
19 abandonment started prior to 2023. We only started
20 doing remediation programs in 2023.

21 MR. RANKIN: Right. Yeah, the
22 division's been plugging for some time. Right. Okay.
23 So you started the remediation associated with the
24 plugging in 2023?

25 THE WITNESS: Yes.

1 MR. RANKIN: Okay. So when you talk
2 about the Orphan Well Program, you're talking about
3 the reclamation and remediation aspect of the
4 plugging. Is that right?

5 THE WITNESS: Reword, please.

6 MR. RANKIN: Can we rephrase that?
7 I'm just trying to understand like -- so when you talk
8 about the Orphan Well Program, you're talking about
9 both the plugging and the reclamation and remediation.
10 But the reclamation and remediation only started in
11 2023

12 THE WITNESS: Generally, I -- I'm --
13 this is overview. The program started prior to 2023.
14 We did not start incorporating remediation programs
15 until 2023.

16 MR. RANKIN: Okay. I think that
17 clarifies it for me. And then following that
18 sentence, you say the program is funded by the Oil and
19 Gas reclamation fund and supplemented by federal
20 grants; correct?

21 THE WITNESS: Yes.

22 MR. RANKIN: And in the federal grants,
23 just so I'm clear, there has been one federal grant
24 that the division has received, which is associated
25 with the report that you submitted as part of your

1 exhibit packet.

2 THE WITNESS: There have been multiple,
3 I believe, but I -- I don't want to testify as to a
4 list or -- or -- I -- I don't actually apply for the
5 grants.

6 MR. RANKIN: Okay.

7 THE WITNESS: I just spend the money.

8 MR. RANKIN: It seems like there's
9 plenty to spend. I mean, not to spend, but to spend
10 on. So the funding here that you're referencing is
11 the Oil & Gas Reclamation Fund and then federal
12 grants. But you're not an expert on how many or how
13 far back they go. That sort of thing. Right? But
14 those are the two sources of funding that you've
15 identified for the orphan well program that you're
16 involved in; right?

17 THE WITNESS: Yes.

18 MR. RANKIN: Is the Oil and Gas
19 Reclamation Fund the primary source of funding for the
20 program?

21 THE WITNESS: Not that I have utilized.
22 As stated previously, primarily I was utilizing the
23 federal grant funds for remediation. There has been
24 some supplementing via the rec fund, but at -- at -- I
25 don't have the full cost breakdown in front of me.

1 MR. RANKIN: Okay. But you have
2 available to you both the federal grant funds and the
3 Oil and Gas Reclamation Fund to support your program
4 of reclamation and remediation. Right?

5 THE WITNESS: I believe Brandon would
6 probably be better to answer that question. I am told
7 what funding to use. I do not go out and determine
8 what funding can be used.

9 MR. RANKIN: Okay. And the reason I'm
10 asking you is because you testified that with this
11 bonding, if this financial assurance plan, if it were
12 to pass, you testified that it would make more money
13 available for you for your reclamation and remediation
14 projects; right?

15 THE WITNESS: I'm saying some --
16 there -- there's a finite amount of funding available.
17 How that is differentiated will be at the discretion
18 of -- of upper management, both the deputy director
19 and the director when that time -- when and if that
20 time comes. But at this time, I do believe we are
21 spending a significant amount for funding for plugging
22 only. And so I -- I definitely would like to see more
23 funding available for remediation and reclamation.

24 MR. RANKIN: So the money that you're
25 talking about being spent, significant funding being

1 spent, is from the Oil and Gas Reclamation Fund. And
2 that's targeting the plugging. Is that what you're
3 saying?

4 THE WITNESS: I believe so.

5 MR. RANKIN: Okay. But that's to the
6 best of your understanding. I mean, you know, all I
7 can ask of you is to tell me to the best of your
8 knowledge; right?

9 THE WITNESS: Yes.

10 MR. RANKIN: Okay. So just to kind of
11 loop back on this then. The two sources of funding,
12 two primary sources of funding or two sources of
13 funding that you're aware of for the Orphan Well
14 Program, which would include plugging as well as your
15 reclamation and remediation are the Oil and Gas
16 Reclamation Fund and then the federal grants that the
17 division has applied for and received. Right?

18 THE WITNESS: Yes.

19 MR. RANKIN: Okay. Now what about
20 redeemed plugging bonds?

21 THE WITNESS: What -- what about them?

22 MR. RANKIN: Is that not also a source
23 of funding that the division could draw on to support
24 its Orphan Well Program?

25 THE WITNESS: That -- that's probably a

1 better question for Brandon.

2 MR. RANKIN: But you didn't include
3 that in your list of sources for funding for the
4 Orphan Well Program in your testimony; correct?

5 THE WITNESS: I did not include that.

6 MR. RANKIN: Okay. And so are you
7 aware of that being a source of funding at all for the
8 Orphan Law Program currently with the division?

9 THE WITNESS: I personally can't speak
10 to that.

11 MR. RANKIN: Okay. So you don't have
12 knowledge of whether or not, or to what extent the
13 plugging bonds are being redeemed to help support the
14 Orphan Well Program. Right?

15 THE WITNESS: I do not.

16 MR. RANKIN: Okay. I mean, you're
17 pointing me to Brandon to answer those questions;
18 correct?

19 THE WITNESS: Generally, you -- you
20 know, director level would be -- would be policy
21 questions.

22 MR. RANKIN: Okay.

23 THE WITNESS: And we're still in the
24 technical details. I -- I do technical details.
25 Generally Brandon would do policy details.

1 MR. RANKIN: Okay. In your testimony,
2 you talked about the prioritization of wells and
3 facilities. And I understand from your written
4 testimony that your program -- let me rephrase that.
5 The Orphan Well Program targets or identifies
6 facilities and wells that pose the greatest threat to
7 human health and the environment. Is that right?

8 THE WITNESS: That is specifically how
9 I elected to start with the projects that I did.

10 MR. RANKIN: Yeah. I'm kind of curious
11 because I don't think it came through either in your
12 written testimony or your oral testimony; how is the
13 surface aspect of the Orphan Well Program coordinated
14 with the downhole plugging portion of the program?

15 When you choose sites to remediate and
16 reclaim, is it based off of the wells that are
17 plugged? Or do you separately identify sites that
18 require remediation reclamation without regard to
19 whether or not there's also a priority for plugging a
20 well at that location?

21 THE WITNESS: We -- the authority. An
22 order must already be in place. Typically, it doesn't
23 make a lot of sense to do the remediation prior to the
24 plugging. So we tend to follow the plugging, but
25 these sites are evaluated separately.

1 MR. RANKIN: Okay. So in other words,
2 even though it's a real high priority, maybe a real
3 high priority site that has terrible remediation
4 reclamation, it doesn't make any sense to go do that
5 site until you've got authority to plug it because you
6 want to do it after the wells already been plugged, I
7 guess. Is that right?

8 THE WITNESS: We still need the same
9 authorities.

10 MR. RANKIN: Okay. So again, the
11 division or the Orphan Well Program targets wells and
12 facilities that are the greatest threat to human
13 health and the environment. Does that also
14 indicate -- does that mean -- let me rephrase it. The
15 fact that they pose the greatest threat to human
16 health and the environment, does that also indicate
17 that they tend to be the most costly locations to
18 remediate and reclaim?

19 THE WITNESS: I don't have enough data
20 to -- to support that. I -- I don't have the data to
21 say that they -- you know, one would be more costly or
22 another. I don't have enough data for statistical
23 analysis.

24 MR. RANKIN: Okay. So is OCD actually
25 tracking that data to understand what are the

1 principle factors that are driving costs for its
2 Orphan Well Program?

3 THE WITNESS: I'm not sure what you
4 mean there. Can you rephrase, please?

5 MR. RANKIN: Well, I guess I was asking
6 you about, you know, whether the sites that are the
7 greatest threat to human health and the environment
8 are the more expensive locations. And you said that
9 you haven't done a statistical analysis to make that
10 determination.

11 And then my next question is is the
12 division tracking that information so that it could do
13 that analysis?

14 THE WITNESS: Well, considering we've
15 only done the two major sites, I -- that we of course
16 will continue to track all the sites that we
17 incorporate into this program, but.

18 MR. RANKIN: Okay. That --

19 THE WITNESS: Don't have enough to say.
20 Don't have enough to say.

21 MR. RANKIN: Okay. No, I got it.
22 That's helpful. Okay. I appreciate that. So, yeah,
23 the two sites that you're referring to are the two
24 that were in that slide that Mr. Suazo was walking
25 through with you. I think it was this one. Is that

1 right? The slide number six. Is that correct?

2 THE WITNESS: Yes.

3 MR. RANKIN: Okay. So these represent
4 all the sites, all four sites of the total that the
5 Orphan Well Program has been working on or worked on
6 for reclamation and remediation; correct?

7 THE WITNESS: These sites as well as
8 the -- there's a couple more on the -- on the list
9 there.

10 MR. RANKIN: Okay. But the only two
11 that have been completed -- and just to be clear,
12 sorry. The Double L Queen tank and then the Reed
13 Estate number one; right?

14 THE WITNESS: Yes.

15 MR. RANKIN: Okay. All right. And
16 just to be clear again. I'll go back to your
17 slideshow. Exhibit 6. All your costs that you
18 reflect on your slides and in your testimony exclude
19 all the downhole costs; correct?

20 THE WITNESS: Yes.

21 MR. RANKIN: Okay. And for each slide
22 showing the remediation costs, it would exclude any
23 reclamation costs. These are just for remediation.

24 THE WITNESS: Those do include some
25 reclamation costs. I can refer you to -- page four of

1 my direct actually kind of details specifically what
2 work occurred at those sites.

3 MR. RANKIN: And that's reclamation.
4 You testified, I believe, that reclamation is done
5 first and sometimes remediation is required after you
6 do some site characterization. So slide nine that
7 shows the reclamation costs would be just the
8 reclamation costs; right?

9 THE WITNESS: Yes. Some of these sites
10 might still need some remediation. These were sites
11 that -- that, you know, the examples that I used, I
12 think on the previous page. You know, there -- there
13 was a need to salvage equipment prior to doing any
14 remediation. So this is the average cost for
15 reclamation of some of those things only.

16 MR. RANKIN: All right. Very good.
17 I'm going to move on to slide ten here where Ms. Tripp
18 was asking you some questions about the data. So this
19 one, I think you answered one of my questions, is that
20 this is just 2024 data; correct?

21 THE WITNESS: This is for releases. I
22 pulled all OCD data.

23 MR. RANKIN: All OOC data. Okay. So
24 this slide, this is all OCD data. Okay. So the pie
25 graph is all OCD data; right? Correct?

1 THE WITNESS: Yes.

2 MR. RANKIN: Okay. Now, and I'm sorry,
3 I don't mean to retread this, but I just want to make
4 sure the record is very clear. So the category that
5 you have here that identifies marginal wells, I
6 understood you just -- and I'm going to ask you this
7 because the record wasn't totally clear. You used a
8 value of 1200 BOE, barrels of oil equivalent, to
9 identify the marginal wells when you pulled this data.
10 Is that right?

11 THE WITNESS: That -- that was for the
12 next page. Just to be clear, for this data, I pulled
13 all OCD incident data. I pulled 2024 BOE data to be
14 able to compare. This data on this page is strictly
15 just incidents. This is not anything to do with BOE.
16 I did filter marginal any wells below 1,000 just to
17 see if there were any more reported on that particular
18 definition versus some of the other definitions.

19 And so marginal here on this page is
20 below 1,000, non-marginal being pretty much everything
21 else. Things that were in temporary abandoned
22 statuses and also wells that had no reporting. This
23 was just comparing incident data to -- to these
24 definitions.

25 MR. RANKIN: Okay. And so where it

1 says marginal well, we understand that's just wells
2 that produce below 1,000 barrels of oil equivalent.
3 But it doesn't take into consideration the proposed
4 rule that limits marginal wells to wells that have
5 produced below 100,000 barrels of oil equivalent and
6 fewer than 180 days. Correct?

7 THE WITNESS: I did not take 180 days
8 into my account. No.

9 MR. RANKIN: And as we heard testimony
10 from Mr. Purvis and other of applicant's witnesses, by
11 having both conditions met, it reduces the population
12 of wells that would fall under that category. Agree?

13 THE WITNESS: That is possible. I've
14 not looked at that data.

15 MR. RANKIN: Okay. So when we look at
16 this category where it says marginal wells and it says
17 15.5 percent, you can't tell us whether that it's an
18 accurate number for the purposes of understanding how
19 many wells under the subject of the rulemaking would
20 be in that category. Correct?

21 THE WITNESS: What I can't say is if I
22 run this generally without any categories, one in five
23 wells has a reported release.

24 MR. RANKIN: Right. But if we want to
25 know -- because your testimony is that, I believe,

1 that marginal wells have a higher rate of incidents
2 and require more response from the division. To know
3 whether that's true --

4 THE WITNESS: I specifically said that
5 is not what I was saying with this. I -- I am
6 specifically saying that one in five wells, regardless
7 of the definition, is going to have a release.

8 MR. RANKIN: Okay.

9 THE WITNESS: I'm not making any claims
10 that one is more likely than the other. My focus on
11 this page was just to kind of evaluate the status of
12 marginal wells. But I'm not making a claim that one
13 five is going to be any different on any particular
14 type of well by definition.

15 MR. RANKIN: Okay. All right. Well, I
16 understand that. But on this next slide, slide 11,
17 the first bullet says that the lowest producing wells
18 are most likely to end up under OCD oversight.
19 Correct?

20 THE WITNESS: The lowest producing
21 wells tend to be the most likely to be looking to be
22 being abandoned. And -- and based on that, I am
23 looking -- this is under 300. That's not
24 significantly -- I'm just looking at the lowest
25 producing. Because of the higher likelihood, the

1 greater number of releases. Operators with significant
2 numbers of releases tend to be the ones that end up
3 under oversee oversight.

4 MR. RANKIN: Okay. I'm going to come
5 back to this slide in a moment, but I'm just trying to
6 understand the purpose of this slide. Number 10.

7 Okay, so the category for marginal wells says 15.5
8 percent, but it's only wells that have produced less
9 than 1000 BOE. It doesn't take into account the 180
10 days.

11 So we know from Mr. Purvis' testimony
12 that the --

13 MR. TREMAINE: Asked and answered.

14 MR. RANKIN: I haven't asked my
15 question yet.

16 THE HEARING OFFICER: Yeah, he's
17 leading up to it.

18 MR. RANKIN. Yeah. Can I finish my
19 question?

20 THE HEARING OFFICER: Go ahead.

21 BY MR. RANKIN:

22 MR. RANKIN: Let me get my train of
23 thought back. So we know based on Mr. Purvis'
24 testimony that when you use both conditions under the
25 petition, that a well must be producing less than

1 1,000 barrels of oil equivalent and produce fewer than
2 180 days. The population of wells and OCD database is
3 less. Okay. Do you agree with that?

4 MR. TREMAINE: Again, asked and
5 answered.

6 MR. RANKIN: It's a different question.

7 THE HEARING OFFICER: He's trying to
8 get at something here and I think some of it has been
9 confusing.

10 Go ahead Ms. Romero, if you have an
11 answer.

12 THE WITNESS: A different category.
13 And/or. Yes.

14 BY MR. RANKIN:

15 MR. RANKIN: Okay. Do you agree with
16 me that it's a smaller population of wells under the
17 petition?

18 THE WITNESS: I did not review that
19 data.

20 MR. RANKIN: Do you disagree with
21 Mr. Purvis' testimony that based on the OC database it
22 is a smaller number of wells?

23 THE WITNESS: I did not review that
24 data.

25 MR. RANKIN: I'm not asking about the

1 data. I'm asking about Mr. Purvis' testimony. Do you
2 disagree with Mr. Purvis' testimony? That's a smaller
3 population of wells.

4 THE WITNESS: I must have -- I did not
5 see that testimony. I don't have an opinion here.

6 MR. RANKIN: Okay. Very well, but you
7 have no reason to disagree with Mr. Purvis that based
8 on his analysis and review, the population of wells
9 that would fit under the petition would be a smaller
10 population when you include both conditions.

11 THE WITNESS: Assuming that to be the
12 case, assuming his statements are correct, it's still
13 generally one in five regardless of that definition.

14 MR. RANKIN: Well, I guess I'm trying
15 to get at the point here is that if you don't know and
16 you haven't done the analysis, how can you say that
17 it's still one in five for what you've listed here as
18 marginal wells? Right? Because you don't know. It
19 could be actually 10 percent and it might be one in 10
20 because you didn't do the analysis right.

21 THE WITNESS: Because if you pull no
22 filters at all, if we do no filtering at all, one on
23 five wells still has a release.

24 MR. RANKIN: But you've done filters
25 here and you're filtering it based on what you call

1 marginal wells. And I'm trying to understand that if
2 you were to filter it based on what the petition has
3 identified as marginal wells, you can't tell me that
4 it's one in five for that category of wells. Agree?

5 THE WITNESS: If I say all wells with
6 no filters, I'm saying that they're not any more or
7 less likely to have a release.

8 MR. RANKIN: I know, but that's not my
9 question. My question is if you were to apply the
10 petition's definition of marginal wells, which
11 requires fewer than 180 days of production and less
12 than 1,000 barrels of oil equivalent, you can't tell
13 me because you haven't done the analysis that it's one
14 in five of those wells have a release; correct?

15 MR. TREMAINE: Objection. Asked and
16 answered.

17 MR. RANKIN: She hasn't answered it.

18 MR. TREMAINE: And Ms. Romero's
19 testimony has been quite clear that this slide stands
20 for the proposition that there is not a clear
21 distinction between the rate of environmental
22 incidents in different categories of wells.

23 THE HEARING OFFICER: And Mr. Rankin,
24 as to every other way of trying to understand this,
25 she has said she hasn't done the analysis.

1 MR. RANKIN: I understand, but I'm
2 asking her a very specific question and she hasn't
3 answered it. My question is she cannot tell me that
4 under the petition with the marginal rule, the
5 marginal well definition, that there are one in five
6 of those marginal wells have a release because she
7 hasn't done that analysis. I'm just trying to get her
8 to tell me that she hasn't done it.

9 THE HEARING OFFICER: I think she's
10 said that a couple of times.

11 MR. RANKIN: No, she keeps saying that
12 every well category has one in five. And I'm saying
13 that she hasn't done that analysis for the wells under
14 the petition.

15 MR. TREMAINE: Counsel, you have a
16 ruling from the Hearing Officer. I'm going to ask to
17 move on.

18 MR. RANKIN: Okay. That's fine.

19 BY MR. RANKIN:

20 MR. RANKIN: On this slide you've
21 identified that generally when you look at all the
22 wells in the division's database, one in five have a
23 reported release. But this slide and none of the
24 information you provided to the Commission tells us
25 anything about the severity of those releases; right?

1 THE WITNESS: It does not.

2 MR. RANKIN: And the reportable limit
3 is five barrels fluids; correct?

4 THE WITNESS: Yes.

5 MR. RANKIN: So it could be anywhere
6 from the reportable threshold of five barrels up to
7 something in excess of a major release; correct?

8 THE WITNESS: Yes.

9 MR. RANKIN: So based on that, we can't
10 evaluate whether any of these well categories pose a
11 greater risk than any other category of well, as far
12 as just number of releases go; correct?

13 THE WITNESS: No.

14 MR. RANKIN: And generally lower
15 producing wells have lower volumes of fluids. Would
16 you agree with me that they generally would pose a
17 lower risk because they're producing lower volumes
18 than higher production wells?

19 THE WITNESS: I think that's a little
20 loaded. Releases can be in pipelines and tank
21 batteries and -- and much more associated with than
22 just production. So I don't think I can answer that.

23 MR. RANKIN: Okay. I was confused and
24 remain a little bit confused about this next slide 11.
25 I understand from your discussion with Ms. Tripp that

1 the axis are flipped and that rather than -- so the y
2 axis actually is the number of incidents; is that
3 right?

4 THE WITNESS: Yes.

5 MR. RANKIN: And the X axis is the
6 categories of barrels of oil equivalent. Right?

7 THE WITNESS: Yes.

8 MR. RANKIN: Okay. Got it. And when
9 you prepared these charts, did you also use -- I was
10 confused by your testimony. For this data pull, was
11 it 1200 barrels of oil equivalent that you used to
12 filter?

13 THE WITNESS: I did. Just -- just a
14 little further explanation. I -- because marginal
15 wells tend to be the focus of his rulemaking, I did
16 pull that subset out. I included 1200 just because I
17 wanted to see those that were kind of right on that
18 line. And so I pulled this out just to get a -- a
19 more specific look on -- on that production level.
20 And again, I did not account for days in production
21 in -- in any of that.

22 MR. RANKIN: Right. Okay. So that's
23 my next question because again, because you didn't
24 also use the second condition of the petition for the
25 definition of marginal wells, this category or these

1 incidents here would be over-inclusive because you're
2 including a larger population of wells and incidents.
3 Correct?

4 THE WITNESS: Possible.

5 MR. RANKIN: Okay. Again, you have no
6 reason to dispute Mr. Purvis' testimony that it's a
7 smaller population of wells based on the OCD data;
8 correct?

9 THE WITNESS: No, I'm not.

10 MR. RANKIN: Okay. So we have no idea
11 if you were to apply both conditions here what that
12 data set would look like, because you didn't do that;
13 right?

14 THE WITNESS: I did not.

15 MR. RANKIN: And so it may shift the
16 data and we don't know whether you could draw the same
17 conclusions as you've drawn on this slide; correct?

18 THE WITNESS: It's possible.

19 MR. RANKIN: And then the second bullet
20 here, you say the incidents on the lowest producing
21 well sites remain unresolved. And I think you're
22 referring to the chart on the right, which is titled,
23 "Active incidents by production." Correct?

24 THE WITNESS: Yes.

25 MR. RANKIN: But there's no timelines

1 on this. How do I know whether they're out of scope
2 under the rule?

3 THE WITNESS: 90 days is typically what
4 the rule says. If they've remained active beyond that
5 90 days since the data was pulled up till 2024. If
6 we're in 2025, they're -- they're out of compliance.

7 MR. RANKIN: Okay. I don't think I
8 followed that. So try to explain that to me again.
9 Because I didn't understand

10 THE WITNESS: Incidents. Generally the
11 process for reporting an incident is you submit a C144
12 via our online permitting system. There is a 90 day
13 timeline to complete remediation on any incident
14 unless extensions and such are approved. Those are
15 also documented in our C141 process.

16 That is also described in one of the
17 exhibits. We have a guidance document that gives most
18 of this information out on -- on how that's supposed
19 to work. This data was pulled from 2024 data. It did
20 not include anything active on deferral, which would
21 have given those extensions. And so all of these
22 active incidents should have been resolved in 2024.

23 MR. RANKIN: Okay. But nothing on this
24 chart indicates the timeframes when these were first
25 reported or, like you said, there's no indication

1 whether they've been approved for further work.

2 Right? It's not clear from this chart.

3 THE WITNESS: These, if they were
4 approved for work, the work -- sometimes there are
5 approvals, but if the work has not been completed past
6 that 90 day timeframe without extensions as documented
7 on our online process, it would be out of compliance.

8 MR. RANKIN: Right. But yeah, this
9 doesn't indicate whether that compliance -- or
10 anything along those lines. Correct?

11 THE WITNESS: I would -- I would
12 speculate that active incidents that do not have a
13 deferral are out of compliance.

14 MR. RANKIN: Okay. That would be
15 speculation though; right?

16 THE WITNESS: I'd have to go into most
17 of them individually, but I -- I would say it is a
18 very high likelihood.

19 MR. RANKIN: My question here then is
20 on this first bullet where you say the lowest
21 producing wells are most likely to end up under OCD
22 oversight. Do the rules that are proposed here do
23 anything to focus incentives or add additional
24 requirements that would address this issue on the
25 slide?

1 THE WITNESS: It is my understanding
2 that by being active and producing on the site, they
3 would keep those lower producers out of an OCD
4 oversight

5 MR. RANKIN: So I meant to ask that
6 question for this language here on slide 12 where you
7 say, "Operators who are not compliant with regulations
8 related to site remediation or reclamation are more
9 likely to leave wells unplugged and sites unreclaimed
10 after ceasing production." Did I read that right?

11 THE WITNESS: Yes.

12 MR. RANKIN: What's the basis for that
13 statement?

14 THE WITNESS: Again, as I repeated
15 earlier, this is based on my experience. Sites that
16 have costly remediation projects that have remained
17 unremediated and unresolved operators are frequently
18 choosing to abandon those sites rather than -- than do
19 through remediation.

20 MR. RANKIN: Okay. Got it. Key
21 points. So you make two points here on your slide
22 number 15. That high risk orphan well sites often
23 shift oversight and remediation work to OCD. And then
24 you say that the petition prevents high remediation
25 costs by encouraging compliance while operators are

1 active; correct?

2 THE WITNESS: Yes.

3 MR. RANKIN: And I'm trying to get the
4 link for the second part here. How does the rule
5 address the remediation costs? How does the proposed
6 rule in, in your understanding, address the
7 remediation costs?

8 THE WITNESS: Well, this -- again,
9 specifically rule does not address remediation
10 outright. Operators who are in compliance and
11 prepared and -- and have some financial assurance that
12 assures them to complete projects associated with well
13 plugging as well as remediation are more likely to do
14 that on their own costs rather than to shift the
15 oversight to OCD.

16 MR. RANKIN: Okay. So I'm going to ask
17 you a couple questions about that. So your
18 understanding is the proposed rule attempts to prevent
19 the shifting of the obligations liability to the
20 division by encouraging compliance while operators are
21 still active.

22 And I'm going to suggest that it does
23 that by using two relatively narrowly focused
24 regulatory tools. And I'm going to ask you if you
25 agree.

1 The first was addressed by Mr. Morgan
2 in his testimony where the proposed rule includes
3 additional new requirements for registration and
4 certification, including at the time the wells are
5 transferred to new operators. And it requires new
6 operators to demonstrate that they will have the
7 financial ability to meet the plugging and abandonment
8 requirements under the new rule before the wells can
9 be transferred to them. Is that your understanding?

10 THE WITNESS: I feel like this is a
11 legal question.

12 MR. RANKIN: Okay. Well, I guess, I
13 mean, I'm just trying to understand like, you know,
14 the basis for your statement that it's trying to
15 prevent the shifting of these liabilities or costs to
16 OCD; right? That's the purpose of the rule as you
17 understand it.

18 THE WITNESS: Yes.

19 MR. RANKIN: And I'm asking you if one
20 of the reasons for that is because the rule has a new
21 provision that allows the division to evaluate the
22 financial wherewithal of potential new companies
23 taking on wells and facilities before those transfers
24 are approved. And I'm asking if that's your
25 understanding. If that's one of the new provisions

1 that will help prevent the shift of those liabilities
2 to OCD.

3 THE WITNESS: Yes.

4 MR. RANKIN: Okay. Okay. And then a
5 second provision under the new rule is this
6 presumption of no beneficial use where the proposed
7 rule forces the actual operators of wells, of low
8 producing wells that are actually at risk of being
9 orphaned, to prove to the division satisfaction that
10 the well can be used for beneficial use earlier in the
11 well's, you know, abandonment process. Do recall that
12 portion of the rule?

13 THE WITNESS: To some extent.

14 MR. RANKIN: Okay. Your understanding
15 is that the rule has this new provision that if a well
16 is producing below 90 barrels and fewer than 90 days
17 in a year, that that operator's required to show to
18 the division why that well still has a beneficial use.

19 THE WITNESS: Yes.

20 MR. RANKIN: Right? And that allows
21 the division to intercede earlier in the lifecycle of
22 the well before it becomes orphaned. And that's
23 another way of potentially limiting the transfer of
24 liability to the division. Is that your
25 understanding?

1 THE WITNESS: Yes.

2 MR. RANKIN: Okay. And would you agree
3 with me that those two provisions are fairly narrowly
4 focused on the actual wells and the actual operators
5 at the time that they are early in the process before
6 they become potentially orphaned? Would you agree
7 with me?

8 THE WITNESS: Yes.

9 MR. RANKIN: Okay. No further
10 questions for Ms. Romero.

11 Ms. Romero, thank you very much for
12 your time. I apologize if I was misunderstanding your
13 responses to me. I probably wasn't phrasing my
14 question the right way, and I apologize if I was being
15 obstinate. I did not mean to be that way. Thank you
16 for your time.

17 THE HEARING OFFICER: Thank you,
18 Mr. Rankin.

19 Mr. Maxwell, do you have questions of
20 Ms. Romero?

21 MR. MAXWELL: No questions. Thank you.

22 THE HEARING OFFICER: Thank you. I
23 don't know if Ms. Nanasi is on the platform? No?

24 Mr. Moore, do you have questions of
25 Ms. Romero?

1 MR. MOORE: No questions, Madam Hearing
2 Examiner. Thank you.

3 THE HEARING OFFICER: All right. And
4 Ms. Fox or Mr. Nykiel?

5 MR. NYKIEL: Yes, just a few, please.

6 THE HEARING OFFICER: All right.

7 CROSS-EXAMINATION

8 BY MR. NYKIEL:

9 MR. NYKIEL: Good morning, Ms. Romero.
10 My name's Matt Nykiel. I'm an attorney with the
11 Western Environmental Law Center and I'm representing
12 applicants. How are you doing this morning?

13 THE WITNESS: Good, how are you?

14 MR. NYKIEL: Good, thanks. You
15 testified that the OCD is limited to addressing
16 environmental incidents based on the contractors that
17 are available to the division. Is that right?

18 THE WITNESS: Yeah, we are -- we are
19 limited to our purchasing agreement. There are ways
20 to get on that list, but it just depends on the
21 scenario.

22 MR. NYKIEL: Okay, thanks. If an
23 operator cannot financially address an environmental
24 incident on its own, then the speed with which the
25 incident could be addressed by the OCD would be

1 subject to that purchasing agreement or the
2 contractors that are available. Is that right?

3 THE WITNESS: Yes. Hypothetically, if
4 an operator's unable to address a remediation, and OCD
5 finds it in the best interest of public health to do
6 something that typically requires orders through our
7 legal and -- and authority, that that would be the
8 first step. And then that can be time consuming in
9 itself, at which time then environmental would be
10 requesting a purchase order through our purchasing
11 process.

12 MR. NYKIEL: And so in a situation like
13 that where the division has determined an incident
14 needs to be addressed, would you say that the
15 environmental impacts from an orphaned well are more
16 likely to impact public health in the environment over
17 a longer timeframe than if the operator had been able
18 to address the impact itself?

19 THE WITNESS: Generally speaking,
20 timely compliance is preferred. Our rules were
21 written for timeframes for that reason, for in the
22 interest of protecting public health. So incidents
23 that remain unresolved are -- are probably more of a
24 public health risk. However, I don't have data that
25 would support evaluating specifics on that.

1 MR. NYKIEL: On slide 14 of your visual
2 aid, you provided a redacted example of a well
3 operator that no longer had sufficient funds available
4 to address their remediation obligations. Is that
5 right?

6 THE WITNESS: Yes.

7 MR. NYKIEL: And you testified that
8 this was a regular pattern with small and midsize
9 operators?

10 THE WITNESS: I did.

11 MR. NYKIEL: In your experience of
12 these sorts of situations, is the operator generally
13 still actively producing in high amounts of oil and
14 gas? Or has the operator ceased production or are
15 producing low volumes of oil and gas?

16 THE WITNESS: In these scenarios,
17 typically, if the operator is still operating and the
18 responsible party, we do reach out to them as -- as a
19 first attempt somewhere usually in the compliance
20 process. We -- we do get notification that they don't
21 have the capital to complete these assessments, but as
22 to where, how much they're producing and -- and those
23 kind of specifics, I don't have a -- a statistical
24 analysis for that.

25 MR. NYKIEL: Okay. The --

1 THE WITNESS: I realize the -- I'm
2 sorry, go ahead.

3 MR. NYKIEL: You can finish.

4 THE WITNESS: No, no, that's okay.

5 MR. NYKIEL: Okay. No further
6 questions. Thank you for your testimony, Ms. Romero.

7 THE HEARING OFFICER: All right. Thank
8 you very much.

9 Mr. Tremaine, do you have any redirect?

10 MR. TREMAINE: Just two or three
11 questions, Madam Hearing Officer.

12 REDIRECT EXAMINATION

13 BY MR. TREMAINE:

14 MR. TREMAINE: Ms. Romero, thank you
15 for your time today. Just a couple questions for you.
16 At a very high level, how would you characterize the
17 administrative burden of conducting the orphan
18 remediation program and contractor oversight?

19 THE WITNESS: Contractor oversight, I
20 feel, has been manageable.

21 MR. TREMAINE: Okay.

22 THE WITNESS: There's definitely more
23 sites than I have people for, but.

24 MR. TREMAINE: Thank you. Does
25 conducting the remediation associated with orphan

1 wells in New Mexico utilize a significant amount of
2 time for the Environmental Bureau?

3 THE WITNESS: It does. It does. Each
4 of these sites requires an OCC environmental to act as
5 basically a project manager, and so they oversee all
6 of the details. Sampling, all of that gets reviewed,
7 and that is in addition to the day-to-day reviews that
8 are taking place upon the same staff.

9 MR. TREMAINE: If industry's concerned
10 with any perceived inefficiencies in OCD's remediation
11 process, would you agree that operator led remediation
12 would help solve any of those concerns?

13 THE WITNESS: Absolutely. We
14 definitely would prefer operators to be managing these
15 sites themselves.

16 MR. TREMAINE: I'm sure you recall
17 quite clearly many references to slides 10 and 11 in
18 your testimony. I'm not going to go back to those
19 slides and flog that any further, but I want to ask
20 you some kind of follow up questions on that line of
21 questioning. May environmental remediation be
22 deferred by the operator until the time of site
23 closure?

24 THE WITNESS: In certain cases. If,
25 for example, there is a release under active

1 equipment, sometimes those are deferred until after
2 site closure.

3 MR. TREMAINE: If a site that was
4 previously deferred is orphaned, will OCD become
5 responsible for conducting that deferred remediation?

6 THE WITNESS: Yes.

7 MR. TREMAINE: If there is unresolved
8 remediation, at any site, which OCD ends up completing
9 as an orphan; does it matter to the remediation
10 process when the release occurred?

11 THE WITNESS: It does not.

12 MR. TREMAINE: Okay. No further
13 questions, Madam Hearing Officer.

14 THE HEARING OFFICER: Thank you,
15 Mr. Tremaine.

16 Commissioner Ampomah, do you have
17 questions of Ms. Romero?

18 MR. AMPOMAH: Ms. Romero, thanks so
19 much for your testimony. Surprisingly, I do not have
20 any questions for you. Thank you.

21 THE HEARING OFFICER: Great. Thank
22 you. Commissioner Bloom on the platform. Do you have
23 questions?

24 MR. BLOOM: Ms. Romero, thank you for
25 your testimony today. No, I do not have questions

1 either. Thank you very much.

2 THE HEARING OFFICER: All right.

3 And Chair Chang?

4 MR. CHANG: Nope.

5 THE HEARING OFFICER: Nope. Okay,
6 great. I'm getting off easy. Thank you very much Ms.
7 Romero for your testimony.

8 THE WITNESS: Thank you.

9 THE HEARING OFFICER: All right. It's
10 11:30. Mr. Tremaine, what is your pleasure?

11 MR. HALL: Madam Hearing Officer,
12 Justin Wrinkle will be OCD's next witness. I believe
13 his direct testimony will take about 45 minutes, is my
14 guess. Whatever pleases the Commission. We're happy
15 to proceed now or wait until after lunch.

16 THE HEARING OFFICER: What's your
17 pleasure?

18 MR. TREMAINE: Take advice from the
19 other Commissioners. I don't mind either way.

20 MR. HALL: Let's proceed.

21 THE HEARING OFFICER: Alrighty, you
22 heard the man.

23 Is Mr. Wrinkle on the platform?

24 MR. WRINKLE: Thank you.

25 MR. TREMAINE: Counsel rightly pointed

1 out, and I really greatly appreciate it, that we have
2 not yet resolved admission of the exhibits that I
3 proffered.

4 THE HEARING OFFICER: Yes. Thank you
5 very much. Any objections to OCD Exhibits 10 through
6 12, 20, 26 through 28 A through G?

7 MS. TRIPP: Madam Hearing Officer,
8 could you repeat that list again please?

9 THE HEARING OFFICER: Yes. 10 through
10 12, 20, 26 through 28 A through G.

11 MS. TRIPP: Yes, Madam Hearing Officer.
12 We would object to just two lines within Exhibit 10
13 and then some points from Exhibit 12, page 15 and
14 Exhibit 12, page 17, based on the examination of the
15 witness. Would you want me to elaborate?

16 THE HEARING OFFICER: Yes.

17 MS. TRIPP: Thank you. So Exhibit 10,
18 page eight, lines 11 through 12. Would you like me to
19 share my screen, Madam Hearing Officer?

20 THE HEARING OFFICER: I have it in
21 front of me in a book, but if you want to share your
22 screen, that's fine.

23 MS. TRIPP: So you should be seeing a
24 paragraph that begins at line 10. Regulatory and
25 economic considerations. This is the direct testimony

1 of THE WITNESS. And it says, "Data used to evaluate
2 the relationship between production levels and
3 environmental incidents was drawn from OCD's
4 production records for calendar year 2024." Exhibit
5 20. Exhibit 20 is a spreadsheet.

6 The demonstratives that this
7 corresponds to are the slides we discussed within
8 Exhibit 12, but our objection would be that the data
9 that was used to produce the pivot table or the graphs
10 include all incident reports for the entire history of
11 the well and then only production records for calendar
12 year 2024. It is our position that would be
13 misleading.

14 And then lines 15 through 17, which
15 explains further that the pivot table analysis was
16 conducted using calendar year 2024 data to further
17 evaluate wells classified as lower producing, which
18 may fall under OCD oversight based on production
19 thresholds. During her cross-examination, she
20 explained that she did not analyze any of the orphan
21 wells or which wells would become orphaned, which is
22 indicated by OCD oversight.

23 THE HEARING OFFICER: Mr. Tremaine?

24 MR. TREMAINE: Madam Hearing Officer, a
25 couple points on that real quick. One, the referenced

1 direct testimony lines don't actually correlate
2 directly to the proposed categories in the rule. THE
3 WITNESS was quite clear in both the written direct
4 testimony and her summary of testimony on cross.
5 What she looked at to what degree and the significance
6 to her in the OCD. It's not tied directly to
7 different data analysis of those proposed categories.

8 And the objection ultimately goes to
9 the weight of this evidence, not its foundation or
10 credibility. The Commission is quite prepared to
11 assess this and analyze whether that's useful to them
12 in making their decision.

13 THE HEARING OFFICER: Yeah, I agree
14 with you Mr. Tremaine. So what other exhibit did you
15 object to, Ms. Tripp?

16 MS. TRIPP: Madam Hearing Officer, that
17 would be Exhibit 12. The visual aid. And our
18 objection, just to be clear, our objection isn't
19 necessarily that the marginal well definition used by
20 THE WITNESS is 1000 or 1200. It's the disconnect
21 between incidents being pulled from the entire history
22 of the well versus production from only 2024.

23 This is because a well could produce
24 for 60 years, incidents would be extremely high as
25 opposed to just the incidents reported when that well

1 was producing at the lower threshold.

2 But anyway, so our objection to Exhibit
3 12 is focused on marginal wells. Again, that there
4 was no analysis conducted that the wells are most
5 likely or more likely to become under OCD oversight as
6 orphaned wells because that wasn't conducted as part
7 of THE WITNESS's analysis. That's on page 11.

8 And then page 15, a key point during
9 examination, THE WITNESS could not point to any part
10 of the proposed rules that supports her testimony in
11 terms of why the rule changer will require operators
12 to responsibly and timely remediate or how it
13 encourages compliance.

14 Finally, on the conclusion slide, this
15 is that the OCD environmental project data, this is
16 slide 17, illustrates the financial risk of operator
17 noncompliance. And when we discussed that during THE
18 WITNESS's cross-examination, we discovered that non-
19 compliance is based on her experience and not a
20 quantitative analysis which is represented by this
21 project data reference.

22 THE HEARING OFFICER: Mr. Tremaine, I
23 assume you have the same response.

24 MR. TREMAINE: One minor point. So the
25 slides, the much discussed slides very clearly

1 distinguish between total incidents and active
2 incidents. That's quite relevant and probative in
3 this hearing. And the testimony clearly demonstrates
4 that those active incidents remain in effect
5 regardless of when they occurred.

6 And the other slide referring to closed
7 incidents, some of that information actually militates
8 in favor of petition opponents. So I'm not quite
9 clear on the objection there. That foundation.
10 Otherwise I stand on my previous response.

11 THE HEARING OFFICER: Yeah, I agree.
12 Again, Ms. Tripp, you can certainly continue pressing
13 whatever arguments you'd like to make in response to
14 the testimony, but I believe again, it goes to the
15 weight the Commission will be giving it during their
16 deliberations rather than admissibility.

17 So OCD Exhibits 10 through 12, 20 and
18 26 through 28.A through G are admitted.

19 (Exhibit 10, Exhibit 11, Exhibit 12,
20 Exhibit 20, Exhibit 26 and Exhibits
21 28.A through Exhibit 28.G were received
22 into evidence.)

23 Let's turn to Mr. Wrinkle, whom I see
24 on the screen.

25 Mr. Wrinkle, would you please spell

1 your first and last name?

2 MR. WRINKLE: Yes. Justin Wrinkle.

3 J-U-S-T-I-N W-R-I-N-K-L-E.

4 WHEREUPON,

5 JUSTIN WRINKLE,

6 called as a witness and having been first duly sworn

7 to tell the truth, the whole truth, and nothing but

8 the truth, was examined and testified as follows:

9 THE HEARING OFFICER: Thank you.

10 Go ahead, Mr. Hall, I think.

11 MR. HALL: Thank you, Madam Hearing

12 Officer.

13 DIRECT EXAMINATION

14 BY MR. HALL:

15 MR. HALL: I know you've spelled your

16 name, but could you state your name and please tell

17 the Commission how you're employed, Mr. Wrinkle?

18 THE WITNESS: Yes. My name is

19 Justin Wrinkle and I'm currently the engineering

20 bureau chief here at the OCD.

21 MR. HALL: As a preliminary matter,

22 Mr. Wrinkle, I believe you have submitted or through

23 OCD have submitted three exhibits in this rulemaking.

24 That being Exhibit 7, your direct testimony; Exhibit

25 8, your resume and Exhibit 9, some visual slides or

1 visual aids to accompany your testimony. Is that
2 correct?

3 THE WITNESS: That is correct.

4 (Exhibit 7, Exhibit 8 and Exhibit 9
5 were marked for identification.)

6 MR. HALL: Any changes you wish to make
7 to any of those? I'll just ask you that first.

8 THE WITNESS: No.

9 MR. HALL: And do you hereby adopt
10 those and ask the Commission to consider that
11 testimony and those other exhibits?

12 THE WITNESS: I do.

13 MR. HALL: Thank you. At this time, we
14 would offer OCDs Exhibit 7, 8 and 9 for consideration
15 by the Commission.

16 THE HEARING OFFICER: Any objections to
17 OCD Exhibit 7, 8 or 9? Nope? They're admitted.

18 (Exhibit 7, Exhibit 8 and Exhibit 9
19 were received into evidence.)

20 Thank you.

21 MR. HALL: Thank you.

22 BY MR. HALL:

23 MR. HALL: Mr. Wrinkle, I believe
24 you've already said that you've prepared testimony for
25 this matter. Are you prepared to provide the

1 Commission with a summary or synopsis of your direct
2 testimony related to this rulemaking?

3 THE WITNESS: Yes, I am. I -- I think
4 use the visual aid.

5 MR. HALL: Sure, I will pull those up
6 if I can figure out how to do it. Did that work?
7 Okay, thank you. If you would please proceed,
8 Mr. Wrinkle.

9 THE WITNESS: All right, let's see. I
10 think the first page is self-explanatory. It's my
11 title and this case number, so we can go to the next
12 one. This is a little bit of my professional
13 background. So I've been with the OCD a little bit
14 over three years thus far. Currently the engineering
15 bureau chief, as I stated. Before that I was a
16 petroleum specialist supervisor.

17 So the different positions that I've
18 had over the years have been, you know, lead field
19 operator, production supervisor, production
20 technician. Though my testimony is basically my
21 experience associated with managing and operating
22 marginal wells. That has to do with lease operating
23 expense.

24 You know, the safety and environmental
25 concerns of those, any retrofitting that takes place.

1 You know, any management of -- of holding lease
2 assets; right? Financial judgment for incurring any
3 cost.

4 So we go to the next one. Okay, so the
5 way that I structured this, it's a little -- it's a
6 little erratic; right? But what I wanted to do is
7 draw upon, you know, my background and the plethora of
8 things that -- the -- the many different variables and
9 provide a wide spectrum of things that I have seen in
10 the past; right? Associated with -- with these wells.

11 So as you can see here, the most common
12 lease operating expenses are basically on this slide.
13 Sometimes it depends on the company, what their
14 decisions are in their upper management. If they want
15 to CAPEX some of these expenses, put them on OPEX,
16 which you know, is a form of lease operating expenses.
17 The most common ones are field operators. I put some
18 numbers on there that identifies some examples; right?
19 And again, this is a very wide spectrum of what an
20 operator in my experience can occur -- incur. Energy;
21 right?

22 You got -- you got to pay utilities.
23 So if you're using any energy on site, and especially
24 for artificial lift reasons. Compression is very
25 common, especially in New Mexico. If you have

1 pipeline pressures, you need to push into the
2 pipeline. Gas lift, although gas lift is very
3 uncommon for these lower produced marginal wells.
4 Vapor recovery units have become popular in the last
5 ten or so years via some, you know, regulation
6 updates. So that is another cost that -- that one
7 could incur.

8 Now, none of these are -- every single
9 well has to have these costs; right? It's going to
10 be -- it's going to be a mix and match depending on
11 the variables or, you know, location of the well,
12 production type, that kind of thing.

13 Okay, next slide. You know, road
14 access. You know, this is a big one. The reason
15 that -- that this one has such a large spectrum on it
16 is I was -- I was drawing back to some of my past
17 experiences here. And some examples, very -- very few
18 of course, you know, were -- were on that high side;
19 right? Now these are -- these are wells that, you
20 know, were important for one reason or another to --
21 to management. And some of them didn't have roads to
22 them; right? But we had to be able to access them.

23 And I -- and I think that on the higher
24 end there, the -- the half a million dollars, you
25 know, was -- was quite a few miles; right? To get to

1 it and we had to be able to get equipment to it, rigs
2 and -- and that kind of stuff.

3 The lower side; right? You know -- you
4 know, blade it once a -- once a quarter; right? Waste
5 removal. You know, if it's an oil well, you're going
6 to be bringing up water; right? So you got to pay for
7 that. Now, most lower producing wells, in my
8 experience, have been trucked. That's going to cost
9 you a little bit more than -- than pipeline. Now
10 some -- we do have some older infrastructure out here
11 of water pipeline, which is a good thing. It's going
12 to cost you a little bit less.

13 BS&W removal from the bottom of your
14 tanks. You know, that builds up over time. You know,
15 again, this isn't, you know, a monthly expense. It's
16 something that you may incur; right? So that is a --
17 a dollar, you know, per barrel to get out of there.
18 Or a dollar spectrum. Sometimes, especially if I --
19 if I recall Loco Hills area, you know, there's a lot
20 of hot oiling needs that need to take place.

21 Those particular type of trucks are --
22 you know, about -- and this is, you know, from -- from
23 my experience. So we're talking four, four to five
24 years ago. And you know, if anybody's bought bacon
25 recently, it's probably higher now; right? So 150 to

1 \$300 an hour for that. You know, that's going to take
2 48 hours. You know, it's not -- not a monthly thing,
3 it's just kind of when you need it. Ad hoc.

4 Marketing. Over my experience taking
5 over or acquiring these wells; right? It -- a lot
6 times, you know, they have been not producing for a
7 long period of time and you know, possibly a meter was
8 taken from one site to another to, you know -- you
9 know, trade. So on more than a few occasions I've had
10 to, you know, purchase either, you know, use
11 refabricated or -- or a new meter to meet the -- the
12 purchaser's needs. And -- and those costs are there.
13 Again, a very wide spectrum. It just depends on -- on
14 what you want and what -- and what you need.

15 Chemical treatment. You know, this can
16 be surfactant breaker. You know, inhibitor.
17 Different types of chemicals to allow the well to
18 produce in a normal fashion. So some you absolutely
19 need to need to have it if you're going to be
20 producing in any, you know, good quantities. So those
21 are another cost associated with wells.

22 Next slide. Okay. And of course,
23 you've got your safety and environmental costs
24 associated with -- with wells. Commonly though, with
25 marginal wells, right, you're going to have historic

1 releases; right? In -- in my experience, there's been
2 a few examples to where you have a release during
3 ownership, and as you're cleaning that up, you
4 discover, you know, historical ones that -- that are
5 there; right?

6 So being prudent, you know, you -- you
7 go ahead and take care of that; right? So -- so there
8 has been instances where it has been, you know,
9 upwards of that \$1.0 million mark. Flare stack
10 installs. Not too crazy common on marginal wells
11 for -- for the low pressure flare stacks. I think
12 that would be the more common one associated with
13 these. But the costs are -- are essentially the same.

14 If you want -- again, it's what you
15 want, how much you want to spend for, you know, the
16 quality of this equipment. So a high combustible
17 flare is going to be fairly high, and then a shop
18 built flare, you know, is going to be a little bit
19 lower. And plus your installing and transport.

20 Another thing that has -- is more
21 common than not are wellheads. Right? So servicing
22 wellheads was a -- a cost that happened a lot on these
23 older wells that hadn't produced in a long time.
24 Often the valves are seized up, inoperable and you had
25 no choice. If you wanted to produce this particular

1 well, you had to have them rebuilt or -- or replaced;
2 right? And then normally you would make the decision
3 or if you got approval to -- to have those serviced
4 routinely.

5 Tanks. Tanks is -- is a big one.
6 Often, you know, standing fluids over time and if
7 they're not coated or -- or very old are going to
8 corrode. Many, many times we've abandoned tanks in
9 place if we could or if we were allowed to. A lot of
10 times you buy a used tank or -- or a new tank, which,
11 you know, a new tank, if you're going to keep the wall
12 going and produce it, then that's probably going to be
13 your best bet. But sometimes it's -- it's hard to
14 justify, you know, that cost for a well that really
15 doesn't make anything.

16 Production vessel heated treaters,
17 separators, knockouts, you know, that type of thing.
18 You know, newer high end is going to cost, you know --
19 that -- that spectrum there, you know, 12 to \$80,000
20 depending on where they are.

21 In -- in a common industry, slang is
22 rolling cans; right? That's the manufacturing
23 facility of these where they -- where they roll and
24 then weld them together. Used vessels can be lower;
25 right? But you're still going to incur the labor cost

1 and -- and transport costs to install those.

2 H2S mitigation. Some wells, not all,
3 may contain, you know, an H2S hazard. Normally you
4 would want to increase your site visits, you know, to
5 put eyes on it to make sure that, you know, everything
6 was shut and -- and copacetic and, you know, take a
7 sniffer and -- and make sure that those levels are
8 staying where they're at or going down hopefully. Or,
9 you know, and -- you know, hopefully not going up.

10 If you have to strap the tanks on these
11 locations, you know, you -- you should be getting
12 supplied air on site. Now you can buy, you know, the
13 whole setup. I think I put, from my experience, you
14 know, 6,000 plus -- plus the refills and maintenance
15 on it, or you can rent them. Multiple companies do
16 offer that. That they will come by and do milk runs
17 on site and come fill up your oxygen for your
18 employees to use while utilizing that equipment.

19 Remote monitoring is another option;
20 right? That -- that you can put on these sites. That
21 way you can see them without actually having boots on
22 the ground and know what's going on. You know, that
23 can cost for on onsite only. And when I -- when I
24 talk about on onsite only, you -- you basically have
25 alarms set up that doesn't notify anybody outside of

1 the site, but just onsite and it shuts certain valves
2 that -- that you deem to be -- need shut. You know,
3 in the case of an emergency.

4 And then on onsite for gas monitors.
5 That -- that is another option for an operator, you
6 know, to keep everybody safe and those carry a rental
7 cost with them as well.

8 Okay, next slide. Okay. One common
9 thing that I ran into while managing these wells was
10 retrofitting. There was a lot of retrofitting on
11 these. Corrosion, you know, pipe over time. A lot of
12 these are very, very old. You have to, you know,
13 replace those things. Vapor management, you know, if
14 you don't have a proper -- if -- if you're, if you're
15 high line pressure and you've got one vessel there and
16 you're doing a cascade system into a lower pressure
17 vessel, it's probably a good idea that you invest in a
18 vapor VRU.

19 And that's a compressor; right? To
20 compress that low pressure gas and push it into the
21 pipeline and sell it actually makes some money off of
22 it rather than vent it or -- or flare it. Which, you
23 know, recently regulations came out where that is
24 basically not allowed. If you are -- are making a lot
25 of oil or -- or a high GOR, you may need a VRT.

1 Those can -- can range from 10 to
2 \$60,000 plus the install. Not very common, right
3 on -- on marginal wells, but I have seen them
4 installed on -- on some that had batteries where they
5 go into where you have a multitude of different
6 marginal wells going into -- into a single battery.
7 In that way, you could actually share costs in that
8 manner.

9 Containments, often these are earthen
10 burn. They've been worn down by, you know -- you
11 know, decades of being walked over, weeds growing
12 through them, which makes them not viable containments
13 anymore. Livestock, et cetera. You name it. If
14 you're going to, you know, make any type of investment
15 on that so you can contain a secondary containment
16 when -- if you do have a release, you have to invest
17 in that as well.

18 Scada we already went over it. So
19 that's, if you just want to see what's going on and
20 not have to have boots on the ground. If it's an
21 important asset to you say it's maybe close to
22 municipality, those things to -- to have you better
23 prepared to respond to that. That's an investment
24 that -- that an operator could make if they chose to.

25 General modifications. I hit on that a

1 little bit. New vessels, piping. Piping is -- is a
2 big one that seems to be ongoing. Valves are -- are a
3 constant issue. Seizing up, replacing those. ESD
4 shutdown valve. So if you take over a well and you
5 decide that it's probably okay to just, you know, not
6 visit it as much anymore, then that's probably a good
7 idea to have an ESD with those local shutdowns.

8 Meaning, you know, if you high level a
9 vessel or high level a tank or -- or something of that
10 nature, it'll shut the well in and then that way you
11 don't have a -- an incident or a release and then
12 discover it the next time that you come around.
13 Right? Takes care of it there. And I believe that is
14 all my slides, so I tried to get through it pretty
15 quick there.

16 MR. HALL: Thank you, Mr. Wrinkle. I
17 believe that concludes the summary of Mr. Wrinkle's
18 direct testimony. I'm sure to everyone's relief went
19 a little faster than I anticipated, so thank you.
20 I'll pass the witness.

21 THE HEARING OFFICER: Thank you. Well,
22 we are at 11:55, so let's return at one and we'll
23 begin those questions.

24 (Off the record.)

25 THE HEARING OFFICER: We're back after

1 a lunch break and it's time to begin the questioning
2 of Mr. Wrinkle.

3 Mr. Cloutier, will you be -- or
4 Ms. Tripp?

5 MS. TRIPP: Madam Hearing Officer, I'll
6 be cross-examining Mr. Wrinkle.

7 THE HEARING OFFICER: Thank you.

8 MR. HALL: May I take up a preliminary
9 matter before? Thank you.

10 Madam Hearing Officer, I have a request
11 of the Commission. Kind of depending how the rest of
12 the afternoon plays out and I have checked with the
13 other parties, we're all in agreement to this
14 approach. Of course, we leave it to the Commission's
15 sound discretion, but in the event, Mr. Powell, who
16 will have a lot of testimony and a lot of cross has
17 not taken the stand by the time four o'clock rolls
18 around.

19 Public comment. We've all agreed if
20 the Commission agrees to start that Monday morning and
21 make that request of the Commission depending how
22 things play out. Just wanted to bring that to y'all's
23 attention at the earliest time we could.

24 THE HEARING OFFICER: All right. I'll
25 wait to answer until we have the chair in hand.

1 MR. HALL: Thank you.

2 THE HEARING OFFICER: All right, thank
3 you.

4 Go ahead Ms. Tripp.

5 MS. TRIPP: Thank you,
6 Madam Hearing Officer.

7 CROSS-EXAMINATION

8 BY MS. TRIPP:

9 MS. TRIPP: Mr. Wrinkle, this is
10 Ann Tripp and I'm an attorney with IPNM. Can you hear
11 me okay?

12 THE WITNESS: Yes, I can.

13 MS. TRIPP: Okay, great. Well, first
14 thank you for being here and coming back after the
15 lunch break. I can understand Friday afternoon, you
16 probably have other places you want to be. But I
17 wanted to ask you a little bit about some areas that
18 we didn't necessarily cover on direct.

19 Because it sounds like the testimony
20 you're offering comes from your past experience. Is
21 that a fair summary? Or fair characterization?

22 THE WITNESS: Correct.

23 MS. TRIPP: Okay.

24 THE WITNESS: Correct.

25 MS. TRIPP: So actually I'll flip that,

1 I'll switch it on you. Could you explain what it is
2 you do with the oil conservation division in your role
3 now?

4 THE WITNESS: Sure. I'm the
5 engineering bureau chief. I oversee a group that's
6 admin permitting. So that group consists of eight or
7 nine folks that do all the permitting for oil and gas
8 wells in the state. That has to do with hydrocarbons.
9 Drilling, you know, cement, that kind of stuff. The
10 UIC group, which underground injection control, so --
11 or yeah. Underground injection control.

12 And I have three to four people in that
13 group that handle all underground injection. Then I
14 have special projects, which is Special Projects
15 Engineering, which mainly handles all the OCD
16 hearings. And then you heard from Mr. Garcia earlier
17 is the operational side of this program of plugging
18 the well.

19 And then also we recently onboarded an
20 individual to take on our Class Six if we receive
21 primacy from the EPA and then all of the boots on the
22 ground inspection folks in the state under engineering
23 are underneath me.

24 MS. TRIPP: And can you expand a little
25 bit about what's the reference to Class Six primacy?

1 THE WITNESS: Yeah, so we're -- we're
2 applying with EPA to have primacy like we do on our
3 class two walls for carbon sequestration walls.

4 MS. TRIPP: And that's still pending
5 before the EPA; is that right?

6 THE WITNESS: Yes.

7 MS. TRIPP: Thank you. And in terms of
8 special projects, you mentioned special projects
9 includes the operational side of plugging wells; is
10 that right?

11 THE WITNESS: Yes.

12 MS. TRIPP: And how big is your team
13 that works on those issues?

14 THE WITNESS: Just for -- just for the
15 plugging on the special projects?

16 MS. TRIPP: Yes, sir.

17 THE WITNESS: Three.

18 MS. TRIPP: Three, okay. Thank you.
19 And so now, now I'll go way back in time. I have your
20 CV, which was submitted as an exhibit, but it doesn't
21 refer to your educational background. Do you mind
22 touching on that briefly please?

23 THE WITNESS: Yeah. No, I -- I have a
24 high school degree.

25 MS. TRIPP: And where'd you graduate

1 from high school?

2 THE WITNESS: Well, I -- I got my GED
3 from Eastern New Mexico University when I was 16.

4 MS. TRIPP: And where did you grow up?

5 THE WITNESS: Roswell, New Mexico.

6 MS. TRIPP: And so on your resume, it
7 looks like the first oil and gas position is related
8 to Rock Resources and McKay Oil; is that right?

9 THE WITNESS: Yes.

10 MS. TRIPP: Okay. And so
11 approximately -- sorry I can't do the math in my head
12 so quickly, but about what age were you in February,
13 2003?

14 THE WITNESS: I was in my twenties.

15 MS. TRIPP: Okay.

16 THE WITNESS: I -- I can't do the math
17 either that quick.

18 MS. TRIPP: No, that's all right. And
19 so what led to your transition from the investigations
20 group to work for Rock Resources or McKay Oil?

21 THE WITNESS: Well, that's a little
22 private, but if you must know --

23 MS. TRIPP: You're testifying based on
24 your experience and I'm trying to understand how you
25 got your start in oil and gas and the breadth of your

1 experience there.

2 THE WITNESS: Okay. No.

3 MS. TRIPP: But we don't need to know.
4 That's fine. So the work with Rock Resources and
5 McKay Oil; how would you describe that operator?

6 THE WITNESS: Well, it was a -- it was
7 a smaller natural gas operator. They didn't have any
8 oil wells. They had, you know, a few hundred wells in
9 the ABO field that they pushed into the El Paso
10 pipeline. Very shoestring budget, smaller operator,
11 good folks.

12 MS. TRIPP: So it's not your opinion
13 that Rock Resources or McKay Oil is a bad actor or a
14 imprudent or irresponsible operator?

15 THE WITNESS: No, not my opinion at
16 all.

17 MS. TRIPP: And so from there -- and
18 just to be clear, on that portfolio, you mentioned
19 some shallow gas wells. Do you consider all those
20 wells marginal?

21 THE WITNESS: At the time? I can't
22 recall the actual production of -- of each one of
23 those, but yes, those -- those wells would be
24 considered marginal.

25 MS. TRIPP: And what definition are you

1 using for marginal?

2 THE WITNESS: The -- well, you have two
3 separate sets; right? Under 90 BOE is going to be
4 non-beneficial, and then you have 90 to 1,000, which
5 is marginal.

6 MS. TRIPP: And so you're applying the
7 parameters that are proposed in the rule change of
8 1000 BOE and 180 days production to define marginal
9 wells?

10 THE WITNESS: Correct.

11 MS. TRIPP: And it was those parameters
12 that were used throughout your testimony when you
13 refer to economic analysis of marginal wells?

14 THE WITNESS: Yeah, to the -- to the
15 best of my knowledge. Right? Like, you know,
16 there -- there may be some times that I remembered,
17 you know, that -- that it could be a little bit
18 outside of that. Maybe a little below that. But they
19 were pretty clear cut. You know, either -- there was
20 no in between really that we had. It was -- it was
21 either, you know, really good producing wells or -- or
22 very low producing wells.

23 MS. TRIPP: And you're referring to
24 those seven years with Rock Resources and McKay Oil?
25 Or are you referring to over your entire career?

1 THE WITNESS: Entire.

2 MS. TRIPP: Entire career. Okay, thank
3 you.

4 THE WITNESS: Yes.

5 MS. TRIPP: And so from there you moved
6 on to, I believe, Marathon was the next oil and gas
7 company that you worked for?

8 THE WITNESS: No, in between there I --
9 I did some flowback contract pumping for a little
10 while for Mobile Data. That was in North Dakota.

11 MS. TRIPP: Okay. North Dakota. Thank
12 you. Are you relying on any part of that experience
13 in your testimony that was submitted for this
14 rulemaking?

15 THE WITNESS: North Dakota? I couldn't
16 say it because the Bakken is a fairly new play and
17 those were all, you know, new horizontal wells. So,
18 and also when I was in North Dakota during that time,
19 I was not a decision maker. So it's -- it's based
20 upon when I was in New Mexico, basically just for the
21 main fact that these were the -- the wells that are,
22 you know, defined or at. There wasn't any in North
23 Dakota.

24 MS. TRIPP: So, jumping back for a
25 second, with McKay Oil; were you a decision maker

1 there as a lead field operator?

2 THE WITNESS: A decision for route
3 changes. Where -- where one goes. I would make
4 recommendations for repairs. That type of stuff, but
5 I -- I never really held the final decision on things.
6 That would've been my superior.

7 MS. TRIPP: And is there a certain
8 position or title that that decision making rested
9 with? Is it a production supervisor or a different
10 person within the company?

11 THE WITNESS: I -- I believe there --
12 it would be the equivalent. And I think his -- I
13 think his working title -- been so many years was
14 field -- field foreman. I think he was the -- over
15 the entire field.

16 MS. TRIPP: And about how many
17 employees did McKay Oil have at that time? And I'm
18 sure it varied. So just an estimate.

19 THE WITNESS: Yeah, total -- total, 18
20 to 22-ish. Approximately.

21 MS. TRIPP: Would you consider them a
22 small operator?

23 THE WITNESS: Myself? I mean there's a
24 spectrum to that; right? I would say comparably at
25 the time in New Mexico, they probably would've been,

1 not medium, but I guess, yes, smaller.

2 MS. TRIPP: And so then jumping ahead
3 from Mobile Data where you were working in the Bakken
4 in North Dakota, when did you return to operations in
5 New Mexico?

6 THE WITNESS: 2017.

7 MS. TRIPP: And that was with Marathon;
8 is that correct?

9 THE WITNESS: Yes, Marathon had
10 purchased two or three smaller oil companies here to
11 get back into the Permian.

12 MS. TRIPP: And so the wells during
13 that period; how would you describe them?

14 THE WITNESS: During twenty -- 2017 and
15 all the way to '21?

16 MS. TRIPP: Yes, sir.

17 THE WITNESS: A mixed bag. You had --
18 you had marginals. You had ones that -- that hadn't
19 produced in -- in multiple, multiple years. You had
20 brand new ones that we were bringing online. It
21 was -- it was a very, very mixed bag during that time.

22 MS. TRIPP: Okay. And so in terms of
23 Marathon's portfolio at that time; did you consider it
24 to be high risk or risky?

25 THE WITNESS: Yeah, for -- for the

1 wells that -- that we obtained. I would -- I would
2 agree with that, yeah.

3 MS. TRIPP: Have you done any analysis?
4 I mean, in other words, in coming up with your
5 opinions today, have you looked back and done any type
6 of well by well, analysis of the 150 to 250 wells you
7 were overseeing during that time period?

8 THE WITNESS: No. No, I have not.

9 MS. TRIPP: But your opinion that your
10 employer at that time had a risky profile was based on
11 the wells you were working on?

12 THE WITNESS: Correct. Off personal
13 observation.

14 MS. TRIPP: And is that limited to just
15 what you would consider marginal wells? Or are you
16 referring to the entire, you know, portfolio or
17 inventory?

18 THE WITNESS: Oh, marginal walls are
19 definitely higher risk.

20 MS. TRIPP: And so I want to dig down a
21 little bit because you referenced decision making. In
22 your final position as the production supervisor from
23 2018 to 2021, what kind of decision making
24 responsibilities or authority did you have?

25 THE WITNESS: Well, I never really did

1 have the final say on the actual budget. You know,
2 bigger items. I believe there was a threshold of
3 money that I could spend on my own, but I did provide
4 a kind of rough equation that -- that is very common
5 in the industry about well payback periods.

6 If I decided that I felt a well needed,
7 you know, something to be able to produce or produce
8 safely, et cetera, then I would apply for what they
9 call an AFE. And you have to excuse me. I do not
10 remember what that acronym stands for, but that would
11 then be approved by my upper management if it was
12 feasible or not. And that most likely included, you
13 know, petroleum engineer, reservoir engineer, looking
14 at that as well.

15 But as far as just day-to-day
16 operations decisions about who went where, I
17 recommended scheduling. That type of thing.

18 MS. TRIPP: So it sounds like there was
19 a lot of management decisions in terms of where
20 personnel were employed or what kind of maintenance,
21 especially if it was a larger project, that you needed
22 to recommend. Is that right?

23 THE WITNESS: Yeah, I think that's
24 right.

25 MS. TRIPP: And that threshold number

1 you referred to. Do you remember it kind of ballpark?
2 Was it 20,000? Or 50,000? Or 100,000?

3 THE WITNESS: It -- it varied. I know
4 that it -- it was never written right in -- in kind of
5 an SOP or anything, but I think it was common
6 knowledge that if it was, you know, a marginal well, I
7 think the -- the limit was \$5,000. But if -- if it
8 was a horizontal, well, I could -- you know, I could
9 spend 100,000 if I wanted to.

10 MS. TRIPP: And that was common
11 knowledge. But I'm trying to understand how you knew
12 it was 5,000 versus 100,000. Is that something that
13 was passed down to you?

14 THE WITNESS: Learned over time of
15 experience. Maybe -- maybe I overspent on -- on a
16 well that -- that couldn't pay it back and then just
17 learned over time where naturally holistically where
18 my boundaries were, where I needed to go talk to my
19 upper management about spending.

20 MS. TRIPP: And in your position as
21 production supervisor with Marathon, were you ever
22 required to review or you familiar with joint
23 operating agreements?

24 THE WITNESS: No.

25 MS. TRIPP: Okay. And I think AFE is

1 authorization for expenditure. That's what I
2 remember. And so, without familiar with joint
3 operating agreements; did you ever review any joint
4 interest billing statements?

5 THE WITNESS: No. The furthest that I
6 got into any joint was I basically knew what our
7 working interest was and I was to prioritize the
8 highest working, our highest working interest over the
9 lower.

10 MS. TRIPP: But you're definitely
11 familiar with the scenario that there can be many
12 interest owners in a well or in a lease.

13 THE WITNESS: Preferably, yeah.

14 MS. TRIPP: Okay. So when you've made
15 statements about the economics of a marginal well, and
16 you've provided some figures. In terms of the either
17 the lease wide or the larger picture; did that
18 decision rest with your manager or your supervisor?

19 THE WITNESS: I'm unsure if it was my
20 direct. It may have been a group effort with -- with
21 their supervision or their peers. Yeah, as far as
22 like lease wide or -- or anything like that, I'm not
23 sure.

24 MS. TRIPP: And then just sort to
25 narrow down a bit, there's lots of jobs within the oil

1 and gas industry. It sounds like you -- were you ever
2 involved in any drilling of wells?

3 THE WITNESS: No.

4 MS. TRIPP: Okay. And were you ever
5 involved in any completions process?

6 THE WITNESS: Just the -- the handover
7 that -- that gave them to me for the production.

8 MS. TRIPP: And then were you ever
9 supervising or involved in the plugging or
10 decommissioning of a well?

11 THE WITNESS: No, not -- not during
12 industry.

13 MS. TRIPP: And your experience with
14 plugging comes at overseeing the special projects
15 group now. Right?

16 THE WITNESS: At a thousand foot level,
17 but -- but we have technical people under me that --
18 that handle that.

19 MS. TRIPP: So in you testimony page
20 one, line 14 through 16. And I'm going to share --

21 MR. HALL: Thank you. That was my
22 request. If we're going to ask Mr. Wrinkle, I would
23 just ask the courtesy of sharing the screen. Thank
24 you, Ms. Tripp.

25 //

1 BY MS. TRIPP:

2 MS. TRIPP: Mr. Wrinkle, can you see
3 here? I'll scroll back up to the top. The top line
4 says, "Direct testimony of Justin Wrinkle." Are you
5 looking at the same thing I am?

6 THE WITNESS: Yes.

7 MS. TRIPP: Okay. So in line 14
8 through 16 where you make a statement, those oversight
9 duties included budgeting, cost analysis, production
10 data analysis, facility builds, safety, environmental
11 efforts and reactions, workforce management and
12 project management. Those duties are specific to your
13 time with Marathon between 2017 and 2021?

14 THE WITNESS: Yes.

15 MS. TRIPP: And so what kind of
16 budgeting authority did you have?

17 THE WITNESS: We basically had to every
18 year -- right, you had to forecast. And you know, I
19 was over, you know, my field. Right? And had to
20 forecast out what we were going to spend on numerous
21 different line items. Yeah, I mean that's basically
22 what we did. Day-to-day budgeting. I would use the
23 equation I used in my -- a little bit later about, you
24 know, what kind of costs we could use well by well
25 basis though. Strictly well by well.

1 MS. TRIPP: And so your analysis was
2 limited to a well by well basis to the extent that a
3 review of projected revenue, projected expenses was
4 made either on a larger lease wide or even a
5 company-wide portfolio. That was not something that
6 you participated in?

7 THE WITNESS: No, the -- the only part
8 that I was privy to on a lease -- well a company-wide
9 would be a line item that got charged to every well
10 that was basically administrative expenses and
11 payroll. That type of thing. So that factored into
12 your LOE for -- for each well. At my level we weren't
13 broken out by lease. It was well by well.

14 MS. TRIPP: Thank you. And I'm
15 hopefully sharing my screen again. This is onto page
16 two. And I just want to make sure that we're all
17 talking about the same types of wells.

18 This is line two and three. "When I
19 refer to marginal wells in my testimony, I define
20 those wells that have low production are aging and
21 hold little value as an asset other than the lease."
22 Is that correct? That's the definition of marginal
23 well you used in your testimony.

24 THE WITNESS: As I know it, yes.

25 MS. TRIPP: And so by low production,

1 what level of production are you using as low?

2 THE WITNESS: Like I said, it's been so
3 long ago. It was in line with what the proposal is.
4 You know, I can't give you any rock solid numbers, but
5 low comparatively to the rest of actual economic
6 wells.

7 MS. TRIPP: And so earlier you
8 testified that when you were working for Marathon,
9 that they had a wide variety of wells. And so the
10 definition of low production is based on your memory
11 or estimate, but it's not based on any actual analysis
12 of the wells at that time?

13 THE WITNESS: No, I -- I wouldn't have
14 that information anymore.

15 MS. TRIPP: And then in terms of wells
16 that are aging. Is there a certain age that you would
17 assess as being older or too old? Or what criteria
18 are you using to define that term?

19 THE WITNESS: I guess anything started
20 before 2000 is kind of the rough year that I put in my
21 head.

22 MS. TRIPP: And so since at the time
23 you were at Marathon as the production supervisor,
24 that was up to 2021. You're thinking about wells that
25 20 years or older.

1 THE WITNESS: Yeah. And that would fit
2 the aging definition. But of course there -- there
3 are younger wells that meet the low production.

4 MS. TRIPP: So this may bring back some
5 nightmares from yesterday, but are you referring to
6 marginal wells that are low production aging and hold
7 little value as an asset? Or do marginal wells
8 capture all wells that are low production or aging or
9 hold little value?

10 THE WITNESS: You're going to have to
11 repeat that.

12 MS. TRIPP: Sure. Are there three
13 categories that could exist distinctly within marginal
14 wells? Being low production, aging, little value. Or
15 do all three of those have to be found in the
16 definition of a marginal well for your testimony here?

17 THE WITNESS: If it is a marginal well
18 it inherently, you know, would have no -- little to no
19 value. So if that's overarching, right then -- then
20 the other two are kind of moot. Right?

21 MS. TRIPP: And so what do you use --
22 what's your barometer or yardstick for little value?

23 THE WITNESS: A well that cannot pay
24 for its upkeep and operational expenses.

25 MS. TRIPP: So a marginal well is one

1 that produces less revenue than covers operating
2 expenses. Is that correct? Or I'm sorry. I want to
3 restate. Can you answer the question again?

4 MR. TREMAINE: Objection. Asked and
5 answered if she's asking him to answer her question
6 again.

7 MS. TRIPP: That's fair.

8 BY MS. TRIPP:

9 MS. TRIPP: Mr. Wrinkle, is this the
10 true statement? A marginal well holds little value if
11 its revenue does not cover its operating expenses.

12 THE WITNESS: Yes. That's -- that's my
13 opinion and with my experience, yeah.

14 MS. TRIPP: But revenue generated from
15 a well can fluctuate over time with market prices. Is
16 that correct?

17 THE WITNESS: Yes.

18 MS. TRIPP: And so there could be a
19 wide range of whether revenue exceeds operating
20 expenses or not within the same well.

21 THE WITNESS: Yeah.

22 MS. TRIPP: Is that right? Okay. And
23 that variation could occur within the same 12 months;
24 is that also correct?

25 THE WITNESS: It would have to be a

1 pretty wide variation for -- for very low production.
2 I mean the higher production and the more swing in
3 your -- in your spot prices, right, then -- then
4 you're going to have a higher -- a higher swing.
5 Lower production, lower swing.

6 MS. TRIPP: Are there other factors
7 that could affect whether a well produces or how much
8 revenue it generates? Other than just market prices.

9 THE WITNESS: Are there other factors?
10 Can you -- can you please --

11 MS. TRIPP: Sure. Are there other
12 factors that affect the revenue a well generates other
13 than just the market prices? The West Texas
14 Intermediate.

15 THE WITNESS: There may be. I -- I
16 don't know unless, you know, if joint venture things.
17 You know, I -- I'm not sure about that, but all I am
18 aware of is the production of a commodity that -- that
19 the asset makes is what it's revenues based off of.

20 MS. TRIPP: In the wells that you've
21 operated in your experience over 20 years, I think
22 some of those were gas wells; correct?

23 THE WITNESS: Yeah. A good majority in
24 the beginning of my career, yes.

25 MS. TRIPP: Are you familiar with

1 takeaway issues or capacity for gas wells?

2 THE WITNESS: Oh yeah, most definitely.

3 MS. TRIPP: So, there are other
4 constraints that might be outside of an operator's
5 control that would affect both production and revenue.

6 THE WITNESS: In specific
7 circumstances, yes. Depending on their -- their
8 marketing agreement with, you know, force majeure.
9 That -- that kind of stuff.

10 MS. TRIPP: There was another area of
11 your testimony I wanted to follow up with you about
12 producing by exception. Do you recall that?

13 THE WITNESS: Yeah.

14 MS. TRIPP: Can you explain that a bit
15 more?

16 THE WITNESS: Yeah. So I can give you
17 an example. If, let's just say, that you have a low
18 producing well and it's a oil well and it's a pumping
19 unit. And your rod's part, and it's decided that
20 you're not going to invest the money to fix it. So
21 you decide as a business decision to be able to keep
22 producing the well and show some production, you let
23 the casing build up once a week and you sell the gas
24 off the casing.

25 So there's really no need if everything

1 is shut in and secure, there's no need to have
2 somebody out there every day as if it was a pumping
3 producing oil well. You would send somebody there
4 once a week, open the valve, sell a couple MCF, close
5 it and go back the next week.

6 MS. TRIPP: But production by exception
7 doesn't violate any of the rules.

8 THE WITNESS: No.

9 MS. TRIPP: And would adoption of the
10 proposed rules eliminate or affect the ability to
11 produce by exception?

12 MR. HALL: Objection to the extent that
13 calls for a legal conclusion.

14 THE HEARING OFFICER: Yeah.
15 Mr. Wrinkle, please don't offer legal conclusions, but
16 if you have an answer otherwise, go ahead.

17 THE WITNESS: I don't.

18 BY MS. TRIPP:

19 MS. TRIPP: Okay. So speaking of the
20 proposed rules in the petition, have you reviewed
21 those?

22 THE WITNESS: Very little.

23 MS. TRIPP: Are there any specific
24 provisions or changes that you recall reviewing?

25 THE WITNESS: I -- I guess

1 holistically, right, just the main -- the main point
2 of it is, you know, if -- if your well falls into this
3 category, then you must secure a higher bonding
4 amount.

5 MS. TRIPP: So you reviewed the portion
6 addressing changes in financial assurance?

7 MR. HALL: Objection. This is outside
8 the scope of his direct, we are not presenting
9 Mr. Wrinkle as an expert on the contents of the rules.

10 THE HEARING OFFICER: Yeah. And he's
11 already, I think, shut the door on that. He
12 effectively said he hadn't reviewed it closely.

13 BY MS. TRIPP:

14 MS. TRIPP: Okay. We can move on. So,
15 moving to your demonstrative, which captures some of
16 the testimony in Exhibit 7, which is Exhibit 9,
17 there's an overview of lease operating expenses.
18 Correct?

19 THE WITNESS: Can you share it?

20 MS. TRIPP: Yes. Yes, absolutely. And
21 it's probably pretty small. Can you see this?

22 THE WITNESS: I can. And yes, that
23 that's correct.

24 MS. TRIPP: Okay. So this is Exhibit 9
25 and we're on page three. The first page is the

1 introduction and page two is sort of your experience.
2 So page three, which is where we start talking about
3 lease operating expenses. And it continues from page
4 three through page four. And then there's some
5 additional expenses, categories under safety,
6 environmental, and retrofitting. You recall
7 testifying about this?

8 THE WITNESS: Yes.

9 MS. TRIPP: Okay. And so I think I
10 heard you refer to OPEX during your testimony. What
11 is that?

12 THE WITNESS: Operational expense.

13 MS. TRIPP: And there's also some
14 portions of your direct testimony that refer to
15 capital expenditures or CAPEX. So how are those two
16 different?

17 THE WITNESS: We use them, and again, I
18 didn't make these decisions. It was up to my upper
19 management about where -- what bucket they were going
20 to place the cost associated with whatever well we
21 were working on in. One being a CAPEX bucket and one
22 being OPEX or LOE.

23 MS. TRIPP: And so in your analysis of
24 whether a well is marginal, you're only using the
25 lease operating expenses or the OPEX; is that correct?

1 THE WITNESS: No, I just -- I just use
2 all.

3 MS. TRIPP: I'm sorry. So you used all
4 of the variables that you testified in generating a
5 range of OPEX?

6 THE WITNESS: No, I, -- I'm trying
7 to -- maybe I misunderstood your question, but to
8 determine if it was profitable? Or can you restate
9 it? 'Cause I think I'm confused.

10 MS. TRIPP: Absolutely. So let me get
11 to that portion of your testimony. Your direct
12 testimony. Okay. A standard example -- I'm sorry,
13 this is on page two, line 11 to 12. And I'm not going
14 to put it up because I want to start moving a little
15 bit quickly.

16 MR. HALL: If you're going to
17 cross-examine him about direct testimony, would you
18 please share or tell me where so I can share with him?

19 MS. TRIPP: Absolutely. So I'm going
20 to ask the question as I share.

21 BY MS. TRIPP:

22 MS. TRIPP: So Mr. Wrinkle, you use a
23 standard example of a calculation for a well's
24 profitability. And that's at page two, line 11
25 through 12 of your testimony. Gross revenue minus

1 royalties, minus lease operating expenses equals net
2 revenue. Is that correct?

3 THE WITNESS: Yeah, that -- that's a
4 standard and it's loose throughout the -- the industry
5 and I believe it was invented, right, for be able to
6 have field personnel make, you know, quick decisions
7 on the other equation in here. About like, can it pay
8 itself back within a certain amount of time? And it's
9 just basically so people can work a little bit more
10 autonomously without having to go to management.

11 MS. TRIPP: Okay. And so that term,
12 lease operating expense, does that include
13 expenditures that you identify as OPEX and
14 expenditures you identify as CAPEX?

15 THE WITNESS: Oh, okay, I see where
16 you're going. Okay.

17 MS. TRIPP: Is my question.

18 THE WITNESS: Yeah, no. So CAPEX will
19 not be under your LOE in that equation. My point
20 in -- in the direct is that it just depends really on
21 management and the company of what they're putting in
22 CAPEX and what they're putting in LOE. But it's my
23 opinion that it -- a cost is a cost is a cost.

24 MS. TRIPP: Okay. But that's not
25 necessarily how the wells were operated at the time

1 that you were employed with Marathon.

2 THE WITNESS: Can you be more specific?
3 You mean that way they were operated?

4 MS. TRIPP: So to the extent an expense
5 was assigned to CAPEX, the CAPEX bucket, and not a
6 lease operating expense. I'm trying to understand in
7 your analysis whether capital expenditures are
8 included in your lease operating expense.

9 THE WITNESS: No, they -- they're not.
10 It would be lease -- whatever was categorized as lease
11 operating expenses, whether if that last week was
12 CAPEX and then this week they decided to put it under
13 LOE, then that's in that equation. I -- we would only
14 use LOE.

15 MS. TRIPP: And so in coming up with a
16 range of lease operating expense of 500 to \$1,500 per
17 barrel of oil equivalent produced, what did you use to
18 create that range?

19 THE WITNESS: It was a few examples
20 over my time here in New Mexico in the latter part of
21 my career where, you know, something happened, right,
22 to -- to a well that did not produce very much of oil
23 or gas to where you had to -- you had no choice but to
24 replace tanks. You know, that was a -- a large
25 expense. I believe one of them was a remediation cost

1 after a failure of a vessel that was aging.

2 And you know, once you put that and the
3 company decided to put it on LOE, then that's what
4 drives that equation to those drastic numbers. I
5 wouldn't say that it's common. I would say, you know,
6 5 percent of the time you would see that and we would
7 have to manually manipulate our reports to take that
8 average out for all the rest of the horizontal wells
9 to have a -- an actual, you know, good looking report.

10 MS. TRIPP: So that range of 500 to
11 \$1,500 is based on a handful of specific examples from
12 your experience?

13 THE WITNESS: Yes.

14 MS. TRIPP: Okay. All right. Thank
15 you. And I'm going to quickly run through some of the
16 expenses that you've identified. So field operators.
17 Is that based on the most recent experience? 2017 to
18 2021.

19 THE WITNESS: Yes.

20 MS. TRIPP: Okay. And those numbers
21 are numbers that you pulled from looking at any of old
22 expenses or old well economics?

23 THE WITNESS: Are you -- are you
24 talking about the -- the pumpers? The field operators
25 that I -- I believe I said it was \$1,500 a day

1 average?

2 MS. TRIPP: Yes, over 50 leases.

3 THE WITNESS: Yeah. And the -- the
4 second part of that was -- was basically just an
5 example of how one may break it up between, you know,
6 a certain operator's route. But 1500 burned in my
7 mind since 2021 because that -- that factors in you --
8 you know, your truck lease if you're owning it. All
9 the HR type of expenses. Workman's comp insurance.
10 All that stuff was given to me and we ran with that
11 for at least two years as being an approximate
12 expense.

13 MS. TRIPP: And then I believe you also
14 testified earlier that these expenses are very well
15 dependent and can also vary widely depending on the
16 well's needs. Is that right?

17 THE WITNESS: That is correct, yes.

18 MS. TRIPP: So it's an individual
19 analysis on a well. It's not necessarily tied
20 specifically to a production threshold.

21 THE WITNESS: What would be tied to a
22 production threshold?

23 MS. TRIPP: In terms of these expenses.
24 Whether a well would need it or not is individual and
25 specific to the well.

1 THE WITNESS: Would -- would need what?
2 I'm -- I'm sorry, I'm just getting off track.

3 MS. TRIPP: Would need to incur these
4 range of field operators, energy compression, hot
5 oiling, waste removal, road access, chemical
6 treatment. Those are specific to the well.

7 THE WITNESS: Correct. What they
8 needed and if you decided to invest in that or not.

9 MS. TRIPP: And there was another
10 comment that was made regarding the value of a well
11 holding a lease. Do you recall that?

12 THE WITNESS: Yes.

13 MS. TRIPP: And you experienced that in
14 your position with Marathon; is that right?

15 THE WITNESS: Yes.

16 MS. TRIPP: Did you see that side of
17 the analysis when you were working with smaller
18 operators like McKay?

19 THE WITNESS: No. No, I wasn't high
20 enough up to -- to know those things.

21 MS. TRIPP: And at the time that you
22 were working for Marathon, was its specific business
23 model focused on stripper wells or marginal wells?

24 THE WITNESS: I think it was more new
25 drills.

1 MS. TRIPP: And so your employer at
2 that time was maintaining marginal wells to explore an
3 area for horizontal development; is that right?

4 THE WITNESS: Not entirely. I mean,
5 we -- we did have legacy production, right, that we
6 treated just like any other production that you would
7 have new. You would use those equations that I --
8 that I showed. And, you know, acceptable risk
9 analysis, those type of things. But yeah, some of
10 them were basically there for -- for the lease
11 development.

12 MS. TRIPP: And so are you aware of any
13 of these marginal wells or lower producing wells that
14 were plugged after new development came online?

15 THE WITNESS: Off the top of my head, I
16 can't tell you the names of the wells, but there --
17 there are at least four or five that were.

18 MS. TRIPP: Okay. So that's somewhat
19 common in terms of bringing new wells online and then
20 plugging the well that was holding the lease if it's
21 at the end of life.

22 THE WITNESS: If it's deemed to be an
23 end of life and -- and you can't find somebody that
24 wants to take it from you.

25 MS. TRIPP: Okay. Have you reviewed

1 any other testimony offered by witnesses in this
2 rulemaking proceeding?

3 THE WITNESS: I've been listening. As
4 far as to review in detail, no, I have not.

5 MS. TRIPP: Okay. And so I think
6 you've already covered this, but in terms of the
7 decision maker and whether it's an operating expense
8 or a capital expenditure that occurred really outside
9 of your authority?

10 THE WITNESS: Yes, it did.

11 MS. TRIPP: Okay. And so to the extent
12 that the expenses you've listed, if an operator
13 perceived that as a capital expenditure, that would
14 affect your equation.

15 THE WITNESS: Not if they perceived it
16 as a capital, it would not -- it would not affect the
17 LOE, the equation we were talking about earlier, minus
18 revenue, minus royalties. Or not -- not minus
19 revenue, excuse me. Minus cost, minus royalties
20 equals revenue. CAPEX wouldn't affect that.

21 MS. TRIPP: Well, if it's a capital
22 expenditure, you're still considering it a lease
23 operating expense.

24 THE WITNESS: No, I -- I think I -- I
25 covered that. No.

1 MS. TRIPP: Okay. I'm sorry. Maybe
2 I'm under misunderstanding.

3 THE HEARING OFFICER: Ms. Tripp, you
4 have five minutes.

5 MS. TRIPP: Thank you,
6 Madam Hearing Officer.

7 BY MS. TRIPP:

8 MS. TRIPP: And so Mr. Wrinkle, in your
9 position of 20 years, you know, managing costs,
10 reviewing those things; have you reviewed invoices
11 from contractors from time to time?

12 THE WITNESS: Yes.

13 MS. TRIPP: Okay. And when you review
14 those, are you looking for reasonable charges or
15 reasonable explanation of charges?

16 THE WITNESS: Yes.

17 MS. TRIPP: And are you familiar with
18 receiving an invoice and then there's supplemental
19 materials, like a work ticket for specific employees?
20 Have you seen that arrangement?

21 THE WITNESS: Yeah, and -- and when I
22 was in industry, I -- I don't look at any invoices
23 here, but -- but yeah. In industry they -- they often
24 did have a work ticket associated with the actual
25 invoice.

1 MS. TRIPP: And if you had seen that
2 ten employees were billed for the day, but you only
3 received four employee work tickets, would that have
4 prompted any action when you were reviewing for
5 industry?

6 THE WITNESS: It may have, depending on
7 how busy I was.

8 MS. TRIPP: That's fair. Similar
9 question. If you had a contractor going out to work
10 on two wells that were located very close to each
11 other and you saw that mileage was billed for both
12 wells, would that prompt any question for you?

13 THE WITNESS: It may, depending on
14 how -- how busy I was at the time.

15 MS. TRIPP: I think you've already
16 stated that you don't review any of the costs with
17 plugging on the special project teams. You're not
18 involved in that invoicing system?

19 THE WITNESS: No, no, I do not.

20 MS. TRIPP: Okay. Would it surprise
21 you if other operators, small operators who might
22 specialize in lower producing wells, marginal wells or
23 stripper wells, that their lease operating expenses
24 are much lower than what you've testified to?

25 THE WITNESS: Well, I testified to a

1 range of possibilities; right? So if -- if they're
2 just using a few of those, then it wouldn't surprise
3 me. And these -- these are normal. If you're -- if
4 you're just using the bare minimum and lease operating
5 expense, then yeah, it's going to be low. But if
6 something happens, that's what I'm trying to say in my
7 testimony, you're going to incur that -- that larger
8 cost and below production is just not going to cover
9 it.

10 MS. TRIPP: After drafting your
11 testimony and we have the demonstrative, did you
12 actually add up all of those charges in terms of what
13 the range would be from low to high?

14 THE WITNESS: No, because they were ad
15 hoc. I didn't see a reason to. You know, this wasn't
16 a every marginal well has to have every highest
17 expense on this list. It was more of a, you know, you
18 may incur these charges if the well needs it. So I
19 didn't see a reason to do that.

20 MS. TRIPP: And so the lease operating
21 expenses are highly dependent on a well's
22 characteristics and what kind of well it is, its age,
23 what kind of gas it's producing or oil. Is that fair?

24 THE WITNESS: Yes.

25 MS. TRIPP: Madam Hearing Officer, I

1 don't have any further questions.

2 THE HEARING OFFICER: Thank you,
3 Ms. Tripp.

4 Mr. Suazo?

5 MR. SUAZO: Sure.

6 CROSS-EXAMINATION

7 BY MR. SUAZO:

8 MR. SUAZO: Good afternoon,
9 Mr. Wrinkle. My name is Miguel Suazo. I'm
10 representing NMOGA. How are you this afternoon?

11 THE WITNESS: Doing good.

12 MR. SUAZO: Excellent. I have a few
13 follow-up questions. I'm going to try not to cover
14 some of the subjects that Ms. Tripp covered, but I
15 want to make sure I understand the scope of your
16 testimony and that it's clear for the record. Your
17 testimony is about operating costs and practices, not
18 statutory authority or rule interpretation. Is that
19 accurate?

20 THE WITNESS: Yes.

21 MR. SUAZO: Okay. And as part of your
22 testimony, you haven't done a statewide statistical
23 study of marginal well economics; correct?

24 THE WITNESS: No, I have not.

25 MR. SUAZO: You're primarily or solely

1 describing your experience and providing a set of
2 example cost ranges for these wells; correct?

3 THE WITNESS: Yeah. That -- that would
4 explain it. Yep.

5 MR. SUAZO: Now you define marginal
6 wells by low production in which you call lease
7 operating expenses or LOE; is that correct?

8 THE WITNESS: I describe marginal wells
9 as -- can you state that again? I'm sorry.

10 MR. SUAZO: You define marginal wells
11 by low production and lease operating expenses;
12 correct?

13 THE WITNESS: No. No, I don't think
14 lease operating expenses inside the definition of --
15 of -- of marginal. Well, unless I think -- I think
16 low production, aging. I think when she pulled it up
17 earlier, I think that's what it said in my direct.

18 MR. SUAZO: Okay. Then maybe explain
19 to me if you can, how lease operating expenses tie to
20 what you consider to be a marginal well.

21 THE WITNESS: Well, I -- I mean every
22 well, non marginal, marginal has lease operating
23 expenses. So I -- my testimony was geared at mainly
24 what I have seen in the past while dealing with low
25 producing, you know, aging, what I consider marginal

1 wells of what LOE they could incur.

2 MR. SUAZO: Okay. So there's no
3 universal production rate cutoff for what you would
4 consider marginal?

5 THE WITNESS: I -- I did the best that
6 I could to -- to recall the different fields and what
7 their spectrum of production was. You know, it varied
8 from something that we were producing to MCF a month
9 to, you know, 47 barrels a year. Right. But those in
10 my mind are considered very low producing marginal
11 wells.

12 MR. SUAZO: Okay. And I'd like to
13 better understand LOE and how you think about it.
14 LOE, does that vary by basin?

15 THE WITNESS: Yeah, it definitely can
16 because, you know, different basin characteristics of
17 wells are going to need different things, right, done
18 to them monthly. Yeah.

19 MR. SUAZO: And so things like the
20 infrastructure in the vicinity, the distance from
21 facilities, how operators choose to operate a well;
22 that all factors into your assessment of what makes up
23 LOE. Is that right?

24 THE WITNESS: Are you talking about in
25 the planning stages? Like how -- if they -- if they

1 plan it before they buy it or before they drill it,
2 that would affect the -- the LOE in the future? Or
3 are you talking about just what you have in front of
4 you now?

5 MR. SUAZO: Well, I'm trying to
6 understand how you think about it. So if LOE factors
7 into the planning stage, I'd like to know that, but if
8 it factors into other time periods in which the well
9 is operated, that'd be helpful to understand from you.

10 THE WITNESS: Okay. No, I -- I was
11 just trying to get a -- a better idea of of what
12 you're -- what you're asking, which is it is what it
13 is. I -- I hate to say that; right? But like, if --
14 if you take a well and so you purchase it from
15 somebody, it is, you know, close to municipality, so
16 you're going to think about, you know, a certain cost
17 per month on that.

18 If you want to put remote monitoring on
19 it. Location, treatments, i.e. chemical, your
20 pipeline is -- is too high, then you're going to
21 decide maybe I need to compress this. Do I want to
22 buy a compressor? Do I need to rent a compressor so I
23 can compress the gas and shoot it down the pipeline?

24 You know, maybe you've got an oil well
25 that your low pressure vessels are venting to your

1 tanks and you know, I'm going be a prudent operator
2 and -- and not do that and report it on my 115. I'm
3 going to invest into a VRU. Those are decisions that
4 can happen every day, and it is basically ad hoc.
5 Right? And -- and it is very specific to -- to
6 well -- to the well characteristics.

7 MR. SUAZO: Okay. So I like that
8 explanation. I think that gives everybody a sense for
9 what I would, I guess, characterize as a wide
10 variation of LOE that is well field specific.
11 Correct?

12 THE WITNESS: Correct.

13 MR. SUAZO: Okay. And you said that
14 you have looked at the rules, but not extensively.
15 Have you looked at them sufficiently to assess whether
16 if the rules that are being proposed in this
17 proceeding are adopted, whether that will increase
18 operating costs and LOE?

19 THE WITNESS: Because I don't have
20 prior experience on the bonding and premiums in -- for
21 oil and gas, I -- I don't know what -- what that
22 increase would be. So I couldn't -- I couldn't give a
23 number on that and -- or have an opinion about that
24 because I just don't know what that cost would be.

25 MR. SUAZO: But you do agree that the

1 costs would increase; correct?

2 THE WITNESS: I -- I don't -- I don't
3 know. You know, I don't know anything about the
4 insurance or -- or bonding or deals that could be made
5 in that arena.

6 MR. SUAZO: Okay. So in your testimony
7 you use a personal, I guess what you would call a rule
8 of thumb. And that is whether the lease can break
9 even after six months of gross production. Is that
10 right?

11 THE WITNESS: Yes. And -- and it is --
12 I guess you could say it is personal, but it's very
13 widely used in -- in the industry for field foremen
14 and those level of decision makers. Sometimes it is a
15 year, sometimes it's three months, sometimes it's six
16 months. It just depends.

17 MR. SUAZO: So even though it's widely
18 used, it's not an industry standard though,
19 necessarily. Correct?

20 THE WITNESS: Yeah. I mean, it's not
21 published in API or anything. Right.

22 MR. SUAZO: Okay. And that is your
23 personal rule of thumb based upon your prior work
24 experience; correct?

25 THE WITNESS: Correct.

1 MR. SUAZO: And that is not something
2 that the Commission or the division has adopted;
3 right?

4 THE WITNESS: Well, the -- the
5 Commission or the division don't operate oil wells. I
6 mean, we plug them, but I don't know why we would need
7 to adopt. You mean adopt it, like when they're
8 talking about financial analysis? Economical
9 analysis?

10 MR. SUAZO: The division doesn't use a
11 six month timeframe to make that sort of assessment
12 just in general course of dealings, not with respect
13 to, you know, operating wells and --

14 THE WITNESS: Yeah, we -- we don't run
15 economic analysis on wells in our day-to-day work. I
16 don't believe, at least I don't.

17 MR. SUAZO: Okay. Now Ms. Tripp asked
18 you a little bit about production by exception and
19 deferral. And you testified in your direct testimony
20 the operator's often produce by what you call
21 exception; correct?

22 THE WITNESS: Correct.

23 MR. SUAZO: And as I understand your
24 explanation, that means turning on a well for let's
25 say one to four days per month. And the reason why

1 they do that is to avoid costs but still hold a lease.
2 Is that accurate?

3 THE WITNESS: Yeah, overall, it -- it
4 could be for a few -- a few different reasons. For
5 most of the time, I'm not saying all the time, but
6 most of the time if you are unwilling to invest or you
7 know that the well's at the end of the life, but it
8 holds some monetary value to you other than its
9 production, then you know you have to produce it and
10 able to hold the lease.

11 Now I'm not a leasing expert or
12 anything like that, but I do know that much that you
13 have to show some type of production. The example
14 that I gave Ms. Tripp earlier about, you know, the --
15 the rods. Right? That -- that had separated and
16 you're sending a -- a person by there every week to
17 open it up to let a little bit of gas out.

18 That could be a temporary intermittent
19 pumping or pump by exception until your rig opens up
20 and you can go over there and -- and get that. That's
21 if of course you decide to -- to invest the money
22 in -- in that well after you've used that kind of rule
23 of thumb equation. In -- in my experience.

24 MR. SUAZO: Okay. And other than
25 holding the lease or what you just described, are

1 there any other reasons an operator would produce by
2 exception that you can think of?

3 THE WITNESS: Well, yeah, I mean, force
4 majeure. You know, if -- if you are cut out of your
5 pipeline for repairs and it's a -- a long period of
6 time, then of course the need, right, to put boots on
7 the ground there reduces until that infrastructure
8 opens back up.

9 MR. SUAZO: Okay. And you've seen
10 remediation deferred to P&A were permitted, meaning
11 that the timing of costs can be managed without
12 proving whether a well is capable or incapable of
13 beneficial use. Correct?

14 THE WITNESS: Okay. Deferred to P&A.
15 I apologize. Can you --

16 MR. SUAZO: Yeah. Let me be a little
17 clearer. So I think when Ms. Tripp was asking you
18 questions, she asked you about deferring remediation.
19 Is that accurate?

20 THE WITNESS: I don't believe she asked
21 me that about remediation.

22 MR. SUAZO: Okay. Have you seen
23 remediation deferred?

24 THE WITNESS: Preferably with my peers
25 in -- in the -- our environmental department while I

1 was in industry, they would, you know -- I would hope
2 when they asked for it that we got it so I could turn
3 my well back on.

4 MR. SUAZO: Okay.

5 THE WITNESS: But I've seen it
6 peripherally. Yeah.

7 MR. SUAZO: Okay. Let's move on to
8 some of the expenses that you listed in your direct.
9 You list things like flare stacks, tanks, vessels.
10 And those are, I guess, capital expenses or retrofit
11 expenses that are tied to safety and compliance
12 issues. Is that a fair assessment?

13 THE WITNESS: Sometimes.

14 MR. SUAZO: Okay.

15 THE WITNESS: As normal CAPEX,
16 normally, is going to be when you're developing and
17 you're building the facility and you're putting all
18 those things in. After that it's kind of, you know,
19 whatever you spend on it is going to be LOE. Now if
20 your management or you know, the owner of the company
21 or whoever it may be, feels that they want to put that
22 on CAPEX, then they tell their accountants to do just
23 that. Right?

24 So I have seen tanks, flares, flowback,
25 you name it, swapped in and out of operating costs and

1 CAPEX throughout my time as a decision maker.

2 MR. SUAZO: Okay. And I guess just so
3 I'm clear about how you explained the distinction
4 between CAPEX and OPEX to Ms. Tripp. It's your
5 opinion that those two buckets of categories are
6 dependent upon the judgment of the operator. Correct?

7 THE WITNESS: That's what I think, you
8 know, because in my experience, seeing it being
9 switched, that's my experience. I've just seen it be
10 switched at -- at random. So in my mind that's what I
11 have seen. And -- and

12 MR. SUAZO: Okay, so you're --

13 THE WITNESS: Not -- it's opinion.
14 It's not -- it's just what I saw. Right.

15 MR. SUAZO: So you don't know whether
16 there are generally accepted accounting practices that
17 determine whether one bucket is used for CAPEX or
18 OPEX. Correct?

19 THE WITNESS: The -- the only one that
20 I do know -- or about is -- is usually the
21 development. Right? Of course your drilling is going
22 to be CAPEX. I mean -- I mean 99.9 percent of the
23 time I assume. Your facility builds. You know,
24 all -- all the new equipment that goes along with
25 the -- when the well is new is most all the time going

1 to be capital expenditure.

2 MR. SUAZO: Okay. Now, in your direct
3 testimony, you did not quantify how many wells in New
4 Mexico require expensive retrofits in your list;
5 correct?

6 THE WITNESS: I -- did I provide a
7 list? Yeah. Of wells or you mean a list of -- of
8 expenses? I'm sorry.

9 MR. SUAZO: No, I know you provided the
10 list of expenses. I'm asking if you provided a list
11 of wells in New Mexico that would require expensive
12 retrofits as part of your direct testimony?

13 THE WITNESS: Oh, no -- no, I didn't.

14 MR. SUAZO: Okay. And you also did not
15 compare your costs to operator reported average P&A
16 costs, did you?

17 THE WITNESS: No.

18 MR. SUAZO: But that varies by --

19 THE WITNESS: I'm sorry. Let me
20 clarify that. I -- I don't believe I put anything in
21 my testimony about P&A costs.

22 MR. SUAZO: Okay.

23 THE WITNESS: So I -- I wouldn't have
24 done that anyway.

25 MR. SUAZO: And even if you had, those

1 costs would still vary by basin or vintage of the
2 wells; correct?

3 THE WITNESS: I -- I am not a plugging
4 person. You know, I don't know that.

5 MR. SUAZO: But you supervise plugins,
6 didn't you? I thought I heard you say that.

7 THE WITNESS: No, I -- I oversee the
8 group that supervises the -- the plugins here at -- at
9 OCD, which I have the technical people.

10 MR. SUAZO: Okay. Thank you.

11 THE WITNESS: Yeah.

12 MR. SUAZO: Understood. So you
13 testified that marginal wells are often held to
14 preserve leases; correct?

15 THE WITNESS: That is my experience,
16 yes.

17 MR. SUAZO: And then they're divested
18 as a common business practice, but that's not
19 inherently a step towards orphaning a well
20 necessarily; correct?

21 THE WITNESS: No -- no, it would -- you
22 would just be divesting it. Correct.

23 MR. SUAZO: Okay. And in your
24 experience, do operators plug a well when they can't
25 sell it?

1 THE WITNESS: In -- in my experience,
2 yes. But of course, you know, we've mentioned the
3 name of the former company that I was with. They
4 obviously, you know, had the capital to do so.

5 MR. SUAZO: So just so I understand,
6 you're testifying that a well becomes marginal at 1000
7 BOE per year, which comes out to approximately 2.7 BOE
8 per day. Is that right?

9 THE WITNESS: I -- I didn't put -- as I
10 was answering earlier, I did my best to -- to just
11 remember the lower producing wells in my -- in my
12 experience. I -- I did not -- there's no way I could
13 go back and, you know, from the company and pull those
14 numbers. So I didn't define a marginal well, I don't
15 believe, in -- in my direct

16 MR. SUAZO: Are you aware that that's
17 how applicants define it in their application?

18 THE WITNESS: Through -- through
19 listening to testimony? Yes. And then the -- the
20 great and/or question as well.

21 MR. SUAZO: Okay. And so your range in
22 your testimony is somewhere between 500 to 1500; is
23 that correct?

24 THE WITNESS: 500, 1500 what?

25 MR. SUAZO: LOE.

1 THE WITNESS: Oh. For LOE. Operate.
2 Okay. Lift operating expense at the very end of my
3 testimony about how it's per barrel that we were
4 looking at.

5 MR. SUAZO: Yes, sir.

6 THE WITNESS: Yeah. I mean, yeah, in
7 some cases. I think I told Ms. Tripp like 5 percent,
8 you know, or five or so that I've had in the past
9 have -- have done that because of unavoidable, you
10 know, not catastrophic, but costs that you had to
11 spend on -- on these wells that were low producing.
12 And it -- I think on a few of them, it would've taken
13 another 70, 75 years or so, or one of them was like
14 600 years to -- to pay off that -- that expense.

15 MR. SUAZO: But using your range, the
16 500 to 1500, if there's production at 2.7 barrels a
17 day, that's still profitable. Correct?

18 THE WITNESS: If it produces every day
19 and at that rate, then sure. And it wouldn't be
20 marginal, I don't believe. Would it be? Or on the
21 cusp. As long as you didn't incur any costs, yeah,
22 probably would be.

23 MR. SUAZO: Okay. Mr. Wrinkle, I thank
24 you for your testimony.

25 No further questions from NMOGA,

1 Madam Hearing Officer.

2 THE HEARING OFFICER: Thank you,
3 Mr. Suazo.

4 Mr. Sayer?

5 All right, Mr. Rankin.

6 MR. RANKIN: That's me. May I prevail
7 upon the Commission and the hearing officer to take a
8 short break?

9 THE HEARING OFFICER: All right, let's
10 take 10 minutes. Come back at 2:15.

11 (Off the record.)

12 THE HEARING OFFICER: We are back after
13 a short break.

14 Mr. Rankin, do you have questions of
15 Mr. Wrinkle?

16 MR. RANKIN: I do have a few,
17 Madam Hearing Officer.

18 CROSS-EXAMINATION

19 BY MR. RANKIN:

20 MR. RANKIN: I don't have many LOE
21 questions. It was thoroughly addressed. But I do
22 have some other questions. I have a few maybe LOE
23 questions, but a few others. Are we back on the
24 record? Oh yeah. Okay. Thank you.

25 Thank you, Madam Hearing Officer.

1 Mr. Wrinkle, my name's Adam Rankin. I
2 represent Oxy in this case. Thank you very much for
3 your time today, your engagement in the rulemaking and
4 your testimony. And to the extent that you were
5 involved with the division discussions with Oxy in
6 advance of this rulemaking discussing proposals and
7 trying to reach agreements. I'm grateful for that as
8 well. So thank you for your engagement.

9 I'm going to turn to your testimony
10 here and every time I refer to your testimony, I will
11 pull it up so that you can see it. For sure. 100
12 percent. Okay. Line 18. All right, line 18. In
13 your direct testimony on page one, you state that New
14 Mexico has been one of the leading states in orphan
15 well mitigation. And I just want to say, I just want
16 to explore that a little bit because so far we've been
17 hearing a lot of the problems.

18 But I want to understand. This is a
19 positive and I want to understand a little bit more
20 about, in your view, how it is that New Mexico has
21 been one of the leading states addressing orphan well
22 issues.

23 THE WITNESS: Multiple, you know, the
24 two or three conferences that -- that I attend, you
25 know, as -- as my role here, I've heard this many

1 times through -- through -- I -- you know, I can't
2 quote the reports; right? Possibly, you know, some
3 acronym groups that -- that have said that, you know,
4 New Mexico has plugged X amount of wells and, you
5 know, are leading, you know, the nation, et cetera.
6 So this -- this statement is just from my personal
7 involvement in -- in different conferences and -- and
8 hearing it.

9 MR. RANKIN: I mean, just been hearing
10 a lot about how there's a -- I'm going to paraphrase,
11 but a impending wave of issues, negative issues and
12 potential orphan wells coming. But it sounds to me,
13 based on this statement and what you're telling me,
14 that New Mexico's actually being recognized as doing a
15 fairly good job of managing its orphan well situation.
16 Is that what you're telling me based on national
17 conferences that are addressing this issue?

18 THE WITNESS: Well, I wouldn't say, you
19 know -- maybe it's worded wrong here, but managing
20 what orphan wells that we have been placed in front of
21 us. If -- if that makes more sense. The operational
22 side of it. Not the getting in front of it, if -- if
23 that helps.

24 MR. RANKIN: And you'll see I've got
25 now the next or the last sentence of the same

1 paragraph partially highlighted. I'm going to focus
2 on the first half of the sentence before I move to the
3 second half. I'll highlight it too. Okay. This last
4 sentence here, it says, "The proposed changes will
5 allow New Mexico to enforce responsible asset
6 management." And I'll leave it right there.

7 I'm going to just ask a couple
8 questions just to kind of tie the loop up on this, but
9 I heard you say that you haven't, you know, really
10 reviewed the proposed rule carefully or in depth. So
11 did you do any kind of analysis or review of how the
12 changes in the new rule would impact or affect OCD's
13 implementation of the Orphan Well Program that you
14 oversee?

15 THE WITNESS: Well, I -- I oversee the
16 operational side of the Orphan Well Program. Just --
17 just for clarity. So I guess the first part -- what
18 was the first part of your question? That was a two
19 parter, wasn't it?

20 MR. RANKIN: No. I guess the first
21 part is -- well, I don't know if it's a two part, but
22 the first part is because you didn't really closely
23 review the proposed rule, did you do any kind of
24 analysis to determine what the changes in the rule
25 would have? What kind of impact those changes would

1 have on your management of the Orphan Well Program?

2 THE WITNESS: No. No in-depth
3 analysis.

4 MR. RANKIN: Okay. So when you say
5 that the proposed changes will allow New Mexico to
6 enforce responsible asset management, what do you mean
7 by that? What would it do?

8 THE WITNESS: Yeah. Well it -- it is
9 just a holistic statement of if you -- if you require
10 well bonding, right, that is more in line with what it
11 costs. If. You know, and hopefully we don't receive
12 orphan wells, then the state, right, will be able to
13 be more in line and not be upside down on the cost if
14 they do, you know, recover bonds.

15 MR. RANKIN: So, the statement there,
16 your opinion is at that high level. It's not specific
17 to any specific provision or rule amendment. It's
18 just a general statement about if that's the effect of
19 the rule, then it will allow the state to better
20 manage orphan wells.

21 THE WITNESS: Yeah, I would -- I would
22 agree with that.

23 MR. RANKIN: Okay, so just a high level
24 statement, but not based on any specific rule or
25 amendment change. Right?

1 THE WITNESS: No, I mean, well, you
2 know, the change of course of the -- the bonds being
3 single and higher; right? But not any specific line
4 item detail.

5 MR. RANKIN: Okay. And just so I'm
6 clear, as the engineering bureau chief, you oversee
7 Mr. Diede?

8 THE WITNESS: I oversee his -- his
9 group. And Mr. Diede is in Mr. Garcia's group under
10 the engineering special projects.

11 MR. RANKIN: Okay. And so the
12 engineering bureau, Mr. Diede's plugging program is
13 generally underneath your oversight and management;
14 correct?

15 THE WITNESS: Yeah, I guess you could
16 say the buck stops with me there.

17 MR. RANKIN: In the lead up to this
18 proposed rulemaking, did anyone at the division seek
19 your input on the effect of these proposed rules and
20 whether you would recommend any changes or
21 modifications to them?

22 THE WITNESS: I'm -- I'm trying to
23 remember. You know, we're -- we're pretty busy over
24 here. --, I believe in passing maybe at the end of a
25 meeting, you know, somebody may have pulled me aside

1 and -- and -- and, you know, ran me through very high
2 level and got my pulse on it. But I -- I can't
3 guarantee that. But not in a formal way, no.

4 MR. RANKIN: So you weren't asked as
5 the engineering bureau chief to do any kind of review
6 or analysis of what the rule would mean for
7 implementation or management of the Orphan Well
8 Program.

9 THE WITNESS: Because it's -- and the
10 reason I think I was, you know -- wasn't involved at
11 that granular level is that as of right now,
12 engineering is purely an operational part of it.

13 MR. RANKIN: When you say operate --

14 THE WITNESS: Policy. So we plugged
15 the well; right?

16 MR. RANKIN: Right.

17 THE WITNESS: And, you know, price
18 agreements, policy, you know, what would -- what it
19 would do to operators? Yeah, we -- we just do the
20 operational side of things. So that's probably why,
21 you know, I wasn't granularly consulted. Trying to
22 look for the word there.

23 MR. RANKIN: Okay. But based on the
24 rule, I mean, it's going to have an impact on the
25 division; right? You're going to have -- in terms of

1 the operational side; right? I mean there's the
2 policy aspect of it, whether to support the rule, what
3 the broad policy implications are of the rule. But
4 certainly the rule is going to have an operational
5 effect on the division, in particular your Orphan Well
6 Program that you oversee. Right?

7 MR. HALL: Objection. I believe
8 Mr. Wrinkle has already testified that he has not
9 studied the rules in depth. And so that question, I
10 think in that sense he has already answered. And that
11 that's the basis of OCD's objection to that question.

12 THE HEARING OFFICER: I think he was
13 pretty clear about that.

14 MR. RANKIN: That's fine. I'm happy to
15 move on. I just try to close the door on things maybe
16 once or twice too many times. That's fine. Okay. So
17 all right.

18 BY MR. RANKIN:

19 MR. RANKIN: So I asked you whether you
20 did any kind of review or analysis on the impact of
21 the rule to your program and implementation of your
22 Orphan Well Program. Do you know -- and you told me
23 you didn't. Do you know if anyone else at the
24 division did that kind of review or analysis of the
25 operational impact on your Orphan Well Program?

1 THE WITNESS: That -- that I do not
2 know the answer to.

3 MR. RANKIN: Okay. On the second half
4 of this sentence on page one of your testimony where
5 you say that the, "Proposed changes will allow New
6 Mexico to enforce responsible asset management and
7 more effectively recover financial assurance when the
8 state plugs and abandons well bores and oil and gas
9 facilities."

10 I'm going to ask you about this and you
11 can tell me what you know. But you're telling me here
12 that the proposed rule will allow for more effective
13 recovery of financial assurance. So my question to
14 you is, first of all, tell me what you know about
15 recovering financial assurance currently at the
16 division.

17 THE WITNESS: So, sure, sure. I
18 don't -- I don't know anything about that. But the
19 statement, and it may -- it may read a little --
20 little odd, but the -- the meaning I was trying to get
21 across is more -- more effectively cover the cost.
22 And -- and it's not worded really great here now that
23 I look at it, but more effectively get actual costs
24 back for what we've spent plugging orphan wells.

25 MR. RANKIN: So you're telling me that

1 you meant to say more just that the rule would allow
2 the actual costs of plugging to be covered, whereas
3 currently in your opinion, the actual costs are not
4 effectively covered by the financial assurance.

5 THE WITNESS: Correct.

6 MR. RANKIN: And not that it would make
7 it easier for the division to actually go out and
8 recover, redeem the financial assurance from the
9 surety companies.

10 THE WITNESS: Correct.

11 MR. RANKIN: Okay. And as part of the
12 engineering bureau, you don't oversee the financial
13 assurance aspects of the division; right?

14 THE WITNESS: No.

15 MR. RANKIN: So those questions all
16 will be directed to Mr. Powell; correct?

17 THE WITNESS: Sure.

18 MR. RANKIN: He's the last one, yeah.
19 Okay. All right. I think also your testimony about
20 the use of the term marginal well and what it meant to
21 you and your testimony, I think was fairly well
22 covered by Ms. Tripp. So I don't want to rehash that
23 same ground.

24 But I do want to kind of touch, you
25 know, tangentially around some of those discussions

1 that, you know, you had with other counsel around your
2 determination about whether a well maintains value
3 independently of the lease.

4 And I know in your experience working
5 with Marathon, that in your opinion, oftentimes those
6 wells were held primarily or for purposes of holding
7 the lease; right?

8 THE WITNESS: That was my
9 understanding.

10 MR. RANKIN: But isn't it true that
11 many times, you know, a well has independent value
12 because it provides, you know, access to -- it may,
13 depending on the quality of the reservoir, if there
14 are remaining recoverable reserves, especially in
15 primary production, a well that has access to those
16 reserves continues to maintain independent value.
17 Wouldn't you agree?

18 THE WITNESS: It all -- it depends;
19 right? You know, it's not producing for a reason.
20 You know, there could be downhole issues, that kind of
21 stuff. That's -- that's something that you probably
22 wouldn't want to reenter, but you may.

23 MR. RANKIN: Let me stop you there
24 because I may not have framed my question clearly
25 enough. I don't mean a while that's not active. I

1 mean a well that's actually producing and meets the
2 proposed rules definition of marginal. Okay?

3 THE WITNESS: Okay.

4 MR. RANKIN: So well under the
5 division's -- or rather, the applicant's proposed rule
6 that meets the definition of marginal, meaning it
7 produces less than 1,000 barrels oil equivalent and
8 fewer than 180 days a year, but it accesses a
9 reservoir that has remaining recoverable reserves in
10 primary production.

11 Doesn't that well maintain potentially
12 substantial value? Not just for primary production,
13 but for future potential EOR secondary recovery.

14 THE WITNESS: It -- it may. It -- it's
15 hard to answer that without looking at a -- a specific
16 well, you know, and -- and run -- and having a
17 qualified person run economics on it. It -- you know,
18 it -- it really, really -- and I hate to keep going
19 back to this, but it really, really depends on a -- on
20 a well by well basis.

21 Now for a well that you're -- you're
22 saying that -- that would, you know -- in the
23 petition, you know, is under this category, I -- I
24 would say in my experience that you probably, you
25 know, would not want it to have any type of failure

1 that's going to cost you any substantial amount of
2 money. Because then one or two of those things have
3 basically made any revenue not possible for however
4 long it -- it would take to -- to pay it back. In --
5 in my opinion. Other than, you know, this -- this
6 lease accounting type thing.

7 MR. RANKIN: So I mean, I think
8 throughout the course of this hearing, I think a lot
9 of the parties probably would agree that it does
10 depend on a well by well basis. And would you also
11 agree with me, Mr. Wrinkle, that the division has the
12 expertise to ascertain whether given the information
13 needed to make such a decision, it could make that
14 decision about whether a well has future value and
15 going forward?

16 MR. HALL: Objection. That question
17 involved a long statement from Mr. Rankin that I don't
18 necessarily want to be incorporated as a question to
19 Mr. Wrinkle unless he did mean those as distinct
20 questions, in which case I would object to the
21 question being multifarious.

22 THE HEARING OFFICER: Would you
23 rephrase, Mr. Rankin?

24 MR. RANKIN: Sure. Let me try to break
25 it down if I can.

1 BY MR. RANKIN:

2 MR. RANKIN: Let me try to back it out.
3 I mean, I think what I'm getting at, Mr. Wrinkle, is
4 that wells may have on a case by case basis, it's
5 worth -- sorry, hearing the whispering on the side of
6 my ear, which is distracting. The wells have
7 potential value. And so in order to determine whether
8 they have value, it requires a case by case
9 assessment. Agree?

10 THE WITNESS: Yes.

11 MR. RANKIN: Okay. And my question to
12 you is do you agree with me that the division has the
13 expertise to evaluate whether on a case by case basis
14 a well has value and beneficial use going forward?

15 THE WITNESS: To properly answer that,
16 would it -- would the division be the one running the
17 economics? Or would it be a -- an operator presenting
18 its findings to the division for the division to make
19 that decision?

20 MR. RANKIN: I would say it's the
21 latter. That the division could request the
22 information from the operator and the operator would
23 provide whatever information the division asked for
24 that's relevant to make the determination.

25 THE WITNESS: I believe so, yes. At --

1 at current with current staffing and -- and their --
2 their backgrounds, yes.

3 MR. RANKIN: Isn't it also true that if
4 a reservoir is near the end of primary production and
5 a marginal or low producing well is plugged, then it
6 may not be economic to drill a new well to access
7 those same reserves?

8 THE WITNESS: I've never been involved
9 in -- in reservoir engineering or -- or drilling or --
10 or that aspect of management in the industry. So I --
11 I just really don't have any experience to answer
12 that.

13 MR. RANKIN: Very well. So, yeah, you
14 wouldn't be able to tell me one way or the other then
15 on that question, huh?

16 THE WITNESS: Correct. Yeah.

17 MR. RANKIN: You mentioned that as part
18 of your role in the bureau, that the division is
19 seeking primacy authority for the Class Six CO2
20 injection; correct?

21 THE WITNESS: Yes.

22 MR. RANKIN: And if you would just give
23 us a short overview what exactly Class Six CO2
24 injection is all about?

25 THE WITNESS: Well, you -- it's -- it's

1 basically carbon sequestration. So you take carbon,
2 right, CO2 and you inject it in -- in ground for
3 storage.

4 MR. RANKIN: And in order to do that,
5 you're going to need facilities and well bores to make
6 that injection; correct?

7 THE WITNESS: Yes, I would assume so.

8 MR. RANKIN: So that's a possible
9 future beneficiary use of wells in the state if
10 they're in condition and meet the requirements of
11 Class Six injection, that they could be converted to
12 sequestration wells. Carbon sequestration wells.
13 Correct?

14 THE WITNESS: Nothing is impossible,
15 but I think for that particular scenario, it's going
16 to be extremely rare with -- with EPA's existing
17 guidelines for -- for materials and -- and that type
18 of thing.

19 MR. RANKIN: Yeah, it's a high
20 standard; right? Because of the corrosiveness of CO2
21 and water; right?

22 THE WITNESS: Correct. Yes.

23 MR. RANKIN: But nevertheless, that's a
24 possible future beneficiary use of some of the state's
25 well bores. Correct?

1 THE WITNESS: Nothing is impossible,
2 but extremely rare.

3 MR. RANKIN: In addition, well bores in
4 the state could also be valuable for unleased produced
5 water disposal; correct?

6 THE WITNESS: Pretty much the same
7 answer that I gave about CO2. It's -- it's going to
8 be -- be rare because of the parameters that -- that
9 need to be met for -- for injection across the board.

10 MR. RANKIN: In your experience, it's
11 rare for producing wells to be converted to disposal
12 in New Mexico?

13 THE WITNESS: It's -- it's rare for
14 people to make that investment rather than just going
15 new. It -- it depends on what type of injection
16 you're talking about as well. Are you talking about
17 EOR? Or are you talking about SWDs?

18 MR. RANKIN: I'm sorry, I'm talking
19 about produced water disposal. So just disposal. So
20 I was specifically talking about, you know, lease. On
21 lease produced water disposal. As opposed to
22 commercial.

23 THE WITNESS: Yeah, I mean like -- like
24 I say, anything is possible, but it would -- it would
25 have to, you know, take a lot of rework or have been

1 designed very, very well in the past. So it may or
2 may not have -- have that value.

3 MR. RANKIN: Okay. In your experience
4 is produced water capacity at a premium in New Mexico
5 right now?

6 THE WITNESS: I would say yes.

7 MR. RANKIN: So I mean, isn't it
8 possible, even likely that if operators are able to
9 convert produced existing production wells to disposal
10 to manage their on lease water production, that that
11 may have some value to operators across the state?

12 THE WITNESS: Yeah, if they were able
13 to -- to meet those guidelines and then criteria it
14 would -- it would help that operator.

15 MR. RANKIN: Did you review Oxy's
16 witness's rebuttal testimony addressing your statement
17 that marginal wells hold little value as an asset
18 other than for the lease itself?

19 THE WITNESS: No, I didn't.

20 MR. RANKIN: Okay. I'm going to see if
21 I have any more questions for you, Mr. Wrinkle. I
22 guess just kind of going back real quick to your
23 testimony on lease operating expenses. These were all
24 just based on, as far as I could tell, based on your
25 anecdotes. Anecdotes and in your recollection of what

1 the costs were and not based on any actual cost data
2 or case studies that you performed. Agree?

3 THE WITNESS: Yeah, I agree. I
4 wouldn't have access to that anymore.

5 MR. RANKIN: And in your testimony, you
6 did not offer an opinion that marginal wells are more
7 likely to be orphaned and fall to the responsibility
8 of OCD to plug? Agree.

9 THE WITNESS: I don't -- I don't
10 believe so.

11 MR. RANKIN: Okay. I have no further
12 questions of the witness, Madam Hearing Officer.
13 Thank you.

14 Thank you very much, Mr. Wrinkle, for
15 your time. Appreciate it.

16 THE HEARING OFFICER: Thank you very
17 much, Mr. Rankin.

18 Mr. Maxwell, do you have questions of
19 Mr. Wrinkle?

20 MR. MAXWELL: No questions. Thank you.

21 THE HEARING OFFICER: Thank you. I
22 don't know if Ms. Nanasi is on the platform. No.

23 Mr. Moore?

24 MR. MOORE: No questions. Thank you.

25 THE HEARING OFFICER: All right,

1 Mr. Tisdale or Ms. Fox?

2 MS. FOX: No questions, Madam Hearing
3 Officer. Thank you.

4 THE HEARING OFFICER: All right,
5 Mr. Hall, do you have redirect?

6 REDIRECT EXAMINATION

7 BY MR. HALL:

8 MR. HALL: Just a couple of questions,
9 Mr. Wrinkle. I know it's been a long day. I'll make
10 it quick. These lease operating expenses, I believe
11 you testified they're variable and were kind of well
12 specific. Were you able to predict when and where
13 these expenses would arise?

14 THE WITNESS: To -- to a somewhat
15 degree, right, depending on location. You know, the
16 visible inspection of equipment. Yeah, some -- some
17 of these; right? But like some H2S can show up out of
18 nowhere; right? But visual inspection and that kind
19 of stuff is pretty -- pretty self-explanatory and
20 you're gonna know at some point you're going to have
21 to do X, Y, or Z to -- to maintain it.

22 MR. HALL: And regardless of some can
23 be expected, some can't. Regardless with regard to a
24 low producing, well, in other words, it's not highly
25 profitable. Is that a correct characterization?

1 THE WITNESS: Yeah, I mean it could be
2 minuscule profitable, but yeah.

3 MR. HALL: So what would the effect of
4 these sorts of expenses, whether unexpected or
5 expected, how would that affect the lease LOE
6 calculations? Lease operating expenses?

7 THE WITNESS: Sure, yeah, so at the end
8 of my testimony, I gave a couple, you know, extreme
9 examples of that to where, you know, this catastrophic
10 thing happened and -- and it took LOE, you know --
11 \$500 you're paying to get one barrel out of the ground
12 up to, you know, the -- the extreme of \$1,500.

13 Each time that you incur any of these
14 that I listed it -- it's going to affect, you know,
15 your -- your lift operating costs and diminish it each
16 time. And yeah, in my experience it's these lower
17 producer older ones that -- that actually requires
18 this type of work more so than the newer ones.

19 MR. HALL: Thank you. I'll pass the
20 witness.

21 THE HEARING OFFICER: Thank you.
22 Commissioner Ampomah, do you have
23 questions of Mr. Wrinkle?

24 MR. AMPOMAH: No, I do not. Thank you.

25 THE HEARING OFFICER: Commissioner

1 Bloom?

2 MR. BLOOM: Madam Hearing Officer, I
3 have no questions.

4 Mr. Wrinkle, thank you for your time
5 today.

6 THE HEARING OFFICER: Thank you.
7 Chair Chang?

8 MR. CHANG: No questions from me.
9 Thank you.

10 THE HEARING OFFICER: All right, thank
11 you. If there's no reason not to excuse Mr. Wrinkle,
12 we'll excuse him. Thank you very much, Mr. Wrinkle.

13 Mr. Tremaine?

14 MR. TREMAINE: Madam Hearing Officer,
15 our last witness is Brandon Powell. He is here in the
16 room in person. We're happy to start with his direct
17 unless we need a break before we start. I do
18 anticipate that Mr. Powell will take the full 60 and
19 30 minutes and we do have a number of questions for
20 surrebuttal.

21 THE HEARING OFFICER: All right, thank
22 you. It's up to you. We did just take a break 30
23 minutes ago. We could take a break between direct and
24 rebuttal if you want.

25 MR. TREMAINE: That's all right.

1 Sorry, I stepped out for another matter. I missed the
2 break.

3 THE HEARING OFFICER: Okay.

4 MR. TREMAINE: Thank you.

5 THE HEARING OFFICER: Mr. Powell, would
6 you spell your first and last name please?

7 MR. POWELL: Brandon. B-R-A-N-D-O-N
8 Powell, P-O-W-E-L-L.

9 WHEREUPON,

10 BRANDON POWELL,
11 called as a witness and having been first duly sworn
12 to tell the truth, the whole truth, and nothing but
13 the truth, was examined and testified as follows:

14 THE HEARING OFFICER: Thank you.

15 Go ahead, Mr. Tremaine.

16 MR. TREMAINE: Thank you.

17 DIRECT EXAMINATION

18 BY MR. TREMAINE:

19 MR. TREMAINE: Good afternoon,
20 Mr. Powell. Will you please describe your current
21 position with the OCD for the Commission?

22 THE WITNESS: My current position is
23 deputy director with the Oil Conservation Division,
24 specifically over the engineering and environmental
25 groups.

1 MR. TREMAINE: Thank you. Bear with me
2 here. I'm going to ask you about a bunch of different
3 exhibits. Mr. Powell, did you prepare direct
4 testimony for this hearing which is labeled as OCD
5 Exhibit No. 13?

6 (Exhibit 13 was marked for
7 identification.)

8 THE WITNESS: I did.

9 MR. TREMAINE: And is your curriculum
10 vitae OCD Exhibit No. 14?

11 (Exhibit 14 was marked for
12 identification.)

13 THE WITNESS: It is.

14 MR. TREMAINE: And did you prepare a
15 visual aid for your direct testimony, which is OCD
16 Exhibit No. 15?

17 (Exhibit 15 was marked for
18 identification.)

19 THE WITNESS: I did.

20 MR. TREMAINE: Okay. Did you also
21 through counsel yesterday produce a replacement Excel
22 sheet for well production for fiscal year '24, which
23 is a replacement of OCD Exhibit No. 16?

24 (Exhibit 16 was marked for
25 identification.)

1 THE WITNESS: I did.

2 MR. TREMAINE: Are you in your
3 testimony today going to refer or infer to the master
4 reference spreadsheet Exhibit No. 17?

5 (Exhibit 17 was marked for
6 identification.)

7 THE WITNESS: Yes.

8 MR. TREMAINE: And did you produce and
9 refer in your direct testimony to the legislative
10 finance committee report on orphan and inactive wells
11 OCD Exhibit No. 18?

12 (Exhibit 18 was marked for
13 identification.)

14 THE WITNESS: Yes.

15 MR. TREMAINE: Did you provide a second
16 visual aid referencing your response to the LFC report
17 in OCD Exhibit No. 19?

18 (Exhibit 19 was marked for
19 identification.)

20 THE WITNESS: Yes.

21 MR. TREMAINE: Okay. Did you also
22 provide three different forms of the inactive well
23 list in their native format labeled with different
24 filters labeled OCD Exhibits No. 21, 22 and 23?

25 //

1 (Exhibit 21, Exhibit 22 and Exhibit 23
2 were marked for identification.)

3 THE WITNESS: Yes.

4 MR. TREMAINE: Okay. And did you also
5 prepare and provide for this hearing an exhibit
6 labeled ACOI or agreed compliance order for inactive
7 wells list OCD Exhibit No. 24?

8 (Exhibit 24 was marked for
9 identification.)

10 THE WITNESS: Yes.

11 MR. TREMAIN: And did you also provide
12 a financial assurance report, OCD Exhibit No. 29?

13 (Exhibit 29 was marked for
14 identification.)

15 THE WITNESS: Yes.

16 MR. TREMAINE: And did you prepare
17 written rebuttal testimony labeled OCD Exhibit No. 30?

18 (Exhibit 30 was marked for
19 identification.)

20 THE WITNESS: Yes.

21 MR. TREMAINE: And did you also prepare
22 a visual aid for your rebuttal testimony? OCD Exhibit
23 No. 31?

24 (Exhibit 31 was marked for
25 identification.)

1 THE WITNESS: Yes.

2 MR. TREMAINE: Okay. I think we've
3 gotten through the list here. Do you have any
4 corrections to your direct testimony?

5 THE WITNESS: I don't believe so, but
6 there's a lot there.

7 MR. TREMAINE: Okay. Similarly, your
8 rebuttal or your visual aids, any corrections you need
9 to highlight for the Commission and participants?

10 THE WITNESS: No.

11 MR. TREMAINE: Okay. Do you adopt your
12 direct and rebuttal testimony as your testimony today?

13 THE WITNESS: Yes.

14 MR. TREMAINE: Okay. And are you
15 prepared to provide a summary of your direct testimony
16 and a response to the LFC report as a summary of your
17 direct testimony for the Commission?

18 THE WITNESS: Yes.

19 MR. TREMAINE: Okay. All right,
20 Madam Hearing Officer, I'm going to screen share.

21 BY MR. TREMAINE:

22 MR. TREMAINE: All right, Mr. Powell, I
23 have up OCD Exhibit No. 15, your direct slides.
24 Please present your summary to the Commission and let
25 me know if you'd like to change your reference on

1 screen.

2 THE WITNESS: As long as we can go to
3 Exhibit No. 13 after we go through Exhibit No. 15, I'm
4 fine with that.

5 MR. TREMAINE: Would you like me to
6 refer to Exhibit 13 first?

7 THE WITNESS: Yes please. I won't stay
8 there long. I know everybody's got lots of questions
9 for me, so I'll try to be as quick as possible.

10 MR. TREMAINE: Please direct me where
11 you'd like to go within Exhibit 13.

12 THE WITNESS: I'd like to go to page
13 three of Exhibit 13. And what I'm going to attempt to
14 go through through my testimony is just a really high
15 level overview of key points I think the Commission
16 should take a look at as they go through it. It's
17 non-inclusive of everything that I submitted.

18 Obviously as you went through the list,
19 there's a lot submitted there and I want to be as
20 respectful of time as I can so I'm going to run
21 through as fast as I can. But calling key points out
22 as we go through.

23 So on page three. Actually if you'll
24 scroll up a little bit 'cause I want to start on line
25 one through four. As you've heard, and I think it's

1 going to be continued through the case, the
2 overemphasized conversation that OCD's costs are
3 inflated for plugging and how they shouldn't be used
4 and industry can plug it cheaper than OCD can. I will
5 just admit that industry probably does plug wells
6 cheaper than OCD does.

7 They look at wells at different points
8 in their life than OCD does. Typically the wells that
9 OCD gets are by operators who are failing in their
10 business. So what happens is they take the well's
11 production to failure and once that reaches failure,
12 they leave that well sitting there until the next well
13 gets to failure and then they leave that well there.
14 And they do that until OCD takes enforcement action or
15 there's no wells left.

16 So there's times where those wells sit
17 for years before OCD takes action. And then once OCD
18 takes action, then OCD puts those on that MOSS list
19 for plugging in the future. And at times, depending
20 on budgets, which the budgets today are agreeably
21 greater than they once were, but depending on budgets,
22 OCD could take years to get to those wells to plug it.
23 So by the time OCD gets to those wells, there are
24 potentially years and years and years of neglect of
25 those wells because they were taken to failure before

1 OCD ever got to those wells.

2 So an operator that's prudently taking
3 care of their wells are going to plug it right at that
4 failure point or even before that when the well hasn't
5 silted in, when the well hasn't corroded, when it
6 hasn't met a lot of those other issues that OCD
7 typically sees.

8 Next I'm looking on page four.
9 Specifically, I want to call out lines 12 through 15.
10 And what I want to highlight here is private wells
11 account for roughly 15 percent of the wells in the
12 state. They account for over -- for roughly 40
13 percent of the inactive well numbers. Why this is
14 important is on federal wells, BLM has oversight in
15 their rules. On state land, state land office has
16 oversight in addition to OCD. On private wells
17 neither one of those organizations have oversight.
18 It's just OCD.

19 And it's concerning that operators are
20 treating private wells potentially different than the
21 other well types because 40 percent of the inactive
22 wells in the state are on private land. Next I'm
23 going to point out lines 17 through 18. This was
24 documented in the LFC report. 33.7 percent of
25 inactive wells haven't produced in over six years. So

1 what this highlights again is the inactive wells as
2 they sit there for years before OCD gets that -- to
3 those wells, they continue to degrade.

4 Next I'm going to point out line 21
5 through 22. In this I want to highlight over 60
6 percent of the wells the OCD moves on are actively
7 leaking when we move onto them. That shows that they
8 have failed integrity at the surface, not even showing
9 what's downhole problems are, but failed integrity at
10 the surface when we move on. That's all I had in
11 Exhibit 13. I can move to exhibit 15 now.

12 So I want to start specifically on
13 slide seven. Actually I don't. Let's go to the
14 definition of marginal well. I didn't have it
15 highlighted. I'm not sure quite what slide it is.
16 It's probably further on than where you're at right
17 now 'cause I believe they're in alphabetical order.
18 Or maybe not. Right there.

19 All right, so there's been a lot of
20 discussion on marginal well. I'll admit I wish we
21 hadn't used that as the term that we used in the -- in
22 the rule because marginal well is something that's
23 been used by industry on whether it's productive or
24 not. It's been used by LFC reports that I personally
25 have submitted to the director, which is then used in

1 LFC as different criteria of evaluation. I believe
2 operators use it of whether it's economic or not.

3 For LFC it's roughly 20 BOE 'cause
4 stripper wells are 10 BOE. So it's double-edged
5 stripper wells. So those are the numbers we've given
6 to legislature in the past as a marginal well. In
7 this rule it is not used for either of those. In this
8 rule it's used as a well that is near the end of its
9 life that has a higher risk of potential failure.
10 That's why we looked at having both the volume and the
11 days tied to it because we're looking at it as
12 potential failure.

13 I'll get into it in the rebuttal, but
14 the attempt was with the days, if you produce 950
15 barrels but you did it in 365 days, you're probably
16 operating that well at its full capacity. If you
17 produce 900 barrels in 25 days, you probably aren't
18 operating that well in its full capacity and there may
19 be an issue with that well. What we're asking is to
20 identify those wells that aren't operating correctly
21 towards the end of their life that are at risk of
22 being orphaned in the future and bonding those before
23 they get to that point.

24 As it's written with days, all an
25 operator has to do is produce for 181 days and they

1 don't have to bond it. It's that simple. Moving on,
2 I'm looking at slide seven. So in slide seven, I just
3 want to highlight these. As I go through I'm going to
4 highlight the changes we've recommended directly to
5 the rule from the original petition just to reserve
6 enforcement capability we already have.

7 Right now the rule says 12 consecutive
8 months of non-production, then the operator has 90
9 days to fix that. We don't want to lose that criteria
10 in inactive wells of the 12 consecutive months of
11 non-production. So we're just adding that back in
12 there to preserve the authorities we already have.
13 Now line 13 -- or I mean slide 13 I apologize, is just
14 a continuation when you get there. It's a
15 continuation of reserving that authority. Now slide
16 17.

17 So the change we recommended in slide
18 17 is changing it from beginning January 1st 'cause
19 everybody just got back from the holidays. Operators
20 are allocating what they're going to invest in fields.
21 Legislative session isn't but just around the corner.
22 And to save everybody headache, we moved that to May
23 1st. And then because we don't want marginal wells
24 that are being bonded to be a constant burden on both
25 the operator and the OCD, we're asking that that

1 report be pulled once a year, be available on that May
2 1st to know what has to have that additional bonding.

3 That way that bonding is addressed one
4 time as it goes forward. The other thing I want to
5 address in there, and it's been discussed a little
6 bit, is in number three where we talk about the 15
7 percent or more. I think that's been discussed at
8 length, that if an operator has over 15 percent of
9 their wells in marginal and inactive category, they
10 have to bond all their wells.

11 That's something that I will admit is
12 probably conservative at the 15 percent. I think Will
13 gave some slides showing the different capacities that
14 are there. I -- we're going to go into some of the --
15 the numbers and operators potentially in my
16 surrebuttal. But that is something we expected to
17 have some negotiation with with industry where they
18 brought some real data to OCD or to the applicant to
19 have those conversations.

20 Because it could be 15 percent, it
21 could be 30 percent or it could be marginal wells or
22 marginal and inactive wells or just inactive wells.
23 But that was something we expected to have some
24 dialogue on based on numbers industry could pull and
25 some back and forth on statistics that they could

1 pull. And that never happened. We never got reach
2 out from industry on what that number should be or
3 what their recommendation was.

4 Now slide 33. So there was some
5 discussion earlier on whether we should use 90 days,
6 30 days. In a regulatory sense, there's not a lot of
7 difference between 90 days and 30 days. But we
8 supported the 30 days simply because when 30 days was
9 in -- or 90 days was initially used, that was there
10 when I started with the OCD. Most things were 90 day
11 submittals because everything went through mail.
12 Nothing was electronically filed. Some things were --
13 had to have return receipt.

14 Not only were things sent to us by
15 mail, but it also took time to get them uploaded into
16 the system. And this could have been back to the days
17 at 90 days where we had hard copy files that once we
18 approved it the operators would have to come in and
19 make their own copies. Now that we have electronic
20 systems, everything is filed electronically. The
21 operators can immediately upload this to the OCD and
22 OCD can see it.

23 And then once it's approved the
24 operator gets notification that day that it's
25 approved. It's also not just 30 days. So when you

1 look at this rule, it's 30 days on top of the 12
2 months it took them to get there. So operator -- by
3 having it 90 days, operators don't have to do any
4 planning until it's already been inactive for 12
5 months. So yeah, 90 days we're looking at a
6 presumption at 15 months.

7 So we're saying operators, you don't
8 have to plan anything for 12 and then you have to take
9 action within three. So by moving the 30 days, we
10 provide inactive well lists on our website. I don't
11 see us changing that. I also don't see us changing or
12 not providing some marginal well list, those kind of
13 things in the future where operators can plan for that
14 future.

15 Our inactive well list, you can put in
16 there any month that it's been inactive. So you can
17 start planning your actions whether it's six months
18 ahead of time, nine months ahead of time, or 11 months
19 ahead of time.

20 Now 37 please. So what I really want
21 to hit here, everybody is kind of stuck on the 90
22 barrels, 90 days I have to go plug it. That is just
23 the point at time where there's a presumption and no
24 beneficial use. That doesn't mean an operator can't
25 come in and show OCD where that well is still a

1 beneficial use to the state. At 90 BOE, that may be a
2 hard threshold for an operator to make, but that's
3 still a threshold and operator can bring to the OCD
4 and show that well is still productive, still is not
5 an issue and should not be plugged.

6 So once you get a preliminary notice of
7 non-beneficial, there -- the operator submits
8 information. It's not until there's a final
9 determination on that well that that action's taken.
10 So all we're looking is, as was stated earlier, a well
11 by well review at that time. I think that's all in
12 Exhibit 15. I'd like to move to Exhibit 19 now. I'd
13 like to start on slide three, please.

14 So slide three is kind of a summary of
15 what was on prior slides. It's also a summary of
16 other exhibits, but it's really to highlight there's a
17 lot of risk out there right now for orphan wells that
18 can potentially cost a lot of money. Over a billion
19 dollars potentially just in well plugging and/or
20 remediation will greatly -- likely, greatly exceed
21 that.

22 OCD has \$118 million and that sounds
23 like well you're -- you're about 10 percent. The
24 problem is, is OCD can't use that \$118 million across
25 the board. That 118 million is tied to individual

1 operators. It's tied to Hilcorp, it's tied to
2 Chevron, it's tied to Conoco in addition to the
3 smaller companies. So we can't use Conoco's bonding
4 to plug a smaller company's well. So that 118 million
5 isn't a bucket that we can use across the board. It
6 is tied to specific operators and not all operators
7 are going to go orphan.

8 So even if we look at saying 20 percent
9 of that is available to the orphan wells that we're
10 going to be plugging, you're looking probably 20 to
11 \$30 million to plug that billion dollar hole. I'd
12 like to move to slide four actually. So in slide four
13 what I wanted to highlight is, you know, one of the
14 things we picked on -- I believe it's slide four.
15 Yeah, so LFC and it's towards the bottom of their
16 statements. They're looking at roughly two barrels of
17 oil equivalent as being kind of that break point for a
18 well.

19 I think there's testimony that a
20 thousand -- a thousand barrels for a year we're at 2.7
21 BOE. You know, that's something else. I think
22 holistically, we were expecting some feedback from
23 operators based on their individual costs, their
24 individual statistics where they said, "Okay we're --
25 we're productive at 1,000 but we're not productive at

1 750."

2 And that's not something OCD got back
3 from industry of where to draw that line because that
4 line could be picked somewhere else. But that's not
5 something OCD got from industry. If that's two
6 barrels of oil, personally, I think if the Commission
7 wanted to pick it at a 700 BOE, Commission can pick it
8 up -- pick it out at 700 BOE to be consistent with
9 LFC.

10 But that's what we were looking for
11 when we picked 1,000. And when we -- I would state
12 when we picked 1,000, we didn't know where LFC was
13 going to land. And I will state between two barrels
14 of oil per day, 2.7 barrels of oil per day, we're
15 not -- we're not that far off.

16 Slide five. This is the LFC chart of
17 where wells are at when they get plugged. I don't
18 have the data where they picked it, I'm just showing
19 the graphs that they provided. But as you can see it
20 looks like 2023, 2024, they're between the six and 700
21 BOE for a year range. Before that they were
22 considerably higher.

23 You know, I will say as a regulator,
24 sometimes when times are really good plugging slows
25 down because operators are divesting their capital

1 into drilling, not plugging because that's where the
2 better bang for their buck for an operator is. And
3 that's what I've been told in conversations with
4 operators looking at enforcement in the past.

5 So it's not necessarily wells are
6 economical through there. 'Cause I think COVID was
7 somewhere in there when price of oil was extremely
8 low. So I think if they weren't beneficial then they
9 probably weren't beneficial anywhere.

10 But sometimes it's them divesting their
11 capital into drilling and completion activity is where
12 they're spending it and not plugging. So when we look
13 at that, I think sometimes we say, well that's where a
14 well's beneficial. No, that's where an operator has
15 to plug a well.

16 Slide six. So again, slide six covers
17 what I showed before. On the bottom left, table eight
18 was the number of inactive wells by type. Again, this
19 came out of the LFC report, but as you can see they
20 pulled it off our inactive well list. So I have no
21 reason to question that. Again, 40 percent of the
22 wells on that are on private land where only OCD
23 regulates it, where 15 percent of the overall well
24 count in the state is private.

25 The top left table five is your overall

1 averages for well type plugins that the OCD had. It
2 looks like the LFC pulled this off a share. As you
3 can see, the 150,000 that's in this rule -- are in
4 this bonding proposal only injection wells are under
5 that. And there are a far smaller number of wells
6 that have been plugged of that type than any other.
7 These are just real costs that we're seeing in the
8 field when we're out there plugging.

9 Let's see, let's go to slide seven
10 please. Slide seven just highlights how old some of
11 the inactive wells are. As you can see there's three
12 that are over four decades old. I think there's a
13 large percentage that are even over a decade old.
14 Again, this just highlights, once it hits the inactive
15 well list and hits our enforcement plate, it can be
16 deficient for years if not decades.

17 Let's go to slide nine please. So
18 slide nine again just highlights -- I'm not going to
19 belabor this one. I think Rosa did a good job talking
20 about overall costs, but I just want to highlight
21 again 66 -- I believe it's 66 percent. I don't want
22 to quote this wrong. I don't have it handy, but a
23 high number of the wells that we move on, I believe
24 it's in my direct testimony, have leaks when we move
25 on it.

1 Slide 12 please. This is more of just
2 what I talked about before, 750 barrels versus 1,000
3 barrels. This again is where we expect an industry to
4 bring more real numbers based on their experience,
5 their cost data, which we don't have, to say this is a
6 better threshold. We didn't get that. So we were
7 left to our own devices and we did the best we could.
8 I will say between where we landed and where LFC
9 landed -- is fairly close.

10 I -- you know, pulling the numbers, I
11 would bet that you're probably within 10 percent of
12 each other between those two numbers. And if the
13 Commission wanted to go with the LFC recommendation on
14 that and go to 750 barrels, that would be up to the
15 Commission.

16 Slide 16 please. So slide 16 shows
17 what the LFC report recommended the OCD do. Now, as
18 you can see, several -- all three of those bullet
19 points is promulgate rules. It goes through
20 promulgating rules for low producing wells,
21 promulgating rules for inactive wells, and also
22 clarifying when transfers or contingency on regulatory
23 approval. That's what this rule is doing is following
24 that -- those LFC recommendations.

25 I'm going to hit now slides 18 through

1 20 and I'll try to be as expedited as possible. What
2 I'm going to show is some real examples. Again, these
3 are different than what was shown by Loren and shown
4 by John as different costs for similar wells. Again,
5 to show that well depth is not a very good indicator
6 at all times to what it's going to cost to plug a
7 well.

8 Again, we're talking about wells that
9 have been left to their own devices for years to
10 continue to -- to corrode or decay. These were also
11 wells that LFC used as as part of their
12 demonstrations.

13 Go ahead and go to the next slide
14 please. I'm not going to belabor what's in here. The
15 Commission can look at it, parties can look at it, but
16 this is the plugin plans that were proposed in both
17 wells. As you can see, they're extremely similar in
18 plugged depths.

19 Go ahead to the next slide. This is
20 the subsequent plugin reports. Again, I'm not going
21 to talk exactly what happened in every one at every
22 footage just to save everybody some time.

23 Next slide please. I do want to point
24 out between figure 12 and figure 13 some of the key
25 differences between these two wells. Again, footages

1 are very similar and drilled. These wells were
2 drilled I believe within a year of each other by the
3 same driller, by the same company. And I believe
4 they're within a mile or a couple miles of each other.

5 The well on the left -- again
6 originally had four stages planned to plug that well.
7 Four cement stages. Because of at least four casing
8 failures in the well, it was taking cement at each one
9 of those plugs that was identified. So to plug four
10 sets of -- essentially four plugs, it took nine cement
11 stages to accomplish that coverage.

12 The well on the right, things went
13 well. So to cover those four stages, we pumped five
14 stages of cement. The reason why it's five stages
15 instead of four is because the length of the very
16 first plug is over hundreds of feet, but it went
17 according to plan. But as you look on this, the cost
18 on the left well is \$219,000 for OCD, the cost on the
19 right well is 73,000 on wells that were planned to be
20 almost identical.

21 Next slide please. Just some key notes
22 here. Again, it's on record. I'm not going to
23 belabor everything. The well on the left took 112
24 more sacks of cement to plug. When you look at
25 overall coverage, once it was done the well on the

1 right actually had 104 feet more coverage. When you
2 looked at footage coverage when it was done because it
3 didn't bring as much cement. I think from there, can
4 we go to exhibit -- let's actually go in order. Let's
5 go to Exhibit 30, please.

6 MR. TREMAINE: One moment, Mr. Powell.
7 Madam Hearing Officer, can we have a
8 time check on direct? I have 30 minutes.

9 So Mr. Powell, you moved much more
10 expeditiously than I planned for your direct. If
11 there's anything else you'd add, you have time
12 remaining, otherwise of course we can move on to your
13 rebuttal.

14 THE WITNESS: No, I think in direct I
15 hit what I wanted to hit. Again, we expected a lot
16 more feedback on the areas that I pointed out. As we
17 talked with industry, the only industry
18 representatives that actually reached out were Oxy.
19 There were some things that we discussed with them.
20 The May 1st was something we discussed with them. TA
21 was actually another one we discussed with them and --
22 and what scenarios.

23 I'm sure I'm going to get crossed on
24 that. What scenarios would it be beneficial to have
25 something for over eight years? I think there's some

1 common ground on that. I'm sure I'm going to get
2 questioned about that and it's not in my direct
3 testimony so I don't want to opine here. But I think
4 holistically that's what we expected. We expected a
5 lot more dialogue.

6 Again, we don't have operators op costs
7 or what it takes to plug a -- or operate a well.
8 Those kind of things. And we actually expected more
9 dialogue on that that we didn't receive.

10 MR. TREMAINE: With that we're going to
11 wrap up direct, summary of direct and I will pull up
12 the reference Exhibit 30 and ask Mr. Powell to begin
13 his summary of his rebuttal testimony.

14 THE WITNESS: Certainly again, all this
15 is on record so I'm not going to try to belabor the --
16 any of the points. So let's go to page two please.
17 So I'm looking specifically on lines one through
18 eight. Again, I just wanted to point out because
19 in -- in several of the direct -- again questions OCD
20 numbers versus industry numbers, I'm not going to
21 belabor all the points.

22 Again, I think I've made my point clear
23 that where OCD is plugging wells is vastly different
24 than where industry is plugging wells. And if you
25 look at industry's own data that they submitted for

1 this rulemaking, there was a vast difference in
2 between their own operators.

3 Now I'll point out line nine through
4 21. Again, I think there was some confusion on the
5 how many days were used, are -- the BOE and then the
6 90 days. So 90 days, 90 BOE, 180 days, 1,000 BOE. It
7 seemed obvious in reading the different testimonies
8 that that was the case.

9 I believe there was a suggestion by
10 Ms. Felix to remove the volume component, just go with
11 a day component. So OCD is just making the statement.
12 If one of those is to be removed, it should probably
13 be the days because this production days can be skewed
14 just by having a valve open on a well that really
15 doesn't produce.

16 You know, you can have a theoretical
17 gas well out there, open a valve and if it bubbles up
18 every once in a while it's producing. So if you're
19 going to pick one or the other, you should pick
20 volumes over days.

21 I will say the original intent was
22 captured by Welk's testimony in their scatterplot. It
23 wasn't captured by OCD. I will also say that even
24 through conversations with the applicant and
25 internally as we were trying to set up that days

1 versus volume, it was confusing trying to get that
2 language correct as is evident in this case and some
3 OCD's testimony.

4 You know, the 90 BOE and 90 days
5 because of that and, well does that mean that those
6 are looked at separately or -- or together? You could
7 also rephrase it as 90 BOE, which only produced less
8 than 90 days. Probably would've been a little
9 clearer. But I will say based on Welk's scatterplot,
10 that was the original intent of what the OCD was
11 trying to accomplish.

12 With the 90 days as an operator should
13 produce over 25 percent of the time. With the 180
14 days, an operator should produce over 50 percent of
15 the time if they're being diligent in trying to
16 produce that well. I think that's all I have on
17 Exhibit 30. I would move into 31.

18 So I'm going to high level -- we're not
19 going to go through all the statutes. My -- I will
20 say my slide's not quite as pretty as the rainbow
21 slide when we talk about the -- the statute. I'm sure
22 I'm going to be asked at length on that. The -- the
23 key points I'll point out in when we discuss this one,
24 there is a very clear distinction in that statute for
25 the division, i.e. through the Commission to set

1 categories when they're looking at it.

2 The categories when we're looking at
3 that are -- have to meet certain thresholds in review.
4 Because they have to meet those certain thresholds in
5 review, the OCD can't just arbitrarily set them. They
6 have to go through rulemaking, has to go through
7 hearing. This process here.

8 Let's go to the next slide, please. In
9 this one it talks about some of the things that the
10 OCD has to do, such as consider depth of well. As I
11 stated earlier, as OCD's talked about with their other
12 witnesses, OCD did consider depth of well. In this
13 scenario we don't find depth of well as a accurate
14 driver of what that well is going to cost because
15 there's a higher number of wells that don't match a
16 good well when we get into it.

17 It doesn't match the schematics when we
18 get into it. Doesn't have well bore integrity when we
19 get into it. I'm sure I'm going to ask if I did an
20 in-depth study of that. No, I haven't. That's based
21 on my experience plugging wells, going through wells.
22 I've been with the division roughly 19 and a half
23 years now. I started working with orphan wells clear
24 back when I was an environmental specialist. 2006 to
25 2011. I can't tell you exact year in between there.

1 I've seen wells where we've had to pull
2 rigs across the river onto an island to plug. I've
3 seen where we've demolished a house because the well
4 was in the middle of a house. You know, there's
5 always extreme examples. You know, one of the things
6 that was pointed out, the most recent extreme
7 examples, I think Loren pointed out, those were
8 extreme examples we've seen in the last two years.

9 We find extreme examples more often
10 than we'd like to. I've had to dig down 19 feet just
11 to find the casing because it corroded down to that
12 point. You know, it's not something that I don't
13 expect to find. In Exhibit 16, one of the columns in
14 that is the spud date of the well. I just looked this
15 morning 'cause I was interested after some of the
16 discussions on age of well. The oldest producing well
17 that I can find in that one I believe was 1926.
18 That's still producing.

19 We still have wells producing from the
20 fifties, sixties, seventies, eighties, nineties, two
21 thousands. All of that's in Exhibit 16.

22 So depth of well again, I don't think
23 it's a driving factor. Length of time since the well
24 was produced, well we can't plan for how long it's
25 going to sit there before it goes orphan. So that's

1 really hard for us to -- to kind of plan on. And it's
2 something that we see as continuing degrading as we
3 get to this end of life. What we called marginal,
4 probably not the best choice of words, but these wells
5 that are on the brink of potentially being plugged.

6 And then other factors that oil
7 conservation deems relevant. I think we've given what
8 we're paying for wells, what we're looking at. We use
9 state procurement to set our plugging contracts.
10 We're held by some of those costs as far as who bids
11 for what. Fortunately, unlike operators, if they
12 don't like somebody's cost, we can't just move over
13 and find another one without starting the procurement
14 process all over again.

15 Which when we do that, if we were to
16 stop what we currently have to elicit a whole new
17 procurement process, you're probably looking six
18 months to a year. High level, that's kind of where
19 we're at. So we feel we've met the statute as far as
20 what we have to show when we're up proposing a new
21 category underneath the statute.

22 And I will say I'm not a legal expert,
23 so when we start arguing law, that's probably not me.
24 I can tell you we've used categories in the past
25 before. I think the TA portion was in the rule. I

1 believe that change may have been in 2018. We used it
2 partially for the inactive wells. We -- there was a
3 category there where we assigned that 'cause I don't
4 remember if that was directly in the statute then or
5 not. So it's something that we've continually used
6 throughout its history. And I believe that's all I
7 had in rebuttal. Direct rebuttal.

8 MR. TREMAINE: All right. That
9 concludes the summary of Mr. Powell's rebuttal
10 testimony. I do have a couple questions on
11 surrebuttal, Madam Hearing Officer.

12 THE HEARING OFFICER: Thank you,
13 Mr. Tremaine.

14 BY MR. TREMAINE:

15 MR. TREMAINE: Mr. Powell, I'm going to
16 read to you from the rebuttal testimony of
17 Robert Arscott, PhD. This is page 18. The lines are
18 not numbered on this exhibit or this testimony.
19 Mr. Arscott, Dr. Arscott, indicated that from a
20 practical standpoint, the proposed definition of a
21 marginal well may be difficult to effectively
22 implement. It is likely that operators already report
23 the number of production days, somewhat imprecisely.
24 What is your response to this statement?

25 THE WITNESS: I would agree it's

1 probably the -- correct. OCD does not enforce how many
2 days an operator throws on their C115 currently. I
3 can tell you by looking at Exhibit 16, there's
4 probably over 100 wells that they produce, 10 BOE or
5 less, and stated they produce for over 180 days.

6 That's something, if we use both
7 criteria, we're going to have to probably do more
8 investigation into, more enforcement, more
9 investigation to try to identify that. Because it's
10 not something we currently validate is how many days a
11 well produced, because none of our current rules
12 require us to.

13 MR. TREMAINE: On page 19, Dr. Arscott
14 also states, "This raises the concern that
15 manipulation of the forcing variable that the OCD
16 would rely upon for implementation of the proposed
17 rules would dilute the intended policy effect. It is
18 also possible that bad actors might outright mislead
19 the OCD regarding self-reported data, thereby avoiding
20 the proposed regulation intended to address the moral
21 hazard exploited by those same operators." How do you
22 respond?

23 THE WITNESS: I think that's always at
24 risk and it's something that we use our investigative
25 powers to pursue. If the Commission wanted to set

1 that at BOE, that's probably something that could be
2 less likely skewed. It could be probably more
3 verified with buyers if we go to refineries or we go
4 to gas plants, we go to sales meters because there's
5 more third parties involved in that. It moves further
6 away from our intent and what we were looking at
7 doing.

8 I believe we also ran some new numbers
9 as far as what we were looking at. If we just went to
10 BOE, it would encompass more wells, honestly. But
11 operators could then bring as part of their
12 presumption of beneficial use data showing where
13 they're trying to produce that well. But it would be
14 more verifiable data than just having them put days in
15 their report.

16 MR. TREMAINE: Mr. Powell, I'm going to
17 ask you to respond to the rebuttal testimony of
18 Clay Padgett on page two, line six beginning,
19 "Mr. Padgett indicates the New Mexico wells and
20 Hilcorp's portfolio that produce less than 1,000
21 barrels of oil per year produce on average a combined
22 19,350 MCF of gas per day and approximately 370
23 barrels of oil per day."

24 "Subject to the prices of varying
25 royalty rates this amounts to between 1 million and 3

1 million of revenue to the state of New Mexico per
2 year. Wells producing 1,000 barrels of oil equivalent
3 or less per year represent an immense amount of
4 production for the state of New Mexico and ensure that
5 the state's resources are not wasted by premature
6 plugging." How do you respond?

7 THE WITNESS: I think that's really
8 evident in looking at some of the confusion over
9 the -- the definition of marginal well or inactive
10 with the days. My guess is Hilcorp's probably
11 producing those over those thresholds. So again, as
12 long as they're producing them over 180 days, they
13 wouldn't fall into that threshold as currently
14 written.

15 MR. TREMAINE: We've heard substantial
16 questions and testimony about the and/or question. In
17 Hilcorp's testimony, as I indicated here, did they
18 utilize the day component in preparing their
19 testimony?

20 THE WITNESS: No, they did not.

21 MR. TREMAINE: Further on line 17 of
22 the same, page two, Mr. Padgett indicates, "Since it
23 began working on reducing the methane emissions from
24 its San Juan Basin assets, Hilcorp has reduced such
25 emissions by over 90 percent." How do you respond?

1 THE WITNESS: You know, not looking at
2 their emissions completely, I can't validate that. I
3 do know we've worked with Hilcorp in the past to try
4 to make sure that their emissions are accurately
5 calculated. I will also say Hilcorp has a robust
6 recomplete program to bring up the production levels
7 of their wells, and they've been successful in that
8 process.

9 Again, if you use the day component
10 that Hilcorp didn't use and you produce over the 180
11 days, it doesn't fall into that marginal criteria.
12 And so they can continue with their recomplete
13 schedule, they can continue with those operations, and
14 it's not likely to cost them as much. I would also
15 state Hilcorp has, and I don't know what it is today,
16 but I know it's over 12,000 wells in the state they're
17 looking at.

18 So when you're talking those numbers,
19 it -- that's something that should be shown as far as
20 the size of Hilcorp and what they're looking at doing.

21 MR. TREMAINE: Further, on page four of
22 Mr. Padgett's testimony, line eight indicates that,
23 "The proposed rulemaking would disincentivize
24 operators like Hilcorp who are responsibly enhancing
25 production from low producing wells." How do you

1 respond?

2 THE WITNESS: I think it's -- I would
3 respond as I just did. They are increasing
4 production. They are recompleting wells. As long as
5 they're operating their other wells above 180 days a
6 year, they're probably not going to be affected much.

7 MR. TREMAINE: All right. Mr. Powell,
8 I'm moving on to refer you to the rebuttal testimony
9 of Mike Cantrell. On page four, line one,
10 Mr. Cantrell begins, "So New Mexico needs there to be
11 a stripper well industry in place to continue the life
12 of these wells from that time to their economic end.
13 The proposed rules endanger not only New Mexico's
14 economy today, but the economy from oil and gas in New
15 Mexico's future by ignoring alternate possibilities
16 and advances." How do you respond to Mr. Cantrell's
17 statement?

18 THE WITNESS: So I would respond by
19 saying what we're looking at today is significantly
20 different than stripper wells. Stripper wells in New
21 Mexico are wells that are at 10 BOE per day. It's not
22 10 BOE for 90 days. It's 10 BOE per day for a year.
23 So we're looking at something that's considerably less
24 than that.

25 I think the marginal well again, don't

1 really care for the phrasing after hearing this
2 testimony before me, but taking that, we're at 2.7 BOE
3 per day. So we're at 27 percent of what a stripper
4 well is. At the 90 BOE I think it's less than -- or
5 90 BOE for the year, I believe it's less than one BOE
6 per day. So it's less than 10 percent of what a
7 stripper well is.

8 We agree. We're not trying to get rid
9 of stripper wells. The state of New Mexico has looked
10 at incentives for that. There are some things if
11 price of oil fall below a certain percentage, they
12 need help to be economical. We're not looking at
13 using the stripper well thresholds in this. We're
14 actually far below those thresholds.

15 MR. TREMAINE: Mr. Cantrell then goes
16 on to say, "Second, WELC's proposal mimics Colorado's
17 efforts to eliminate small producers through
18 unsustainable financial assurance levels enacted in
19 2022 after the Colorado legislature passed SB19-181."
20 How do you respond?

21 THE WITNESS: First off, I don't know
22 Colorado's rules. Haven't reviewed them. I will
23 state that, and I'll show here shortly, an example of
24 a really good small operator of what we're looking at
25 seeing. Again, we're looking as written today with

1 the days incorporated. As long as an operator's
2 producing their well, they don't have to post the
3 bonding. If they have 181 days, this rule of
4 production, this rule will have no effect on them as
5 far as bonding.

6 MR. TREMAINE: Madam Hearing Officer, I
7 have a couple surrebuttal questions for Mr. Powell
8 related to Mr. Winchester's rebuttal testimony.
9 Mr. Powell has recently prepared two demonstratives
10 similar to Mr. Cloutier's presentation earlier. He's
11 cooking right along, so I didn't send that email out
12 to everyone yet.

13 So I'd like to put those up on the
14 screen and then proffer them through email for
15 everyone's review after, if that's all right.

16 THE HEARING OFFICER: Thank you.

17 BY MR. TREMAINE:

18 MR. TREMAINE: All right, Mr. Powell, I
19 refer you to Mr. Winchester's rebuttal testimony.
20 Page one.

21 MR. RANKIN: Madam Hearing Officer, one
22 point with Mr. Tremaine. I really don't mind
23 surrebuttal demonstratives, but I got objected to
24 yesterday for them. I want to make sure sauce for the
25 goose is sauce for the gander. Again, I don't want to

1 be dealing with objections if my witnesses have a
2 couple of surrebuttal exhibits.

3 THE HEARING OFFICER: All right. We're
4 all doing the best we can.

5 MR. TREMAINE: Yeah. I do respect
6 that. I believe that that was one of my few
7 objections that have been overruled. And I'm happy to
8 share them. They are qualitatively quite different
9 when his response to the total number of wells or
10 simple numbers. We're not talking about debating
11 complex.

12 THE HEARING OFFICER: So let me ask
13 you, we will need a break before the four o'clock
14 public comment. I'm wondering if it would help right
15 now to take a break so that folks can look at it and
16 then come back.

17 MR. TREMAINE: Quite all right. I
18 thought we were going to go longer and that I was
19 going to distribute these on a break, so I'm happy to
20 do that for everyone's benefit.

21 THE HEARING OFFICER: Great. Let's
22 come back at about ten of four.

23 (Off the record.)

24 THE HEARING OFFICER: We have ended the
25 taking of technical evidence for the day, for the

1 week. We're going to pick up again with the
2 conclusion of Mr. Powell's testimony Monday morning
3 after the nine o'clock public comment session. So the
4 only other thing we're doing today is a four o'clock
5 public comment session. It is four.

6 I have the names of three folks I'll be
7 calling on, and then I'll ask if there's anyone else
8 on the platform. Just a few things. I will ask you
9 to state and spell your first and last name. I will
10 ask you to swear or affirm to tell the truth. I will
11 ask you to keep your comments to three minutes.

12 In the event you'd like to say more,
13 please submit written comment anytime over the next
14 week to Sheila Apodaca, the commission administrator.

15 So, Sheila, who are we going to start
16 with? Charles Goodmacher.

17 Mr. Goodmacher, can you unmute
18 yourself?

19 MR. GOODMACHER: I am unmuted. Can you
20 hear me?

21 THE HEARING OFFICER: Yes. Thank you
22 very much. Would you please spell your first and last
23 name?

24 MR. GOODMACHER: I certainly will.
25 Charles, C-H-A-R-L-E-S, Goodmacher,

1 G-O-O-D-M-A-C-H-E-R. And what am I swearing to again?
2 WHEREUPON,

3 CHARLES GOODMACHER,
4 called as a witness and having been first duly sworn
5 to tell the truth, the whole truth, and nothing but
6 the truth, was examined and testified as follows:

7 THE HEARING OFFICER: I'll start your
8 time.

9 MR. GOODMACHER: Thank you. I lived in
10 Roswell for nearly five years of my life during which
11 time I traveled throughout the southeast region every
12 week. There are plenty of smelly, ugly and dangerous
13 abandoned wells throughout the region. You know this.
14 These abandoned wells don't just create financial
15 risk. They're dangerous.

16 The methane and toxins leak into the
17 air, in our groundwater harming wildlife and public
18 health, especially rural and tribal communities.
19 Industry pollution, including from abandoned wells,
20 increases our state's healthcare costs when our people
21 become ill from the contaminants. The industry
22 meanwhile spends huge sums of money throughout the
23 year to tell us they're our neighbors, and so they too
24 are working toward a clean environment.

25 Well, their opposition to simply

1 ensuring the bad actors in their industries post
2 sufficient bonds to cover the cost of their cleanup,
3 says otherwise. Please on behalf of our children,
4 please pass the rule as proposed. Thank you very
5 much.

6 THE HEARING OFFICER: Thank you very
7 much, Mr. Goodmacher. Let's see. Do we have Karen
8 Bowler? Oh. Kenneth Brennan.

9 Mr. Brennan, can you unmute yourself?

10 MR. BRENNAN: There we go. Can you
11 hear me?

12 THE HEARING OFFICER: Yes. Now I can.
13 Would you spell your first and last name please?

14 MR. BRENNAN: First name Kenneth.
15 K-E-N-N-E-T-H. Last name Brennan, B-R-E-N-N-A-N.
16 WHEREUPON,

17 KENNETH BRENNAN,
18 called as a witness and having been first duly sworn
19 to tell the truth, the whole truth, and nothing but
20 the truth, was examined and testified as follows:

21 THE HEARING OFFICER: Thank you. I'll
22 start your time.

23 MR. BRENNAN: Hello. As already said,
24 my name is Kenneth Brennan and I've lived here in
25 Edgewood, New Mexico for the past 16 years. My family

1 moved to New Mexico in 1975 from Massachusetts. I am
2 a retired U.S. Navy Gas Turbine Chief Petty Officer,
3 retired GE wind field manager, and I am currently the
4 mayor of Edgewood, New Mexico.

5 As mayor, I served on the North -- I
6 serve on the North Central Regional Transportation
7 Division, the Mid Region Transportation Planning
8 Organization, where I currently serve as the board
9 chair and the Workforce Connection of Central New
10 Mexico.

11 New Mexico has been home to my family
12 since 1975. I graduated Cibola High School class of
13 '79. Coming of age in New Mexico, I explored many
14 areas of this state and enjoyed its diverse culture
15 and recreational opportunities. Moving back home
16 after retiring from the Navy, I have come to
17 appreciate New Mexico's diverse energy portfolio.

18 As manager in the wind industry, a
19 traveling technician in the industrial gas turbine
20 power division, and as a propulsion engineer in the
21 Navy, I have a unique understanding of the energy
22 field.

23 New Mexico's vast oil and gas industry
24 is not only the economic engine that supports our
25 great state, but it is one of the largest employers in

1 the state, a major contributor in funding our
2 education system and proof that large and small
3 companies can work side by side.

4 Small companies are the backbone of our
5 nation and state. This also applies to the mom and
6 pop oil and gas companies. We need to support these
7 entrepreneurs of the oil and gas industry and not make
8 it more difficult to operate and in turn support our
9 state. Hurting them will only hurt New Mexico as a
10 whole.

11 Even though Edgewood is not directly
12 connected to the oil and gas industry, what happens in
13 this industry affects the citizens of my town through
14 lower funding of education, higher taxes to make up
15 for loss, oil and gas revenues, and the strain on our
16 unemployment compensation funds. We need to stop
17 putting our -- putting up battery -- putting up
18 barriers to our bread and butter, and work on ways to
19 support them.

20 I therefore ask you to consider what I
21 have said and the important role oil and gas industry
22 plays in our state when making your decision. I
23 humbly thank you for your time.

24 THE HEARING OFFICER: Thank you very
25 much, Mr. Brennan. Let's see. I think we have

1 Leo Lermuseaux?

2 Can you unmute yourself?

3 MR. LERMUSEAUX: Yes.

4 THE HEARING OFFICER: Hello. Would you
5 spell your --

6 MR. LERMUSEAUX: How are you?

7 THE HEARING OFFICER: Good. Would you
8 spell your first and last name please?

9 MR. LERMUSEAUX: It's L-E-O. Last name
10 is L-E-R-M-U-S-E-A-U-X.

11 WHEREUPON,

12 LEO LERMUSEAUX,
13 called as a witness and having been first duly sworn
14 to tell the truth, the whole truth, and nothing but
15 the truth, was examined and testified as follows:

16 THE HEARING OFFICER: I'll start your
17 time.

18 MR. LERMUSEAUX: Hello everyone. My
19 name is Leo Lermuseaux. My family has proudly called
20 New Mexico Home since 1904. Education has been a
21 cornerstone throughout my family's history with my
22 parents, grandparents, and wife all dedicating their
23 careers to the education sector.

24 My grandfather taught vocational
25 mechanics while my grandmother served as a bus driver

1 for the Bernalillo School District until their
2 retirements. My father also retired from Bernalillo
3 School District where he worked as a transportation
4 director. Additionally, my wife retired from Rio
5 Rancho Public Schools, where she was a special
6 education teacher.

7 For the past 42 years, I've devoted my
8 professional life to the power industry, working with
9 PNM at both the San Juan Generating Station and the
10 Reeves Generating Station in Albuquerque. Through
11 these experiences, I have seen firsthand the benefits
12 of affordable, clean energy available to residents of
13 New Mexico. The oil and gas industry, along with the
14 many supporting businesses that serve this sector,
15 provide some of the highest paying jobs in the state.

16 It is essential to ensure that
17 residents have access to low cost energy as the
18 introduction of strict regulations would affect every
19 person living here. As a state, it is vital that we
20 continue to work diligently to keep energy costs as
21 low as possible, since this directly helps lower the
22 prices of all goods, including groceries, gasoline,
23 and everyday essentials.

24 Moreover, the financial backing for our
25 state's education system would face significant

1 challenges if the oil and gas industry were forced to
2 leave New Mexico. I encourage you to thoughtfully
3 consider the many lives and communities that would be
4 impacted if this critical industry were driven out,
5 given its essential role in supporting our economy,
6 education, and public services. Thank you for taking
7 the time to listen to my comments.

8 THE HEARING OFFICER: Thank you very
9 much, Mr. Lermuseaux. Let's see. There was Karen
10 Bowler.

11 Ms. Bowler, are you on the platform?

12 MS. APODACA: I don't see her on here.

13 THE HEARING OFFICER: Oh, okay. Is
14 there anyone else who would like to offer comment
15 session? The next public comment sessions are on
16 Monday at 9 a.m. and at 4 p.m. The comment sessions
17 on Monday at 4 p.m., there will be a Spanish language
18 interpreter available.

19 Anything else? No? All right. Thank
20 you all very much and have a great weekend.

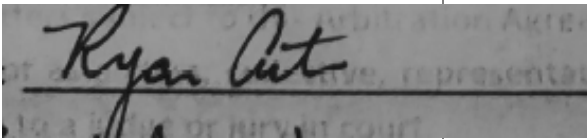
21 (Whereupon, at 4:09 p.m., the
22 proceeding was concluded.)
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CERTIFICATE

I, RYAN AUTEN, the officer before whom the foregoing proceedings were taken, do hereby certify that any witness(es) in the foregoing proceedings, prior to testifying, were duly sworn; that the proceedings were recorded by me and thereafter reduced to typewriting by a qualified transcriptionist; that said digital audio recording of said proceedings are a true and accurate record to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

November 7, 2025

A rectangular box containing a handwritten signature in black ink. The signature appears to read "Ryan Auten".

RYAN AUTEN
Notary Public in and for the
State of New Mexico

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CERTIFICATE OF TRANSCRIBER

I, STACY HAGGARD, do hereby certify that this transcript was prepared from the digital audio recording of the foregoing proceeding, that said transcript is a true and accurate record of the proceedings to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

November 7, 2025



STACY HAGGARD

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