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

IN THE MATTER OF PROPOSED
AMENDMENTS TO 19.15.2, 19.15.5,
19.15.8, 19.15.9, AND 19.15.25
NMAC
Case No. 24683

HEARING - DAY 10

DATE: Friday, October 31, 2025
TIME: 9:01 a.m.
BEFORE: Hearing Examiner Felicia Orth
LOCATION: Wendell Chino Building
Pecos Hall
1220 St. Francis Drive
Santa Fe, NM 87505
REPORTED BY: Gerald Aragon
JOB NO.: 7626651

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5 Greg Bloom, Commissioner, New Mexico Oil
6 Conservation Commission

7 Jacob Everhart, Counsel, Beatty & Wozniak, P.C.,
8 on behalf of New Mexico Oil & Gas Association

9 Laureen Pepersack, Public Commenter

10 Melissa Ostroff, Public Commenter, Pennsylvania
11 Policy and Field Advocate, Earthworks (by
12 videoconference)

13 Morgan O'Grady, Staff Attorney, Western
14 Environmental Law Center, on behalf of Applicants
15 Natalie Sommer, Public Commenter (by
16 videoconference)

17 Richard Moore, Associate Counsel, New Mexico
18 State Land Office

19 Rosa Romero, Bureau Chief, Environmental, Energy,
20 Mineral, and Natural Resources Department

21 Sheila Apodaca, Commission Administrator, New
22 Mexico Oil Conservation Commission

23 Susan Homer, Public Commenter

24 William Miller, Public Commenter, Member of the
25 Sierra Club of New Mexico (by videoconference)

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Tim Davis, Staff Attorney, WildEarth Guardians
William Ampomah, Commissioner, New Mexico Oil
Conservation Commission

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E X H I B I T S

NO.	DESCRIPTION	ID/EVD
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Exhibit 1	Felix Direct Testimony and Appendix A; Felix Rebuttal Testimony and Appendices A and B; Felix Direct and Rebuttal Demonstrative Slides	90/90
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P R O C E E D I N G S

THE HEARING OFFICER: Good morning. My name is Felicia Orth, hearing officer for OCC 24683 hearing before the Oil Conservation Commission on well plugging and financial assurance. We're on day 10 of the hearing and have reached another of the public comment sessions.

Just a few things about public comment. I'll invite it from those in the room and those on the platform. I'll ask you to state and spell your first and last name because we are making a transcript.

Pursuant to the commission rules, I will ask you if you swear or affirm to tell the truth, and then I'll ask you to keep your comments -- your oral comments -- to three minutes.

If you have more to say than can be said in that time, please submit your comments in writing to the commission administrator, Sheila Apodaca.

So let me start with those in the room. Ma'am, would you like to offer public comment?

MS. PEPERSACK: Yes.

THE HEARING OFFICER: All right, come on up to the witness stand, if you would.

1 MS. PEPERSACK: Can I stand? Because
2 I'm a teacher, and when I teach, I stand.

3 THE HEARING OFFICER: All right.

4 MS. PEPERSACK: Thank you.

5 THE HEARING OFFICER: Would you spell
6 your first and last?

7 MS. PEPERSACK: I'm a retired teacher.
8 I retired twice. My name is Laureen Pepersack. L-A-
9 U-R-E-E-N, Pepersack, P-E-P-E-R -- I'm full of pep,
10 not the spice -- S-A-C-K, MST, master's from New
11 Mexico Tech.

12 WHEREUPON,

13 LAUREEN PEPERSACK,
14 called as a witness and having been first duly sworn
15 to tell the truth, the whole truth, and nothing but
16 the truth, was examined and testified as follows:

17 THE HEARING OFFICER: Thank you. I'll
18 start --

19 MS. PEPERSACK: I'm an honest person; I
20 always tell the truth. No kidding in my classroom.

21 Now as a teacher, one of the most
22 disturbing things is when students come into the
23 classroom who've never been taught to clean up after
24 themselves.

25 As a teacher, I want my classroom clean

1 because I know that's an environment where my other
2 students can learn. Also, if I have to spend time
3 reminding them to clean up -- clean up before they
4 leave my classroom. What that means is that it
5 impedes learning time.

6 This is a lesson that should be taught
7 in homes. Unfortunately, it's not. Children don't
8 have to clean up after themselves. Maybe there's
9 maids. Maybe there's other helpers. In my classroom,
10 you clean up after yourselves. I will stop you at the
11 door and keep you from going out until you clean up.

12 Now, as adults, we should know that as
13 well. We clean up after ourselves.

14 We don't litter; we don't throw trash
15 on the ground. And if we do something that's
16 destructive, we fix it afterwards.

17 The oil and gas industry, thank them
18 for the money that they provided to teachers. They
19 should provide more 'cause it'd be nice if I didn't
20 have to get a second job. But when you make a mess,
21 you clean it up. If you want to drill somewhere, you
22 clean it up.

23 You have to clean it up so that it's in
24 better -- the water's better for the future. The
25 environment's better for the plants, the animals.

1 That is good -- not just good citizen, but being a
2 good human being.

3 Profit. Oh, right. Profit. Do you
4 know what? I bet if this state required the oil and
5 gas industries to clean up afterwards, put -- invest a
6 big bond, they'd figure out ways to not make such a
7 mess.

8 You're smart people. You can figure
9 out ways to make it better. You can figure out ways
10 how drilling will not impact future issues.

11 Now, in school, if you don't like the
12 way I teach, you can go to another school. We have
13 the oil and gas here. We have the power here. Our
14 government has -- our state has the wealth that other
15 states don't have.

16 Yeah, you can go to Delaware; you can
17 go to New Jersey; you can go to Idaho. Our Permian
18 Basin is rich, but it's only rich if we take care of
19 it.

20 The greatest riches we have, and if I
21 look around, I see how many people having water with
22 them. The greatest riches we have are our water
23 resources. You contaminate the water; there ain't no
24 going back.

25 We already have to worry about PFAs,

1 the little plastics. But oil and gas industries, the
2 way they use the water, the fracking. I've protested
3 several times or spoken several times in front of
4 government agencies.

5 I was at the one where we -- where
6 we -- the Santa Fe County community stopped fracking
7 down my old road, General Goodman Ranch Road. And the
8 public was outraged because our water is necessary for
9 life.

10 Like the native people say, "Water is
11 life." And those of you who don't get that, try to go
12 three days without drinking anything. Oh, right.
13 Yeah. You can't. You'll get sick.

14 So unless money, profits, stops being
15 the motivation instead responsibility, and you take
16 responsibility by putting on bonds that require them
17 to come back and clean up.

18 We already have enough oil wells and
19 get and mines that are wasting and polluting our
20 native communities, polluting a lot of our communities
21 that haven't been cleaned up. We've seen what that
22 behavior's given us. It ain't good.

23 It's not good for our children. It's
24 not good for our future children. And it's something
25 we need to recognize as a society.

1 We are a community. You do something;
2 it just doesn't impact you. We're connected. It
3 impacts every single person in the community, this
4 generation, the next generation. And, sadly to say,
5 many generations after that.

6 So what I'm asking you, please put a
7 serious bonding so that the mines are restored to
8 their pristine conditions as best possible. If you
9 can't do it, don't try to drill there.

10 Yeah, you can go somewhere else and do
11 it. If we're, "Oh, it's too expensive. We have --
12 impacts our profits." So what? Your biggest profit
13 is having a beautiful environment, having a place
14 that's safe for your children. That's a really should
15 be the most important thing for you.

16 How is your community? How are you
17 doing something that's leaving a better future for
18 your children? And if you don't have children, I'm
19 sure you have nieces and nephews that matter. How can
20 we do this?

21 And this is -- this is the
22 responsibility of my government, and I want to thank
23 you for allowing these public hearings because people
24 like me need to speak out.

25 Usually it's the middle schoolers I get

1 to talk to and I make my waggy hand. Because you need
2 to pay attention. And I have changed middle school
3 minds, and I know I can change minds here too.

4 So, again, thank you very much. Please
5 take responsibility. Forget the little money dollar
6 because you ain't going to heaven with a --
7 billionaire. The old saying, can't rich people get
8 and go to heaven, like putting a camel through the eye
9 of a needle.

10 So do good things. Your heart will be
11 better for it. Your community will be better for it.

12 THE HEARING OFFICER: Thank you,
13 Ms. Pepersack. Who else in the room would like to
14 offer public comment this morning?

15 Ma'am, come on up. If you would state
16 and spell your first and last name please.

17 MS. HOMER: My name is Susan Homer, H-
18 O-M-E-R.

19 WHEREUPON,

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

24 THE HEARING OFFICER: Thank you. Go
25 ahead.

1 MS. HOMER: I am commenting in support
2 of the rulemaking to modernize New Mexico's bonding
3 and cleanup rules. I'm one of most New Mexicans who
4 want the oil and gas industry to clean up after
5 itself. As we heard, that's just common sense.

6 If you make a mess, you clean it up.
7 That's what we teach our kids, and it should apply to
8 corporations also.

9 We taxpayers are essentially
10 subsidizing the industry by allowing the oil and gas
11 industry to get away with not paying their own costs.

12 Cleanup should be a regular part of
13 doing business and bonding rules should apply to all
14 wells and all well owners, large and small on all New
15 Mexico lands, public and private, except tribal.

16 State and federal funding for cleanup
17 is taxpayer money. Why should we citizens pay for
18 this? Nearly a hundred million in public funds have
19 already been used to plug orphaned wells and thousands
20 more wells are at risk of being abandoned.

21 I want my taxes to go for schools and
22 healthcare not to bail out wealthy polluters. Bonding
23 is about prevention, about making sure corporations
24 pay upfront so the public isn't left holding the bag.

25 Some in the industry argue that we

1 don't need bonding reform because there's already
2 money in the reclamation fund, but that's not a
3 solution. It's a warning.

4 The reclamation fund exists because
5 bonding is failing and there's not nearly enough in
6 the fund. We're looking it up to more than one and a
7 half billion in cleaning liabilities. And the fund
8 only has around 66 million.

9 These are our lands, our waters, our
10 air, and our communities at risk. Oil and gas
11 corporations don't need more ways to dodge
12 responsibility. They need to step up and pay their
13 fair share just as the rest of us do.

14 THE HEARING OFFICER: Thank you,
15 Ms. Homer. Who else in the room would like to offer
16 comment this morning? No? We may have some folks on
17 the platform.

18 If you're on the platform, raise your
19 virtual hand if you have dialed in. Use star five to
20 raise your virtual hand. Let's see we have Melissa
21 Ostroff.

22 Can you unmute yourself?

23 MS. OSTROFF: Yes.

24 THE HEARING OFFICER: Okay. Would you
25 spell your first and last name please?

1 MS. OSTROFF: It's M-E-L-I-S-S-A O-S-T-
2 R-O-F-F.

3 THE HEARING OFFICER: Thank you.
4 WHEREUPON,

5 MELISSA OSTROFF,
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: Great. Go ahead.

10 MS. OSTROFF: Okay.

11 Good morning, commissioners. My name
12 is Melissa Ostroff, and I'm the Pennsylvania Policy
13 and Field Advocate with Earthworks, a national
14 organization working to protect communities and the
15 environment from the adverse impacts of oil and gas
16 development.

17 In my work, I use optical gas imaging
18 cameras to document methane and other pollution that
19 is otherwise invisible, making clear the scale of the
20 oil and gas industry's impacts on our air, water, and
21 climate.

22 In Pennsylvania, I've filmed hundreds
23 of leaking wells, many abandoned for years, even
24 decades, venting methane and carcinogens like benzene
25 into our backyards, parks and school yards.

1 Pennsylvania was the birthplace of the
2 US oil industry, and our wells are among the oldest in
3 the nation. We've been dealing with the orphan well
4 problem longer than almost anyone. And we've seen
5 firsthand how failing to require adequate bonds early
6 on leads to massive lasting cleanup liabilities.

7 I've met families who have lived with
8 abandoned wells in their own yards. One woman I met,
9 Pam, resorted to stuffing home insulation into a
10 smelly wellhead near her garden because no one --
11 neither the state nor the operator -- would take
12 responsibility.

13 That was four years ago, and the well
14 still hasn't been plugged. There are real long-term
15 costs of insufficient bonding, and it's not just a
16 Pennsylvania problem. Every state that has allowed
17 operators to post inadequate bonds has ended up with
18 taxpayers footing the bill for cleanup.

19 The IIJA's federal well-plugging
20 dollars are already stretched thin and they are
21 temporary. Once they're gone, it will fall back on
22 states and ultimately on communities and taxpayers to
23 clean up this mess.

24 That's why New Mexico's bonding reforms
25 are so important. They represent one of the very few

1 real chances we have to prevent another generation of
2 orphan wells, and they could set a precedent for the
3 nation.

4 Strong bonding ensures that when an
5 operator drills a well, they're also responsible for
6 cleaning it up. It's about accountability, fiscal
7 prudence, and environmental justice, not punishment.

8 We've seen in Pennsylvania what happens
9 when bonding levels are frozen or set too low. The
10 problem multiplies, pollution spreads, and the cleanup
11 bill grows.

12 I hope New Mexico will choose a
13 different path -- one that puts people to work
14 plugging wells, protects future generations from
15 inheriting this liability, and ensures that polluters
16 not the public pay to clean up the mess they've made.

17 Thank you for your time.

18 THE HEARING OFFICER: Thank you,
19 Ms. Ostroff.

20 William Miller.

21 MR. MILLER: Okay, I think I'm unmuted
22 and camera. Let's see here. Let's get me on. There
23 we go.

24 THE HEARING OFFICER: Hello, would you
25 spell your first and last name please?

1 MR. MILLER: Sure. W-I-L-L-I-A-M. And
2 my last name, M-I-L-L-E-R.

3 WHEREUPON,

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

8 THE HEARING OFFICER: Great. I'll
9 start your time.

10 MR. MILLER: Okay. Good morning, chair
11 and commissioners. My name is William Miller. And
12 I'm speaking on behalf of myself and the Sierra Club
13 of New Mexico in strong support of the proposed
14 bonding and cleanup rule changes at OCD.

15 I live in Albuquerque, New Mexico. I
16 grew up in Farmington, New Mexico where my father
17 worked for an oil and gas service company. And I have
18 worked myself in the San Juan and Delaware basins as
19 well as in Southeast Asia and near petroleum fields.

20 I have experience in the wireline
21 industry with both open- and cased-hole operations,
22 including the running of cement bond logs. And I have
23 seen firsthand the mess left behind by both major and
24 independent oil companies in New Mexico.

25 And I've also witnessed the mess made

1 in countries where there is little or no oversight or
2 regulation.

3 Well, there are millions of ticking
4 time bombs around the world in the form of orphaned
5 oil and gas wells. And thousands of those happen to
6 be in New Mexico.

7 These wells were not plugged or capped
8 properly to begin with, and many have been
9 deterioration of downhole conditions such as corroded
10 casing and poor cement jobs.

11 Well, this allows for communication of
12 fluids between pay zones and groundwater as well as
13 surface pollution. Not to mention the leaking of
14 poisonous gases such as hydrogen sulfide, which is
15 common in the Hobbs and Barker Dome areas of New
16 Mexico.

17 And we pass the cost of fixing these
18 problem wells onto the taxpayers. And that adage
19 about pay me now or pay me later, reminds us that we
20 are passing this problem onto our children and -- and
21 grandchildren.

22 And while we have not paid to play as
23 we have, we should be being, you know, paid to play.
24 And we have a chance to change this problem and
25 correct this lapse of judgment.

1 There's no excuse not to hold oil and
2 gas companies responsible for their actions from the
3 very beginning while they're calculating the true cost
4 of drilling and production. The proposed bonding and
5 cleanup rules do just that.

6 So let's not play a game of catch up or
7 finger pointing about who is responsible because we
8 know who is responsible.

9 Now, there's good work being done.
10 I -- I see this each time I travel up New Mexico, 44,
11 well, otherwise known as US 55, to visit my sister.

12 And I passed Envirotech Land Farm where
13 they're reclaiming land that -- soil that has been
14 contaminated by oil and gas wells as well as tank
15 farms. So I know that there is some good work out
16 there.

17 So we need to reform the bond and clean
18 up rules and apply them. Now to paraphrase an old
19 Seinfeld TV episode was that about ruining a car.
20 Anybody can make a law. The most important action is
21 to enforce the law.

22 So thank you for your time and
23 consideration about this important matter to me.

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

1 Is there anyone else on the platform
2 who'd like to offer public comment at this time? Our
3 next opportunity maybe at four o'clock this afternoon
4 if we are still in hearing at four o'clock this
5 afternoon. The next public comment we're sure to have
6 is nine a.m. Monday. No?

7 All right, let's go back to the
8 technical case, Mr. Sporich. Thank you.

9 When we broke last night, it was the
10 state land office's turn to ask their questions of
11 this witness presented by NMOGA.

12 Mr. Graeser, I see you on the screen
13 here. Do have questions of Mr. Sporich?

14 MR. GRAESER: Good morning, Madam
15 Hearing Officer and Commissioners. First, let me
16 confirm that my microphone is now working.

17 THE HEARING OFFICER: It is.

18 MR. GRAESER: I apologize for that. It
19 was working earlier in the day yesterday. I don't
20 know what happened. I have a few questions for
21 Mr. Sporich.

22 THE HEARING OFFICER: Go ahead.

23 CROSS EXAMINATION

24 BY MR. GRAESER:

25 MR. GRAESER: Good morning,

1 Mr. Sporich.

2 MR. SPORICH: Good morning.

3 MR. GRAESER: So on slides 9 and then
4 again on 35, you referenced paying quantities. Do you
5 have a definition of paying quantities that you
6 propose or that you use?

7 MR. SPORICH: Madam Hearing Officer,
8 can we pull up the slides if we're going to talk about
9 the fees?

10 We're glad to help, Mr. Graeser.

11 MR. GRAESER: Thank you.

12 THE HEARING OFFICER: Yes.

13 MR. GRAESER: I appreciate it. I
14 wasn't able to locate it as you know, I'm filling in.

15 And, Madam Hearing Officer, when I'm
16 done with cross-examination of this witness, then
17 Mr. Moore will take back over.

18 THE HEARING OFFICER: That's fine. I
19 think Mr. Everhart is going to help out here with the
20 slides.

21 MR. GRAESER: Thank you.

22 MR. SUAZO: Mr. Graeser. Do you mean
23 the direct slides or the rebuttal slides?

24 MR. GRAESER: So I believe it was the
25 direct.

1 MR. SUAZO: Okay. We'll start there,
2 and if we need to switch, we can do that.

3 MR. GRAESER: Thank you.

4 MR. SUAZO: And just to clarify, it's
5 slides 9 and 35?

6 MR. GRAESER: Let's start with 9. Yes,
7 please.

8 MR. SUAZO: Okay.

9 BY MR. GRAESER:

10 MR. GRAESER: So this does, towards the
11 middle of the third paragraph --

12 MR. SPORICH: Correct. I see what
13 you're saying.

14 MR. GRAESER: Okay. Fair enough. So
15 my question is, do you propose a definition of paying
16 quantities?

17 MR. SPORICH: As for NMOGA, I can't
18 speak for NMOGA for their definition that they would
19 want. I could tell you what my interpretation of
20 paying quantities would be is revenue exceeding cost
21 on a lease basis -- not a well basis -- but over a
22 lease.

23 MR. GRAESER: In --

24 MR. SPORICH: And it's over and over a
25 certain period of time.

1 MR. GRAESER: Right. Okay. In what
2 period of time would that be?

3 MR. SPORICH: I don't have a specific
4 number of months that I would propose.

5 MR. GRAESER: Have you been involved in
6 paying quantity disputes?

7 MR. SPORICH: Yes, I have.

8 MR. GRAESER: And what sort of
9 timeframe were you arguing for in those disputes?

10 MR. SPORICH: It's been anywhere from
11 12 to 24 months.

12 MR. GRAESER: And then I should ask
13 what parties you were representing?

14 MR. SPORICH: Chesapeake Energy.

15 MR. GRAESER: Okay. Were you present
16 for Mr. McGowen's testimony yesterday?

17 MR. SPORICH: Yes, sir.

18 MR. GRAESER: And did you hear his
19 ideas and his concepts on paying quantities?

20 MR. SPORICH: I don't recall his
21 commentary on that specific topic.

22 MR. GRAESER: Okay. Do you recall
23 whether you had any particular agreement or
24 disagreement with his testimony?

25 MR. SPORICH: No, nothing at -- like I

1 say, I don't remember anything. So nothing jumped out
2 one way or the other of either being a striking yes or
3 a striking no.

4 MR. GRAESER: All right. And are there
5 any other factors you would look at? I know we have
6 a, you know, general cost and revenues. Are there any
7 specific factors you would look at in determining pain
8 quantities?

9 MR. SPORICH: Yes. We'd look at the
10 history -- operational history as well. Obviously as
11 we've mentioned previously, shut-in purposes for
12 offset fracks, well downtime for midstream issues,
13 things like that. Things of those nature.

14 Mechanical issues with the well. I
15 think you have to take all those in under
16 consideration.

17 MR. GRAESER: Thank you. I appreciate
18 that. You, also in your testimony, you spoke about
19 waste, and I'm going to see if I can share. Yeah.
20 Are you familiar with New Mexico Administrative Code
21 19.15.2.8(B)(3) [sic]?

22 MR. SPORICH: I'm reading it right now.
23 I've read it before.

24 MR. GRAESER: Please take your time.
25 Take your time.

1 MR. SPORICH: Yes, I see it.

2 MR. GRAESER: Okay. So this requires a
3 well that hasn't produced in 12 months and is not
4 placed in temporary abandonment to be plugged within
5 90 days; correct?

6 MR. SPORICH: Yes, it appears so.

7 MR. GRAESER: Would you consider
8 application of this rule to be potentially waste?

9 MR. SPORICH: Not necessarily. You
10 have the ability to place it into -- there is an
11 option to place it into an approved temporary
12 abandonment status.

13 MR. GRAESER: All right, well, so let's
14 assume a hypothetical in which, for whatever reason,
15 you don't meet the requirements to place a well in
16 temporary abandonment status.

17 And it's a well that still may have
18 some potential or some reserves. If you're required
19 to plug that well, would that potentially result in
20 waste?

21 MR. SPORICH: I guess, if there -- it
22 doesn't meet the standard for or approval for approved
23 temporary abandonment, and yet there's still
24 production that's available, I would say that that
25 constitutes waste.

1 MR. GRAESER: Okay. So you agree with
2 me that current OCD rules could result in what you
3 would consider waste then; right?

4 MR. SPORICH: Under that hypothetical.

5 MR. GRAESER: Okay. Thank you. Thank
6 you, Mr. Sporich.

7 Thank you, Madam Hearing Officer. I
8 have no further questions.

9 THE HEARING OFFICER: Okay. Thank you,
10 Mr. Graeser.

11 Let's see. I don't believe we have
12 Ms. Nanasi with us.

13 Mr. Maxwell, do you have any questions?

14 MR. MAXWELL: Can you hear me?

15 THE HEARING OFFICER: Yes.

16 MR. MAXWELL: Hey, thank you. No
17 questions.

18 THE HEARING OFFICER: All right, thank
19 you.

20 Mr. Rankin, do you have questions of
21 Mr. Sporich?

22 MR. RANKIN: I have no questions for
23 Mr. Sporich. Thank you, Madam Hearing Officer.

24 THE HEARING OFFICER: Thank you. I
25 think EOG is monitoring, but no questions.

1 Mr. Cloutier?

2 MR. CLOUTIER: No questions, Madam
3 Hearing Officer.

4 THE HEARING OFFICER: All right.

5 Mr. Suazo, do you have redirect?

6 MR. SUAZO: I do, Madam Hearing
7 Officer. Give me just a second to get set up here.
8 Due to the topics on cross, we're going to show some
9 demonstratives for purposes of guiding the
10 questioning.

11 MR. HALL: Were these provided
12 previously?

13 MR. SUAZO: We can provide them. I
14 mean, they're just for discussion. It's all public
15 information. Yeah. This is from the New Mexico
16 Supreme Court website.

17 MR. HALL: We object to this as not
18 being provided in compliance with the hearing or the
19 scheduling order and hearing order.

20 THE HEARING OFFICER: Yeah. It was
21 supposed to be uploaded to CentreStack or sent around
22 somehow by e-mail.

23 MR. SUAZO: Okay. I mean this is all
24 public information on the website. Anybody can look
25 at it.

1 THE HEARING OFFICER: Right. But the
2 fact that you're going to use it as an exhibit.

3 MR. SUAZO: Well, we're not going to
4 submit it for the record. We're just using it to
5 guide the questioning is all --

6 THE HEARING OFFICER: Then ask the
7 question. Right?

8 MR. TREMAINE: Madam Hearing Officer,
9 just to preserve the objection. I mean, this is
10 all -- we've got extensive testimony in this case
11 about legal arguments, which was all flushed out in
12 the motion to dismiss and responses and can be covered
13 in closing.

14 So I just want to preserve our
15 objection that, you know, counsel's trying to
16 rehabilitate the witness through walking through, you
17 know, canons of statutory interpretation. He is
18 allowed to make this argument in closing.

19 THE HEARING OFFICER: That'd be a
20 better place, Mr. Suazo.

21 MR. SUAZO: I could make it in closing.
22 Yeah, I'm glad to do that. Well, actually, let me ask
23 this. So when we had our scheduling conference, we
24 were told that there was not going to be a closing.
25 So are we fine that there is going to be a closing?

1 THE HEARING OFFICER: There will be --
2 so there's a distinction between an oral closing and a
3 written closing.

4 MR. SUAZO: Okay.

5 THE HEARING OFFICER: Because on the
6 complex rulemakings, the commission doesn't just sort
7 of gavel into deliberations as soon as we make the
8 record. So I would invite you to make your legal
9 arguments and your written closing argument.

10 MR. SUAZO: You know, I actually prefer
11 to do it that way. Thank you.

12 THE HEARING OFFICER: Great. Thank
13 you. Can I turn then to the -- do you have questions
14 then?

15 MR. SUAZO: Let me just confirm there's
16 nothing else that I want to ask the witness.

17 I do have a few questions. And we're
18 still going to pull up some documents that are already
19 in the record for purposes of the versions of the
20 rulemaking that Applicants have proposed, if that's
21 okay with any of the parties.

22 MR. CLOUTIER: I won't object until I
23 see it, Mr. Suazo.

24 MR. SUAZO: Okay. Fair enough.

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REDIRECT EXAMINATION

BY MR. SUAZO:

Mr. Sporich, do you recall Mr. Tisdell asking you about your direct testimony and discussing a \$200,000 blanket bond?

MR. SPORICH: Yes, I do.

MR. SUAZO: Have you reviewed WELC's original petition from June of 2024, which is filed on the commission's website?

MR. SPORICH: Yes, I went back. It was under the June 2024 proposal.

MR. SUAZO: Okay. Let's pull that up. Can you see that on your screen?

MR. SPORICH: Yes, I do.

MR. SUAZO: In the highlighted portion, what does that say?

MR. SPORICH: This is from the original proposal of blanket plugging financial assurance for 200,000 for one to five wells.

MR. SUAZO: So just to clarify, that's WELC's initial proposal that they submitted in this proceeding?

MR. SPORICH: Correct.

MR. SUAZO: Thank you. Now, Mr. Tisdell mentioned that there's been a few revisions from

1 Applicants submitted for review. Do you know how many
2 proposed amendments have been filed through this
3 proceeding in total by all the parties?

4 MR. SPORICH: Yes. So far it's been
5 ten proposed amendments. Okay.

6 MR. SUAZO: And so the red line
7 attached to your direct testimony that Mr. Tisdell and
8 Mr. Hall were asking you about yesterday. Do you know
9 what date that was filed?

10 MR. SPORICH: What'd you say?

11 MR. SUAZO: Do you know what date that
12 was filed on?

13 MR. SPORICH: Filed on August 8th.

14 MR. SUAZO: Okay. And was there a
15 version on that that you are aware of?

16 MR. SPORICH: Yes, it was the third,
17 this third errata.

18 MR. SUAZO: Okay. Do you know how many
19 versions the Applicants have filed in total?

20 MR. SPORICH: I believe it's three
21 additional ones for a grant. Total of six.

22 MR. SUAZO: Okay. Thank you,
23 Mr. Sporich.

24 No further questions, Madam Hearing
25 Officer.

1 THE HEARING OFFICER: All right, thank
2 you, Mr. Suazo.

3 Commissioner Ampomah, do you have
4 questions of Mr. Sporich?

5 MR. AMPOMAH: Yeah, there are a lot of
6 legal discussions, yes. So I'll leave it to the
7 lawyers. Thank you. No questions.

8 THE HEARING OFFICER: All right.
9 Commissioner Bloom.

10 MR. BLOOM: Mr. Sporich, thank you for
11 your testimony. I do not have questions either today.
12 Thank you.

13 MR. SPORICH: Awesome, thank you.

14 THE HEARING OFFICER: And, Chair Chang.

15 CROSS EXAMINATION

16 BY MR. CHANG:

17 MR. CHANG: Most of these issues have
18 been covered, but, so I do want to explore one
19 assertion in your direct. I believe it's starting at
20 paragraph 130, you're welcome to pull that up.

21 Towards the -- it's a long-ish
22 paragraph -- but towards the end of that paragraph,
23 you've got a sentence in there that says the OCD may
24 not enforce or condition operator registration on
25 compliance with laws outside of New Mexico.

1 MR. SPORICH: Did you say paragraph
2 130th?

3 MR. CHANG: 130 of your -- I believe --

4 MR. SUAZO: This is your direct. Can
5 we -- we can pull it up for the witness so you can see
6 if -- that's fine.

7 BY MR. CHANG:

8 MR. CHANG: Please. It's on page 30 --
9 the paragraph starts on page 36, but I'm looking at a
10 sentence on page 37.

11 MR. SPORICH: Okay. I'm reading it
12 right now.

13 MR. CHANG: Sure.

14 MR. SPORICH: All right. I have it and
15 I've read it. Could you repeat your question,
16 Commissioner?

17 MR. CHANG: Ah, okay. So let's go down
18 to 131. I had written -- scribbled -- over where it
19 says 131, so I --

20 MR. SPORICH: Okay.

21 MR. CHANG: -- lumped paragraphs
22 together. My apologies.

23 MR. SPORICH: Okay. Sorry.

24 MR. CHANG: If you want to scroll up
25 just by a hair so we can see that the top of that page

1 though anyway. Okay, so let's start the middle of
2 131.

3 There's a sentence that starts "The OCD
4 may not enforce or condition operator registration on
5 compliance with loss outside of New Mexico." Did I
6 read that correctly?

7 MR. SPORICH: Yes.

8 MR. CHANG: Okay. And then the reason
9 that you give is actually in the previous paragraph at
10 the top of this page here, "violates the principles of
11 state sovereignty and federalism." Is that correct?
12 That's the reason for the conclusion is that OCD may
13 not --

14 MR. SPORICH: Yes, that's the argument.

15 MR. CHANG: Okay. You're licensed to
16 practice in Texas; correct?

17 MR. SPORICH: Correct.

18 MR. CHANG: Okay. Texas Rules of
19 Professional Conduct -- and you can take this as a
20 hypothetical -- not trying to introduce facts not in
21 evidence here.

22 But the Texas Attorney Rules of Conduct
23 requires an attorney who has been disciplined by
24 another jurisdiction or a federal court or a federal
25 agency to notify the disciplinary counsel within 30

1 days.

2 Would those rules of professional
3 conduct for attorneys to report out-of-state
4 violations or disbarment also violate principles of
5 state sovereignty and federalism?

6 And if not, how would you distinguish
7 those requirements to maintain a certification, either
8 with a bar or the certification with OCD here?

9 MR. SPORICH: Well, the first part of
10 that is, no, I'd not think that it impedes the bar
11 disciplinary. I don't think that affects state
12 sovereignty rights between New Mexico and Texas. I
13 think that's been well established throughout the
14 country.

15 What we are saying here is -- is from a
16 regulatory standpoint, from what the Act has provided
17 previously, it is my belief that that OCD being a
18 limit -- OCD getting their powers by a limited grant
19 from the New Mexico Oil and Gas Act, I don't think
20 that it shows that they have the ability to enforce
21 other states regulatory environments.

22 I think we've mentioned also
23 previously, or somebody has mentioned previously,
24 there could be minor infractions that come up. And I
25 know that that's not your concern right now, but --

1 MR. CHANG: Sure.

2 MR. SPORICH: It could be one of those
3 ones where how do you report and how does that work
4 from a -- a standpoint where it might be a paperwork
5 situation versus an actual violation that I think what
6 the commission is trying to get after.

7 But again, that's dealing with a
8 different state and their rules for enforcement from
9 an environmental standpoint under the New Mexico Oil
10 and Gas Act.

11 MR. CHANG: Okay. So your concern is
12 limited not to constitutional or sovereignty or
13 federalism concerns. Your concerns is limited to
14 whether or not the state are particular enabling
15 statute -- that's how you would distinguish those
16 situations. Is that a --

17 MR. SPORICH: No. I think it's all --
18 I think it also has to do with state sovereignty as
19 well. I just think that there is a distinction, and
20 I'm not articulating properly, but I do think there is
21 a distinction between the bar -- the bar as you
22 mentioned --

23 MR. CHANG: Right.

24 MR. SPORICH: -- disciplinary bar and
25 enforcing environmental rules.

1 MR. CHANG: Right. So help me
2 understand a distinction or how you would distinguish
3 those things. Because isn't it both situations where
4 we're looking at certifying somebody as being in
5 compliance with their responsibilities in both
6 situations?

7 MR. SPORICH: Yes, I could see that. I
8 could see that.

9 MR. CHANG: Okay. I think most of the
10 other issues have been -- let me turn to a slightly
11 different issue and hopefully I'm not beating a dead
12 horse here, but. We do -- certainly while I'm here --
13 I certainly want to track our enabling statute as
14 closely as I possibly can.

15 So to, we certainly appreciate your
16 analysis and advice and your contributing to the
17 conversation to make sure that the commission is
18 tracking the statute as closely as we possibly can.

19 I want to explore the word sufficient a
20 little bit in NMSA 72-14-A, you quote it on page 6 of
21 your rebuttal. Or, at least, I think you slightly
22 paraphrase it. OCD must set one well financial
23 assurance "in amounts determined sufficient to
24 reasonably pay the cost of plugging."

25 We've heard testimony here that wells

1 cost 163,000 to plug. So would the applicant's
2 proposal of 150,000 be sufficient? Would it violate
3 the statute for us to adopt a number below 163,000?

4 MR. SPORICH: I think that we -- if I'm
5 reading it as a whole, sufficient to reasonably pay.
6 And we've also heard testimony too. And in my
7 previous experience at Tap Rock, we plugged wells for
8 much less than that.

9 So nothing in the statute here says
10 that it's only sufficient reasonably pay for OCD. It
11 doesn't say anything specific to just OCD. It just
12 says sufficient to reasonably pay.

13 And I think that if there's outside
14 information that says that it's reasonable to pay
15 \$65,000 to plug wells, I think that has to be taken
16 into consideration too.

17 MR. CHANG: So I guess I'm struggling a
18 little bit here because it seems like we're reading
19 into the statute a word of average. Because it
20 doesn't say that. It also doesn't say -- I guess I'm
21 struggling with the word sufficient here.

22 Sufficient on average. And of course
23 it seems like everybody is arguing some sort of
24 average. People just don't seem to agree on what that
25 average should encompass.

1 But it seems like the statute doesn't
2 actually say average. Don't we have to look at the
3 most expensive well to make sure that we are always
4 sufficient to cover the cost of plugging?

5 The statute -- I mean, I'm looking at
6 this -- thank you for whoever pulled up this lovely
7 rainbow -- because I don't see the word average
8 anywhere in here. And I do want to, you know -- as
9 you cautioned -- track the statute down to the letter.

10 MR. SPORICH: Right. I still -- my
11 opinion is it goes together with the reasonable pay.
12 It has to be reasonable.

13 MR. CHANG: In the reasonable word.
14 Fair enough. Okay. I think I will leave it there.
15 Thank you very much. I appreciate it.

16 MR. SPORICH: Thank you, Commissioner.

17 THE HEARING OFFICER: Any reason not to
18 excuse Mr. Sporich?

19 Thank you very much, Mr. Sporich.

20 We're less than 45 minutes into our
21 day.

22 Ms. Felix --

23 MR. CHANG: I apologize. Could I ask
24 one more question of the previous witness?

25 THE HEARING OFFICER: Oh. All righty.

1 MR. CHANG: And if I could have that
2 rainbow statute again, that'd be very helpful.

3 MR. SUAZO: More costs.

4 MR. RANKIN: Can we call it Rankin's
5 Rainbow going forward?

6 MR. CHANG: Yes. Yes.

7 You now have a statute named after you,
8 Mr. Rankin.

9 BY MR. CHANG:

10 So I think we all -- there's been, you
11 know, extensive discussion about this and highlighting
12 of this particular provision that's so crucial to our
13 rulemaking here. And I'm reading it here. "Such
14 categories shall include" and it gives three separate
15 categories.

16 And people have already debated the
17 definition of the word "such" till I think we're all
18 blue in the face.

19 But I guess it seems like -- and tell
20 me if I'm interpreting a brief wrong -- it seems like
21 in certain sections of your brief, there is an
22 assumption that it's -- lest I reopen in different
23 and/or gate -- that each of these categories are
24 mutually exclusive.

25 I'm trying to figure out whether or

1 not, as a matter of policy, we should go there
2 different, just from this. Trying to figure out my
3 statutory boundaries here.

4 Is there anything in that statute that
5 says that these categories can't be cumulative? I
6 mean, because it says "and" -- right -- blanket
7 bonding at the end of the green you've got a comma.

8 MR. SPORICH: Right.

9 MR. CHANG: And end of the blue, you've
10 got a comma and one well plugging financial assurance.
11 I'm trying to figure out where in the statute it
12 requires us to -- and maybe we should anyway as a
13 matter of policy, not debating that yet. So don't
14 light anybody's hair on fire yet.

15 But does this statute allow us to
16 require -- after creating multiple categories -- to
17 potentially have an operator fall into multiple of
18 those categories?

19 MR. SPORICH: Well, I think the one
20 thing I'm looking at, Commissioner, is how it is
21 structured. And I think that there is -- you can see
22 the kind of the green, the blue and the purple. I see
23 that as that last comma that's in there. That's the
24 penultimate comma that's in this provision.

25 MR. CHANG: Sure.

1 MR. SPORICH: And I think that that
2 bookends the financial assurance categories that's
3 there. And I think limiting these categories -- I
4 don't know -- I haven't read it necessarily to say
5 that you could combine these all together.

6 However, I think if you do combine them
7 all together, like you're -- I think you're
8 proposing --

9 MR. CHANG: Just try to figure out --

10 MR. SPORICH: Yeah.

11 MR. CHANG: -- what the boundaries of
12 the statute are.

13 MR. SPORICH: Yeah. Yeah. I think if
14 you put them all together, I think it then goes above
15 this blanket \$250,000 that we've talked about
16 previously. But it's a process.

17 I haven't necessarily thought yet of if
18 we are saying that these are the only three limiting
19 financial assurance categories, can they not be
20 stacked on top of one another?

21 I think, plain reading of it, I don't
22 think that provides that, but I can see where someone
23 could make that argument.

24 MR. CHANG: Okay. And that may be
25 terrible policy, but I'm just trying to figure out

1 whether or not the statute is clear about whether or
2 not they're, you know, and/or -- opening up yet
3 another and/or debate here. But I appreciate your
4 answer. Thank you.

5 MR. SPORICH: Thank you.

6 THE HEARING OFFICER: Right. We're
7 welcoming Ms. Felix to the witness stand.

8 Would you spell your first and last
9 name, please?

10 MS. FELIX: Yes. Andrea, A-N-D-R-E-A.
11 Last name Felix, just like the cat, F as in Frank, E-
12 L-I-X.

13 THE HEARING OFFICER: That's the male
14 version of my name.

15 WHEREUPON,

16 ANDREA FELIX,
17 called as a witness and having been first duly sworn
18 to tell the truth, the whole truth, and nothing but
19 the truth, was examined and testified as follows:

20 THE HEARING OFFICER: Thank you very
21 much.

22 Mr. Suazo.

23 MR. SUAZO: Thank you, Madam Hearing
24 Officer.

25 //

1 DIRECT EXAMINATION

2 BY MR. SUAZO:

3 Good morning, Ms. Felix. How are you
4 doing today?

5 MS. FELIX: Good morning. I'm much
6 better than the last couple of days. I'm recovering
7 from a head cold.

8 MR. SUAZO: Excellent. Well, glad to
9 hear it. Hope you have a speedy convalescence.

10 We have your slides up there. Yes.
11 Okay. Can you please state your name and your role in
12 this proceeding?

13 MS. FELIX: Yes. My name again is
14 Andrea Felix. I'm the vice president of regulatory
15 affairs for the New Mexico Oil and Gas Association.

16 And my role in the proceeding is to
17 bring the industry perspective from the -- the trade
18 organization side of things as part of the regulated
19 party in these proceedings.

20 MR. SUAZO: And what is your
21 professional background and experience in the oil and
22 gas industry?

23 MS. FELIX: So I've worked in the
24 industry for over two decades, specifically in New
25 Mexico as a surface landman and specializing in

1 operational regulatory and policy issues throughout my
2 career.

3 Purpose of my testimony today is to
4 highlight the operational and industry-wide
5 consequences of the proposed amendments to provide an
6 integrated industry perspective to the portions of the
7 proposed rules that are unworkable for industry and to
8 recommend practices -- practical alternatives that
9 maintain protection without undermining New Mexico's
10 oil and gas sector.

11 MR. SUAZO: And did you file rebuttal
12 testimony in this case?

13 MS. FELIX: Yes, I did.

14 MR. SUAZO: And what is the purpose of
15 your rebuttal testimony?

16 MS. FELIX: To respond to the
17 applicant's and OCD's remarks to our submitted direct
18 testimony.

19 MR. SUAZO: Now let's move to your
20 slide 3. Can you explain to the commission NGO's
21 overarching concerns with Applicant's testimony and
22 proposals?

23 MS. FELIX: So the overarching concerns
24 that we have is, as we've learned through the
25 proceedings -- so there's been a lot of new

1 information learned; right? I think we've all learned
2 a lot over the last two weeks.

3 But as the applicant's original
4 application to industry, there is mischaracterization
5 on the data on orphan marginal and active wells and
6 the reliance on the inflated costs from OCD's
7 procurement practices that were provided.

8 But again, as we've learned through the
9 proceedings, it seems like we've got some corrections
10 that can be made and some discussions to be had.

11 MR. SUAZO: In your rebuttal, what is
12 your response to the way Applicants and OCD address
13 plugging costs?

14 MS. FELIX: In my rebuttal, the
15 plugging costs that Applicants and OCD are relying on
16 are costs that were incurred by the division; right?

17 Part of what the message that we have
18 here, if we can work on helping to enhance and correct
19 some of the procurement processes, the way in which
20 the division, who I believe is single-handedly one
21 person trying to manage the orphan well program, we'd
22 be able to better come to an understanding and an
23 executable program.

24 And that's what my rebuttal is about.
25 Oil and gas industry -- they drill wells; they plug

1 wells; they reclaim wells.

2 So while having the applicants and OCD
3 being open to getting insight on how this is done --
4 because I think we've established over the last two
5 weeks, industry can do it a whole heck of a lot
6 cheaper while sharing those experiences and those best
7 practices on how industry puts together a program so
8 that potentially the division could create a
9 systematic program themselves, which would then just
10 better all of us.

11 MR. SUAZO: Have you reviewed the LFC
12 report that Applicants rely on in this proceeding?

13 MS. FELIX: Yes, I have.

14 MR. SUAZO: And what is your
15 interpretation of how Applicants, you know, have
16 utilized the LFC's report?

17 MS. FELIX: I -- I would say that
18 Applicants have -- have used it to -- to -- and, you
19 know, how do I want to say this. They've relied on it
20 to state their platform when it comes to costs and
21 execution of the program.

22 I think all of us who have read the
23 report have very many different interpretations of
24 what that report says, but I think at the end of the
25 day, what we can all agree upon that the report

1 tell -- told us is that there needs to be some
2 changes.

3 And I think those changes could come
4 from a unified front working on the procurement.
5 Going out to -- to bid to industry-wide vendors so
6 that OCD isn't just constrained to one or two vendors.

7 We -- OCD could potentially have three
8 or four rigs running, three or four different programs
9 running throughout the state. And that -- that's a
10 takeaway that I took away from that report.

11 MR. SUAZO: Do you know whether the LFC
12 report proposed statutory or regulatory changes?

13 MS. FELIX: They did. Yes.

14 MR. SUAZO: Okay. Let's move on to
15 your slide number 4 where you discuss a definition for
16 beneficial purposes and beneficial use. Ms. Felix,
17 what is NMOGA's view on WELC's proposal to add a
18 definition for beneficial purposes or beneficial use?

19 MS. FELIX: The -- the biggest concerns
20 that we have is that it goes against the definition
21 use for decades within industry. And so it ignores
22 what beneficial depends on, in terms of what we heard
23 from Mr. McGowen of evolving technologies, markets,
24 infrastructure, and geology.

25 So the things that, you know, every

1 day, there's technologies in whatever industry that
2 we're in changing and improving and making things
3 better.

4 And so while looking at these wording
5 changes could hamstringing what the industry could do to
6 just continue to be a better developer in the State of
7 New Mexico.

8 MR. SUAZO: Okay. Now, as part of that
9 definition, there's a phrase "speculative purposes."
10 Why does NMOGA oppose Applicant's attempt to prohibit
11 speculative purposes?

12 MS. FELIX: I -- I think again, it goes
13 to the -- the stifling and the hampering it could put
14 on innovation. As technologies improve, as learnings
15 are learned, as new -- new wells are drilled, we learn
16 things every day.

17 And while the -- the new wells
18 technology evolves every day, so does the technology
19 for those wells that have been here for years.

20 We've got operators that are in the
21 business of, you know, taking that old classic car
22 and -- and making it something new today. And, my
23 goodness, to stifle that innovation would just, I
24 think, do a harm to the state and to the resources.

25 MR. SUAZO: So with respect to this

1 proposed definition, what is NMOGA's final position on
2 this issue for the commission?

3 MS. FELIX: I mean, we -- we would like
4 if -- if the commission is inclined to adopt a
5 definition. A definition that is so broad and
6 flexible is not what we're recommending; right?

7 But something to not constrain future
8 beneficial uses to essential to prevent waste and
9 protect correlative rights and give industry and those
10 entrepreneurs the opportunity to bring that old Chevy,
11 you know, 1950 Chevy up to par.

12 MR. SUAZO: All right, let's move on to
13 your next slide where you discussed presumptions of no
14 beneficial use. Can you please explain the proposed
15 presumption regarding beneficial use as you understand
16 it?

17 MS. FELIX: As I understand it,
18 Applicants presume a well incapable of beneficial use
19 if 90-day production thresholds are unmet within a 12-
20 month period. And then that allows for as written a
21 30-day window to rebut that lack specifies as to when
22 the 30-day window begins.

23 MR. SUAZO: What is NMOGA's concern
24 with the 90-day one-year threshold that is proposed?

25 MS. FELIX: It -- it doesn't -- it

1 doesn't allow for the -- let me start again.

2 It doesn't account for all those viable
3 wells. Right? And the -- and not just a well basis,
4 but also a lease basis, as we heard Mr. Sporich speak
5 to earlier.

6 So while individual wells standalone
7 and operate on their own, wells within a lease, also
8 kind of collaborate with one another. And so that
9 needs to be taken into consideration as well.

10 MR. SUAZO: Okay. And there's a
11 rebuttable presumption framework within that proposal,
12 you know, with a 30-day window. Does NMOGA have any
13 issues with that proposal?

14 MS. FELIX: Yeah, we believe that 30-
15 day window lacks enough time for folks to, I mean, 30-
16 days to get a plugging rig to make sure there's
17 equipment, crews, plans, get it approved from OCD, is
18 just not a -- a long enough window. It also doesn't
19 account for many, many viable wells.

20 We've got members who have been
21 operators in the State of New Mexico. Their great-
22 grandfather started these companies. They are in the
23 business and have been of operating these types of
24 wells for generations already.

25 And by taking -- by reclassifying these

1 wells will essentially send these very legacy
2 companies out of the state. And that's one of our
3 greatest concerns.

4 MR. SUAZO: Okay. Now you've worked in
5 the oil business yourself. Based on your experience,
6 how do you think this presumption would affect
7 reservoir and field management types of issues?

8 MS. FELIX: I -- I think it would leave
9 potential for -- for waste and undeveloped resources,
10 resulting in undeveloped and not -- and funds that
11 would've went to the state, to the schools, to the
12 children, to the funds that are now helping to provide
13 for a 10-day extension through SNAP.

14 The unified childcare credit that is
15 going around the state would be losing out in that.

16 MR. SUAZO: Did you hear Mr. Arthur and
17 Mr. McGowen's testimony in this proceeding?

18 MS. FELIX: Yes, I did.

19 MR. SUAZO: And do you recall whether
20 they gave any real world operational examples of,
21 well, you know what, let me move on to the next
22 question. I don't like that one. Now that I've said
23 it aloud.

24 Sticking with your slide 5, are there
25 concerns with federal lease terms or other regulatory

1 conflicts that NMOGA foresees?

2 MS. FELIX: Absolutely. And that's
3 why, you know, in my comment earlier that they
4 introduction of the lease parameters and definitely
5 need to be taken into consideration too.

6 Because as operators are bound by their
7 lease terms and planning portfolios and planning
8 projects, they have to be cognizant of those lease
9 terms. And so I think it is our duty through these
10 proceedings to also take that into consideration.

11 MR. SUAZO: Now have you heard
12 Mr. Sporich's testimony and read his testimony?

13 MS. FELIX: Yes.

14 MR. SUAZO: Does NMOGA believe that the
15 commission has the authority to adopt this
16 presumption?

17 MS. FELIX: No.

18 MR. SUAZO: Let's move on to your slide
19 6. Ms. Felix, can you tell the commission what NMOGA
20 is recommending regarding this proposal to create a
21 presumption of no beneficial use?

22 MS. FELIX: Yes, if NMOGA recommends if
23 the commission is inclined to adopt WELC's proposal
24 that it should only apply to extended periods of time
25 of inactivity, such as five years.

1 MR. SUAZO: Okay. So we've finished
2 with the beneficial use, let's move on to the
3 financial assurance portion of your testimony starting
4 with slide 7.

5 MS. FELIX, do you know what WELC
6 proposes with respect to the changes to rule
7 19.15.8.9(A) regarding acquisitions and financial
8 assurance?

9 MS. FELIX: Yes.

10 MR. SUAZO: What are NMOGA's concerns
11 with this proposal?

12 MS. FELIX: Our concerns with this
13 proposal is that this would grant OCD the authority to
14 act as -- as the gatekeeper over acquisitions and
15 transactions in the state in regards to oil and gas.

16 MR. SUAZO: Okay. And does NMOGA rely
17 on Mr. Sporich's testimony and opinions in that?

18 MS. FELIX: Yes.

19 MR. SUAZO: What does NMOGA recommend
20 that the commission do with this proposal?

21 MS. FELIX: Our recommendation is that
22 the OCC reject this provision.

23 If the commission does explore it,
24 recommended changes would -- are to limit application
25 strictly to operational approvals, distinguish

1 ownership from operations, to find clear triggers for
2 financial assurance, and engage stakeholders in
3 designing a workable framework.

4 MR. SUAZO: Now it seems like there's a
5 pre-transfer element to this based on the language.
6 Does NMOGA have concerns about the impact of this pre-
7 transfer requirement?

8 MS. FELIX: Yes.

9 MR. SUAZO: Okay. Let's move to slide
10 9. Does NMOGA have any ideas on real world
11 consequences for the industry if this proposal's
12 adopted?

13 MS. FELIX: Yes. So as Mr. Arthur and
14 Mr. McGowen testified earlier, WELC'S proposals cause
15 significant administrative burdens, budgeting
16 complications, impediments to flexible development,
17 which would essentially be a waterfall.

18 Bottom line of, you know, where our
19 concerns are is that OCC should reject the proposals
20 as drafted 'cause they constitute regulatory
21 overreach, create heavy administrative burdens,
22 especially on a well-by-well tracking basis.

23 And again, I'm going to say it again,
24 that goes back to the lease implications as well. So
25 taking the look on a well-by-well doesn't answer and

1 dot the I and cross the T when it comes to lease
2 production.

3 And it would inhibit asset transfers,
4 particularly for depressed marginal assets. NMOGA
5 believes that legislature should make statutory
6 changes before these rules can be adopted.

7 MR. SUAZO: All right, let's move on to
8 your slide 10 where you discuss the proposed changes
9 for active wells. What changes do Applicants propose
10 for financial assurances on active wells?

11 MS. FELIX: So the current proposal is
12 150,000 or a 250 blanket bond regardless of the number
13 of wells in a portfolio.

14 MR. SUAZO: Okay. Have you also --
15 Next slide please.

16 Have you reviewed Applicant's proposals
17 for inactive and temporarily abandoned wells?

18 MS. FELIX: Yes, I have.

19 MR. SUAZO: Do you know what those
20 require?

21 MS. FELIX: Yes. WELC's proposing the
22 150,000 bond per active well, 250,000 blanket bond
23 regardless of the well count, and an additional
24 150,000 bond for marginal wells.

25 MR. SUAZO: What is NMOGA's position on

1 these proposals?

2 MS. FELIX: As Mr. Sporich testified,
3 OCD statutory authority only allows financial
4 assurance amounts sufficient to cover reasonable
5 plugging costs.

6 And again, as we've -- as we've
7 uncovered through the -- these proceedings, I think
8 there's room for conversations on what these
9 reasonable costs are.

10 WELC's proposal removes depth as a
11 factor and sets requirements discounted --
12 disconnected from actual costs, exceeding statutory
13 limits.

14 MR. SUAZO: Okay. Now do you think the
15 existing rules already address non-compliance in this
16 area?

17 MS. FELIX: I do. And I think with the
18 existing rules and with a fully functional orphan well
19 program with the fully functioning use of the
20 reclamation fund, we may not have as big as a problem
21 as what was originally brought forward to these
22 proceedings.

23 As we -- as we've, excuse me, as we've
24 learned, numbers are changed, cost estimates are --
25 are -- have changed. What is an orphan well? What

1 does the list look like has changed?

2 So I think there is absolutely room
3 to -- to show that the mechanisms that are in place
4 and have been for many years, modernizing those and
5 having a fully executable program could 100 percent
6 work.

7 And I -- I will go back to the here and
8 the now. Right? Deputy Director Powell brought up an
9 incident over the weekend, and he said that two
10 operators raised their hands and helped through that.
11 And that's where operators are today.

12 We're here talking about issues and
13 wells from many, many years ago. While the rules that
14 are in place now in the enforcement the OCD currently
15 has by -- by utilizing and the enforcements of the
16 regulations and the assurances in place, will help us
17 to ensure we don't get there in 50 years from now.

18 But also help us address the -- the
19 problem that we're facing today once we're able to
20 quantify what that problem is.

21 MR. SUAZO: Can you please tell the
22 commission what NMOGA recommends, especially if
23 there's any sort of alternatives?

24 MS. FELIX: Yeah, so our recommendation
25 would be to retaining a fixed tiered blanket structure

1 tied to well counts and statutes.

2 If revisions are made, we would
3 recommend -- recommend preserving the blanket bond
4 options, use a risk-based approach tied to compliance
5 history, apply prospectivity, not retroactivity, and
6 avoid expanding OCD's authority beyond statutes.

7 MR. SUAZO: Now let's move on to your
8 next slide, 13, which is titled "Incomplete Blanket
9 Financial Assurances."

10 Ms. Felix, are you aware under the
11 current rules what happens if a blanket bond does not
12 cover certain wells?

13 MS. FELIX: Yes.

14 MR. SUAZO: Can you please explain what
15 the current rules require?

16 MS. FELIX: The current rule requires
17 operators to post a single well bond or replace it
18 with a blanket bond for their full portfolio.

19 MR. SUAZO: Are you aware what WELC is
20 proposing under this rule change?

21 MS. FELIX: Yes.

22 MR. SUAZO: Briefly, could you explain
23 what that is? Or I guess you already --

24 MS. FELIX: I think I've already done
25 that.

1 MR. SUAZO: You already did earlier.
2 Sorry. What's NMOGA's position on this proposal?

3 MS. FELIX: I -- I think again, you
4 know, based off of the -- the legal outreach that
5 NMOGA has undertaken with our legal team, it's --
6 that -- it lacks the statutory authority to make those
7 changes.

8 I -- I think another important item to
9 raise is that it is redundant to the existing
10 regulation that's already in place and provides for
11 cure under coverage there.

12 MR. SUAZO: Okay. What are NMOGA's
13 recommendations to the commission with respect to this
14 proposal?

15 MS. FELIX: If the commission feels so
16 inclined to amend the -- the rule should expressively
17 allow for replacement blanket bonds to cure under
18 coverage, preserve operator choice between single well
19 and blanket coverage, and include a clear transition
20 period for securing replacement coverage.

21 MR. SUAZO: Ms. Felix, does your
22 testimony address the Consumer Price Index?

23 MS. FELIX: Yes it does.

24 MR. SUAZO: And do you know what
25 Applicants are recommending with respect to the CPI?

1 MS. FELIX: Yes, they're -- yes they
2 do.

3 MR. SUAZO: Okay. What is NMOGA's
4 position on Applicant's proposal to adjust based on
5 CPI?

6 MS. FELIX: Our concern is that in --
7 it introduces volatility and uncertainty into capital
8 planning. All -- all operators plan in different
9 mechanisms. Smaller operators plan three to five
10 years out, other -- larger operators plan on different
11 frequencies. Portfolios look very different.

12 And so this type of basing it on as CPI
13 would introduce ambiguity and also could disrupt long-
14 term compliance and financial strategies. It'll also
15 add not only to be a burdensome task on the operator,
16 but also for OCD to administrate it as well.

17 MR. SUAZO: Now what is NMOGA's
18 recommendation to the commission on the proposal to
19 adjust based on CPI?

20 MS. FELIX: So here again, we recommend
21 that the OCC reject WELC's proposal and suggest a
22 five- to ten-year review intervals tied to a tier
23 plugging cost, data risk profiles, and bonding market
24 conditions. Not broad consumer inflation indexes.

25 MR. SUAZO: All right, let's move on to

1 your next slide, slide 15, which deals with marginal
2 wells. Ms. Felix, are you familiar with Applicant's
3 proposed definition for marginal wells?

4 MS. FELIX: Yes.

5 MR. SUAZO: Can you please explain your
6 understanding of what that is?

7 MS. FELIX: WELC proposes a two-pronged
8 test to identify marginal wells less than 180
9 producing days and less than 1000 barrels over 12
10 months.

11 MR. SUAZO: And are you aware that this
12 proposed definition, you know, is related to their
13 financial assurance proposals?

14 MS. FELIX: Yes, I am. I will also add
15 though, as we've gone through the proceedings and
16 we've heard from other parties, we have heard that
17 there is some openness to variable of these numbers.
18 And so NMOGA is very interested in having those
19 conversations and seeing what we can all agree upon as
20 these proceedings unfolded.

21 MR. SUAZO: Okay. So taking all what
22 you just said into account, what is NMOGA's
23 recommendation to the commission for marginal well
24 financial assurance?

25 MS. FELIX: So, again, just adopting a

1 risk-based approach rather than categorical
2 thresholds.

3 Preserving and improving the blanket
4 bond option, clarifying the administrative mechanisms
5 before pre-well assurances, eliminating the arbitrary
6 15 percent trigger, and convening a stakeholder group
7 to share workable bonding rules.

8 MR. SUAZO: So you mentioned earlier
9 that you have reviewed the LFC report. Do you know
10 whether the LFC report contains a definition for
11 marginal well?

12 MS. FELIX: Yes it does.

13 MR. SUAZO: Okay. And is it different
14 from what Applicants are proposing in this proceeding?

15 MS. FELIX: Yes, it is.

16 MR. SUAZO: Okay. In your view, how
17 are Applicants characterizing marginal and inactive
18 and temporarily abandoned wells?

19 MS. FELIX: In my view, I mean,
20 they're -- they're characterizing them, you know, at a
21 high risk level. And so that the -- the reality is
22 marginal is -- doesn't equal high risk. Right? And I
23 think that's what we're here to try to -- to try to
24 tell that story.

25 MR. SUAZO: Did any of NMOGA'S

1 witnesses kind of explain that to the commission, to
2 your recollection?

3 MS. FELIX: Yes, I believe, and, again,
4 remember I've had a head cold the last couple of days.
5 But I definitely heard that with Mr. McGowen
6 yesterday.

7 MR. SUAZO: Okay. Does NMOGA think
8 that the commission has the authority to create
9 marginal well financial assurance categories?

10 MS. FELIX: No.

11 MR. SUAZO: Let's move on to your slide
12 18, which discusses wells to be properly abandoned.
13 Are you familiar with what the current rules require
14 for wells to be properly abandoned?

15 MS. FELIX: Yes.

16 MR. SUAZO: Okay. And do you know what
17 changes WELC proposes to this rule?

18 MS. FELIX: Yes, I do.

19 MR. SUAZO: And what are NMOGA's
20 concerns with the proposal?

21 MS. FELIX: Really that 30-day window.
22 I, you know, as I stated earlier, it's very
23 unrealistic to think that an operator can contract out
24 a plugging crew, get the approvals from OCD, ensure
25 that there is a required workforce.

1 And there's the, you know, so many
2 different factors whether landowner approvals and
3 notifications. And I think we've also heard those
4 same -- that same struggle from OCD as they're
5 planning plugging on their side as well.

6 MR. SUAZO: What is NMOGA's
7 recommendation to the commission on this proposal?

8 MS. FELIX: NMOGA urges the commission
9 to adopt alternative language. In our -- NMOGA's pre-
10 hearing statement, Exhibit A, we provide practical
11 enforceability without sacrificing environmental
12 protection.

13 MR. SUAZO: Okay. Let's move on to
14 your slide 19. Are you familiar with the current
15 approved temporary abandonment rule?

16 MS. FELIX: Yes, I am.

17 MR. SUAZO: Okay. Are you familiar
18 with what Applicant proposes to the ATA requirements?

19 MS. FELIX: Yes.

20 MR. SUAZO: Okay. What are NMOGA's
21 concerns with their proposal?

22 MS. FELIX: A concern that we have is
23 the requirement for disclosure of sensitive
24 information.

25 While we do know that there is a

1 mechanism for confidential information, there, again,
2 submittal of confidential information into OCD's
3 house, again, adds another layer of administrative
4 oversight, which as currently staffed could pose an
5 issue for OCD.

6 MR. SUAZO: Did you hear Mr. Sporich's
7 testimony on that statute that is intended to protect
8 confidential information?

9 MS. FELIX: Yes, I did.

10 MR. SUAZO: Do you share his concerns
11 with whether it's stringent or not stringent enough?

12 MS. FELIX: Yes.

13 MR. SUAZO: All right. Let's move on
14 to slide 20, which deals with approved temporary
15 abandonment to 19.15.2.7, .8, .13.

16 Ms. Felix, do you know how temporary
17 abandonment is defined currently?

18 MS. FELIX: Yes.

19 MR. SUAZO: And do you know how WELC
20 proposes to change this definition?

21 MS. FELIX: Yeah, their proposal
22 requires showing of beneficial use.

23 MR. SUAZO: Okay. Does NMOGA oppose
24 this change?

25 MS. FELIX: Yes.

1 MR. SUAZO: Can you explain why?

2 MS. FELIX: Really just to avoid the
3 confusion of -- I -- I don't think that we've all
4 aligned on what beneficial use is. And again, going
5 back to my old Chevy car example, it is for that very
6 reason.

7 MR. SUAZO: Okay. And what is NMOGA's
8 recommendation to the commission on this proposal?

9 MS. FELIX: To reject the -- the
10 proposal as submitted.

11 MR. SUAZO: And if the commission
12 instead decides to proceed with adopting some sort of
13 change here, what is NMOGA's recommendation?

14 MS. FELIX: A -- a more tiered
15 approach.

16 MR. SUAZO: Okay. Let's move on to
17 your testimony regarding expired temporary
18 abandonment. Are you familiar with WELC's proposal
19 regarding expired temporary abandonment?

20 MS. FELIX: Yes.

21 MR. SUAZO: Did any of NMOGA's
22 witnesses raise any legal concerns with the proposal?

23 MS. FELIX: Yes, Mr. Sporich did.

24 MR. SUAZO: Okay. And based upon
25 Mr. Sporich's testimony and feedback from NMOGA

1 members, what is NMOGA's recommendation to the
2 commission?

3 MS. FELIX: Again, to reject these
4 changes to avoid uncertainty for regulators and
5 operators. So not just for industry, but for
6 regulators and OCD themselves.

7 OCC should rely on existing provisions
8 which already addressed approved temporary abandon
9 expiration and renewal procedures.

10 MR. SUAZO: Okay. Let's move on to
11 your slide 22, changes of operator. Are you familiar
12 with the current change of operator rules and how
13 Applicant proposes to change them?

14 MS. FELIX: Yes, I am.

15 MR. SUAZO: Okay. What are NMOGA's
16 concerns with Applicant's proposal?

17 MS. FELIX: The -- the current proposal
18 lacks the materiality of thresholds for non-
19 compliance, inviting arbitrary enforcement, and room
20 for interpretation right from the regulator.

21 Creates retroactive liability via a
22 "afflamation-based" disclosures, regardless of the
23 operational role, conflicts with fiduciary and
24 corporate governance duties, as well as OCC, lacking
25 the statutory authority to require compliance with

1 laws of other states.

2 MR. SUAZO: Okay. So I guess then,
3 based upon that feedback from an operation standpoint,
4 what problems arise from requiring a P&A plan at the
5 change of operator stage?

6 MS. FELIX: Well, it's very
7 predecisional. You know, you're -- you're putting a
8 plan together for a well before that well has died,
9 essentially.

10 Putting that -- putting that plan
11 together at the time when the well is not ready to be
12 plugged, could be misconstrued by some that if a plan
13 is there, that that well is ready to be plugged, and
14 it is -- is not.

15 So, I think aligning with the
16 practicality of having that plugging plan when the
17 well in the here and the now is more practical, not
18 only for industry, for OCD, but also for members of
19 the public.

20 'Cause one could misconstrue and think
21 the well is at its end of life if that plugging plan
22 is submitted in on record at OCD.

23 MR. SUAZO: Now also part of this
24 section, Applicants propose conditioning registration
25 in New Mexico with compliance in other states. What

1 is NMOGA's position on that?

2 MS. FELIX: The -- to strike that
3 provision mandating the out-of-state compliance in its
4 entirety. We oppose WELC's section B changes and
5 recommend replacing the 25 percent affiliation test
6 with a control base test.

7 And if any showing of P&A capacities
8 required, adopting a very clear objective standards
9 would be our recommendation.

10 MR. SUAZO: Does NMOGA recommend, well,
11 actually, I'll move on to the next question. I think
12 you already covered that.

13 On your next slide, slide 24, dealing
14 with 19.15.9.9(C) and proposed new subsection E. Do
15 you know what the current rule 9(C) allows?

16 MS. FELIX: Yeah, currently the -- the
17 denial for non-compliance or under ACOI with no
18 compliance schedule.

19 MR. SUAZO: Okay. And what are NMOGA's
20 concerns with Applicant's proposal to change Section
21 C?

22 MS. FELIX: Again, out of compliance in
23 other states, the 25 percent holder is -- was within
24 five years -- not properly registered with New Mexico
25 secretary of state, cannot meet the P&A requirements,

1 transfers prohibited, transfers of non-compliant
2 wells, unless made compliant.

3 MR. SUAZO: Okay. Did you hear
4 Mr. Arthur and Mr. McGowen's testimony on this issue?

5 MS. FELIX: I believe I did, yes.

6 MR. SUAZO: And what is NMOGA's
7 position based upon the testimony they've heard in
8 this proceeding?

9 MS. FELIX: Between Mr. Arthur and
10 Mr. McGowen, verifying compliance across multi
11 jurisdictions and legacy entities is often very
12 impossible.

13 Proposal will heighten due diligence
14 burdens, delay -- delay deals, raise costs, sellers
15 cannot realistically certify a -- a buyer's multi
16 jurisdiction compliance. And ultimately this is going
17 to add an additional burden onto the division.

18 MR. SUAZO: Okay. And if the
19 commission decides that it does want to proceed with
20 this proposal and adopt this sort of screening, what
21 is NMOGA's recommendation?

22 MS. FELIX: NMOGA would recommend that
23 the -- that the commission takes a balanced approach
24 to this -- to this very provisioned so not to deter
25 operate -- prudent operators coming into New Mexico.

1 MR. SUAZO: Okay. Now let's move on to
2 your next slide. There's been a lot of discussion
3 about NMOGA's involvement in this rulemaking. Do you
4 recall listening to the testimony of WELC's witness,
5 Thomas Alexander?

6 MS. FELIX: Yes.

7 MR. SUAZO: And do you recall him
8 saying that it was regrettable that NMOGA did not sit
9 down with OCD and Applicants to discuss these
10 proposals?

11 MS. FELIX: Yes.

12 MR. SUAZO: What is your response?

13 MS. FELIX: So I've been waiting for
14 this time. I -- we are not here to throw stones. We
15 are here because a rulemaking petition was filed. But
16 I do want to give some clarity and some understanding
17 as to how and when NMOGA was introduced to the
18 potential petition by the applicants.

19 Our CEO received an e.mail from
20 Ms. Tannis Fox on a Saturday advising that the
21 applicants were considering some rule changes and
22 asked if we would like to sit down and have a
23 discussion.

24 So thank you for that, Ms. Fox.

25 We did respond back. Missi works 24/7.

1 We did reach out as our protocol requires us to.
2 Conferred with our board. Reached back out to
3 Ms. Fox.

4 On Wednesday of that following week,
5 Ms. Fox graciously said, "We can meet with you guys on
6 Friday." So we pulled our resources together. We met
7 with them. At that point, they were prepared verbally
8 to let us know of their plans.

9 They were not prepared to show us
10 anything in writing. We did ask if we could have an
11 opportunity to, before they petitioned. It -- we were
12 not guaranteed that we'd have that opportunity.

13 That, as planned, they were planning to
14 petition within the next week, but they would be open
15 to conversations. So we were appreciative of that.

16 However, after that meeting, not having
17 anything to take back to our members puts us in a
18 really, you know, peculiar spot because there's
19 nothing -- no decisions to be made; right?

20 We immediately, as soon as the petition
21 was filed, we sent that out to members. And not
22 representing just one company and representing an
23 entire industry, my boss, Missi, has 240 members who
24 are our bosses; right?

25 And so getting that trade organization

1 membership buy-in and opinions is a huge undertaking.

2 As we've listened over the last few days in
3 understanding now that -- that the applicants and
4 their witnesses have been working together since 2023.

5 I mean, that just shows right there
6 that it is a huge undertaking, and it does take a
7 great amount of time. We weren't given that amount of
8 time. We weren't given that luxury.

9 Once the petition was filed, all
10 parties that had entered an appearance, including OCD,
11 did have a meeting. OCD communicated that they were
12 going to be providing substantive red lines.

13 So NMOGA's members waited for the OCD
14 red lines so that we were working off the most -- the
15 most current version of the proposed rules. Right?
16 We understood we were going to get those by November.

17 Ms. Fox graciously reached out to all
18 the parties asking for conversations in October, and
19 while we did have counsel attend one of those
20 discussions without OCD's changes that had been
21 reflected through the parties, we had nothing to take
22 back to add value to those conversations.

23 So fast forward to February of this
24 year, we received OCDs revisions. And then subsequent
25 to that, couple more.

1 Long story short, it's not an excuse,
2 but it is the reality that trade organizations live
3 within. And that is being the voice for many
4 companies.

5 Instead of having 240 interveners --
6 interveners in the rulemaking process, we try to bring
7 consensus. Would we have loved to have had the time?
8 Yes. But we would've had to have asked for a delay in
9 the proceedings.

10 And after the delay that had already
11 been, you know, undertaking, we felt it was best to
12 take what we were given and come to hearing.

13 Now, listening to Applicant's
14 witnesses, listening to OCD's witnesses, NMOGA --
15 we're very happy to have those conversations now and
16 to have that reflected onto the things that, as I've
17 stated before, have been positioned that there's --
18 there's some room for discussions here.

19 I think we can get this right, and we
20 want to. So I -- I just would like to make sure that,
21 yes, Applicants did reach out, but it -- it was not in
22 a true manner of truly getting feedback before
23 petitioning before the board.

24 MR. SUAZO: I think you covered
25 everything I was going to ask you on that point, so

1 thank you for that. Let's move on to the next slide.

2 Now this slide covers the usage of
3 guidance documents and forms. What has NMOGA
4 discovered about OCD's use of guidance documents and
5 forms?

6 MS. FELIX: So, as -- as we were
7 working and -- and putting together and researching,
8 we did discover that since 2017, the division has
9 already been enforcing the -- a portion of the
10 proposed amendments to 19.15.9 NMAC and 19.15.5.9
11 NMAC, which inserted the requirements specifically
12 onto the C-145 form without any statutory or
13 regulatory basis for doing so.

14 MR. SUAZO: And why is NMOGA concerned
15 about this?

16 MS. FELIX: It -- it's really the
17 concerning part for us is that because the division
18 has already been making law through guidance and forms
19 rather than through regulations approved through the
20 commission.

21 MR. SUAZO: Okay. And how does this
22 practice from the division connect to Applicant's
23 proposal in this case?

24 MS. FELIX: Well, Applicant's proposal
25 includes this language almost verbatim. OCD is

1 already requiring it on the C-145 forms. So why is
2 this rulemaking even needed if -- if it's already been
3 enforceable on industry over the last eight years?

4 MR. SUAZO: So if they've been
5 enforcing it for years, and it's actually in the
6 proposal that's in front of the commission, what does
7 this, you know, underscore in your opinion?

8 MS. FELIX: I mean, it -- it begs the
9 question to members and to NMOGA of are there other
10 forms that we are -- that we are already complying
11 with that have not gone through the correct statutory
12 changes for enforcement and authority?

13 MR. SUAZO: And if they've already been
14 doing this, what does that tell you about the proposal
15 before the commission?

16 MS. FELIX: Again, is there a need?

17 MR. SUAZO: What is NMOGA's
18 recommendation to the commission on this issue?

19 MS. FELIX: I -- NMOGA's recommendation
20 is this item is not needed to reject it.

21 MR. SUAZO: Okay. Now let's move on to
22 your concluding slides here with the time that we have
23 left. Starting with slide 27, what is NMOGA's
24 recommendation?

25 MS. FELIX: NMOGA's recommendation at

1 the time for the commission is to refrain from
2 adopting any of the proposed amendments at this time.
3 And I will preface that with, again, we've learned a
4 lot through the last two weeks.

5 We've -- I -- I believe on all parties
6 have come to an understanding of where others -- where
7 each other is coming from, and there is an opportunity
8 as the commissioners have stated for conversation to
9 try to -- try to align.

10 MR. SUAZO: Okay. Moving on to slide
11 28. You know, I know these were your recommendations
12 coming into the proceeding and I'm going to give you
13 the opportunity to walk through them and build in any
14 other commentary based upon what we've learned over
15 the last two weeks.

16 So please proceed with your first
17 recommendation.

18 MS. FELIX: Okay, thank you. First
19 recommendation again is to reject the proposals beyond
20 statutory authority.

21 The commission should decline
22 amendments that exceed its authority under the Oil and
23 Gas Act, such as creating new bonding categories for
24 marginal wells, imposing CPI, auto escalators, or
25 conditioning transfers on multi-state compliance.

1 These provisions are legislative
2 matters and not proper for agency rulemaking.

3 Number two is to preserve the risk-
4 based and tiered-bonding structures. Retain the
5 current system of risk-based individual well bonds and
6 tiered bonds tied to depth and risk factors, rather
7 than adopting the flat 150,000 per well requirements.

8 This framework would reflect actual
9 plugging costs, statutory caps, while preserving
10 flexibility.

11 Three would be to provide compliance
12 flexibility. At a minimum, remove unnecessary cross-
13 references, add compliance grace period for newly
14 acquired assets, and recognize exemptions for
15 temporary non-compliance.

16 These refinements keep the framework
17 workable and consistent with market realities.

18 Four would be to temporary abandonment
19 as a conservation tool. Retain the current temporary
20 abandonment program while already provides oversight
21 through mechanical integrity requirements and renewal.

22 Reject arbitrary time cutoffs,
23 adjudicatory extensions or burdensome documentation
24 demands that would make TAs unworkable in practice.

25 Number five would be to reject

1 presumptions on no beneficial use. Production or
2 injection threshold. Should not be used to define
3 beneficial use.

4 The commission should preserve case-by-
5 case discretion, recognizing beneficial purposes such
6 as lease preservation, reservoir management, future
7 recompletions, and field development planning.

8 Number six is a -- to reject a new
9 marginal well definition. A new definition
10 misclassifies viable wells and injecting investment
11 uncertainty.

12 If the commission considers such a
13 definition, it must clarify how it would be applied
14 and whether it would automatically trigger high-end
15 bonding requirements.

16 Number seven is to reject proposed
17 waste prevention changes. The amendments to waste
18 prevention should be rejected as they are unnecessary,
19 impractical, and duplicative of existing protections.

20 And number eight, operator registration
21 and change of operator. Again, reject or add a
22 minimum.

23 Substantially amend new requirements
24 that would tie registration or transfers to multi-
25 state compliance affiliations of 25 percent owners or

1 vague standards like substantial risk limit to review
2 material final violations in New Mexico, failures to
3 meet New Mexico bonding requirements, and specific
4 well integrity findings.

5 Nine. And expand use of targeted
6 enforcement tools rather than discarding ACOI, OCD
7 should refine and expand them.

8 THE HEARING OFFICER: Slow down,
9 Ms. Felix.

10 MS. FELIX: I'm sorry. To prioritize
11 highest risk wells with enforceable milestones while
12 allowing lower risk wells to be managed under face
13 schedules.

14 Ten, recognize and utilize the
15 reclamation fund. The reclamation fund supported by
16 conservation taxes should remain our central part of
17 New Mexico's plugging framework and should be
18 considered alongside bonding changes.

19 Adapt balanced alternatives. If
20 adjustments are deemed necessary, NMOGA supports
21 phase-in, risk-based assurance increases. Light-touch
22 idle well certifications, periodic evidence-based
23 reviews instead of automatic CPI escalators,
24 beneficial use definition.

25 No new definition or presumptions of

1 beneficial use should be added. If the commission
2 considers such a definition, it would substantially
3 amend to recognize beneficial uses beyond production
4 or injection volumes.

5 THE HEARING OFFICER: Is this a good
6 place for a short break?

7 MR. SUAZO: This is the last question
8 and then she's wrapped up.

9 THE HEARING OFFICER: Okay.

10 BY MR. SUAZO:

11 MR. SUAZO: Okay. The wrong slide.
12 It's labeled 31. Should be at 13th.

13 Anyway, I -- actually, that's it. So
14 yeah, that's the conclusion of our questions, Madam
15 Hearing Officer.

16 NMOGA moves to admit to the record the
17 direction of rebuttal testimony of Ms. Felix and the
18 demonstrative exhibits that summarize her direct and
19 rebuttal testimony.

20 THE HEARING OFFICER: All right, I'll
21 pause for a moment in the event there are objections.

22 MR. SUAZO: And I would make Ms. Felix
23 available for cross-examination and just to confirm
24 that since she is a fact witness, those are limited to
25 15 minutes, I believe.

1 THE HEARING OFFICER: I think, let's
2 see here. It said technical, but --

3 MR. SUAZO: We changed that.

4 THE HEARING OFFICER: Oh, you changed
5 it?

6 MR. SUAZO: Yeah.

7 THE HEARING OFFICER: Okay.

8 Ms. Fox.

9 MS. FOX: I think her -- the whole of
10 her testimony is in the nature of technical testimony,
11 and she adopted the technical testimony of the other
12 four witnesses. So I think we're entitled to an hour.

13 THE HEARING OFFICER: Yeah, 45 minutes.

14 MS. FOX: Or 45 minutes.

15 THE HEARING OFFICER: Yeah, I think it
16 is in the nature of technical testimony requiring her
17 professional experience as the director.

18 Okay. So the exhibits are admitted.
19 Let me speak those words. We do need a ten-minute
20 break before we begin with cross-examination. So
21 let's come back at 10:55.

22 (IPANM Exhibit 1 was marked for
23 identification and received into
24 evidence.)

25 (Off the record.)

1 THE HEARING OFFICER: When we broke,
2 Ms. Felix had finished her testimony, and we turn now
3 to cross-examination.

4 Ms. Fox or Mr. Tisdell.

5 MS. FOX: Yes, thank you, Madam Hearing
6 Officer. We're going to start, and Mr. Tisdell is just
7 going to pass out one cross-examination exhibit to
8 everybody.

9 CROSS EXAMINATION

10 BY MS. FOX:

11 Good morning, Ms. Felix. I'm Tannis
12 Fox. I'm a lawyer with Western Environmental Law
13 Center, and I represent Applicants in this proceeding.

14 Do you have a copy of your direct and
15 rebuttal testimony with you?

16 MS. FELIX: Yes. I do.

17 MS. FOX: In reading your testimony, I
18 was struck by the extent to which you referred to
19 cited or otherwise, adopted the testimony of other
20 NMOGA witnesses. Do you believe you cited to the
21 testimony of the other NMOGA witnesses approximately
22 280 times in your testimony?

23 MS. FELIX: I don't know the exact
24 count, but if you counted, I'll take your word for it.

25 MS. FOX: So the extent to which any of

1 that testimony upon which you relied has been
2 undermined during the hearing, your testimony is
3 undermined; correct?

4 MS. FELIX: I -- I wouldn't categorize
5 it that way. I would say that, you know, my -- my
6 testimony is to take what all of our other expert
7 witnesses have brought together, in addition to the
8 feedback that received from membership and bring that
9 to the hearing platform.

10 MS. FOX: But the extent to which you
11 relied on that testimony, and the extent to which it's
12 been undermined, your testimony is therefore
13 undermined because you relied on that testimony.

14 MR. SUAZO: Objection. That's overly
15 vague. If she wants to talk about specific pieces of
16 testimony, she can.

17 THE HEARING OFFICER: Okay. Ms. Fox,
18 if you want to refer to something specific.

19 MS. FOX: Thank you Madam Hearing
20 Officer.

21 BY MS. FOX:

22 MS. FOX: Ms. Felix, throughout your
23 presentation, you referred in your testimony, and your
24 lawyer referred in your testimony as to the proposals
25 before the commission as WELC's proposals; correct?

1 MS. FELIX: Yes, WELC, the applicant.

2 MS. FOX: Yeah. And you understand
3 don't you that the oil conservation division's
4 proposals in this proceeding effectively mirror
5 Applicant's proposals; correct?

6 MS. FELIX: There is some overlap.
7 Yes.

8 MS. FOX: Some overlap? Or are they
9 are the proposals nearly identical?

10 MS. FELIX: I would say that they are
11 they have become nearly identical from what was
12 originally proposed, yes.

13 MS. FOX: They've been nearly identical
14 since the parties filed their direct testimony;
15 correct?

16 MS. FELIX: Since direct testimony,
17 yes.

18 MS. FOX: And you understand that
19 there's a number of very significant proposals in
20 WELC's petition and OCD's proposals that originated
21 with OCD; correct?

22 MS. FELIX: That's correct.

23 MS. FOX: And those proposals that
24 originated with OCD include the presumptions of no
25 beneficial use proposal at part 25; correct?

1 MS. FELIX: That's my understanding.

2 MS. FOX: And you understand that
3 Applicants and OCD had negotiations with OXY and OXY
4 supports that provision as well; correct?

5 MS. FELIX: That's my understanding.

6 MS. FOX: And you understand that the
7 provisions regarding marginal wells -- there's two
8 financial provisions proposed regarding financial
9 wells in part 8 -- originated from OCD; correct?

10 MS. FELIX: That's correct.

11 MS. FOX: And then you also understand
12 that with respect to the transfer provisions in part
13 nine that Applicants and OCD negotiate with OXY and
14 OXY supports -- those provisions in part nine;
15 correct?

16 MS. FELIX: That's my understanding.

17 MS. FOX: So there's a number of
18 parties here who are proposing amendments consistent
19 with Applicants in this proceeding; correct?

20 MS. FELIX: Yes.

21 MS. FOX: On pages 5 to 8 of your
22 direct testimony, you discuss your opposition to
23 Applicant's and OCD's proposed rebuttable presumptions
24 of no beneficial use; correct?

25 MR. SUAZO: Madam Hearing Officer, can

1 we pull of those pages? We are glad to do it, unless
2 Ms. Fox is able to.

3 THE HEARING OFFICER: Right.

4 MS. FOX: I'm not going to pull up
5 pages 5 through 8, but I have the quote that I'm going
6 to ask her about on the slide right now.

7 THE HEARING OFFICER: Okay.

8 MS. FOX: I can't pull up pages five
9 through eight.

10 BY MS. FOX:

11 MS. FOX: You state on page 5 of your
12 testimony of your direct testimony "such a presumption
13 not only bypasses individual well evaluations but also
14 risks premature abandonment of wells that may retain
15 economic or operational value"; correct?

16 MS. FELIX: That's correct.

17 MS. FOX: And you understand that the
18 presumptions are rebuttable; correct?

19 MS. FELIX: Yes, that's correct.

20 MS. FOX: And I've pulled up the
21 proposal as modified after negotiations with OXY. And
22 you understand that an operator may rebut the
23 presumption with information that is specific and
24 unique to the individual well; correct?

25 MS. FELIX: That's correct.

1 MR. SUAZO: I'm sorry. Where are you
2 reading from the -- what's on the screen? Or from her
3 testimony?

4 MS. FOX: No. I'm just generalizing
5 what the provision provides for in part D.

6 BY MS. FOX:

7 MS. FOX: So submission of well-
8 specific information to OCD would result in an
9 individualized well evaluation; correct?

10 MS. FELIX: It would. What is the
11 purpose of what's on the screen though?

12 MS. FOX: Just to remind you what's in
13 the presumption of the beneficial use in case you
14 didn't have it in your mind.

15 MS. FELIX: Oh okay.

16 MS. FOX: You state on page 6 of your
17 direct testimony that "Many viable wells would fall
18 below the threshold in the provision on rebuttable
19 presumptions of no beneficial use"; correct?

20 MS. FELIX: That's correct.

21 MR. SUAZO: Objection. That's not
22 exactly what her testimony says, which is why we would
23 like for it to be on the screen if she is going to
24 reference it.

25 MS. FOX: The testimony's on the

1 screen. At the top.

2 MR. SUAZO: Is it?

3 MS. FELIX: What pages is this?

4 MS. FOX: Page 6.

5 MS. FELIX: Is this rebuttal or direct?

6 BY MS. FOX:

7 MS. FOX: Direct. You state "many
8 viable wells including those used in enhanced oil
9 recovery -- EOR -- cyclic operations, pilot testing,
10 or temporarily shut-in from maintenance would fall
11 below this threshold." Speaking to the threshold for
12 presumptions of beneficial use.

13 MS. FELIX: Give me one second. I'm
14 looking for that.

15 MS. FOX: Lines 115 to 16.

16 MS. FELIX: Okay, yes. What I've
17 got -- what my testimony says is "many viable wells
18 including those used in enhanced recovery oil --
19 EORs -- cyclic operations, pilot testing, or
20 temporarily shut-in for maintenance would fall below
21 this threshold." Correct.

22 MS. FOX: Now neither you nor any NMOGA
23 witness has attempted to quantify the number of wells
24 that would be subject to the rebuttable presumptions
25 of no beneficial use; correct?

1 MS. FELIX: That's correct.

2 MS. FOX: I'm showing you Applicant's
3 Exhibit 40, which shows, among other things, the
4 number of production wells in New Mexico that would
5 fall into that presumption of no beneficial use. Are
6 you familiar with this exhibit?

7 MS. FELIX: Yes, I've seen it.

8 MS. FOX: And this exhibit shows
9 there's approximately 1700 wells that would fall into
10 the presumption. Representing 2.9 percent of all
11 wells, and 0.003 percent of all production. And you
12 didn't provide any basis to dispute this information
13 and your testimony, did you?

14 MS. FELIX: Not in my -- no, ma'am.

15 MS. FOX: Regarding financial
16 assurance, on page 13 of your direct testimony, and
17 I've got the applicable quotes appear for you --

18 MS. FELIX: Thank you.

19 MS. FOX: -- discussing Applicant's
20 proposed financial assurance requirements for marginal
21 and inactive wells, you state "Mr. Arthur explains
22 that adopting these proposed changes would
23 exponentially increase bonding requirements especially
24 for smaller operators who rely on marginal or stripper
25 wells which make up 54 percent of oil wells and 81

1 percent of gas wells in New Mexico"; correct?

2 MS. FELIX: That's correct.

3 MS. FOX: And when you say that
4 marginal or stripper wells make up 54 percent of oil
5 wells and 81 percent of gas wells in the state, you
6 are referring to marginal wells as defined in
7 Applicant's proposals; correct?

8 MS. FELIX: I am referring to marginal
9 as Mr. Arthur uses it in his testimony.

10 MS. FOX: In the beginning of part of
11 your testimony that we have up on the slide here, you
12 identify -- you say "WELC's proposed active and
13 marginal well financial assurance requirements
14 imposed," blah blah blah.

15 So, you are referring in that
16 paragraph -- as did Mr. Arthur -- to the marginal well
17 definition in Applicant's proposal; correct?

18 MS. FELIX: Yeah. I referring to his,
19 which, if he's referring to WELC's, then that would be
20 correct. But I'm referring to Mr. Arthur's.

21 MS. FOX: Okay. So when you say WELC's
22 proposed active and marginal well financial assurance,
23 you're not necessarily referring to our proposals with
24 regard to marginal well financial assurance?

25 MS. FELIX: So yes, but my statement --

1 the bottom statement that you asked me about first --
2 is referred back to Mr. Arthur. Right? And --

3 MS. FOX: Okay I'm not going to belabor
4 this. For his part, Mr. Arthur, upon his testimony
5 relies, states on page 28 of his testimony that "these
6 per well financial assurance requirements for marginal
7 wells will exponentially increase the bonding amounts
8 required under the rule.

9 "Because stripper wells," which he says
10 are a subset of marginal wells, "represent 54 percent
11 of oil wells and 81 percent of gas wells in New
12 Mexico"; correct?

13 MS. FELIX: I don't have his testimony
14 up, but I -- if -- if that's what you pulled, I will
15 take your word for it.

16 MS. FOX: Okay. Well, you initially
17 said that you were relying on his testimony, and so
18 since you're relying on his testimony, I am asking you
19 about what that testimony is.

20 MS. FELIX: I understand, but I'm just
21 saying that what's on the screen, I don't have myself.
22 I don't have his testimony pulled up.

23 MS. FOX: But you don't have any reason
24 to think that this -- the testimony that I pulled up
25 for you is not Mr. Arthur's testimony; correct?

1 MS. FELIX: No, I -- I told you that.
2 Yeah.

3 MS. FOX: Okay. So, in New Mexico,
4 what is the maximum production level for stripper
5 wells and barrels of oil equivalent per day over one
6 year?

7 MS. FELIX: Right now -- as proposed?

8 MS. FOX: No. I'm talking about
9 stripper wells. What's the definition of stripper
10 well in New Mexico?

11 MS. FELIX: I don't have that off the
12 top of my head right now.

13 MS. FOX: You don't know that it's 10
14 BOE per day over a year?

15 MS. FELIX: I -- if that's what you're
16 telling me, I have no reason to believe it's not.

17 MS. FOX: And what is the maximum
18 production level for Applicant's definition of
19 marginal well?

20 MS. FELIX: A thousand barrels.

21 MS. FOX: So that's about 2.7 BOE per
22 day over one year; correct?

23 MS. FELIX: I would take your word for
24 it.

25 MS. FOX: So under Applicant and OCD's

1 proposed definition of marginal well, the well would
2 also have to produce less than 180 days per year;
3 correct?

4 MS. FELIX: Under the current proposed,
5 yes, ma'am.

6 MS. FOX: And so when Mr. Arthur says
7 that marginal wells, referring to marginal wells in
8 Applicant's proposals are a subset of stripper wells,
9 that's just wrong, isn't it?

10 MS. FELIX: Can you give me a little
11 bit more color? What? Ask it again. I'm sorry.

12 MS. FOX: That's okay. Mr. Arthur is
13 saying here in his testimony -- the testimony that you
14 relied upon -- that stripper wells are a subset of
15 marginal wells as proposed by Applicant and OCD. And
16 that's just wrong, isn't it?

17 MR. SUAZO: Objection. Ms. Fox had the
18 opportunity to cross Mr. Arthur, and he's an expert.
19 She's representing industry. Like I don't know how
20 she could know whether his testimony is wrong, just
21 because she relied on it.

22 THE HEARING OFFICER: Right. She
23 incorporated it into her own testimony; right? So why
24 couldn't she speak to it?

25 MR. SUAZO: Well, I'm not saying she

1 can't speak to it. I'm just saying, how is she going
2 to verify her own expert's numbers? I think the
3 question's confusing.

4 THE HEARING OFFICER: All right.

5 If you want to rephrase, Ms. Fox.

6 BY MS. FOX:

7 MS. FOX: Ms. Felix, stripper wells are
8 not a subset of marginal wells as proposed in
9 Applicant and OCD's proposals; correct?

10 MS. FELIX: So if I'm understanding,
11 you asked stripper wells are not a subset of marginal
12 wells in Applicant's application. That is correct.

13 MS. FOX: And so that both you and
14 Mr. Arthur are wrong when you state that Applicant's
15 marginal well category affects 54 percent of oil wells
16 and 81 percent of gas wells in New Mexico; correct?

17 MS. FELIX: I would not say that. I --
18 what I have no reason to believe that what Mr. Arthur
19 put in his testimony that -- that I accepted as
20 well -- would be true in his -- in his opinion in what
21 he's bringing forth, so I really can't truthfully say
22 that.

23 MS. FOX: Okay. You do say in your
24 sworn testimony that marginal wells or stripper wells
25 make up 54 percent of oil wells and 81 percent of gas

1 wells in New Mexico. And all I'm asking you to
2 acknowledge is that's not correct.

3 MR. SUAZO: Madam Hearing Officer, I'm
4 going to object. Because what she's referring to, if
5 you go to Mr. Arthur's testimony, cites to an EIA
6 study.

7 So there's context that is not
8 available in the document that Ms. Fox is showing
9 Ms. Felix that actually sheds light on what Mr. Arthur
10 is referring to, so this whole line --

11 MS. FOX: He can redirect on this,
12 Madam Hearing Officer.

13 MR. SUAZO: -- of questioning is
14 misleading.

15 THE HEARING OFFICER: Hold on. Let me
16 offer a different instruction for Ms. Felix.

17 Ms. Felix, to the extent the answer to
18 Ms. Fox's question would require some, you know,
19 research on your part into what Mr. Arthur was basing
20 his testimony on. You really can just say, "I can't
21 say. I don't know."

22 MS. FELIX: Okay. I can't say I don't
23 know. So.

24 MS. FOX: Thank you, Madam Hearing
25 Officer.

1 MS. FELIX: I'm a rule follower.

2 THE HEARING OFFICER: So, Ms. Felix,
3 you can't say if your testimony is accurate or not?

4 MS. FELIX: I can't say what additional
5 information was used to cite that. I would need to do
6 some further research.

7 BY MS. FOX:

8 MS. FOX: And then going back to
9 Applicant's Exhibit 40, which estimates the number of
10 marginal wells as defined by Applicants and OCD,
11 finding that there is approximately 2200 marginal
12 wells exclusive wells with no presumed beneficial use
13 representing 3.7 percent of all wells and 0.045
14 percent of total production; correct?

15 MS. FELIX: That's what's being shown
16 on this chart.

17 MS. FOX: A chart you said you're
18 familiar with.

19 MS. FELIX: Yes ma'am.

20 MS. FOX: And you don't have any basis
21 to dispute this data; correct?

22 MS. FELIX: Not -- no, ma'am.

23 MS. FOX: So while you and Mr. Arthur
24 are saying that Applicant's and OCD's marginal well
25 category affects 54 percent of oil wells and 81

1 percent of gas wells in New Mexico, using the correct
2 definition shows that, in fact, Applicant's marginal
3 well category affects 3.7 percent of all wells in the
4 state; correct?

5 MR. SUAZO: Again, objection. It mis-
6 cites Mr. Arthur's data for this proposal. And unless
7 she's going to pull that up and actually show the full
8 testimony he provided, this line of questioning, you
9 know, I'm sorry. I just have to object to it.

10 THE HEARING OFFICER: Ms. Fox, I guess
11 I thought Ms. Fox read what the testimony was.

12 MR. SUAZO: Well, the testimony is
13 citing to the EIA information. And as I understand
14 it --

15 MS. FOX: Madam Hearing Officer?

16 THE HEARING OFFICER: Yes?

17 MS. FOX: Mr. Suazo's objections that
18 are not being sustained is eating into my time.

19 THE HEARING OFFICER: Right.

20 MS. FOX: And he can redirect on any of
21 this, and that's more appropriate.

22 THE HEARING OFFICER: Yeah. All right.
23 So, again, Mr. Suazo, you'll be able to
24 redirect.

25 And, Ms. Felix, to the extent you need

1 more information to answer the question, just say so.

2 MS. FELIX: Okay.

3 MS. FOX: And I'd also like to note
4 that I've given a lot of context for the Arthur
5 testimony here in what I'm showing.

6 THE HEARING OFFICER: I agree with you.

7 BY MS. FOX:

8 MS. FOX: Ms. Felix, on pages 6 to 8 of
9 your rebuttal testimony, you state, "Moreover,
10 Applicants and OCD conflate plugging costs with full
11 environmental remediation costs.

12 "As Mr. Emerick and Mr. Arthur
13 explained, industry plugging costs are significantly
14 lower than the inflated figures cited to OCD's
15 procurement processes.

16 "Using these inflated averages to
17 justify \$150,000 per well bonding results and rules
18 that are both unworkable and beyond the scope of OCD's
19 authority.

20 "And as Mr. Sporich has explained, the
21 statutory authority for the division to demand
22 financial assurance only allows consideration of a
23 well's plugging and abandonment costs, not
24 reclamation." Correct?

25 MS. FELIX: That's correct.

1 MS. FOX: And so, what you're
2 essentially contending here is that the \$150,000
3 proposed by Applicants represents a bond for both
4 plugging and remediation and reclamation costs;
5 correct?

6 MS. FELIX: That's correct.

7 MS. FOX: So do you understand from the
8 testimony that the 150 from both Applicants and OCD,
9 that the \$150,000 one-well plugging financial
10 assurance is based on the average fiscal year 2024
11 cost to OCD to plug, and plug only, which according to
12 LFC is \$163,000.

13 MS. FELIX: That's what's showing in
14 the report right here.

15 MS. FOX: What's your understanding?

16 MS. FELIX: Yes, the only thing that I
17 would say as well, on -- on -- from the LFC report,
18 the pre-project cost were highest for remediation and
19 reclamation. So that can lead one to interpret that
20 reclamation was also included.

21 MS. FOX: Except --

22 MS. FELIX: In the report.

23 MS. FOX: Except, that in the report,
24 you'll note that in table 5 of the LFC report, that
25 shows the FY '24 average cost to "plug" by well type;

1 correct?

2 MS. FELIX: Yes, ma'am.

3 MS. FOX: And then on that same page in
4 the LFC report, which is page 4, LFC goes on to say
5 that while OCD spent more overall in well plugging
6 between FY '19 and '24, per project costs were highest
7 for remediation and reclamation of infrastructure
8 associated with oil and gas production, not well
9 plugging itself; correct?

10 That's what you just referred to.

11 MS. FELIX: Yes, that's what it says.

12 MS. FOX: Okay. And so then you see in
13 table 6 of the OCD of the LFC report, LFC has
14 reclamation and remediation costs which are separate
15 from the plugging costs; correct?

16 MS. FELIX: That's correct.

17 MS. FOX: And so the LFC report upon
18 which the \$150,000 average is taken from actually
19 distinguishes between on the one hand costs to plug in
20 on the other hand costs to reclaim and remediate;
21 correct?

22 MS. FELIX: Correct. Based off of what
23 we've just seen on the screen.

24 MS. FOX: And did you hear the
25 testimony both OCD witnesses Lauren Diede who oversees

1 plugging of orphan wells and Rosa Romero who oversees
2 remediation and reclamation?

3 MS. FELIX: I heard portions, yes,
4 ma'am.

5 MS. FOX: And you understand then that
6 within OCD the plugging work and the remediation and
7 reclamation work are separate?

8 MS. FELIX: Yes.

9 MS. FOX: And the cost for each type of
10 work are separate?

11 MS. FELIX: Yes.

12 MS. FOX: So your contention and that
13 of Mr. Emerick and Mr. Arthur that Applicant and OCD
14 conflate plugging costs with full environmental
15 remediation is wrong; correct?

16 MS. FELIX: Based off of what I've
17 learned through this hearing, but at the time of
18 submittal of my direct testimony and rebuttal, no.

19 MS. FOX: So you're correcting that
20 testimony right now?

21 MS. FELIX: What, ma'am?

22 MS. FOX: You're correcting that
23 testimony right now?

24 MS. FELIX: Well, we've learned a lot
25 over the hearing, and I've learned that from listening

1 to those -- to that testimony.

2 MS. FOX: I want to go to one of
3 NMOGA's proposals. If I could just have a minute
4 here. If I can find it.

5 Hey, Morgan, can I have one minute
6 please? This is not coming up. Sorry about that.
7 Thank you.

8 Ms. Felix, we're looking at NMOGA
9 Exhibit A, which is NMOGA's proposed redline. Are you
10 familiar with that? With NMOGA's Exhibit A?

11 MS. FELIX: Yes, ma'am.

12 MS. FOX: And, in your direct
13 testimony, you referred to Applicants proposals and
14 NMOGA's concerns with their proposals as part five of
15 the commission's regulations in 19.15; correct?

16 MS. FELIX: Can you point me to the
17 portion of my direct that you're talking to --

18 MS. FOX: It's on pages 46 to 48.

19 MS. FELIX: And what are we talking
20 about?

21 MS. FOX: So were talking about NMOGA's
22 Exhibit A and its proposals to 19.15.5.9. That I'm
23 showing you on the screen.

24 MS. FELIX: Okay.

25 MS. FOX: Okay. And my question is

1 this, because I was a little bit confused by your
2 redline. And that is if you look at 19.15.5.9(A),
3 NMOGA proposes to strike paragraph A4; correct?

4 MS. FELIX: That is what's on the
5 screen. Yes, ma'am.

6 MS. FOX: And paragraph 4 in the
7 existing regulations requires compliance with part 25.
8 Part 25 is the part that deals with plugging and
9 abandonment. Requires compliance with part 25 and
10 then gives exceptions -- allows operators not to be in
11 compliance with those provisions for between two and
12 10 wells. Is that correct?

13 MS. FELIX: I believe that's correct.
14 Can we pull of the existing regulations so we can all
15 see?

16 MS. FOX: I'm just going to ask you
17 about this right now.

18 MS. FELIX: Okay.

19 MS. FOX: So if you need it, let's --

20 MS. FELIX: Okay.

21 MS. FOX: Let me just ask and see so we
22 can hopefully avoid that; okay?

23 MS. FELIX: Okay.

24 MS. FOX: So my question is this, what
25 NMOGA has done here is strike out paragraph four

1 completely. We don't see the strikeouts language,
2 which would strike out not only that compliance with
3 part 25 is required for compliance determination
4 except operators can have -- it's a little bit --

5 MS. FELIX: Yeah.

6 MS. FOX: -- a bit confusing, except
7 that operators can have a number of wells out of
8 compliance for purposes of the compliance
9 determination. So my question is this, did NMOGA
10 intend to strike out that entire section for purposes
11 of the compliance determination in 19.15.5.9
12 compliance with part 25 is no longer required?

13 MS. FELIX: I don't -- I am not sure if
14 that's intentional or if there is an inadvertent error
15 in the exhibit that's showing.

16 MR. SUAZO: I can proffer this is an
17 error in that redline.

18 MS. FOX: That's what I was wondering.

19 MR. SUAZO: But her testimony is
20 correct on this point.

21 MS. FOX: Then was the intent,
22 Mr. Suazo, to leave the provision as is in the
23 existing rules?

24 MR. SUAZO: Let me confirm. I'm having
25 one of our associates pull up our filings and I can

1 confirm that in just a little bit. I think that the
2 intent, as I recall, was to leave the small operator
3 exceptions in there.

4 MS. FOX: Okay. To leave part 25 in
5 for purpose of compliance -- compliance determination
6 to leave the exceptions in so to maintain status quo,
7 essentially?

8 MR. SUAZO: Yes.

9 MS. FOX: Because here, it's completely
10 taken out.

11 MR. SUAZO: Right.

12 MS. FOX: Okay. That was my question.
13 Thank you. If you could clarify that, that would be
14 helpful.

15 MR. SUAZO: Sure.

16 MS. FOX: Okay.

17 BY MS. FOX:

18 MS. FOX: So, Ms. Felix, I really
19 wanted to avoid this discussion.

20 MS. FELIX: But you're giving me that
21 look.

22 MS. FOX: But you opened the door to
23 such a great extent during your direct presentation
24 that I'm going to plow forward. I'm going to forge
25 ahead even though I don't really want to. Okay.

1 Let me. Okay. I am going to put up
2 Applicant's Exhibit 89. Which is correspondence
3 between WELC council and Missi Currier, who is the
4 NMOGA CEO, that occurred between June 15th and June
5 24, 2024.

6 And you referred to some of this
7 correspondence in your written testimony during your
8 presentation today; correct?

9 MS. FELIX: Yes, ma'am.

10 MS. FOX: Okay. So, what I've done
11 here is I've numbered at the bottom of these pages.
12 I've given them page numbers separate from the page
13 numbers in the e-mails. Do you see that?

14 MS. FELIX: Yes. I do.

15 MS. FOX: To easily refer to them.
16 Okay. So looking at page 4, there's a June 15th
17 e.mail from WELC attorney, Ally Beasley.

18 And Ms. Beasley informed Ms. Currier of
19 our petition filing and offers to meet and also states
20 "We hope to work constructively with NMOGA" -- or
21 "work with NMOGA constructively throughout the
22 process." Correct?

23 MS. FELIX: You said page 4?

24 MS. FOX: Yeah, well, page 4.

25 MS. FELIX: My 4 is not that.

1 MS. FOX: Okay. Page 4 to 5, yes. So
2 if you look on page 5, she says, "Please let me
3 know" --

4 MS. FELIX: Mine's not like that.

5 MS. FOX: Page 5?

6 MS. FELIX: I don't have a 5. Okay. I
7 don't need that.

8 MS. FOX: Sorry about that.

9 MS. FELIX: That's okay. Now I don't
10 look like I'm confused. 'Cause I was.

11 MS. FOX: Well, I think we confused
12 you. Okay. So on page 5, Ms. Beasley says to
13 Ms. Currier, "Please let me know if you would like to
14 discuss the proposed amendments and we hope to work
15 with NMOGA constructively throughout the rulemaking
16 process." Correct?

17 MS. FELIX: Yes. That's correct.

18 MS. FOX: And so, Ms. Currier responds
19 on page 4 on June 17th and says, "Thank you again for
20 reaching out to us, exclamation point" And she copies
21 IPANM in the Permian Basin Petroleum Association and
22 says, "We appreciate your willingness to meet,
23 exclamation point," and asks for dates to meet.
24 Correct?

25 MS. FELIX: That is correct.

1 MS. FOX: Okay. And WELC had sent the
2 same e.mail, notifying IPANM about the filing and
3 offering to meet; correct?

4 MS. FELIX: I don't know if WELC sent
5 that to IPANM.

6 MS. FOX: And so the meeting is set up
7 for June 21st; correct?

8 MS. FELIX: Which was the Friday. Yes,
9 ma'am.

10 MS. FOX: Correct. And later in the
11 day that we arranged the meeting, Ms. Currier said she
12 would not be able to attend but that representatives
13 from NMOGA, IPANM, and the Permian Basin Association
14 would be there, including you; correct?

15 MS. FELIX: That is correct.

16 MS. FOX: And then looking on page 1 on
17 June 24th after the meeting, Ms. Currier writes to me
18 thanking us for taking the time to meet; correct?

19 MS. FELIX: That is correct.

20 MS. FOX: And I respond that we
21 appreciated the meeting, that I would send a courtesy
22 copy of the filing and stated "As we expressed to the
23 group, we hope to discuss our proposed changes with
24 you and OCD between now and a hearing in the hope of
25 finding as much common ground as possible." Correct?

1 MS. FELIX: That is correct.

2 MS. FOX: And you attended that June
3 21st meeting; correct?

4 MS. FELIX: That is correct.

5 MS. FOX: And would you call that a
6 cordial and even friendly meeting?

7 MS. FELIX: Yes. It was. It was
8 very -- dialogue -- you went -- you went through
9 verbally what you guys were planning. We asked if you
10 had it in writing. You advised you weren't at that
11 point. We asked if we could see it before you
12 petitioned. There was no promises made. And then you
13 petitioned on Monday as you had planned to do.

14 MS. FOX: So turning to Applicant's
15 Exhibit 6 --

16 MS. FELIX: Can I have that back?

17 MR. SUAZO: I took it from you. Sorry.

18 MS. FELIX: I'm old school. I like
19 paper. I mean, this is great, but you gave it to me,
20 so.

21 BY MS. FOX:

22 MS. FOX: We all like paper. Okay. So
23 Applicant's Exhibit 6, which is in evidence is e-mail
24 correspondence among WELC, OCD, NMOGA, IPANM, and OXY
25 Council between August 28, 2024, and March 20, 2025.

1 So over the course of seven months.

2 And the e-mail correspondence begins
3 August 28th in which WELC is trying to schedule a
4 meeting with all parties to discuss and negotiate
5 WELC's proposals, and that's on -- you'll notice that
6 these pages are Bates stamped, Ms. Felix, and that
7 begins on Bates stamp number 0224.

8 MS. FELIX: Yes.

9 MS. FOX: Okay. So, at that point in
10 time, WELC is trying to schedule a meeting with all
11 parties to discuss and negotiate WELC's proposals;
12 correct?

13 MS. FELIX: That is correct. I would
14 just add though, I don't have the exact date off the
15 top of my head, but OCD advised all parties August
16 24th-ish that they were going to be coming back with a
17 substantive redline, and so at the time of the
18 original request from you, Ms. Fox, the end of August.

19 I can't recall the dates off the top of
20 my head for starting to engage in those conversations.
21 We did not have OCD's redlines.

22 In October when these e-mails and these
23 meetings were set up, NMOGA, because we have multiple-
24 member voices, could not add anything substantive
25 because we didn't have the most current redline that

1 we were expecting from OCD.

2 So I just want to make sure you
3 understand that, yes, we received these, yes, Miguel
4 went to one of the meetings, but he was not able to
5 give any input because the input for the perceived
6 coming redline had not been received by our
7 organization yet.

8 MS. FOX: I understand that you were
9 not at the meeting that occurred but isn't it true
10 that OCD announced its intent to propose redlines at
11 that meeting which was October 16th and not on August
12 24th.

13 MS. FELIX: We -- I -- I also recall --
14 like -- like I said, I think it's the 24th, but there
15 was notice to the parties that a redline would be
16 coming.

17 MS. FOX: Okay. In any event, let's
18 tromp through this correspondence.

19 MS. FELIX: That's fine.

20 MS. FOX: And I promise I'll will try
21 to just quickly as possible, but I do really want to
22 set the record straight with regard to the efforts
23 that Applicants made to engage NMOGA and IPANM.

24 So looking at Bates stamp numbers 222
25 and 223, after a lot of work to schedule meetings by

1 September 4th, WELC was able to set up two -- set up
2 four two-hour meetings in October, beginning October
3 16th to discuss financial assurance and inactive
4 wells; correct?

5 MS. FELIX: That's correct.

6 MS. FOX: And then looking at 222, I
7 asked on September 5th if parties had alternate
8 proposals would they please send them; correct?

9 MS. FELIX: Yes, ma'am. That's what's
10 on here.

11 MS. FOX: And then looking at 230 to
12 231, on October 8th I send a reminder for the meetings
13 for which a calendar invite had been sent. And
14 proposed a rather detailed agendas for the meetings;
15 correct?

16 MS. FELIX: That is correct. Yes.

17 MS. FOX: Let's get those. Pull those
18 up. Okay. And then I reiterated at that time that if
19 any party had proposals or redlines, we'd like to see
20 those; correct?

21 MS. FELIX: Yes. That's correct.

22 MS. FOX: So then the four meetings
23 were to take place in October 2024, essentially one
24 year ago; correct?

25 MS. FELIX: Yes. Flashback. Time

1 flies when you're having fun getting ready for
2 rulemaking.

3 MS. FOX: Yeah. So looking at 229. On
4 October 11th, Mr. Suazo e-mails to say that both NMOGA
5 and IPANM now have conflicts and can only meet the
6 first day October 16th. And can we talk about both FA
7 and inactive wells; correct?

8 MS. FELIX: Correct. Yes. That's
9 what's on here.

10 MS. FOX: And then I write back and
11 say, "Well, we can collapse the four meetings, but
12 please know that Applicants remain -- Applicants
13 remain open to good faith negotiations after meeting
14 next week"; correct?

15 MS. FELIX: That's what it says. Yes
16 ma'am.

17 MS. FOX: And did you hear
18 Mr. Alexander's testimony that the one meeting that
19 was held was non-substantive in terms of negotiations?

20 MS. FELIX: I did, but I also heard him
21 refer that he's been preparing for this since 2023
22 with you all. So that's why I just stand firm on the
23 good faith efforts.

24 MS. FOX: I am not going to go into the
25 extensive negotiations on oil and gas reform that,

1 well, participated in with industry over the course of
2 five months. So I just -- were you part of those
3 negotiations at all?

4 MS. FELIX: I was not, but I've -- I've
5 heard the stories.

6 MS. FOX: Okay.

7 MS. FELIX: And you brought that up.
8 So since you brought that up, I will tell you that
9 when this proposal made prime time.

10 And we announced to members, the
11 overwhelming amount of deja vu, we just went through
12 all these exhaustive discussions through the
13 legislative process, now we're going to have a
14 rulemaking.

15 Members felt like they were being
16 attacked. Like, I will just say that. So that is
17 where we feel that, yes, you did offer these meetings,
18 Ms. Fox, there's no denying that.

19 However, we were waiting on what we had
20 been advised we were going to receive in -- in the
21 form of a redline. And the division is a responsible
22 authority who would be administering. We felt it was
23 prudent to have that for these discussions to be
24 fruitful.

25 So I'm not arguing that these e-mails

1 exchanged didn't happen. I'm not arguing that you
2 didn't extend. I am just simply bringing clarity
3 to -- on industry's side of how and when and the
4 timeframe it put us in a corner.

5 MS. FOX: So you were really waiting
6 for OCD's proposals to negotiate.

7 MS. FELIX: Not to negotiate, but to
8 have the discussions because we were advised that OCD
9 was going to provide a -- maybe I'm not using the
10 right term right now, so I don't want to lie. I'm
11 under oath. Right? But I believe --

12 MS. FOX: Thank you for that.

13 MS. FELIX: I believe the word was
14 substantive redline. And so, again, working with a
15 trade organization, you know, if -- if I were here
16 representing company A, and simply company A, a
17 hundred percent, I could have been at the table with
18 OXY.

19 I could have been at the table with the
20 other parties, but representing over 240 member
21 companies, I have to have that input and the feedback
22 from the overall industry, that's what a trade
23 association is.

24 So I'm not bashing, I'm just -- how it
25 was laid out simply put us in a bad position.

1 MS. FOX: But you were waiting for OCDs
2 proposals to negotiate; correct?

3 MS. FELIX: Not negotiate, but to have
4 the discussions.

5 MS. FOX: Okay. So during the October
6 16th meeting, OCD did either initially or reiterate
7 that they would have a redline proposals for the
8 parties by the end of the year; correct?

9 MS. FELIX: I believe it was by before
10 Thanksgiving.

11 MS. FOX: End of November; correct?

12 MS. FELIX: I believe the
13 correspondence I seen was by Thanksgiving.

14 MS. FOX: And so moving on to 234 --

15 MR. SUAZO: How much time is left,
16 Madam?

17 THE HEARING OFFICER: Oh, I was about
18 to break in, actually.

19 Ms. Fox, you have about five minutes,
20 even adding a few minutes.

21 MS. FOX: Okay.

22 BY MS. FOX:

23 MS. FOX: On December, moving on to
24 234, on December 10th, I write to the parties an offer
25 actually to postpone the hearing schedule. Because

1 OCD has been delayed in getting alternate proposals to
2 the parties.

3 And a postponement will give the
4 parties an opportunity to meet and discuss OCD's
5 proposals; correct? Which are now expected in the new
6 year.

7 MS. FELIX: That's correct. I -- I
8 believe -- I thought it was January when OCD filed the
9 request for the extension based off of their redline.
10 I could be wrong, but "ish."

11 MS. FOX: Yeah. So, but what's
12 happening here is that in December, Applicants are
13 actually proposing to postpone the hearing in order to
14 receive OCDs redline; correct?

15 MS. FELIX: That is correct. And then
16 I believe the OCD actually petitioned to postpone the
17 hearing.

18 MS. FOX: That was actually -- wasn't
19 that actually a negotiated hearing schedule that was
20 initiated by Applicants?

21 MS. FELIX: I -- I don't know. I know
22 all parties agreed to it, but I believe what -- what
23 my -- meant to say if it didn't come out clear, is
24 that OCD filed for the petition for rescheduling based
25 off of their -- their intention to submit all parties

1 a redline.

2 MS. FOX: Wasn't it actually
3 Applicant's, per this e.mail, that initiated the
4 delay? The rescheduling.

5 MS. FELIX: I will say in the e-mail
6 here, yes. But I was simply saying that it was OCD
7 that filed for the delay.

8 MS. FOX: Okay. Well, the record will
9 reflect what actually happened.

10 MS. FELIX: Yes, ma'am.

11 MS. FOX: And so then OCD comes out
12 with its proposals on February 12th; correct?

13 MS. FELIX: That's the right date. You
14 and I memorized it.

15 MS. FOX: Yep. And looking at 237,
16 isn't it true that Mr. Tremaine proposes to the
17 parties but to hold stakeholder meetings in April
18 after the legislative session ends; correct?

19 MS. FELIX: That is correct.

20 MS. FOX: And then a few days later, I
21 respond agreeing on behalf of Applicants to meet;
22 correct?

23 MS. FELIX: That is what's here. Yes,
24 ma'am.

25 MS. FOX: And then there's no e.mail --

1 in this correspondence, there's no e.mail
2 correspondence from NMOGA; correct?

3 MS. FELIX: Not in what I have in front
4 of me. That's correct.

5 MS. FOX: And as far as you know, did
6 NMOGA or IPANM agree to negotiations after OCD
7 proposed to sit down and talk about their redline?

8 MS. FELIX: No, ma'am. NMOGA's
9 membership and our board has not approved for
10 negotiations, discussions. However, I don't know what
11 date and again, "ish," but then we received another
12 redline from WELC, from the applicants.

13 MS. FOX: Would you say that Applicants
14 made good faith efforts to negotiate with industry
15 after filing the petition?

16 MS. FELIX: I would say after filing
17 the petition, yes, ma'am.

18 MS. FOX: And that was about a year and
19 a half ago?

20 MS. FELIX: Yes, ma'am.

21 MS. FOX: That's all I have.

22 THE HEARING OFFICER: Thank you,
23 Ms. Fox.

24 Let's see, Mr. Tremaine and Mr. Hall.
25 You would only be able to do 10 or 15 minutes.

1 MR. TREMAINE: I may be able to get
2 through, Hearing Officer, or we can break for lunch.
3 I serve our commission's pleasure.

4 THE HEARING OFFICER: It would have to
5 be a long break; right?

6 Mr. Ampomah?

7 MR. AMPOMAH: No, not today.

8 THE HEARING OFFICER: Oh, not today.
9 Okay. So we can -- it's -- oh, it is today.

10 Okay. So yeah, it would be a long
11 break.

12 MR. TREMAINE: So better move forward.

13 THE HEARING OFFICER: Yeah.

14 MR. TREMAINE: Great. Okay.

15 CROSS EXAMINATION

16 BY MR. TREMAINE:

17 MR. TREMAINE: Good morning, Ms. Felix.

18 MS. FELIX: Good morning, Mr. Tremaine.

19 MR. TREMAINE: Still morning. Barely.
20 Okay. It's good. We've crossed paths before, but as
21 we said, we haven't -- I don't believe we met in
22 person, so it's great to meet you. Ms. Felix, did you
23 hear my opening statement?

24 MS. FELIX: Yes. I believe I did.

25 MR. TREMAINE: Okay. I sincerely meant

1 what I said in my opening statement. My observation
2 is that typically the NMOGA acts as a willing
3 participant in discussions with OCD on a wide range of
4 issues.

5 And despite the fact that we're
6 litigating some points in this hearing, our hope and
7 expectation is that dynamic continues. So just wanted
8 to preface with that.

9 MS. FELIX: I appreciate that. And
10 I -- I would just build off that really quickly, if
11 you'll let me.

12 While I -- I heard through the
13 testimony of OCD, if we expected industry to come to
14 us, we hear you loud and clear, but we were being very
15 respectful to the process and to the applicants as
16 well.

17 MR. TREMAINE: Great. Ms. Felix,
18 Ms. Fox went over in some detail the structure of your
19 testimony and reliance on other witnesses. So I'm,
20 I'm not going to touch on that or duplicate.

21 But I want to ask you, did you observe
22 yesterday when Mr. Sporich on cross conceded that
23 Applicant and OCD's interpretation of 70-2-14(A), the
24 rainbow slide, that their interpretation was credible?

25 MS. FELIX: I believe I did hear that

1 when he had Rankin's rainbow up.

2 MR. TREMAINE: Okay. Does that change
3 your view of the proposal in any way?

4 MS. FELIX: Honestly, I would have to
5 put some thought to it, to tell you the truth. And I
6 guess I should have, but I didn't. I'm sorry.

7 MR. TREMAINE: Okay. That's all right.
8 Very general question. Do you believe that if the
9 commission were to promulgate the rules as written --
10 or close to as written -- do you believe that the OCD
11 should incorporate review of any kind of operator
12 financial information when it is assessing transfers?

13 MS. FELIX: Can you repeat it one more
14 time?

15 MR. TREMAINE: Yeah. Do you believe
16 that OCD should incorporate the review of any form of
17 operator financial information when it is reviewing
18 whether to approve or deny a transfer of operatorship?

19 MS. FELIX: So I would just start that
20 out with that I rely on legal counsel's determination
21 of authority in those regards. And the division have
22 that authority per statute.

23 If the proposed amendments for that
24 review, I -- I believe that we would need to have a
25 very transparent and tiered approach to that so that

1 it's not burdensome on the division as well as
2 industry.

3 MR. TREMAINE: Are you aware -- strike
4 that.

5 Would you -- I don't want to belabor
6 this point, if you're referring to relying on the
7 advice of counsel -- so would you provide the same
8 answer if I asked you that question regarding OCD
9 review of operator financial information regarding an
10 operator's rebuttal of the presumption of no
11 beneficial use?

12 MS. FELIX: I would say my answer is
13 the same.

14 MR. TREMAINE: Okay. Did you hear the
15 testimony, particularly on cross-examination of
16 Mr. McGowen, where he acknowledged that operating in
17 an undercapitalized position or failing to reserve
18 capital for decommissioning costs, represents a
19 greater risk of orphaning wells in that portfolio?

20 MS. FELIX: I believe I did hear that
21 under that context.

22 MR. TREMAINE: Okay. But based on your
23 prior answers, I have to assume that you wouldn't
24 change your position after hearing that testimony
25 because you're relying on a legal analysis?

1 MS. FELIX: That's correct.

2 MR. TREMAINE: Okay. I'll move on. So
3 in your testimony, is it fair to say that you've
4 raised, strike that.

5 I'm going to refer you now specifically
6 to the presumption of no beneficial use as proposed.
7 And is it fair to say that your testimony raises some
8 concerns about how OCD will implement that process?

9 MS. FELIX: Implement, interpret.

10 MR. TREMAINE: Implement and interpret.
11 Okay, great. Will you agree or concede that a
12 determination of no beneficial use is already
13 incorporated in the existing provision of 19.15.25.8?

14 MS. FELIX: Can we pull it up? I don't
15 want to lie, Jesse.

16 MR. TREMAINE: No, certainly not. Let
17 me pull it up here. So, Ms. Felix, no tricks here.
18 The red lines can get kind of hard to read. So what
19 I'm proposing to do is just show you from New Mexico
20 compilation commission the existing rule.

21 I don't believe this should be
22 controversial, but I just wanted to go back to a
23 version that didn't have a red line. So I want to
24 highlight here for 19.15.25.8, if you go down to
25 (B)(2), this is the existing rule -- it was

1 promulgated in 2008. Can you read (B)(2) for me
2 please?

3 MS. FELIX: "A determination that a
4 well is no longer usable for beneficial purposes; or."

5 MR. TREMAINE: All right, so would you
6 agree that, based on reading this, that determination
7 of no beneficial purpose, use of beneficial purpose is
8 already incorporated in the rules?

9 MS. FELIX: Yes. It's shown on the
10 screen, yes.

11 MR. TREMAINE: Okay. And I had some
12 cross for one of the other NMOGA witnesses, but I want
13 to ask you, can we agree that beneficial purposes is
14 not defined in the current rule?

15 MS. FELIX: Yes.

16 MR. TREMAINE: Okay. So if OCD were to
17 utilize this section of rule that already exists,
18 wouldn't you have concerns that elements or criteria
19 for how OCD determined no beneficial use would be
20 problematic for your members?

21 MS. FELIX: Say it again?

22 MR. TREMAINE: Yeah. It was a tricky
23 question. So if there's no definition of beneficial
24 use -- right -- we're agreeing on that.

25 And if OCD issued a determination of no

1 beneficial use, and someone in your membership with
2 NMOGA received that determination of no beneficial
3 use, wouldn't it be problematic that in your
4 membership size that there's no definition or process
5 associated with that determination?

6 MS. FELIX: I think the potential is
7 there and likely open for interpretation.

8 MR. TREMAINE: So can you agree that
9 the proposal of both the definitions and the process
10 and the rebuttable presumption elements are an attempt
11 by OCD to provide clarity on the existing rule and
12 provide a specific process by which OCD and operators
13 can rely?

14 MS. FELIX: I think that based off what
15 I've heard through the last two weeks from OCD's --
16 through OCD's testimony, that that was the intent.

17 MR. TREMAINE: But that wasn't your
18 interpretation on simply reviewing the petition?

19 MS. FELIX: No, sir.

20 MR. TREMAINE: Okay. Are you generally
21 familiar with the OCD's notice of violation process?

22 MS. FELIX: Generally, yes, sir.

23 MR. TREMAINE: Okay. It's not -- I'm
24 not going to trick you.

25 MS. FELIX: Don't trick me.

1 MR. TREMAINE: -- specific things. Can
2 we agree that there is, in the rule and in
3 application, there's an informal resolution period for
4 notices of violation?

5 MS. FELIX: Yes.

6 MR. TREMAINE: Okay, and those apply to
7 every NOV?

8 MS. FELIX: I believe so.

9 MR. TREMAINE: Okay. And those are 30-
10 day informal resolution periods?

11 MS. FELIX: I believe that's correct.

12 MR. TREMAINE: Okay. Is it consistent
13 with your understanding that OCD has issued
14 approximately 112 notices of violation?

15 MS. FELIX: Say it again. I'm sorry.

16 MR. TREMAINE: Is it consistent with
17 your understanding that OCD has issued approximately
18 112 notices of violation since the rule was updated?

19 MS. FELIX: I will take your word for
20 it.

21 MR. TREMAINE: Okay. Would you take my
22 word for it that 80 of those are resolved?

23 MS. FELIX: Yes, I would.

24 MR. TREMAINE: Would you also take my
25 word for it, that 53 of those resolutions were

1 settlement agreements?

2 MS. FELIX: Yeah, I --

3 MR. TREMAINE: Would you also agree
4 that of the NOVs -- and this is in Mr. Powell's
5 testimony -- but approximately 39 of those relate to
6 inactive wells.

7 MS. FELIX: I'll believe you.

8 MR. TREMAINE: And of the 32 resolved,
9 inactive well NOVs, 20 of those went to hearing.

10 MS. FELIX: I believe you. So did I
11 hear -- did I hear this right? 39 inactive wells, 30
12 resolved?

13 MR. TREMAINE: 39 inactive well NOVs,
14 32 resolved.

15 MS. FELIX: Okay.

16 MR. TREMAINE: Either through hearing
17 or settlement. And 20 of those resolutions came from
18 hearings. So 12 were settlements.

19 MS. FELIX: Okay.

20 MR. TREMAINE: Okay. Would you agree
21 with me that outside of inactive well NOVs, OCD really
22 has not needed to take any other subject matter NOVs
23 to contested hearing?

24 MS. FELIX: Not that I've seen, no.

25 MR. TREMAINE: And we've referred an

1 earlier testimony to OCD Exhibit 24, which is an ACOI
2 list. Have you reviewed that at all?

3 MS. FELIX: Yes.

4 MR. TREMAINE: Okay. Would you agree
5 that there are over 100 agreed compliance orders for
6 inactive wells since 2017?

7 MS. FELIX: I would agree.

8 MR. TREMAINE: Did you hear
9 Mr. Powell's testimony that the enforcement mechanisms
10 that OCD had available, despite concerted effort to
11 reach settlements and negotiate resolution with
12 operators has proven ineffective in the last five
13 years?

14 MS. FELIX: I did hear him say that.

15 MR. TREMAINE: Would you agree that
16 there's a problem there that needs to be resolved?

17 MS. FELIX: I -- so on -- on the
18 inactive list, I have -- here's a couple of my
19 thoughts.

20 With the -- it would be interesting to
21 know because the tools in OCD's toolbox to, you know,
22 put the stick to industry, if you will, are issuance
23 of APDs, issuance of authority to transfer gas, all
24 that -- all that good stuff.

25 So of those -- of those operators on

1 that ACOI list that make up that non-compliance, I --
2 one would have to assume they would be operators that
3 are not active and prudently operating today.

4 I just think there needs to be a little
5 bit of clarity of what's behind there. Is -- is this
6 operators that are not active and in current day oil
7 and gas world? Or are these operating -- operators
8 that the tools in the toolbox aren't being utilized
9 per the inactive list? Does that make sense?

10 MR. TREMAINE: I think your distinction
11 does make sense, but responding to it would --

12 MS. FELIX: I know. I'm -- I didn't
13 ask you a question, but --

14 MR. TREMAINE: I can't testify. But I
15 would submit in response, and, for the record, that if
16 OCD is settling an NOV or issuing a settlement
17 agreement that the operator is alive and kicking,
18 they're doing something even if they have compliance
19 problems.

20 MS. FELIX: Okay.

21 MR. TREMAINE: Yeah. I think you --

22 THE HEARING OFFICER: Thank you.

23 Mr. Tremaine, could you finish your questions after
24 lunch?

25 MR. TREMAINE: I certainly may.

1 THE HEARING OFFICER: Thank you.

2 Let's break till one.

3 (Off the record.)

4 THE HEARING OFFICER: It's one p.m.

5 We're back after a lunch break.

6 Mr. Tremaine, you still have 30 minutes
7 remaining in your cross exam time if you'd like.

8 MR. TREMAINE: Thank you, Madam Hearing
9 Officer.

10 BY MR. TREMAINE:

11 MR. TREMAINE: Good afternoon,
12 Ms. Felix. I will be quite brief. I think I only
13 have three more questions, so we'll move right along.

14 Ms. Felix, before we recessed, I was
15 asking you about concerns with OCD implementation of
16 the proposed rule and referring you to parts of OCD's
17 enforcement rules, analogous enforcement rules. So I
18 want to follow up on that.

19 Are you aware of any instance where OCD
20 refused to extend for good cause the initial 30-day
21 informal resolution period for an NOV?

22 MS. FELIX: I am not aware.

23 MR. TREMAINE: And are you aware that
24 since the new NOV rule went into effect, informal
25 resolution is routinely extended to much longer than

1 30 days?

2 MS. FELIX: I was not aware of that.

3 MR. TREMAINE: If you were to follow up
4 on this testimony with, like, discussions with perhaps
5 OCD's legal director and such and confirm those
6 statements, would that assuage any of your concerns
7 regarding implementation of the 30-day response period
8 for the presumption of no beneficial use?

9 MS. FELIX: I -- right now, without
10 knowing and being able to follow up on that, you know,
11 can't answer that I would be persuaded. But I am
12 happy to follow up and dive into that information.

13 MR. TREMAINE: Thank you. Did you hear
14 Mr. Powell's sir rebuttal regarding the OCD form C 1
15 45?

16 MS. FELIX: Yes, I did.

17 MR. TREMAINE: And just to clarify,
18 after hearing that surrebuttal, do you maintain your
19 position regarding the C-145?

20 MS. FELIX: So yes, because the -- the
21 statement of that 25 percent is still currently on the
22 C-145.

23 MR. TREMAINE: Do you dispute the 25
24 percent threshold that you're referring to is encoded
25 in 19.15.99 for operator registration?

1 MS. FELIX: I -- without looking at it,
2 I can't answer that and tell you I dispute that right
3 now.

4 MR. TREMAINE: Sure. I don't want to
5 belabor that point. We'll address it in closing. I
6 do want to ask you a couple questions kind of about
7 the process going forward.

8 And before I ask you the questions, I
9 would just want to make very clear that I am not
10 asking you any specific questions about the inner
11 workings of NMOGA or discussions or any confidential
12 information.

13 But I think there have been numerous
14 representations during this hearing that the
15 commission could expect NMOGA to engage in some way
16 going forward. Is that fair?

17 MS. FELIX: That is fair.

18 MR. TREMAINE: Okay. And you had
19 testified earlier that during the pendency of this
20 case you had not been authorized to discuss or
21 negotiate certain points about the proposal at the
22 time of those proposed meetings. Is that correct?

23 MS. FELIX: That is correct. And
24 there's -- I -- negotiations and sitting down and
25 discussing and talking through is something that I

1 want to make sure that we all know. It could be
2 apples, tomatoes; right?

3 But we are very open like what we've
4 said through the hearing, and we maintain that to
5 having those discussions.

6 MR. TREMAINE: Negotiations and talks
7 can be characterized differently.

8 MS. FELIX: Yeah.

9 MR. TREMAINE: I don't dispute that.
10 And I'm not trying to pin you to any particular thing.
11 And like I said, I'm not asking you to articulate a
12 particular revised position on the stands live.

13 But I do want to clarify just so the
14 commission and OCD has reasonable expectations that as
15 of today, have you achieved a consensus among NMOGA
16 members that you believe is sufficient to allow NMOGA
17 to prepare a redline response to the petition?

18 MS. FELIX: So we do have a redline
19 response already based off consensus of membership
20 that was submitted as Mr. Sporich's testimony.
21 What -- is that what you were asking?

22 MR. TREMAINE: Well, I'm asking about a
23 redline with different content as implied by the
24 course of the hearing.

25 MS. FELIX: Oh. Based off what we've

1 learned on the hearing.

2 MR. TREMAINE: Absolutely.

3 MS. FELIX: So what we -- what we know
4 today -- and I think what would be fair to all of
5 us -- is to let all parties, witnesses continue to lay
6 out their case.

7 And then yes, I feel very strongly that
8 we could get NMOGA membership in a -- positioned up.
9 It'll be a lot of work. I've already said that, but
10 so that we can engage in those discussions as the
11 commission desires.

12 MR. TREMAINE: And do you, as of today,
13 have approval to either sit down and meet or negotiate
14 with OCD and the petitioner based on the course of the
15 hearing and the content of the petition?

16 MS. FELIX: As of today, no. Where --
17 where we are is finish letting all parties lay out
18 their case so that we have all the facts to consider.
19 But we are willing and able to have those discussions
20 after.

21 MR. TREMAINE: Okay. The reason I'm
22 asking -- belaboring this point I believe was
23 addressed by a Commissioner Ampomah during earlier
24 during the hearing, which is that typically in a
25 hearing such as this, when we close the record, the

1 parties are going to have to submit their final
2 redlines, all of that stuff and closing arguments.

3 And I'm not going to guess how long the
4 commission gives, but that's usually 30, 60 days. So
5 I'm trying to get a sense from you whether NMOGA is
6 going to be at the table during that period of time to
7 allow the parties to submit closings in the normal
8 course.

9 That was kind of all statement and
10 preface, but I'm asking you if you can confirm or deny
11 that.

12 MS. FELIX: No, I confirmed that your
13 assessment of what the process would need to look like
14 is, would be correct, and that timing would be correct
15 based on my understanding from counsel.

16 MR. TREMAINE: Okay. And but you
17 believe that we'll be having those discussions with
18 enough time to submit closings?

19 MS. FELIX: I believe that would have
20 to be our goal, yes, sir.

21 MR. TREMAINE: Okay, thank you. Not
22 trying to belabor that.

23 I pass the witness.

24 Very much appreciated.

25 THE HEARING OFFICER: Thank you,

1 Mr. Tremaine.

2 Mr. Biernoff, do you have questions of
3 Ms. Felix?

4 MR. BIERNOFF: Thank you, Madam Hearing
5 Officer. I do.

6 CROSS EXAMINATION

7 BY MR. BIERNOFF:

8 MR. BIERNOFF: And good afternoon,
9 Ms. Felix. Good to see you. So let me start by
10 asking you about a reference in your testimony to the
11 180-day timeframe that's contained in the
12 petitioner's proposal for marginal wells.

13 Do your members, your member companies,
14 receive any special shut-in lease approvals from the
15 State Land Office?

16 MS. FELIX: Yes, sir.

17 MR. BIERNOFF: And are those shut-ins
18 for reasons like lack of takeaway capacity?

19 MS. FELIX: Yes, sir.

20 MR. BIERNOFF: Do those shut-in reasons
21 also include, for example, an ongoing nearby frack and
22 the land office wanting to avoid environmental harms
23 from a frack hit?

24 MS. FELIX: Yes, sir.

25 MR. BIERNOFF: Okay. And what about

1 joint discussions with the land office for particular
2 development to maximize reservoir depletion? Is that
3 also a reason for land office shut-ins?

4 MS. FELIX: Yes, sir. And -- and
5 that's to the point that I've made earlier that we
6 have to consider the lease basis when discussing these
7 provisions.

8 MR. BIERNOFF: Okay. And there are
9 other reasons in addition to the examples that I just
10 mentioned and that you just confirmed where the State
11 Land Office grants shut-ins; right?

12 MS. FELIX: Yes, sir.

13 MR. BIERNOFF: And the land office also
14 grants statutory extensions to rework wells; is that
15 right?

16 MS. FELIX: That is correct. Yes, sir.

17 MR. BIERNOFF: Ms. Felix, do you think
18 that it would be prudent for any rule to include
19 approvals of extensions that are authorized by the
20 land office, at least with respect to wells that are
21 on state trust land in consideration of any 180-day
22 time limit when considering marginal wells?

23 MS. FELIX: Yes, sir. I think it would
24 be prudent for the commission to consider all owners
25 of minerals, including the State Land Office to ensure

1 that they're not harmed in any way.

2 MR. BIERNOFF: Okay. Now, Ms. Felix,
3 if a person or a company, an operator, operates wells,
4 let's say, in the state of Texas and leaves all of
5 their wells inactive and unplugged, do you think that
6 the Oil Conservation Division should know that that
7 operator wasn't operating responsibly in Texas?

8 MS. FELIX: So yes, I do think they
9 should know. And I do think that the process to
10 become a -- I -- okay. I'm assuming you're talking
11 about a new operator coming into the state. That's
12 correct?

13 MR. BIERNOFF: We can start with that
14 for sure.

15 MS. FELIX: Okay. So the new operator
16 would have to apply for and become a registered
17 business, qualified to do business in the state and
18 successfully secure their OGRID and all -- all show
19 demonstration of their bonding and such, which
20 effectively is what the vetting process is today.

21 MR. BIERNOFF: What about if it's an
22 incumbent operator, not a new operator? Somebody
23 who's already operating in New Mexico and is also
24 operating in another state and leaves behind a number
25 of unaddressed compliance problems like unplugged

1 wells that are inactive in that other state?

2 Is that something that the OCD should
3 be able to learn about and know about?

4 MS. FELIX: Yes, that is. And to what
5 degree and framework that that is shaped up to, I -- I
6 don't have an answer for that.

7 MR. BIERNOFF: Okay. Okay. Now you
8 mentioned earlier having some concerns regarding the
9 Oil Conservation Division rejecting operator changes
10 based on the 25 percent threshold. Right?

11 MS. FELIX: So not rejecting them, I --
12 it was just providing context that the current 25
13 percent provision is already included on the C-145
14 form today and has been since 2019, I believe --
15 2019 -- 2017.

16 MR. BIERNOFF: Okay. If somebody is
17 affiliated with a company, and let's say the person,
18 the individual, has a 25 percent interest in the
19 company. The company files for bankruptcy or, let's
20 say, has a bunch of noncompliant wells.

21 Do you think it's a liability to the
22 state and the rec fund for that person, the individual
23 to just turn around and start a new company and forget
24 about the wells from the old company?

25 MS. FELIX: Can you restate that? I'm

1 sorry.

2 MR. BIERNOFF: Sure.

3 MS. FELIX: It was long.

4 MR. BIERNOFF: Let's take an example.

5 No, I know it is a little long. We can break it up
6 sort of into parts.

7 If a person is affiliated with a
8 company, let's say that that person has a 25 percent
9 interest in the company. So far so good; right?

10 MS. FELIX: Yes.

11 MR. BIERNOFF: Okay. And then let's
12 say that the company -- the entity -- has a compliance
13 problem, and we can define that here as leaving behind
14 a bunch of inactive wells that the company doesn't
15 plug. So far so good?

16 MS. FELIX: So far so good.

17 MR. BIERNOFF: Okay. Here's the
18 question. Do you think that it's a liability to the
19 state and to the rec fund for the person -- the
20 individual -- to just turn around and start a new
21 company and forget about the wells that are inactive
22 and unplugged from the old company?

23 Is that a concern for the state?

24 MR. SUAZO: I'm going to object to this
25 question in that it calls for speculation.

1 THE HEARING OFFICER: I assume,
2 Ms. Felix, if you can answer without speculating,
3 that's great. Otherwise just say so.

4 MS. FELIX: I -- I would be giving a
5 guess if I were to answer.

6 BY MR. BIERNOFF:

7 MR. BIERNOFF: Well, I guess I'm
8 asking, since you're a representative of an industry
9 association that's obviously important to these
10 proceedings, what is the association's position on
11 whether it is okay or not okay?

12 Although, let me phrase it in the most
13 direct way possible. Is it okay from NMOGA's point of
14 view for a person who is affiliated with a non-
15 compliant company to turn around and start a new
16 company and for that liability to be on the State of
17 New Mexico? Is NMOGA okay with that?

18 MS. FELIX: So NMOGA is -- our mission
19 is for the safe and responsible development of the
20 resources in the State of New Mexico.

21 If a person who is employed as an
22 authorized agent for a company leaves a company to go
23 start another company, I truly -- and I'm totally,
24 like, spitballing here -- but how is the division
25 going to follow and administer that?

1 I -- I would believe it would be on the
2 company basis and not the person basis.

3 MR. BIERNOFF: Well. Fair enough. And
4 I want to be clear. I'm not asking about line
5 employees. I'm not asking about, you know, a staff
6 representative of a company.

7 I'm talking about an individual who has
8 an ownership interest in a company or who has a
9 management position in a company.

10 And I'm asking for NMOGA's perspective
11 or position on whether it's acceptable for the State
12 of New Mexico to hold liability in an instance where
13 that person basically walks away and starts a new
14 company and starts operating a bunch of new wells.
15 That's my question.

16 MS. FELIX: I got you. And I would
17 just respond in the same. That NMOGA mission and our
18 members' mission is for the safe and responsible
19 operation and development of gas in the state.

20 When you bring in, you know, managers
21 and such our industry, as -- as great and wide as it
22 is, managers and management staff do go from company
23 to company.

24 So I do think it would be a very hard
25 way to -- to track, you know, managers at that level,

1 and not at the company level, which I'm not trying
2 to -- to degrade what you're asking.

3 I do think it's important that yes,
4 the -- the land office needs to know who's coming in
5 and who's coming out. But at the individual level, I
6 just -- I don't have in my head a good framework of
7 how that would work other than outside the company.

8 MR. BIERNOFF: Okay. Let me ask it a
9 different way. Does it enhance or the opposite,
10 detract from, the safe and responsible development of
11 oil and gas resources in New Mexico for individuals to
12 be able to walk away from liabilities and continue
13 operating in the State of New Mexico with impunity?

14 MS. FELIX: I kind of feel like that's
15 a legal question.

16 MR. BIERNOFF: Well, NMOGA has taken a
17 lot of positions in this rulemaking proceeding. And
18 NMOGA has, through you and other witnesses who are not
19 attorneys, offered opinions on a number of policy
20 questions.

21 And I'm asking not for reference to any
22 body of law, but just for NMOGA's perspective or
23 policy views on the question that I posed.

24 Is it a good idea -- from your members'
25 perspective, from the organization's perspective -- to

1 allow individuals to create liability, let's say in
2 the form of unplugged inactive wells, walk away from
3 that, and then keep operating under a new corporate
4 name?

5 MS. FELIX: I -- no. No, it's not.

6 MR. BIERNOFF: Thank you very much. I
7 want to also ask you, Ms. Felix, you're aware from, I
8 think our dealings individually and probably also from
9 your members, that there are a number of NMOGA members
10 who are State Land Office lessees who have plugged
11 inactive wells that they have not themselves operated;
12 right?

13 MS. FELIX: That is correct. Yes, sir.

14 MR. BIERNOFF: Okay, so doesn't the 25
15 percent threshold, doesn't that actually benefit your
16 members by taking liabilities that they are currently
17 incurring on behalf of bad, defunct, disappeared
18 operators and actually doing a better job of making
19 sure that those liabilities go with the companies that
20 are causing the problems?

21 MS. FELIX: Can you restate that? I'm
22 sorry.

23 MR. BIERNOFF: Yeah, I'm asking about
24 the 25 percent threshold in the context of my prior
25 question; right?

1 So you agreed that you're aware that a
2 number of NMOGA member companies, at the State Land
3 Office's behest, plug wells, that those companies are
4 not themselves operating; right?

5 MS. FELIX: Correct.

6 MR. BIERNOFF: Okay. And then so I was
7 asking, in light of that, doesn't the 25 percent
8 threshold, doesn't that actually benefit NMOGA
9 members --

10 In that individuals who are affiliated
11 with or interested in bad operators and then basically
12 are serial bad operators go on and start another
13 company and continue to create compliance problems
14 that this threshold would help reduce that kind of
15 serial bad behavior?

16 Doesn't that benefit NMOGA's
17 membership?

18 MS. FELIX: I honestly am not following
19 the question. So I'm -- I -- I can't answer that.
20 I -- I'm not following it, sir.

21 MR. BIERNOFF: Okay. Isn't it to
22 NMOGA's members' benefit to have a reduction in the
23 number of non-compliant wells that are out there on,
24 let's say, responsible NMOGA members' leases? Do you
25 agree with that?

1 MS. FELIX: I -- I think it's a benefit
2 to anybody.
3 MR. BIERNOFF: Including your members?
4 MS. FELIX: Yes.
5 MR. BIERNOFF: Okay, thank you.
6 I am ready to pass the witness, Madam
7 Hearing Officer.
8 THE HEARING OFFICER: Thank you,
9 Mr. Biernoff.
10 Let's see, I don't believe we have
11 Ms. Nanasi [ph].
12 Mr. Maxwell, do you have questions of
13 Ms. Felix?
14 MR. MAXWELL: No questions, your Honor.
15 Thank you.
16 THE HEARING OFFICER: Thank you.
17 Mr. Rankin?
18 MR. RANKIN: Madam Hearing Officer, no
19 questions on my behalf. I appreciate it. Thank you.
20 THE HEARING OFFICER: Thank you.
21 EOG is monitoring without questions.
22 Mr. Cloutier?
23 MR. CLOUTIER: Yes, Madam Hearing
24 Officer. Just a couple of questions.
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CROSS EXAMINATION

BY MR. CLOUTIER:

Good afternoon, Ms. Felix. I want to follow up on some of Mr. Biernoff's questioning.

Are you aware of any concrete example of a major player in a company that abandoned wells in New Mexico or any other state forming a new company and coming into New Mexico to operate?

MS. FELIX: No, I'm not.

MR. CLOUTIER: And you've been listening to these proceedings?

MS. FELIX: Yes, sir.

MR. CLOUTIER: Have you heard any evidence presented of such a person?

MS. FELIX: No, sir.

MR. CLOUTIER: All right. Thank you.

MS. FELIX: Yes, sir.

THE HEARING OFFICER: All right. Mr. Suazo, do you have redirect?

MR. SUAZO: Do. I need a second to pull up OCD surrebuttal Exhibit 33.

THE HEARING OFFICER: All right.

REDIRECT EXAMINATION

BY MR. SUAZO:

MR. SUAZO: Ms. Felix, are you familiar

1 with the document on the screen, which is OCD
2 surrebuttal Exhibit 115?

3 MS. FELIX: Yes.

4 MR. SUAZO: And do you understand that
5 that lists operators who have not filed C-115s?

6 MS. FELIX: Yes.

7 MR. SUAZO: Do you recognize any NMOGA
8 members on that list?

9 MS. FELIX: Can you scroll down the --
10 and this is the same list, so it hasn't changed, so
11 no, I do not.

12 MR. SUAZO: Okay. In the hypotheticals
13 presented by Mr. Biernoff, do you have any personal
14 knowledge with respect to the 25 percent interest?

15 MS. FELIX: No.

16 MR. SUAZO: Just a couple more
17 questions. Against my better judgment, I'm not going
18 to ask you about the discussions between NMOGA
19 industry and Applicants.

20 But over the course of these
21 proceedings, have you heard the request from the
22 commissioners that industry provide feedback to this
23 rulemaking?

24 MS. FELIX: Yes. I have.

25 MR. SUAZO: And does NMOGA intend to

1 provide that feedback?

2 MS. FELIX: Yes. We do.

3 MR. SUAZO: No further questions.

4 THE HEARING OFFICER: Thank you.

5 Commissioner Ampomah, do you have
6 questions of Ms. Felix?

7 MR. AMPOMAH: Yeah. Let me follow up
8 from where Mr. Suazo left off.

9 CROSS EXAMINATION

10 BY MR. AMPOMAH:

11 MR. AMPOMAH: Thank you, Ms. Felix, for
12 your testimony. I'm not going to go into any
13 technical. just to see if there could be some
14 consensus.

15 So following up from where Mr. Suazo
16 left off, so NMOGA is going to provide the commission
17 with some recommendations, but is it going to be in
18 consultation with the applicant and then with OCD?

19 MS. FELIX: Based off what we've heard
20 over the last two weeks and the urging of the
21 Commission, I believe that would be in the best
22 interest and that's what we intend to do.

23 MR. AMPOMAH: I appreciate that.

24 MS. FELIX: Yes, sir.

25 MR. AMPOMAH: And Mr. Tremaine touched

1 on that, so it really helped a lot, but with a
2 timeline, do you have a fair idea as to the timeline
3 that NMOGA might need from the commission to be able
4 to fulfill this responsibility?

5 MS. FELIX: So I -- I want to be able
6 to answer the question, but I would need to -- to get
7 some legal advice as to, you know, I know the
8 commission can do what you want. Right? We would
9 appreciate that the commission gives -- see a little
10 head shaking, okay.

11 We would appreciate that the -- with
12 the Commission's urging, and I think this will just
13 help all parties involved, that there is ample time
14 built into the current scheduling -- schedule that's
15 already out there.

16 What that is, I -- I can't even begin
17 to tell you right now, Commissioner, but I think all
18 of our attorneys in the room have -- have some idea of
19 how that could look for these discussions.

20 MR. AMPOMAH: So it'll be great.

21 This one is to NMOGA's counsel. If you
22 can advise the Commission if their discussions could
23 more or less, you know, go on for us to have a fair
24 idea on that.

25 MR. SUAZO: Sure. Well, I think that

1 at the conclusion of the proceeding, the parties are
2 going to, you know, discuss with the hearing officer
3 what the post-hearing actions are going to be and what
4 timeframe they're going to take place over.

5 I know that we're going to need time to
6 get the transcripts from the proceeding, analyze
7 those, and then, you know, review all of the evidence
8 that's on the record so that we can come forward with
9 reasonable proposals.

10 And that is what we intend to do based
11 upon the parameters and timeframes agreed upon by the
12 parties.

13 MR. AMPOMAH: Thank you. Yeah, and I
14 thought we were very close until I heard from
15 Mr. Sporich yesterday. That threw me off a lot.
16 Thank you so much. I don't have any further
17 questions.

18 MS. FELIX: Yes, sir. Thank you.

19 THE HEARING OFFICER: Thank you,
20 Commissioner.

21 Commissioner Bloom, do you have
22 questions?

23 MR. BLOOM: Yes, just a couple
24 questions. Thank you.

25 //

1 CROSS EXAMINATION

2 BY MR. BLOOM:

3 MR. BLOOM: Good afternoon, Ms. Felix.
4 Nice to see you.

5 MS. FELIX: Nice to see you.

6 MR. BLOOM: Ms. Felix, you testified
7 that companies make their budgets five to ten years
8 out, so it would be hard for companies to adjust to
9 annual CPI, that is Consumer Price Index updates;
10 correct?

11 MS. FELIX: That's correct. Different
12 portfolios, different timeframes.

13 MR. BLOOM: Okay. Rather than use CPI,
14 and I believe Mr. Sporich spoke against that also, you
15 know, what if the commission set bond amounts at five-
16 year increments as part of this process right now?

17 So, and I haven't looked at a
18 compounding interest calculator, but generally over
19 the past 20 years, inflation's been about 2.5 percent,
20 or the past 30 years has been about 2.5 percent.

21 Over the past ten years, it's been a
22 little higher because of the post pandemic inflation
23 at around 3 percent on average.

24 But if we took a 2.5 percent inflation
25 rate, you know, by 2030, or I don't know if it would

1 be 2033 when the next, you know, five-year period
2 would be up, we'd be at 168,000.

3 That's, you know, 12.5 percent. Not
4 compounded, but, you know, it's my way of saying that
5 the OCC could actually write in what the bonding
6 amounts would be, if that would be beneficial or
7 something we could consider. Any reaction to that?

8 MS. FELIX: I would think that, you
9 know, consideration of a tiered approach in that
10 manner, as you described, would be something that all
11 parties could, you know, consider and see how that
12 works. I do think it would be beneficial for the
13 open-mindedness to that.

14 MR. BLOOM: That way we would have the
15 bonds being updated every five years versus every
16 year; correct?

17 MS. FELIX: Yes, sir.

18 MR. BLOOM: Yeah. Would that be less
19 cumbersome on companies?

20 MS. FELIX: I believe on companies and
21 on OCD as well.

22 MR. BLOOM: Okay, thank you. Something
23 else I've seen -- we haven't really discussed it here,
24 but could it be a hardship for a company --
25 particularly a smaller one -- to have to put up

1 \$150,000 bond or bonds at nearly the same time during
2 implementation in 2028 --

3 Have to come up with perhaps a similar
4 amount of money, you know, fifty, a hundred, \$150,000
5 to P&A a well?

6 MS. FELIX: Will you ask -- I'm sorry.
7 Would you repeat?

8 MR. BLOOM: Yeah. Could it be a
9 hardship for a company, particularly a smaller one to
10 have to put up a bond and at the same time be thinking
11 about plugging that same well?

12 MS. FELIX: At the -- at the same time,
13 if that's the current status of that well? Yes.

14 MR. BLOOM: Would it make sense, say at
15 OCD discretion for good operators to let a bond, or
16 bonds, be released if a company is in good standing
17 with the OCD within some time period of plugging?

18 MS. FELIX: Yes, I believe that would
19 be helpful.

20 MR. BLOOM: Okay. No further
21 questions. Thank you.

22 MS. FELIX: Thank you, sir.

23 THE HEARING OFFICER: Thank you.

24 Chair Chang.

25 MR. CHANG: No questions from me.

1 Thank you very much.

2 MS. FELIX: Thank you.

3 THE HEARING OFFICER: All right.

4 Thank you very much, Ms. Felix.

5 MS. FELIX: Thank you.

6 THE HEARING OFFICER: Do we move now to
7 IPANM'S opening statement?

8 MR. CLOUTIER: Sir. Good afternoon,
9 commissioners. IPANM appreciates the opportunity to
10 participate in this rulemaking and appreciates your
11 diligence. IPANM's going last, so we hope we get the
12 same consideration as every other party and I trust we
13 will.

14 IPANM is a trade association, a group
15 of companies that participate exclusively in the
16 upstream or exploration and production portion of the
17 oil and gas business.

18 We have overlap with NMOGA's
19 membership, and we share virtually all the same
20 concerns here. But my association doesn't have anyone
21 participating in the midstream or downstream portions
22 of the business.

23 I do want to make one point on orphan
24 wells very clear from IPANM's perspective. IPANM
25 abhors the fact that there are orphan wells in New

1 Mexico. It acknowledges that there are such wells,
2 and it acknowledges that unfortunately it's going to
3 happen again.

4 I want to address the engagement issue.
5 First off, I do not accuse and do not ever intend to
6 imply any bad faith on Ms. Fox's part. And she did
7 reach out.

8 But there was no scoping on this
9 rulemaking that industry could participate in. It was
10 sprung on us right before it was filed. We didn't
11 have a chance to discuss how we would solve the
12 problems that's the supposed target of this
13 rulemaking. And that in that made it very difficult.

14 Compounding that is, as Ms. Felix
15 testified, it was deja vu all over again. IPANM
16 engaged heavily in the process surrounding House Bill
17 133, which was a very similar bonding proposal.

18 When that type of proposal was the
19 central feature of the rulemaking and the division's
20 rulemaking, it was impossible for IPANM to reach a
21 consensus on any portion of the rulemaking because
22 those provisions are existential to some of our
23 members and crippling to others.

24 And to be clear, Applicant's evidence
25 confirms that the proposed rulemaking is going to be

1 damaging to our small operator members. By way of
2 example, only Mr. Purvis testified in rebuttal that
3 the rulemaking would impose, and I quote, "painful
4 costs for industry."

5 And there were a number of exhibits
6 presented that attempted to minimize basically my
7 association's members' contributions to state
8 production with the message, "You're not going to miss
9 them."

10 The tenor of Applicant's presentation
11 here changed on, I think, the first day because they
12 realized that they were effectively promoting
13 underground waste by advocating these positions.

14 But the evidence is there in their case
15 and it's a difficult thing for our membership. It his
16 opening, Mr. Tremaine addressed the historic 95-5
17 split of industry plugging that's in evidence through
18 Applicants.

19 I understand that last year that was
20 not the split, and I don't know the rest of
21 Mr. Tremaine's objections, but it is in evidence.

22 What Mr. Tremaine, I think, missed the
23 point on, and that may be our fault too, is that we're
24 not saying that we get an A because we get 95 percent
25 of the wells plugged. That's not the point.

1 The point is that most operators plug
2 all their wells that need plugging, and that is
3 measured in that statistic. They bat a thousand.

4 MR. TREMAINE: Madam Hearing Officer.
5 I wanted to give Mr. Cloutier a moment to finish this
6 thought, but I do have to object because he's making a
7 closing argument, not an opening. He's referencing
8 the proceedings of the hearing and my opening. We'll
9 have that opportunity.

10 MR. CLOUTIER: Madam Hearing Officer, I
11 wanted to set the tone for what our case is going to
12 be. And Commissioner Ampomah, in particular,
13 Mr. Powell, as well, has been inviting a lot of
14 engagement here, and I feel like I need to explain to
15 the commission where we're coming from.

16 THE HEARING OFFICER: Okay. Thank you
17 for your observation, Mr. Tremaine.

18 Go ahead, Mr. Cloutier.

19 MR. CLOUTIER: It's a group of bad
20 actors, and the question came up, what is a bad actor?

21 Unfortunately, they disappear from
22 plugging and abandoning, and they're not around to
23 answer the questions that all of us probably have on
24 them. But I suspect it includes some people who
25 maliciously plan to walk away and leave the state with

1 it.

2 I suspect it both includes people who
3 took too much money out of their companies and
4 businesses and there wasn't enough left at the end. I
5 suspect there's some who never capitalized properly to
6 begin with, and I suspect that there's some who just
7 experienced some misfortune.

8 But what industry objects is to a
9 painful solution imposed on all for the sins of a few.

10 Again, Mr. Tremaine used a traffic
11 analogy in his opening, and I concede all analogies
12 start to fail at some point if you pick at them, but I
13 think this analogy fails pretty quickly.

14 In his analogy, industry is a single
15 driver that drives every day through the intersection
16 at St. Francis and Cerrillos, and 95 percent of the
17 time doesn't run a red light.

18 Industry is not one driver. Industry
19 is the entire stream of traffic in that analogy. And
20 there are, in that analogy, some people who run red
21 lights. Just like it would be unfair to have everyone
22 driving through that intersection post a bond that is
23 forfeit if they ever run a red light.

24 Industry views this proposal, and my
25 members view this proposal, as similarly unfair.

1 Enforcement should be directed at the offenders, and
2 we're going to talk about that.

3 OCD may not be able to predict bad
4 actors either. We're not in the regulator's seat, but
5 there was clear testimony that I can confirm from
6 Mr. Romero and for Mr. Powell that the people who are
7 orphaning out there are repeat offenders of numerous
8 OCD regulations.

9 The OCD exhibit that Mr. Suazo just
10 pulled up shows operators with state and fee wells
11 that haven't been reporting production for 16 years.

12 Applicant submitted Exhibit 8, which
13 identified the wells that they thought were at risk
14 because of no temporary abandonment regulation
15 compliance. IPANM submits, and our witnesses will
16 testify, that we don't need more regulations for these
17 operators not to comply with.

18 If the division wants to talk about how
19 do we streamline enforcement for these problems, we're
20 happy to sit down and talk about it. But the
21 regulations are already there to enforce, and the
22 violations are known.

23 Our witnesses are going to talk about
24 these commission's primary duties. And I don't mean
25 to belabor the obvious, but to prevent waste and to

1 protect correlative rights.

2 This rulemaking and the evidence
3 submitted in favor of this rulemaking is contrary to
4 both duties. It's going to create economic waste by
5 having operators who pose no apparent risk to the
6 state to tie up capital and bonding.

7 It will create waste by stranding
8 otherwise recoverable hydrocarbons because some
9 operators are going to choose to plug their otherwise
10 economic wells instead of bonding them.

11 We agree with OXY's witnesses that it's
12 going to cause plugging of wells that may have future
13 beneficial uses or used for beneficial purposes.

14 Applicant's witnesses essentially admit
15 the underground waste and justify the rulemaking
16 because in the scheme of things, it's not a
17 significant percentage of annual production because
18 production is going to be impaired as our witnesses
19 will testify, so will correlative rights.

20 At the center of IPANM position in this
21 rulemaking is we think it's ineffective policy. I can
22 see, and IPANM can see that as commissioners of this
23 commission, it's got to be frustrating to see
24 orphaning of wells, and you have to have a desire to
25 address the issue. Don't blame you at all.

1 The fundamental problem we have with
2 this proposal is the financial assurances are going to
3 be bad policy because the people who post the
4 financial assurances are going to be the operators who
5 are plugging anyways.

6 I was going to spend more time in my
7 opening talking about the pretty poor history of bond
8 recovery that's shown in Secretary Shelton's testimony
9 to the LFC and the annual reclamation reports that
10 both Applicants and IPANM submitted.

11 However, during the course of these
12 proceedings, we learned that the OCD sent demand
13 letters to three surety companies or surety companies
14 for three different of the biggest offenders or
15 frequent flyers on the orphan well list.

16 I hope this is real change, but past
17 history isn't that great. But this case, and
18 Applicants raise it and OCD cite it, is about in the
19 short and midterm about 4100 wells that the LFC
20 identifies as being orphaned already, about to be
21 orphaned, or at risk of being orphaned.

22 In this rulemaking, we're presented
23 what's supposed to be a data-driven solution, but
24 there's no data-driven evidence, and our witnesses are
25 going to testify that it's probably going to put

1 people out of business that this bonding is going to
2 prevent wells from being orphaned.

3 Mr. Purvis, when asked this question by
4 me, said he didn't have any data, but pointed to
5 Mr. Arscott, my witnesses -- IPANM's witnesses' --
6 exhibits. We'll address that with Mr. Arscott.

7 But interestingly, Mr. Peltz testified
8 about several states that have raised financial
9 assurance requirements in the past 15 years or so.

10 IPANM asks you as commissioners to ask,
11 where's the evidence from these states that these
12 financial assurances protected against orphan wells?
13 Where's the evidence that it helped the state collect
14 money for wells it had to plug?

15 When presenting the at-risk wells, and
16 I can't remember if it was 33 or 32, Mr. Powell
17 conceded that he didn't expect any of those wells to
18 be bonded. Neither do we.

19 We expect some of our members -- and
20 you'll hear from them -- will testify that they'll try
21 to bond, and I think others who will struggle.

22 We admire Mr. Powell's optimism and
23 Mr. Purvis's optimism that they hope bonding in the
24 future will defer the cost of orphaned wells in New
25 Mexico. But with the pain that's going to be

1 submitted on IPANM members that we're going to
2 articulate. I suggest to you that hope is not enough.

3 I want to highlight a few things you're
4 going to hear and not hear in IPANM's case. We have
5 been accused of not having a data-driven case. Guilty
6 as charged.

7 There are no databases for the sort of
8 things that IPANM is going to present to you. How
9 increased financial assurances will affect small
10 companies, their transactions, their decisions on
11 investing in existing wells, and their plugging
12 decisions.

13 You're going to have to hear that from
14 the members, and it is anecdotal. We're a trade
15 association. We don't have access to members'
16 proprietary data or financials unless a member agrees
17 to share.

18 And I've dealt with oil companies for
19 almost 40 years. They don't even like complying with
20 subpoenas for that information.

21 You're going to hear operator stories
22 about successes with low producing wells, from the
23 purchases, workovers, and recompletions. And how
24 significantly increased financial assurance
25 requirements are going to create waste by

1 disincentivizing these productive behaviors.

2 You're going to hear from our technical
3 witnesses about the difficulties that will exist in
4 the surety market. We have a legal and industry
5 combined expert who's going to talk about various
6 problems that this rulemaking will create and those
7 that it's not going to solve.

8 And we'll present a corporate finance
9 expert, Mr. Arscott, who will discuss the financial
10 repercussions of this rule.

11 Finally, as we've been looking at it,
12 while I think the issues are very different and there
13 is no question of motive, you're going to hear from
14 some members that OCD Exhibit 16 doesn't accurately
15 reflect data about their company.

16 And I submit that exhibit is probably
17 not ready for prime time. IPANM's been accused in
18 this proceeding about not proposing a solution that
19 isn't true. IPANM has been and still will propose a
20 solution, but it's not one this commission can act
21 upon.

22 I'm not talking about the power. We've
23 flogged the Rankin's Rainbow, and we've got motions to
24 dismiss, but IPANM believes that the policy in this
25 rulemaking should be the province of the legislature.

1 But decades ago, independent producers
2 worked with the legislatures to create the reclamation
3 fund. That fund was created with an extraordinary
4 matter, a new tax to which industry agreed. A form of
5 severance tax that is imposed on and only on industry
6 participants.

7 In fact, every industry participant
8 except for two, the state government and the federal
9 government on their royalties pay that tax on every
10 molecule of hydrocarbon extracted and sold in the
11 State of New Mexico.

12 Unfortunately, in tougher economics
13 times that reclamation fund has been rated, which is
14 our view, or if you want to use the technocrats verb,
15 swept, to balance the budget and used for other
16 purposes. It's gone down to zero a few times.

17 The tax statute that industry consented
18 to has also changed so that most of that tax -- the
19 oil and gas conservation tax -- is being directed to
20 the general fund where it was never intended.

21 IPANM has supported multiple bills over
22 the years to increase funding to the reclamation fund
23 by diverting all or more of that tax to its intended
24 purpose. People probably won't like hearing it, but
25 that's the only way these orphan wells are going to

1 get plugged.

2 In closing, I'm going to say two
3 things, and you're going to hear this from members.

4 We're happy to discuss with the
5 divisions ideas how to address some of the concerns
6 they've expressed in this rulemaking and let them
7 consider those suggestions. But we don't believe that
8 this rulemaking meaningfully addresses those concerns.

9 Second, I'll reiterate, IPANM's case is
10 going to emphasize what Applicants have already told
11 you. This rule is going to create substantial
12 economic pain for industry that's going to be born
13 disproportionately by smaller operators.

14 It's going to create e underground
15 waste; it's going to create economic waste. We don't
16 believe that hope is a sound basis for such policies
17 with those effects, and we believe that the
18 fundamental objects of this rulemaking should be
19 rejected by the Commission.

20 Thank you for your time.

21 And we're ready to call our first
22 witness, Madam Hearing Officer.

23 THE HEARING OFFICER: Terrific.

24 MR. CLOUTIER: I believe David Mitchell
25 is on the platform.

1 THE HEARING OFFICER: On the platform.
2 Mr. Mitchell.
3 MS. APODACA: I'm not seeing a David
4 Mitchell signed there.
5 MS. TRIPP: There is a Sage Conference
6 Room.
7 MS. APODACA: Oh, Sage Conference Room.
8 I was just about to ask that. Okay, thank you.
9 MR. CLOUTIER: Thank you, Mr. Tripp.
10 MS. APODACA: I will let them in.
11 MR. CLOUTIER: Mr. Everhart, if you
12 could pull up his brief PowerPoint.
13 Good afternoon, Mr. Mitchell. Are you
14 there?
15 MR. MITCHELL: All right, there we go.
16 You hear me?
17 THE HEARING OFFICER: Yes. Thank you.
18 Mr. Mitchell, would you spell your first and last name
19 for the transcript please?
20 MR. MITCHELL: D-A-V-I-D M-I-T-C-H-E-L-
21 L.
22 //
23 //
24 //
25 //

1 WHEREUPON,

2 DAVID MITCHELL,

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: Go ahead,
7 Mr. Cloutier.

8 DIRECT EXAMINATION

9 BY MR. CLOUTIER:

10 MR. CLOUTIER: Mr. Mitchell, would you
11 introduce yourself to the members of the commission
12 please and tell them about your background and
13 education?

14 MR. MITCHELL: My name's David
15 Mitchell. I'm a mechanical engineer from the
16 University of British Columbia. I've been working in
17 the oil and gas industry for a little over 20 years
18 for -- or Transatlantic Petroleum and Longfellow
19 Energy and prior to that Talisman Energy.

20 MR. CLOUTIER: Thank you. You
21 submitted direct testimony in this matter; correct?

22 MR. MITCHELL: I did.

23 MR. CLOUTIER: And are there any
24 changes or corrections to that testimony that you want
25 to make?

1 MR. MITCHELL: There is one. I mean,
2 at the time of my testimony, the definition of a
3 marginal well was a well that would produce 10 barrels
4 of oil equivalent per day and had to produce for 365
5 days a year.

6 At that time, I think I quantified
7 about 50 vertical wells that we have that would fall
8 into that category.

9 Since that time, I think the
10 redefinition has been, I -- I think two and a half
11 barrels of oil equivalent a day in 180 days per
12 production per year, which would reduce that number to
13 about 20.

14 MR. CLOUTIER: Thank you. Would you
15 briefly introduce the commission to the company that
16 now employs you, Longfellow, and to, yeah.

17 MR. MITCHELL: Sure. So Longfellow
18 Energy is actually the second generation of a -- a
19 company called Riata Energy, which was founded in
20 1985.

21 That company became the company known
22 as Sandbridge today. And the founder of that company
23 started Longfellow Energy in 2008, and we've been
24 operating in majority of Texas, Oklahoma, and New
25 Mexico for that period of time.

1 We entered New Mexico in 2019 through a
2 small acquisition and now operate about a hundred
3 wells in New Mexico.

4 MR. CLOUTIER: Thank you. And could
5 you explain to the commission the purpose of your
6 testimony?

7 MR. MITCHELL: I'm here to sort of
8 provide the -- the impact of these rules on -- on
9 operators such as ourselves. We're -- we're a small,
10 small operator in New Mexico producing about 6,000
11 barrels of oil equivalent a day.

12 So just to provide the operational and
13 impacts associated with a -- with a company our size.

14 MR. CLOUTIER: Are you here to testify
15 about any other aspects of the rulemaking?

16 MR. MITCHELL: No.

17 MR. CLOUTIER: You mentioned in your
18 direct testimony the Loco Hills project in east of
19 Artesia that Longfellow has. Can you tell the
20 commission how long it took to put that together? How
21 expensive, how many wells, those sort of details.

22 MR. MITCHELL: Sure. We -- we started
23 the project in 2019 through a small acquisition from
24 Clayton Williams that brought in about 45 vertical
25 wells and the acreage associated those wells.

1 Over the next few years, we -- we put
2 together through also acquisitions of -- of working
3 interest or -- or full ownership in -- in a number of
4 vertical wells across the township that we're -- we're
5 predominantly operating in and just east of Artesia.

6 Since we started drilling in 2020, we
7 drilled about 40 horizontal wells to date. We took
8 the project from -- at the time of the initial
9 acquisition about 200 barrels a day to today, a little
10 over 6,000.

11 MR. CLOUTIER: Thank you. Has
12 Longfellow plugged any wells in New Mexico?

13 MR. MITCHELL: We have. We plugged a
14 well probably in the last three to six months.-- yeah,
15 is the one well we plugged recently.

16 MR. CLOUTIER: Thank you. Do you have
17 operations in other states?

18 MR. MITCHELL: We do. We have
19 operations in Texas where we operate about 1300 wells,
20 and we have operations in Oklahoma where we have a
21 small position. It's a exploration position.

22 MR. CLOUTIER: How does this bonding
23 proposal compare to the bonding you're required, say
24 in Texas?

25 MR. MITCHELL: So in Texas we have a \$2

1 million blanket bond for our wells that covers all
2 1300 odd wells that we -- we currently operate. I
3 can't speak exactly to Oklahoma, but it's -- it's a
4 nominal sized project and the bond there is quite
5 nominal.

6 Between the -- and -- and in -- now in
7 New Mexico, we have a lot of different layers of
8 bonding. We have bonding in our SWDs, excuse me,
9 bonding on our -- our surface uses on both federal and
10 state lands and fee lands.

11 And we have bonding on certain
12 infrastructure that we -- that we own. So currently
13 the aggregated bond for the hundred wells we have in
14 New Mexico is about two and a half times the -- the
15 aggregated Texas bond we have for -- for the 1300 well
16 operation.

17 MR. CLOUTIER: Could you describe for
18 the commission -- well, first of all, let me just be
19 clear. When you acquired the Loco Hills project from
20 Clayton Williams, was there existing production that
21 you're still operating?

22 MR. MITCHELL: Yes.

23 MR. CLOUTIER: Right. And how do
24 you -- were these some of the wells that you testified
25 as qualify as marginal under the proposed rulemaking

1 as you now understand it?

2 MR. MITCHELL: Yes.

3 MR. CLOUTIER: Could you talk to the
4 commission about the issues and how Longfellow goes
5 about managing lower producing wells and the various
6 considerations that go into that?

7 MR. MITCHELL: Okay, so we have -- we --
8 -- like I said, we have about 20 wells that would be
9 considered marginal today. But we probably have 50
10 wells that fall into a -- a lower producing bucket.

11 You know, with -- with, when we look at
12 our well set, we look at it as a program. And so when
13 we take a look at our -- our financials and cash flow
14 on a -- on a group level and a well level monthly
15 and -- and quarterly.

16 And what we're trying to understand is
17 both the -- the breakeven economics associated with
18 each well and how we -- how we actively manage costs.

19 Obviously, higher producing wells have
20 higher costs, lower producing wells have much lower
21 cost. And really when we think about costs, it's
22 important to understand the difference in types of
23 costs.

24 You know, you have fixed costs, which
25 are more associated with your operation at large, and

1 variable costs, which are much more tied to an
2 individual wells production proportional to an
3 individual well production.

4 An example of a variable cost is the
5 chemical that you would put into a well, or the
6 electricity that you would -- you would supply that
7 well for operating the pumping unit, for example.

8 Where a fixed cost would be maybe the
9 manpower associated with managing an -- a part of the
10 field and all of the infrastructure in place to -- to
11 do that.

12 So we look at really our -- our
13 breakeven economics on -- on both -- both total and
14 variable cost basis. And as well as become marginal,
15 the actual true cost impact to us of -- of adding or
16 subtracting one well is -- is quite nominal.

17 You can pump one of these vertical
18 marginal wells for really just a few hundred dollars a
19 month because you're really -- if I can say I can take
20 a -- a field of vertical wells, I can put one -- one
21 pumping route there associated with that field.

22 And the cost of -- of managing that
23 operation, if it's 50 or 49 or 48, on a fixed basis,
24 is really the same.

25 It's really the variable cost, which is

1 a very small percentage of the -- of the total cost
2 that -- that you're saving through adding or removing
3 those vertical wells. So we look at it both ways, but
4 that's sort of how we look at it in general.

5 MR. CLOUTIER: I believe that in your
6 direct testimony you expressed a concern from
7 Longfellow about the transfer provisions in the
8 proposed rulemaking. Could you tell the commission
9 what your concern is?

10 MR. MITCHELL: The -- when you say
11 transfer, I'm not sure I understand.

12 MR. CLOUTIER: The transfer of
13 operating operatorship provisions.

14 MR. MITCHELL: Okay. Sure, sure. I
15 mean, look, we buy -- our projects, they all develop
16 in different -- in different ways. But, for sure, one
17 of the ways we grow our project is through -- is
18 through what we call bolt-on acquisitions.

19 So we have an -- an area of operations,
20 and we will acquire assets in and around that area so
21 we can expand our operations without really building a
22 new field operation. So we can roll that into the
23 existing fixed cost structure that I described before.

24 So in -- in New Mexico and the Loco
25 Hills project, the majority of our position was put

1 together through those types of acquisitions.

2 If these -- very recently, actually, we
3 were looking at -- at a package for acquisition that
4 had about 300 vertical wells associated with it as
5 well as -- but we were predominantly focused on --
6 we -- we buy these vertical wells.

7 We're focused on the horizontal
8 development associated with the lands that these wells
9 are on in and around. There was lots of development
10 opportunity on this package, but it came with
11 something approximating 300 vertical wells.

12 And just the risk associated with these
13 regulations and the cost burden that they would imply
14 that could come into effect was enough for us to
15 really step back from that process because of what we
16 believe is -- is the significant cost associated with
17 this -- these measures that are being proposed.

18 MR. CLOUTIER: Thank you, Mr. Mitchell.

19 Madam Hearing Officer, we uploaded an
20 excerpt from OCD Exhibit 16 that was introduced during
21 this rulemaking and would like to conduct surrebuttal
22 on it. Yes, ma'am.

23 THE HEARING OFFICER: Thank you. Go
24 ahead.

25 BY MR. CLOUTIER:

1 MR. CLOUTIER: Mr. Everhart has pulled
2 up -- can you see the excerpt from the spreadsheet?

3 MR. MITCHELL: I can.

4 MR. CLOUTIER: Thank you. Now did you
5 listen to Mr. Powell's testimony?

6 MR. MITCHELL: No, I did not.

7 MR. CLOUTIER: All right. Have you
8 reviewed the portions of Exhibit 16 that pertain to
9 Longfellow?

10 MR. MITCHELL: I have.

11 MR. CLOUTIER: I want to ask you a
12 couple of questions. First of all --

13 And, Mr. Everhart, it's just there at
14 the bottom of your page right above the pink. If you
15 could zoom in just a little bit more.

16 Could you tell us what those three
17 wells just above -- and pardon me, I'm a little bit
18 colorblind, but I would call that pink in there.
19 Mr. Everhart is highlighting them for us.

20 MR. MITCHELL: Sure.

21 MR. CLOUTIER: What wells are those?

22 MR. MITCHELL: So -- so I don't see the
23 well names, but -- but those are salt water disposal
24 wells in our project. They're -- so, they're used to
25 basically dispose of produced water that we don't have

1 beneficial use for.

2 MR. CLOUTIER: Okay. And what is the
3 BOE reflected in that exhibit for each of those wells?

4 MR. MITCHELL: Zero.

5 MR. CLOUTIER: And what are the
6 production days?

7 MR. MITCHELL: Zero.

8 MR. CLOUTIER: Would you expect
9 those -- the OCD records to show no BOE and no
10 production days for those wells?

11 MR. MITCHELL: Yeah, those wells are
12 not producers. Those wells are used -- are injectors.
13 They're used for -- for essentially disposing of
14 produced water into approved formations.

15 You know, when you produce oil and gas,
16 you produce water along with it. That water has to go
17 somewhere.

18 We recycle a large amount of water for
19 ongoing completions operations. But whatever excess
20 water we have, we put into these three wells, and
21 there's -- there's two other ones that we have in the
22 project.

23 MR. CLOUTIER: Thank you. Have you
24 also looked at Exhibit 16 to try and figure out what
25 the bonding requirements would be under this

1 rulemaking for a Longfellow?

2 MR. MITCHELL: So -- so I have, and --
3 and I'm not a lawyer and -- and for sure my
4 interpretation is -- is my own.

5 But my understanding from looking at
6 this list and, again, understanding that -- that we
7 have about 20, 25 wells that would classify as
8 marginal wells at \$150,000 a well that would be
9 something approximately a three and a half million
10 dollars bond.

11 MR. CLOUTIER: And what percentage of
12 your wells are marginal given your understanding under
13 of this rulemaking?

14 MR. MITCHELL: So on -- on this list,
15 it would be -- I think it was 26. So 26 percent
16 and -- and assuming we have about a hundred wells,
17 that would be about 26 percent.

18 MR. CLOUTIER: Right. And have you
19 attempted to determine what the cost would be to
20 Longfellow if you had to bond all of them?

21 MR. MITCHELL: If we had to -- to bond
22 all of our wells, we'd be looking at something like a
23 hundred -- fifteen million dollars.

24 MR. CLOUTIER: Right. And how do you
25 bond right now in New Mexico and at what cost?

1 MR. MITCHELL: So we -- we have -- we
2 have, like I said, we have a -- a bunch of different
3 bonds, but if I speak generally to -- to them we bond
4 through bonding surety companies and the -- they
5 charge us --

6 Well, it's actually gone up by about 50
7 percent in the last two couple year -- year or so,
8 from 2 percent to 3 percent.

9 If we had to bond this incremental 15
10 million, the likelihood is that would go up and there
11 would be a cash posting requirement associated with
12 that larger bond that we would have to have to bear.

13 MR. CLOUTIER: What would it mean to
14 Longfellow if it was having to spend that money on
15 bonding?

16 MR. MITCHELL: I mean, it'd be
17 extremely meaningful. We have -- I mean for -- for
18 us, we have -- we're not a big company. We -- we
19 operate out of cash flow. We try to manage. We have
20 very low debt -- levels of debt.

21 If we had to put, let's say -- say \$10
22 million to -- to bonding, that would be money that we
23 wouldn't be able to -- to invest in development.

24 MR. CLOUTIER: And does Longfellow
25 intends to continuing developing?

1 MR. MITCHELL: Absolutely. We've --
2 we've drilled about 40 horizontals to date. We -- we
3 have another a hundred approximately in our -- in our
4 forecast over the next five years.

5 MR. CLOUTIER: Thank you for your
6 testimony, Mr. Mitchell.

7 Madam Hearing Officer, I move to admit
8 the direct testimony of Mr. Mitchell and the four
9 pages of demonstrative exhibits that we have used.

10 THE HEARING OFFICER: Thank you,
11 Mr. Cloutier. I'll pause for a moment in the event
12 there are objections. Okay. They're admitted. Thank
13 you.

14 (IPANM Exhibit 2 was marked for
15 identification and received into
16 evidence.)

17 MR. CLOUTIER: Okay, you can take it
18 down.

19 THE HEARING OFFICER: Are you ready for
20 questions?

21 MR. CLOUTIER: We passed the witness,
22 Madam Hearing Officer. Sorry.

23 THE HEARING OFFICER: All right. Thank
24 you.

25 Just a reminder, because Mr. Mitchell

1 was offered as a fact witness and kept testimony
2 within 30 minutes, cross exam by every other party is
3 limited to 15.

4 Ms. Fox or Mr. Tisdell?

5 MS. FOX: No questions, Madam Hearing
6 Officer.

7 All right.

8 Mr. Tremaine or Mr. Hall?

9 MR. TREMAINE: Mr. Tremaine this time.

10 CROSS EXAMINATION

11 BY MR. TREMAINE:

12 MR. TREMAINE: All right. All right,
13 Mr. Mitchell, thank you for being here this afternoon.
14 My name is Jesse Tremaine. I'm the legal director for
15 the Oil Conservation Division.

16 MR. MITCHELL: Nice to meet you.

17 MR. TREMAINE: Excellent to meet you.
18 I just want to ask a couple clarifying questions. You
19 referred to Exhibit 16 as surrebuttal. Are you aware
20 that Exhibit 16 is an export of production and
21 injection data from OCD permitting?

22 MR. MITCHELL: Yes.

23 MR. TREMAINE: And do you agree that
24 production and injection data in OCD permitting is
25 reliant on the C-115 reports which are filed

1 exclusively by operators?

2 MR. MITCHELL: Yes.

3 MR. TREMAINE: Okay. Do you understand
4 that injection wells fall under part 1(E) of the New
5 Mexico Administrative Code?

6 MR. MITCHELL: I'm not familiar with
7 the code, but --

8 MR. TREMAINE: Let me, I'll rephrase.
9 I'm not trying to -- I that was poorly phrased.
10 Sorry. I'm not trying to ask you to make a legal
11 conclusion.

12 But is it consistent with your
13 understanding that injection wells -- so specifically
14 produce water, salt water disposal wells -- require an
15 underground injection control permit from OCD?

16 MR. MITCHELL: Yes.

17 MR. TREMAINE: Okay. And is it your
18 contention in making your testimony that UIC-permitted
19 wells are bonded in the same way as production wells
20 in New Mexico?

21 MR. MITCHELL: I'm not sure. We -- we
22 do have separate bonds for our -- our injection wells,
23 then -- we have -- we have bonds for our injection
24 wells. So I'm not sure if that's the question.

25 MR. TREMAINE: All right. You have

1 separate bonds for your injection wells because the
2 bonding for injection wells is required under the
3 specific permit for each injection well; correct?

4 MR. MITCHELL: I'm not -- I'm not sure.
5 I -- I'd have to talk to our regulatory folks about
6 that.

7 MR. TREMAINE: Would that be something
8 that you would want to check in on before continuing
9 with the assertion that your injection wells are going
10 to require single well financial assurance of
11 \$150,000?

12 MR. MITCHELL: I don't think it
13 meaningfully impacts --

14 MR. CLOUTIER: Objection.
15 Mischaracterizes the testimony.

16 We did not count the injection wells in
17 the count of potential marginal wells. The point of
18 mentioning it was different.

19 THE HEARING OFFICER: All right.

20 MR. TREMAINE: I'm pretty sure he just
21 testified that they were concerned that those would
22 fall into the marginal well category.

23 THE HEARING OFFICER: That's what I
24 thought.

25 MR. CLOUTIER: I think what the concern

1 that was expressed was that the exhibit contained zero
2 BOE and zero production days and might have been
3 counted as, for instance, he doesn't know this, but
4 might have been counted by Mr. Powell in the wells
5 that he still considered non-beneficial use.

6 That was the purpose. He testified as
7 to 26 marginal wells, which is separate and apart from
8 the saltwater disposal wells.

9 THE HEARING OFFICER: I do remember he
10 said zero BOE.

11 MR. TREMAINE: Okay. Well, I'll let
12 the record reflect what the record reflects. I have
13 no further questions for Mr. Mitchell. Thank you very
14 much.

15 THE HEARING OFFICER: All right. Thank
16 you, Mr. Tremaine.

17 Mr. Moore?

18 MR. BIERNOFF: Madam Hearing Officer,
19 it's actually going to be me, if I --

20 THE HEARING OFFICER: Oh, thank you.

21 MR. BIERNOFF: If we're next.

22 THE HEARING OFFICER: Mr. Biernoff.
23 Thank you.

24 MR. BIERNOFF: Thank you, Madam Hearing
25 Officer.

1 CROSS EXAMINATION

2 BY MR. BIERNOFF:

3 MR. BIERNOFF: Good afternoon,
4 Mr. Mitchell. I think we've had a little bit of
5 e.mail contact, but I don't think we've met before.

6 Do I have this right? In your direct,
7 did you testify that Longfellow would need to bond in
8 the amount of around three and a half million dollars
9 for marginal wells if the proposed rule was
10 implemented, was promulgated?

11 MR. MITCHELL: As I understand it, yes.

12 MR. BIERNOFF: Okay. And how many
13 wells are in that category? How many Longfellow wells
14 are in that category?

15 MR. MITCHELL: We -- we have about 20
16 wells that would fall into that category. And so the
17 three and a half million is an estimate at 150,000 per
18 well times 20 wells is -- is how I got to that number.

19 MR. BIERNOFF: Has Longfellow studied
20 or determined the present day plugging and remediation
21 site cleanup costs for those 20 or so marginal wells?

22 MR. MITCHELL: We -- we definitely --
23 well, we recently P&A a well, so we -- our -- our P&A
24 costs are fairly fresh associated with -- with one of
25 these type of wells. These are shallow wells; they're

1 about 4,000 feet true vertical depth.

2 And that cost us, I think, just around
3 \$30,000 to plug maybe a little bit less. Now the
4 remediation aspect, I -- I don't have an estimate on
5 that.

6 MR. BIERNOFF: Okay. So Longfellow
7 doesn't know as of today what it would cost to do
8 surface cleanup at the sites of those 20 or so
9 marginal wells. Is that right?

10 MR. CLOUTIER: Objection. Mr. Mitchell
11 is not being tendered as a representative of
12 Longfellow or all its corporate knowledge.

13 MR. BIERNOFF: Well, that's fair
14 enough, Madam Hearing Officer, I can ask the witness
15 about his own personal knowledge. We can leave it at
16 that.

17 THE HEARING OFFICER: All right, go
18 ahead.

19 BY MR. BIERNOFF:

20 MR. BIERNOFF: Mr. Mitchell, do you
21 personally know what it would cost for Longfellow to
22 conduct surface cleanup reclamation/remediation at the
23 site of the 20 or so marginal wells?

24 MR. MITCHELL: We have not remediated
25 any of the vertical wells that we own in -- in New

1 Mexico.

2 MR. BIERNOFF: And have you studied or
3 are you aware of any study by anyone else at
4 Longfellow of what those costs would be even though
5 you haven't done the work yet?

6 MR. MITCHELL: No.

7 MR. BIERNOFF: Okay. Do I have this
8 right, Mr. Mitchell? Did you testify that if this
9 proposed rule were promulgated, that Longfellow would
10 need to bond in the amount of around 15 million for
11 all of its wells in New Mexico?

12 MR. MITCHELL: So I think the way the
13 question was asked was if I had to bond a hundred
14 percent of our wells, how much would it be? And if we
15 have approximately a hundred wells producing today,
16 that would be at \$150,000. Well, that's where the 15
17 million came from.

18 MR. BIERNOFF: Okay. And has
19 Longfellow, to your knowledge, determined what it
20 would cost in today's dollars for Longfellow to plug
21 all of the wells that it operates in the State of New
22 Mexico?

23 MR. MITCHELL: No.

24 MR. BIERNOFF: Okay. And has
25 Longfellow studied or determined, to your knowledge,

1 what it would cost for Longfellow to conduct surface
2 cleanup at the site of all of its wells in the State
3 of New Mexico?

4 MR. MITCHELL: No.

5 MR. BIERNOFF: Thank you, sir.

6 Pass the witness.

7 THE HEARING OFFICER: Thank you,
8 Mr. Biernoff.

9 I don't believe we have Ms. Nanasi.
10 Mr. Maxwell, do you have questions of
11 Mr. Mitchell?

12 MR. MAXWELL: No questions. Thank you.

13 THE HEARING OFFICER: Thank you.

14 Mr. Rankin, any questions?

15 MR. RANKIN: No questions to the
16 witness. Thank you, Madam Hearing Officer.

17 THE HEARING OFFICER: All right.

18 EOG is monitoring.

19 Mr. Suazo, do you have questions?

20 MR. SUAZO: No questions from NMOGA for
21 this witness.

22 THE HEARING OFFICER: All right.

23 Mr. Cloutier, do you have any redirect?

24 MR. CLOUTIER: I do not, Madam Hearing
25 Officer, and I request that Mr. Mitchell be excused.

1 THE HEARING OFFICER: Commissioners
2 might --

3 MR. CLOUTIER: Oh, I apologize. I
4 apologize, Commissioners.

5 Mr. Mitchell, the commissioners may
6 have some questions for you. They'll probably be the
7 smartest questions you get.

8 THE HEARING OFFICER: Commissioner
9 Ampomah.

10 CROSS EXAMINATION

11 BY MR. AMPOMAH:

12 MR. AMPOMAH: Thank you, sir, for your
13 testimony today. I do have few questions for you.

14 So you were asked about the bond. And
15 let's say how much you have to put, if, let's say, you
16 have 20 wells in the current definition of the
17 marginal wells.

18 And you said 3.5 million bond that will
19 be required. And you do have about 26 percent of your
20 wells in marginal category based on the current
21 definition, which will mean that you have to bond all
22 your entire wells to be the tune to \$150 million.

23 Now I want to ask, what if the
24 commission decides to go down to about 30 percent?

25 MR. MITCHELL: I'm sorry -- I'm sorry.

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1 Your -- your volume stopped for a moment after you
2 started going to all of our wells. Could you please
3 repeat?

4 MR. AMPOMAH: Sorry. So all your
5 wells, you will need about \$150 million as you've
6 already testified to. So I'm asking what if the
7 commission -- instead of the 15 percent threshold for
8 operator to put a bond for all the entire wells is
9 reduced to 30 percent.

10 Would that alleviate some of your
11 concerns?

12 MR. MITCHELL: You know, it's difficult
13 to answer that. And -- and the number I gave was 15
14 million, not 150, just for, for clarification.

15 But it's -- it's difficult to
16 understand. First of all, your -- your question was
17 broken up a fair bit, so I apologize if -- if it's
18 possible. Could you rephrase just the -- the short
19 version of the question.

20 MR. AMPOMAH: So your \$150 million
21 required bond estimate is based on the fact that you
22 do have 26 percent of your wells in marginal category.
23 So I'm asking if the commission adapt 30 percent
24 threshold, would that alleviate some of the concerns
25 you have?

1 MR. MITCHELL: Not really. The -- the
2 simple fact of the matter is that as a percentage of
3 total wells, it's -- it's -- it challenges operators
4 because to make decisions that they otherwise would
5 not make.

6 So if I have just whatever number it
7 is, let's just call it 30 percent of my wells are
8 marginal, does that mean I no longer can make new
9 acquisitions for -- for future development of new
10 lands?

11 Because that -- the wells that would
12 come with it would put me, you know, one well over the
13 line -- just as a simple example -- and create 70
14 percent additional bonding requirement. The fact
15 that -- that there's this lever to some and then all,
16 that's generally a very big challenge for us to -- to
17 understand.

18 And it will put us in situations where
19 we're either prematurely plugging wells that have --
20 that have beneficial -- that have production that we
21 can harvest economically just to stay below, you know,
22 otherwise arbitrary threshold to prevent that
23 slingshot of all of your wells. And wells have lots
24 of different uses.

25 I mean, we have wells that we -- like I

1 said, those three wells, and I believe after some --
2 some of the -- the cross-examination those wells were
3 producers that we converted to saltwater disposal
4 wells.

5 And so we're taking something that had
6 nominal value to our -- to our operation in terms of
7 production. We turned them into some -- assets that
8 have huge value to sustaining the new wells that we're
9 drilling and the production and water associated
10 with -- with those wells' production.

11 And if groups are forced to make
12 decisions prematurely to plug in abandoned wells,
13 the -- the beneficial uses associated with not just
14 the remaining production, but also future conversions
15 to uphold recompletions or saltwater disposal.

16 Or if you think about the operations
17 in -- in all of the secondary and tertiary floods in
18 the United States, those are all driven by vertical
19 wells that were primarily producers in their early
20 life that were converted into either water floods or
21 CO2 floods down the road.

22 So those -- those thresholds that
23 create an all -- some or all, those are really the
24 challenge -- one of the challenges we have with --
25 with some of the proposals that are being discussed.

1 MR. AMPOMAH: So was it your testimony
2 that for the surety bond you'll probably be looking at
3 two to three percent of the total cost?

4 MR. MITCHELL: Our current surety rate
5 is 3 percent, but as your total aggregated bonds grow,
6 so does the -- so does the surety bond requirement.

7 So it's uncertain if -- if -- for
8 example, all of our wells need to be bonded, what that
9 rate would look like.

10 The likelihood is it would be -- we
11 would have to post some sort of cash collateral and
12 there would be interest associated with that plus the
13 three percent. So you might be looking at something
14 closer to ten percent.

15 MR. AMPOMAH: Wow. So if -- let's say
16 I zoom in. Based on the current rules, you do have
17 150 million required bond that you have to acquire for
18 all the wealth that you have. So how much are we
19 looking at in terms of the bonding amount that you
20 have to pay for the surety bond?

21 MR. MITCHELL: Yeah. And I do want to
22 bring back -- just -- just to answer your question.
23 To -- to do 150,000 on the a hundred wells would be 15
24 million. So the -- the amount we'd be paying to the
25 surety, and the example I gave, would be about one and

1 a half million dollars a year.

2 MR. AMPOMAH: And you could use that
3 money to plug the wells?

4 MR. MITCHELL: Well, we could use that
5 money for lots of -- lots of things. We -- we use it
6 for -- for either developing new wells or plugging
7 wells as they -- as they move through their productive
8 and useful life.

9 But yeah, that -- that money would be a
10 meaningful reduction in our -- in our capital
11 availability.

12 MR. AMPOMAH: I mean it is interesting
13 though. So from your estimation, who are we helping
14 here? Is it enriching the surety bond companies or, I
15 mean, solving the problem?

16 MR. MITCHELL: I really think -- I
17 really think that the surety bonding companies are
18 going to have a challenge meeting these regulations.

19 We've already seen surety companies
20 pulling back from -- from not only New Mexico
21 specifically, but really the oil and gas space in
22 general as bonding requirements have changed over
23 time.

24 So there's a real possibility that
25 bonds -- the availability of bonding would be

1 restricted to just the very large companies, which
2 would effectively decimate the -- the smaller
3 companies and -- and the mom and pops that are really
4 the local kind of heroes of their -- of the small
5 communities that we operate.

6 So I don't know who the beneficiary
7 would be here, but it would certainly create a real
8 problem for -- the industry at large.

9 MR. AMPOMAH: Thank you for your time,
10 sir.

11 MR. MITCHELL: Thank you.

12 THE HEARING OFFICER:
13 Commissioner Bloom, do you have questions of
14 Mr. Mitchell?

15 MR. BLOOM: I do, Madam Hearing
16 Officer. Thank you.

17 CROSS EXAMINATION
18 BY MR. BLOOM.

19 MR. BLOOM: Mr. Mitchell, good
20 afternoon. Thank you for your time. I represent the
21 land office.

22 Longfellow came by, I think this past
23 spring, and talked to us about some of the things
24 you're doing out in Loco Hills, and I think you told
25 us today that you have taken production out at that

1 development from 200 barrels a day to 6,000 barrels a
2 day now. Is that correct?

3 MR. MITCHELL: Correct. It's probably
4 a little higher than that, but yes.

5 MR. BLOOM: Yeah, so that's -- I think
6 that's a, you know, a nice achievement, and we like to
7 see that on our state trust lands because that money,
8 the royalty revenue from there, benefits our school
9 kids and other beneficiaries.

10 I'm here for the Commissioner of Public
11 Lands, and so I think almost inextricably I see things
12 through that lens at times. I'm also trying to have
13 and having a wider view also.

14 You know, something I've spoken to the
15 legislature about is the bonding gap we have on state
16 trust lands, and that was identified in a 2021 report
17 by the Center for Advanced Research as being \$6
18 billion with a B. And that, that's sizable.

19 I mean, all the money that we've been
20 able to make from oil and gas off of state trust land
21 since statehood is in the land grant permanent fund,
22 and that's about \$35 billion today. And so that
23 bonding gap that's out there could be one sixth of
24 that.

25 You know, on the other side, I was

1 asked to, you know, calculate this based on some
2 questions we got at the legislature about, you know,
3 what kind of income comes in from independents and how
4 will certain activities affect independents.

5 Independents pay royalties, the land
6 office of \$15 million a year out of 2.5 billion. So
7 that's about half of one percent of our royalty income
8 comes from independents. And we have a bonding gap of
9 \$6 billion.

10 So this is what we're trying to
11 negotiate up here. How do we protect the state and
12 the taxpayers and beneficiaries and try to prevent
13 waste, protect the environment, protect public health,
14 water.

15 You, when you see that delta in terms
16 of income to the bonding gap, you know, what are you
17 hoping that the OCC does here?

18 MR. MITCHELL: You know, I'm -- I'm an
19 engineer. It's -- it's not really my place to
20 recommend policy or -- or regulation, and that's not
21 really why I'm here today.

22 It's -- it's a challenging position
23 that you're in, and I understand the need for these
24 discussions, but I'm really here to talk about kind of
25 the operator view and -- and anything that tips into

1 the legal or -- or regulatory recommendations is
2 really outside of my expertise.

3 MR. BLOOM: Well, sir, thank you so
4 much for your time, Mr. Mitchell. Much appreciated.

5 No further questions.

6 THE HEARING OFFICER: Chair Chang?

7 MR. CHANG: Thank you for your time,
8 but no. No questions from me. Thank you.

9 THE HEARING OFFICER: All right. Any
10 reason not to excuse Mr. Mitchell? No?

11 Thank you very much, Mr. Mitchell, for
12 your testimony.

13 MR. MITCHELL: Thank you very much.

14 MR. CLOUTIER: And, Madam Hearing
15 Officer, Ms. Tripp's prepared to call Mr. Hanagan.
16 And our next witness, Mr. Sharpe, is not available
17 till three. So suggest we take a break either before
18 or after Mr. Hanagan. Whatever your pleasure.

19 THE HEARING OFFICER: All right, let's
20 take ten minutes now. I just realized it's 2:25,
21 so --

22 MR. CLOUTIER: Thank you, Madam Hearing
23 Officer.

24 THE HEARING OFFICER: We'll be back at
25 2:35.

1 (Off the record.)

2 THE HEARING OFFICER: Okay, I see
3 Ms. Tripp on the screen.

4 MS. TRIPP: Yes, Madam Hearing Officer.

5 THE HEARING OFFICER: And I --

6 MS. TRIPP: Ms. Apodaca is in the
7 process of --

8 THE HEARING OFFICER: Bringing up
9 Mr. Hanagan?

10 MS. TRIPP: Yes, ma'am.

11 THE HEARING OFFICER: All righty.

12 Mr. Hanagan, can you unmute yourself?
13 Maybe even turn on your camera?

14 MR. HANAGAN: You got me?

15 THE HEARING OFFICER: Yes, yes. Thank
16 you. Loud and clear. Would you spell your first and
17 last name for the transcript, please?

18 MR. HANAGAN: It's Mike, M-I-K-E,
19 Hanagan, H-A-N-A-G-A-N.

20 WHEREUPON,

21 MIKE HANAGAN,
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: Thank you.

1 Go ahead, Ms. Tripp.

2 DIRECT EXAMINATION

3 BY MS. TRIPP:

4 MS. TRIPP: All right now. Thank you,
5 Mr. Hanagan. We've met a couple times. You know who
6 I am, and you've already spelled your name, but can
7 you let us -- let me restart that.

8 You submitted some rebuttal testimony
9 in this rulemaking. Do you recall that?

10 MR. HANAGAN: Yes, ma'am.

11 MS. TRIPP: Okay. And do you have any
12 changes or adopt it as is?

13 MR. HANAGAN: I believe what will adopt
14 it as is.

15 MS. TRIPP: Okay. And can you
16 introduce yourself to the commission in terms of your
17 personal background, education?

18 MR. HANAGAN: I graduated with a degree
19 in geology from Fort Lewis College in Durango in 1983.
20 I've been in employed either as an employee or an
21 owner in the oil and gas industry in New Mexico since
22 then.

23 MS. TRIPP: And what companies have you
24 worked for over your career?

25 MR. HANAGAN: I started with Marbob

1 Energy with -- was with them quite a while. Then I --
2 I went in with Manzano Oil Corporation and then became
3 an owner of Manzano Oil Corporation.

4 And then -- then we started Manzano,
5 LLC and then several different Manzano Energy
6 Corporation entities that were private-equity-backed
7 entities.

8 MS. TRIPP: And what is Manzano LLC?
9 How big is it? How many employees? What do y'all do
10 in New Mexico?

11 MR. HANAGAN: We're an operating
12 company. We -- we have 11 employees that are directly
13 employed by us. And then, you know, numerous -- we
14 utilize third party contractors for -- for lots of
15 stuff.

16 MS. TRIPP: And so in terms of the kind
17 of drilling and exploration that Manzano's been
18 involved with, can you elaborate a bit on that?

19 MR. HANAGAN: Yeah, you know, currently
20 for -- since 2008, we -- we've drilled almost entirely
21 horizontal wells, excluding a couple of disposal wells
22 and maybe two at the most vertical wells.

23 But almost all horizontal wells drilled
24 in for in -- in New Mexico and West Texas, San Andres
25 Formation, Penn Shale Canyon, Shale, lots of Bone

1 Spring.

2 MS. TRIPP: And those hundred or some
3 wells that you've drilled as a small company, do you
4 operate those from beginning to end or what's the
5 typical transaction like for y'all?

6 MR. HANAGAN: Yeah, we have, you know,
7 especially since 2000 -- 2008, we've -- we've been
8 backed by private equity capital and -- and so we --
9 we -- Manzano is the operator of those wells.

10 We'll put those deals together, put
11 land together, then we'll drill some wells to de-risk
12 them, and Manzano will operate all those.

13 Then -- then we'll -- we'll sell it to
14 another -- to a larger company. So -- so we'll
15 operate from start through completion and production,
16 but we'll -- we normally do not develop the fields.

17 MS. TRIPP: Because that development of
18 the fields after you de-risk, that occurs with a
19 larger operator. Is that right?

20 MR. HANAGAN: Correct.

21 MS. TRIPP: Okay. So we've heard a
22 lot -- and your rebuttal testimony was responding some
23 of the points that Mr. Purvis made, and we've heard a
24 lot about how 97 percent of production is in the top
25 10 percent of operators. And so do you have an

1 opinion about that figure?

2 MR. HANAGAN: No, that's true. But a
3 lot of those operators got their production from this
4 10 percent that -- that found it and then sold it to
5 them.

6 MS. TRIPP: And in addition to drilling
7 wells, has Manzano plugged wells over its 40-year
8 history in New Mexico?

9 MR. HANAGAN: Yeah, I -- I believe we
10 plugged 76 total.

11 MS. TRIPP: And does Manzano have -- I
12 think you mentioned Texas. Can you talk a little bit
13 about your operations in Texas?

14 MR. HANAGAN: Yeah, we're -- we're
15 operating more and more all the time over in Texas
16 and -- and we currently operate about 80 wells over
17 there. We'll plug three to five wells a year there.
18 And those are all horizontal wells, either Spraberry
19 or San Andres.

20 MS. TRIPP: And so when Mr. Purvis says
21 there's no such thing as a small company drilling
22 shale wells, well, Manzano is a small company, and you
23 guys are drilling horizontal wells. Is that right?

24 MR. HANAGAN: That -- that's correct.
25 You don't get much smaller, and that's all we drill.

1 MS. TRIPP: And in your perspective --
2 in your experience in New Mexico, the effects of this
3 proposed rule, are you already starting to see that in
4 the industry?

5 MR. HANAGAN: Yeah, I see it not only
6 at my company, but I see it at -- at in a -- in
7 properties that have been placed up for sale on the
8 market.

9 I know of two within the last two
10 months that have not closed because of the -- it's not
11 just because of the financial surety.

12 It -- it's the -- the lack of -- of
13 confidence in -- in what it's going to be. That -- to
14 assure to -- to what they're going to have to bond
15 when we -- if we bought some of these properties.

16 MS. TRIPP: Would you consider, well,
17 let me -- strike that.

18 Another statement that you res
19 responded to Mr. Purvis offered was that the companies
20 who are affected by this rulemaking will be missed the
21 least. But it's my understanding that small operators
22 have a large role in New Mexico. Is that right?

23 MR. HANAGAN: I believe we do. I think
24 we have -- have had -- all during time a -- a huge
25 role in the state and -- and I know most people now

1 apparently think that we will be missed the least, but
2 I would say we won't.

3 MS. TRIPP: And I see you've mentioned
4 that Manzano has gone through a couple iterations with
5 private equity.

6 And so to the extent that this rule was
7 in effect back then when you were taking on those
8 projects, would it have changed the calculus or
9 whether you decided to invest and develop those
10 fields?

11 MR. HANAGAN: Well, it's definitely
12 changed the private equity outlook, although it's
13 coming back now.

14 But -- but since 2008 to 2022, we had
15 four iterations of -- of our private equity company.
16 And they were no longer interested in investing in New
17 Mexico because of the uncertainty -- the regulatory
18 uncertainty.

19 So I -- I mean that was a -- we've
20 moved on and drilled projects since then and all -- it
21 didn't put an end to us, but it -- it put an end to
22 them investing in this state.

23 MS. TRIPP: And I, you know, we've
24 heard a fair bit of testimony about "speculativeness"
25 and about risk during the rulemaking. Mr. Purvis

1 offered the opinion that that small operators are
2 just -- they're gambling. And does Manzano gamble
3 when you decide to develop a project?

4 MR. HANAGAN: Of course we do. That's
5 something that's been the history of the oil business.

6 MS. TRIPP: But that gamble's not based
7 on guesswork. You're relying on your experience and
8 on information.

9 MR. HANAGAN: Oh yeah, it's a -- it's
10 an educated guess with the -- and we put it 3D science
11 in there -- 3D seismic. I mean, we -- we put a lot
12 into it. But anybody tells you that this business
13 isn't a gamble, it's -- it's a -- it is.

14 MS. TRIPP: That's fair. And I -- for
15 a second to talk a little bit more about the bonding.
16 How is Manzano currently bonded within the state?

17 MR. HANAGAN: With cash bonds.

18 MS. TRIPP: And, you know, how many
19 bonds are you currently required to carry and are
20 there any changes that are also affecting your
21 operations?

22 MR. HANAGAN: Well, we -- we have the
23 state bond, OCD plugging bond, then we have a -- a
24 bond with the State Land Office, and then we have a
25 bond with the -- the BLM.

1 And all of these, you know, of course
2 there's this rulemaking and the State Land Office sent
3 out proposals last week or week before last about
4 increasing the bond to \$150,000 per lease. I can't
5 remember the exact specifics of it.

6 And then we also got notice within the
7 last month that the -- our BLM bond would go up to
8 \$500,000.

9 MS. TRIPP: And so from a larger
10 perspective, based on your experience in New Mexico,
11 and as a resident of New Mexico, what do you predict
12 to be the ultimate outcome of adopting these rules?

13 MR. HANAGAN: Well, I know they're
14 going to achieve what it is that they're trying to
15 achieve, but they're going to destroy a lot in the --
16 in the process of doing it. And I'm not even sure
17 it's going to achieve what they're trying to do.

18 MR. BIERNOFF: I'm sorry to interrupt,
19 Madam Hearing Officer, I apologize for the delay. I
20 was having trouble with my buttons here.

21 I'm going to object to the question and
22 ask that the answer be stricken because it clearly
23 calls for speculation on the part of the witness,
24 which is something that the industry advocates have
25 made a big deal about in this proceeding.

1 THE HEARING OFFICER: Ms. Tripp, there
2 have been numerous objections about inviting
3 speculation.

4 MS. TRIPP: Yes, Madam Hearing Officer,
5 but I'm asking him on, based on his experience in
6 terms of operations within New Mexico, if single-well
7 bonding is applied at \$150,000, how will that affect
8 Manzano's operations. And I can restate the question
9 to follow that.

10 THE HEARING OFFICER: All right. Or
11 perhaps lay a better foundation for his ability to
12 answer that question without speculating.

13 BY MS. TRIPP:

14 MS. TRIPP: Absolutely. So,
15 Mr. Hanagan, I think we covered that you've worked in
16 the oil and gas industry for the last 40 years; is
17 that right?

18 MR. HANAGAN: Yes, ma'am.

19 MS. TRIPP: Okay. And then through
20 those 40 years, have you seen changes in regulations?

21 MR. HANAGAN: Yes, ma'am.

22 MS. TRIPP: Okay. And have you
23 experienced the effects of those changes of
24 regulations?

25 MR. HANAGAN: Yes, ma'am.

1 MS. TRIPP: Okay. And to the extent
2 that Manzano would need to bond either marginal wells
3 at 150,000 or plug wells because they're categorized
4 as no beneficial use, how would that affect your
5 operations?

6 MR. HANAGAN: Under our current well
7 count, it wouldn't. It -- it -- because I don't have
8 any marginal wells, so I -- I have a minimal number of
9 wells right now.

10 MS. TRIPP: I understand that. At a
11 different time when Manzano was operating and you had
12 more wells, would it change your analysis?

13 MR. HANAGAN: Yes, ma'am.

14 MS. TRIPP: Okay. And how would it
15 change?

16 MR. HANAGAN: It in all likelihood
17 would drive me -- it -- it depends on which property
18 it was, but it -- it has the potential of driving me
19 out of the state.

20 MS. TRIPP: Okay. And I think the last
21 piece with your testimony that responded to the Oil
22 and Conservation Division, Mr. Justin Wrinkle, but I
23 don't believe we need to revisit that based on the way
24 the rulemaking's developed.

25 But, you know, is it still your opinion

1 that operators categorize expenses differently,
2 whether it's CapEx or OpEx?

3 MR. HANAGAN: Yes, ma'am.

4 MS. TRIPP: Okay. I have no further
5 questions.

6 I'll turn the witness over.

7 THE HEARING OFFICER: All right. Thank
8 you, Ms. Tripp.

9 Ms. Fox or Mr. Tisdel?

10 MR. TISDEL: Yeah, just a few
11 questions, Madam Hearing Officer.

12 CROSS EXAMINATION

13 BY MR. TISDEL:

14 MR. TISDEL: Hello, Mr. Hanagan. My
15 name's Kyle Tisdel. I'm an attorney with the Western
16 Environmental Law Center and represent the applicants
17 in this proceeding. How are you this afternoon?

18 MR. HANAGAN: I'm good, thank you.

19 MR. TISDEL: Thanks. Just a few very
20 short questions. Ms. Tripp was asking you -- or
21 referencing your 40-year history as an operator in the
22 state.

23 And she also recognized that over those
24 four years you have experienced several instances or
25 many instances of new rules or regulations that have

1 taken place over the course of that 40 years; correct?

2 MR. HANAGAN: Correct.

3 MR. TISDEL: And in your experience as
4 an operator, have you always been able to adjust to
5 those changes in rules?

6 MR. HANAGAN: For the most part.

7 MR. TISDEL: So you would characterize
8 your operations as being in compliance with OCD rules
9 as they have adjusted over the last 40 years?

10 MS. TRIPP: Madam Hearing Officer, I'll
11 object. I I did not ask whether Manzano was able to
12 comply with regulations --

13 MR. TISDEL: No, that was my question,
14 Ms. Tripp. Yeah, that was my question, Ms. Tripp.

15 MS. TRIPP: It's outside the scope of
16 the rebuttal testimony that was offered. That's my
17 objection.

18 THE HEARING OFFICER: All right,
19 Mr. Tisdell, how is it related?

20 MR. TISDEL: He's testified that over
21 the course of his 40 years of operating in New Mexico,
22 he's experienced many rule changes. And I'm asking
23 whether he has been able to comply with those rule
24 changes.

25 THE HEARING OFFICER: All right. Go

1 ahead.

2 BY MR. TISDEL:

3 MR. TISDEL: Would you like me to
4 restate the question, Mr. Hanagan?

5 MR. HANAGAN: No, no. I -- I believe
6 I've come into compliance with all of them. Some were
7 harder than others.

8 MR. TISDEL: Okay. And you also said
9 that you have currently no wells in marginal status.
10 Is that correct?

11 MR. HANAGAN: Correct.

12 MR. TISDEL: And so therefore you have
13 no wells also that would be presumed not to be in
14 beneficial use under the proposed rules?

15 MR. HANAGAN: Correct.

16 MR. TISDEL: Okay. Those are all the
17 questions I have.

18 THE HEARING OFFICER: Okay. Thank you,
19 Mr. Tisdell.

20 Mr. Tremaine or Mr. Hall?

21 MR. TREMAINE: Mr. Tremaine. Thank
22 you, Madam Hearing Officer.

23 //

24 //

25 CROSS EXAMINATION

1 BY MR. TREMAINE:

2 MR. TREMAINE: Good afternoon,
3 Mr. Hanagan. My name is Jesse Tremaine. I'm the
4 legal director for the Oil Conservation Division, and
5 we very much appreciate your time today.

6 During your testimony, I believe you
7 had indicated that Manzano has been backed by private
8 equity since 2008; correct?

9 MR. HANAGAN: Correct.

10 MR. TREMAINE: Okay. When I look at
11 your operator file, it looks like you have about five
12 wells now, and those wells are either in new status or
13 they've been more recently drilled and brought into
14 production. Is that a fair characterization of your
15 portfolio?

16 MR. HANAGAN: As of now in New Mexico,
17 I have two wells. I have three wells total on record.
18 One of them is a marginal well, and two of them are
19 new wells.

20 MR. TREMAINE: Okay. In your testimony
21 you indicated that you were operating the Vince BGH
22 number 1, and during that period of time you brought
23 two new horizontal wells online, the Rag Mama 30-19
24 Fee 1, and then Sodbuster 21 Fee number 4. Is that
25 accurate?

1 MR. HANAGAN: I am no longer operating
2 those, but, at the time, I operated those.

3 MR. TREMAINE: Right. Okay. You
4 drilled them, and you spud and completed those wells;
5 correct?

6 MR. HANAGAN: Yes. The -- the Rag Mama
7 and the Sodbuster. The -- I did not drill the vents.

8 MR. TREMAINE: Right. Thank you.
9 Thank you. Are you able to recall how long the
10 horizontals on the Rag Mama and the Sodbuster are?

11 MR. HANAGAN: They're both one mile
12 laterals. One -- one might be a mile and a quarter.

13 MR. TREMAINE: Mile or mile and a
14 quarter. Okay. Do you recall what the drilling and
15 completion costs were for the Rag Mama?

16 MR. HANAGAN: Yeah, the Rag Mama was a
17 little over 4 million. It was a little more than the
18 Sodbuster.

19 MR. TREMAINE: So the Sodbuster was a
20 little less than 4 million? Or how would you
21 characterize that?

22 MR. HANAGAN: Correct.

23 MR. TREMAINE: Okay.

24 MR. HANAGAN: Yeah, I'm -- I'm --
25 that's just roughly on both of them within a million

1 dollars.

2 MR. TREMAINE: Okay. The couple
3 questions on the Vince BGH number 1. I pulled up the
4 well file just to kind of clarify here, and I'm going
5 to -- looks like we've gotten kicked out. One moment.
6 I'm going to join, and then when that works, okay, I'm
7 going to share my screen.

8 All right, Mr. Hanagan, I'm going to --
9 allow me to scroll up here. Don't want to start in
10 the middle. All right.

11 This is the OCD permitting well file
12 for the Vince BGH number 1. So just for the record,
13 did you transfer this well from Manzano to Ad Astra
14 Resources?

15 MR. HANAGAN: I did.

16 MR. TREMAINE: Okay. Really just
17 making sure we're on the same page here. I want to
18 jump down to -- I'm clicking on the production here.

19 And when we look at the production
20 history for this well, if you look in the production
21 section, we see oil, gas, water, and days reported;
22 right?

23 And you had indicated in your testimony
24 that there were approximately five years where this
25 well would've fallen into a marginal well status. Do

1 you agree?

2 MR. HANAGAN: I did testify to that.

3 MR. TREMAINE: Okay. And then I just
4 want to draw your attention to 2011 and 2012.

5 So in 2011, it looks like you produced
6 297 barrels of oil. I'll just skip over gas. And you
7 produced for 80 days. But in 2012 you produced 2,999
8 barrels of oil and produced for 252 days.

9 So from 2011 to 2012, you saw a
10 significant bump in production on that well. What
11 happened with the well? Or what did you do to the
12 well to increase the production in that time period?

13 MS. TRIPP: Madam Hearing Officer, I'll
14 object to the extent that Mr. Hanagan can remember
15 what one well did 13 years ago. I'm happy to have him
16 answer, but certainly we didn't examine him or proffer
17 this in our rebuttal testimony.

18 THE HEARING OFFICER: Right, but he
19 testified about its status.

20 And, Mr. Hanagan, if you don't
21 remember, you can say you don't remember, but if you
22 remember, please answer.

23 MR. HANAGAN: I don't remember, but I
24 didn't even own the well at that time. It was
25 operated by Yates Petroleum till late in the 2000

1 teens, if not the twenties. So I -- I wasn't even the
2 operator then. So I have no knowledge of that.

3 BY MR. TREMAINE:

4 MR. TREMAINE: Okay. So, Mr. Hanagan,
5 I'll ask a different question. So, to clarify, are
6 you saying that the well that you operated at a later
7 date would've been in marginal status while it was
8 operated by a different operator?

9 MR. HANAGAN: I think so.

10 MR. TREMAINE: Okay. In your
11 experience, operating, drilling, completing and
12 producing numerous wells, would you expect a well to
13 go from 297 barrels of oil in a year to almost 3000
14 barrels in a year without performing some sort of work
15 on that well?

16 MR. HANAGAN: I would not.

17 MS. TRIPP: Madam Hearing Officer,
18 that's the same objection for speculation that's
19 already been raised.

20 MR. TREMAINE: I think there's ample
21 foundation for this question, but I'm moving on.

22 THE HEARING OFFICER: All right. Thank
23 you, Mr. Tremaine.

24 //

25 BY MR. TREMAINE:

1 MR. TREMAINE: All right. So,
2 Mr. Hanagan, later on, we see that in 2022, this well
3 fell down to less than a thousand BOE -- actually, in
4 2021, sorry -- fell down to less than 2,000 -- 1,000
5 BOE. And you reported zero days.

6 And it remained below that threshold
7 for the remainder of that well's active life; right?
8 Did you own or operate the well during this period of
9 time in 2021 through 2025?

10 MR. HANAGAN: Yes.

11 MR. TREMAINE: Okay. Did you
12 ultimately perform the plugging on that well or did Ad
13 Astra plug that well?

14 MR. HANAGAN: That well hasn't been
15 plugged. That was the whole purpose of that
16 testimony. That well was converted to an injection
17 well and is a pressure maintenance well at this time.
18 The whole purpose --

19 MR. TREMAINE: I see.

20 MR. HANAGAN: -- was to show as a
21 use -- of a beneficial use of a well that had no
22 value.

23 MR. TREMAINE: I see. Thank you very
24 much for that clarification. So in 2021, that was --
25 okay -- that's the fifth year you were referring to.

1 So in 2021 that well would've fallen into the marginal
2 well category; correct?

3 MR. HANAGAN: Correct.

4 MR. TREMAINE: Okay. And then it was
5 converted to injection. So do you agree that when it
6 was converted to injection, it would no longer fall
7 into the marginal well category?

8 MR. HANAGAN: I don't know.

9 MR. TREMAINE: Okay.

10 MR. HANAGAN: I don't know. I don't
11 know what category it falls into.

12 MR. TREMAINE: Do you agree that this
13 well -- if you have a well in this type of posture or,
14 you know, production situation, and that you as a, you
15 know, oil and gas developer, if you're going to do
16 some sort of -- you have a plan for that well, that
17 you can apply to the division to put that well into
18 approved temporary abandonment?

19 MR. HANAGAN: Do I know that you can do
20 that?

21 MR. TREMAINE: Yes.

22 MR. HANAGAN: Yes.

23 MR. TREMAINE: Okay. So if you as an
24 operator are looking at a well that's dropping off
25 production, and you want to do something with the well

1 or you want to convert it to injection, you have
2 viable options available to you to keep that well out
3 of marginal status, don't you?

4 MR. HANAGAN: You may. I -- you don't
5 always.

6 MR. TREMAINE: Okay. I did.

7 MR. HANAGAN: In this case.

8 MR. TREMAINE: So, Mr. Hanagan, you
9 just testified that you operated this well in 2022 at
10 the time it was converted. Was there something
11 mechanically going on with that well that would've
12 prevented you in 2022 from simply producing that well
13 for more than 180 days?

14 MR. HANAGAN: Well, I -- I wasn't
15 making any money producing whatever I was making at
16 that time.

17 MR. TREMAINE: Okay. So you decided
18 for business reasons to produce that well for less
19 than 180 days during 2022?

20 MS. TRIPP: Objection. I believe that
21 misstates his testimony so far.

22 MR. TREMAINE: All right, I'll move on
23 and pass the witness.

24 Thank you, Madam Hearing Officer.

25 THE HEARING OFFICER: All right. Thank

1 you, Mr. Tremaine.

2 Mr. Biernoff, do you have questions of
3 Mr. Hanagan?

4 MR. BIERNOFF: Yes, I do, Your Honor --
5 Madam Hearing Officer. Thank you. I'm just trying to
6 get the camera back on, so thanks for bearing with me.

7 CROSS EXAMINATION

8 BY MR. BIERNOFF:

9 MR. BIERNOFF: Good afternoon,
10 Mr. Hanagan. I'm Ari Biernoff. I'm an attorney for
11 the State Land Office and Commissioner of Public
12 Lands. I have a few questions for you.

13 You established with Mr. Tremaine, the
14 prior attorney who was asking you questions, that
15 Manzano operates -- I think it's five wells -- in the
16 state of New Mexico. Is that right?

17 MR. HANAGAN: No, I stated it's three.

18 MR. BIERNOFF: Oh, it's three. Okay.
19 I inflated it by accident. So you're operating three
20 wells now, and I think you testified in response to
21 one of Ms. Tripp's questions that Manzano has plugged
22 something around 70 wells, maybe more. Is that right?

23 MR. HANAGAN: I -- I believe we
24 identified 76. Somewhere.

25 MR. BIERNOFF: Seventy-six wells.

1 Okay. And so does Manzano -- is it fair to say that
2 Manzano has a smaller operational footprint in New
3 Mexico than it did in the past?

4 MR. HANAGAN: Definitely.

5 MR. BIERNOFF: Okay. And you are not
6 taking the position that this proposed rule -- which
7 hasn't been adopted, is just being considered --
8 you're not taking the position that this rule is what
9 has shrunk Manzano's business, are you?

10 MR. HANAGAN: It is a large -- this
11 rule's been talked about for well over a year. And it
12 is a -- a big reason that I'm --

13 MR. BIERNOFF: It is?

14 MR. HANAGAN: It -- it is.

15 MR. BIERNOFF: Okay. Well, let's
16 explore that a little bit. A year ago when this rule
17 was first being talked about, how many wells was
18 Manzano operating in New Mexico?

19 MR. HANAGAN: Probably 25.

20 MR. BIERNOFF: Okay. And is it your
21 testimony that because of the possibility of this rule
22 being introduced, being petitioned, possibly being
23 promulgated in some form, that that is why Manzano got
24 rid of 22 of the wells that it used to operate a year
25 ago?

1 MR. HANAGAN: That's not my testimony.
2 My testimony is that the regulatory environment in New
3 Mexico has not -- has made it conducive to do business
4 elsewhere.

5 MR. BIERNOFF: Did you profit from the
6 transfer of any of those approximately 22 or 23 wells
7 that you operated a year ago and don't operate today?

8 MR. HANAGAN: I -- I do not profit from
9 them. I sold them for less than they were making.

10 MR. BIERNOFF: Okay. So you took a
11 loss to get rid of 20 plus wells simply because this
12 rule was being talked about? Is that your testimony?

13 MR. HANAGAN: Again, it was not my
14 testimony. And it was not just this rule. It's the
15 overall regulatory environment in New Mexico towards
16 the oil and gas industry that's just made it more
17 conducive and profitable to go elsewhere.

18 MR. BIERNOFF: Mr. Hanagan, you
19 mentioned in your direct testimony that -- I think you
20 said there were two transactions that you knew about.

21 And I wasn't clear on whether those
22 were Manzano involved or not, that there were two
23 transactions that didn't close because of the specter
24 of this rule. Did I get that right?

25 MR. HANAGAN: It -- it was because of

1 the uncertainty of total financial assurance and --
2 and the cost of transferring what it was going to cost
3 to transfer a lot of those wells in there.

4 And then how many of those were going
5 to -- would fall under this rule. I -- I -- I'm aware
6 of two transactions that did not close.

7 MR. BIERNOFF: And were those
8 transactions that involved Manzano as a party?

9 MR. HANAGAN: They were not.

10 MR. BIERNOFF: Who did they involve?
11 What transactions were they?

12 MR. HANAGAN: I can't. I -- I was
13 under a confidentiality agreement when I reviewed.

14 MR. BIERNOFF: Madam Hearing Officer.
15 I'm going to ask that Mr. Hanagan's testimony about
16 undisclosed, unspecified transactions be disregarded.
17 There's no reliability here if we don't get details on
18 what these supposed transactions were.

19 THE HEARING OFFICER: All right, thank
20 you, Mr. Biernoff. I believe the commission can
21 certainly consider Mr. Hanagan's testimony and give it
22 the weight that is appropriate to give it. So I'm not
23 going to dismiss it, but they'll certainly be advised
24 as to weight.

25 BY MR. BIERNOFF:

1 MR. BIERNOFF: Mr. Hanagan, are you
2 involved in an ownership or management capacity, an
3 entity called Hanagan and Hanagan?

4 MR. HANAGAN: I -- well, indirectly.
5 It -- it was dissolved in back in the sixties or
6 seventies.

7 MR. BIERNOFF: Okay, so Hanagan and
8 Hanagan, that entity that was dissolved in the sixties
9 or seventies, that doesn't have any ongoing commercial
10 interest as far as you know?

11 MR. HANAGAN: No, it was owned by my
12 dad and my uncle. And they never did business, and
13 they're both dead, and they did not do any business
14 under Hanagan and Hanagan since, I think, the late
15 sixties, but without a doubt the last -- the late
16 seventies.

17 MR. BIERNOFF: Okay. And what about
18 Hanagan Petroleum Corporation? Is that an entity that
19 you're involved with in an ownership or management
20 capacity?

21 MS. TRIPP: Madam Hearing Officer, I'm
22 going to object to this line of questioning.
23 Mr. Hanagan's here to testify about his role with
24 Manzano LLC and his personal knowledge and
25 experiencing industry.

1 We have haven't examined or attached
2 credibility of witnesses with any other witness that's
3 appeared in this rulemaking. I think it's improper in
4 this venue.

5 MR. BIERNOFF: Madam Hearing Officer,
6 there's nothing improper about determining whether
7 this witness is involved, not only in the business
8 affairs of the company that Ms. Tripp cherry-picked to
9 have him talk about, but also in other entities that
10 he may or may or may not be involved in.

11 If he's not involved with them, we can
12 move on. But if he is involved with them, the
13 compliance problems, including failure to bond that
14 those companies have experienced is a suitable line of
15 inquiry.

16 THE HEARING OFFICER: I agree,
17 Ms. Tripp.

18 Go ahead, Mr. Biernoff.

19 BY MR. BIERNOFF:

20 MR. BIERNOFF: Mr. Hanagan, I was
21 asking do you have any ownership or management
22 involvement in Hanagan Petroleum Corporation or
23 Hanagan Petroleum Company?

24 MR. HANAGAN: Hanagan Petroleum
25 Corporation, I'm the president of.

1 MR. BIERNOFF: Okay. Okay. And does
2 Hanagan Petroleum operate any wells in New Mexico?

3 MR. HANAGAN: They do not.

4 MR. BIERNOFF: Okay. And so therefore,
5 Hanagan Petroleum has no reason at this point in time
6 to post a bond with the Oil Conservation Division; is
7 that right?

8 MR. HANAGAN: They do not, but I
9 believe they have one.

10 MR. BIERNOFF: Okay. Okay. Thank you
11 very much, Mr. Hanagan.

12 THE HEARING OFFICER: All right. Thank
13 you, Mr. Biernoff.

14 Let's see, don't think we have
15 Ms. Nanasi.

16 Mr. Maxwell, do you have questions?
17 May have stepped away.

18 Mr. Rankin, do you have questions?

19 MR. MAXWELL: No questions, thank you.

20 THE HEARING OFFICER: Okay, thank you,
21 Mr. Maxwell.

22 Mr. Rankin, do you have questions?

23 MR. RANKIN: Madam Hearing Officer, I
24 don't have any questions of Mr. Hanagan. Thank you.

25 THE HEARING OFFICER: Okay.

1 EOG is monitoring.

2 Mr. Suazo, do you have questions?

3 MR. SUAZO: NMOGA has no questions for
4 this witness, Madam Hearing Officer.

5 THE HEARING OFFICER: All right,
6 Ms. Tripp. Do you have redirect?

7 MS. TRIPP: Yes, Madam Hearing Officer.
8 Just one real briefly.

9 REDIRECT EXAMINATION

10 BY MS. TRIPP:

11 So, Mr. Hanagan, Mr. Tremaine from the
12 Oil Conservation Division asked you some questions
13 about the Vents Pressure Maintenance project, and I
14 just thought it was interesting because obviously we
15 cited that as an example of repurposing an old
16 vertical well.

17 But what was the reason to repurpose,
18 and how are you accomplishing that? Because it's not
19 your typical pressure maintenance, water flooding,
20 anything like that.

21 MR. HANAGAN: Yeah, but so that -- that
22 well was definitely uneconomic. The two wells that
23 were associated with it -- the Rag Mama and the
24 Sodbuster -- were both high-water producing wells,
25 high-water cut wells. And their production was

1 decreasing.

2 So it was a way to utilize the -- the
3 vents to both inject the water and -- and maintain the
4 reservoir pressure, which -- which at the hearing
5 before the State OCD on -- on the project, we ended up
6 showing that -- that it did that indeed.

7 MS. TRIPP: And so you've seen that
8 project bear results, and in terms of increased
9 production, better quality for those wells. And in
10 other areas within New Mexico, some companies are
11 using that same approach; is that right?

12 MR. HANAGAN: You know, I -- I can't
13 speak to whether other companies are. I know other
14 companies are using a similar approach to do -- inject
15 their gas when -- when they have a plant go down or
16 something under the new methane rules.

17 You -- you know, you have to -- you'd
18 have to shut in within eight hours. So they have gone
19 to the trouble of converting some wells into gas
20 injection wells where they can put that gas straight
21 into the ground as opposed to shut them in.

22 MS. TRIPP: Okay. All right. Thank
23 you. That's all the questions I have. I really
24 appreciate your time today.

25 MR. HANAGAN: All right. Thanks.

1 THE HEARING OFFICER: Thank you.

2 Thank you, Ms. Tripp.

3 Commissioner Ampomah, do you have
4 questions of Mr. Hanagan?

5 MR. AMPOMAH: No. No, I do not.

6 THE HEARING OFFICER: Commissioner
7 Bloom?

8 MR. BLOOM: Mr. Hanagan, thank you so
9 much for your time today. I do not have any questions
10 for you. Thanks again.

11 THE HEARING OFFICER: Okay. Chair
12 Chang.

13 MR. CHANG: I don't have questions
14 either. Thank you.

15 THE HEARING OFFICER: All right. If
16 there's no reason not to excuse Mr. Hanagan.

17 Thank you very much, Mr. Hanagan.

18 MR. HANAGAN: Okey doke. Thank you.

19 MS. TRIPP: And, Madam Hearing Officer,
20 IPANM's next witness will be Mr. George Sharpe. And I
21 believe he may be on the platform.

22 THE HEARING OFFICER: All right, thank
23 you.

24 MR. SHARPE: And indeed, I am here.

25 THE HEARING OFFICER: Great. Let's

1 see.

2 MR. SHARPE: How do you like my little
3 Christmas tree over there?

4 THE HEARING OFFICER: Yes, we're going
5 to pin you here. Mr. Sharpe, would you spell your
6 first and last name please?

7 MR. SHARPE: G-E-O-R-G-E S-H-A-R-P-E.

8 THE HEARING OFFICER: Thank you.

9 WHEREUPON,

10 GEORGE SHARPE,
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. Go
15 ahead, Ms. Tripp.

16 DIRECT EXAMINATION

17 BY MS. TRIPP:

18 MS. TRIPP: Thank you, Mr. Sharpe. So
19 you've already spelled your name for the commission.
20 You submitted some direct testimony in this
21 rulemaking. Do you recall that?

22 MR. SHARPE: I do.

23 MS. TRIPP: Okay. And do you adopt
24 that testimony today?

25 MR. SHARPE: There is a change. When I

1 initially made that testimony, I made the comment that
2 the majority of Merrion's wells are marginal wells.

3 And the marginal status I was using was
4 kind of an industry standard -- IRS standard. Was not
5 using the a thousand BOE in 180 days. We actually
6 only have two wells that are in that category.

7 MS. TRIPP: Okay. And so to the extent
8 that you have -- there's some testimony you will be
9 correcting it today while you testify in terms of
10 there's two marginal wells, there's --

11 MR. SHARPE: Two wells that are -- that
12 are -- would require the \$150,000 bonding.

13 MS. TRIPP: Thank you. And so can you
14 tell the -- introduce yourself to the commission in
15 terms of -- of your education and experience?

16 MR. SHARPE: I -- born and raised in
17 Farmington, New Mexico. Went to Colorado School of
18 Mines, had a master's in petroleum engineering, worked
19 for Chevron for close to ten years, and in 1990 came
20 to work for Merrion Oil and Gas in Farmington and have
21 worked for Merrion for the last 35 years.

22 I'm the investment manager for Merrion,
23 and I'm an expert in economic analysis and valuations,
24 primarily.

25 MS. TRIPP: And then can -- thank you.

1 Can you explain a bit about Merrion Oil and Gas and
2 their history with the state?

3 MR. SHARPE: Sure. J. Greg Merrion
4 started -- actually moved from Midland to Farmington
5 in 1960 and mortgaged his house and drilled -- drilled
6 a well on some family owned minerals and luckily it
7 hit.

8 Through the years he teamed up with
9 Robert Bayless. Robert L. Bayless. They were Merrion
10 and Bayless for many, many years. And -- and
11 eventually grew into Merrion Oil and Gas.

12 Merrion Oil and Gas, Merrion and
13 Bayless, Merrion Oil and Gas grew primarily through
14 the acquisition of marginal wells for major companies.
15 They did some drilling, but they would -- they would
16 buy marginal wells, create an acreage position, and
17 then maybe try to enhance that position.

18 The reality is -- is that Merrion Oil
19 and Gas would not be here today if the current rules
20 were in place through our history.

21 They may have been able to drill that
22 first well, but they wouldn't have been able to make
23 any of those acquisitions from the larger companies
24 wouldn't able to have been able to grow.

25 And in fact, we're still a very, very

1 small company within New Mexico. We have -- when the
2 shale plays came into vogue, you know, our annual
3 budget won't drill more than one or two shale wells.

4 And so we -- we started buying minerals
5 and other shale basins and started most recently
6 investing in non-operated drilling opportunities,
7 also, in other basins.

8 There are opponents -- oil and gas
9 opponents -- who will argue that if Merrion Oil and
10 Gas had never been created or were gone today, the
11 State of New Mexico wouldn't even notice. Wouldn't
12 affect the production, you know, more than a fraction
13 of a percent.

14 And it wouldn't -- wouldn't matter
15 whatsoever. That is -- that is true. It would not
16 make a difference necessarily to the state. But I
17 wanted -- I want to talk about the -- the kind of a
18 citizen that Merrion Oil and Gas is and -- is there --
19 am I allowed to share my screen?

20 MS. TRIPP: I believe.

21 Ms. Apodaca, does he have that ability?
22 The only caveat, Mr. Sharpe, is that we haven't
23 circulated any exhibits, but if there's no
24 objections --

25 MR. SHARPE: I just want -- when T.

1 Greg -- so T. Greg passed away, I don't know, 10, 15
2 years ago. T. Greg Merrion, who's my peer, retired in
3 2022.

4 And when he retired, I kind of put a
5 summary of all the impact that Merrion Oil and Gas has
6 had within the city of Farmington over the -- over the
7 last 20 to 30 years, and it's tens of millions of
8 dollars.

9 T. Greg himself has been involved in,
10 you know, dozens of boards. And so while the -- well,
11 the State of New Mexico might not -- not notice if
12 Merrion Oil and Gas went away, I guarantee you the
13 city of Farmington would notice if Merrion Oil and Gas
14 went away.

15 Our 20 employees would notice if
16 Merrion Oil and Gas was not here. And the -- the
17 dozens and dozens of contractors that we use to work
18 on our wells would notice if Merrion Oil and Gas
19 wasn't here.

20 And so, you know, that that is one of
21 the comments that I've seen from the proponents of the
22 rule, you know, is that it's really, you know, not
23 going to have much in effect on the state.

24 Well, I beg to differ. There are --
25 there are lots of people that it's going to affect.

1 And so if -- I don't need to show those slides
2 necessarily, but I'd like to -- I wouldn't mind
3 submitting them as evidence.

4 MS. TRIPP: Yes, Mr. Sharpe, I believe,
5 I believe even witnesses are allowed to submit public
6 comment. And so we can accomplish that in that
7 format.

8 In terms of the wells that Merrion Oil
9 and Gas operates currently -- and I'm sorry if I
10 missed it, and you already said it -- about how many
11 wells and what kind of depth wells are you operating?

12 MR. SHARPE: So Merrion Oil and Gas
13 operates just over a hundred wells in Wyoming,
14 Colorado, and New Mexico -- 66 of which are in New
15 Mexico. We were in several hundred non-operated
16 wells, and again, have minerals and -- and overrides
17 and others.

18 But of the 66 wells that are in New
19 Mexico, they are primarily marginal, by my definition,
20 marginal gas wells. Pictured Cliffs, Fruitland Coal,
21 Mesa Verde, and Dakota Sands.

22 The average -- our average well in New
23 Mexico makes less than 20 MCF a day. Of our -- of our
24 60 wells, 65 percent of our wells made less than
25 \$15,000 in net profit in 2024.

1 And if those wells were required to
2 post the \$150,000 bond, which at this point not all of
3 them will be required to do that, but they didn't have
4 to be, I mean, they couldn't afford -- they couldn't
5 afford to pay a surety. You know, ten -- ten
6 percent -- a surety bond's going to cost you ten
7 percent per year. You know, they wouldn't afford it.

8 And again, you can say, "Well, you
9 aren't making much money on those wells anyway; it's
10 not going to make a difference." But those wells have
11 operating expenses of close to a million dollars a
12 year. They have pipeline expenses of \$300,000 a year.
13 They pay royalties of \$150,000 a year.

14 And so even though Merrion's not making
15 much money, there are a lot of people in a lot of jobs
16 and a lot of things that are supported by those wells
17 that are barely getting by. And those wells are
18 important to Merrion, and they're certainly important
19 to the people that work on those wells.

20 MS. TRIPP: And then in addition to
21 operating wells, does Merrion have a history of
22 plugging wells or any experience with that?

23 MR. SHARPE: Merrion has plugged a 144
24 wells across all states. We plug more wells than
25 we -- we currently operate. We plug a handful of

1 wells every year in various states. And again, we try
2 not to let our wells languish and try to either keep
3 them producing or plug them out.

4 MS. TRIPP: And I'm not sure if you've
5 been attending any of the testimony of the rulemaking.
6 We did see Merrion cited by Deputy Director Powell as
7 an example of a great operator in New Mexico.

8 But he highlighted one well for the
9 commission to look at, which was the Farmington C Com,
10 which reported a really low production last year.

11 Have you had a chance to review that
12 well specifically? Do you know anything about its
13 background?

14 MR. SHARPE: I do. The Farmington C
15 Com well was initially a Dakota well. It was plugged
16 back and completed in the Pictured Cliffs and
17 Fruitland Coal.

18 The Pictured Cliffs and Fruitland Coal
19 zones have been depleted, and it is on our list to go
20 in and pull out or drill out the bridge plug and try
21 to go back to the Dakota, which was making 60 MCF a
22 day at the time it was -- it was recompleted to the
23 Pictured Cliffs.

24 And so that's better -- that's better
25 than our average well, you know. So now we definitely

1 have plans to return that well to production and
2 through, you know, it hasn't happened over the last
3 several years.

4 You know, prices look like they're
5 going to be up for a little bit and then, you know,
6 just like this last year they've been below three
7 again. So it's been very difficult in the price
8 environment.

9 We're hopeful that 2026 will have
10 sustained prices high enough to, to justify a workover
11 on that well to get it back on.

12 MS. TRIPP: And when you talk about the
13 factors that you're considering in terms of how to
14 work over a well and when to do it, just, certainly,
15 Merrion's the operator for a well. But does Merrion
16 own a hundred percent of the interest in every Well it
17 operates.

18 MR. SHARPE: We -- we own an average of
19 50 percent of the interest -- working interest --
20 virtual connectivity interruption -- The Farmington C,
21 I believe we own a larger piece of that. I don't know
22 off the top of my head. We do have some -- some
23 partners in it, but we own 80 or 90 percent of the
24 Farmington C.

25 MS. TRIPP: And so the decisions about

1 whether and when to work over is that decision subject
2 to any outside agreements or contracts?

3 MR. SHARPE: Not -- not necessarily --

4 MS. TRIPP: Or at 20 -- oh, go ahead.

5 MR. SHARPE: Well, they're -- they're
6 all under joint operating agreements where we've got
7 to get approval from -- from partners to do the work,
8 but if the partners don't approve it, we can take them
9 non-consent and do it ourselves.

10 And so no, there's -- there's no
11 really, you know, there's -- it hadn't been the
12 partners that have kept us from -- from getting the
13 Farmington C back on production. It's just been
14 economics.

15 MS. TRIPP: Okay.

16 MR. SHARPE: Economics and budget and
17 timing.

18 MS. TRIPP: And then in terms of -- you
19 mentioned how many wells Merrion had plugged over its
20 career. Does the presence or the existence of a
21 plugging bond, does that motivate or affect your
22 decision whether to plug a well?

23 MR. SHARPE: No, at least it hadn't
24 before. I mean, we -- we have -- right now, we've got
25 statewide bonds, you know, and so whether we plug a

1 well or don't plug a well or statewide bond, you know,
2 really doesn't change much.

3 It -- it is my understanding -- I'm
4 not -- I'm not an expert on our bonds. I am aware of
5 our bonds.

6 MS. TRIPP: And to the extent, are you
7 familiar with the term "force plugging" or where a
8 company would plug a well that it is not operating?

9 MR. SHARPE: Yeah, well, we are --
10 thank you for bringing that up. We're in the middle
11 of plugging a well right now.

12 Actually I think it -- it has been
13 plugged; we still have the surface rehabilitation to
14 do. But it was one of the M&M wells that was
15 orphaned, and we were in record title -- it's a
16 federal well -- and we were the 50 percent record
17 title holder.

18 And so they've come to Merrion and --
19 and required us to plug it even though the other 50
20 percent record title holders is like 20 other
21 individuals -- small individuals. And -- and many of
22 those aren't paying the bill.

23 So Merrion's paying the full bill to
24 plug the well for M&M. We don't have access to their
25 bonding that they had to cover their wells. And so

1 yes, we have -- this is the first well that we've been
2 forced to plug. But we're -- we're very concerned
3 about being forced on other situations to do so.

4 MS. TRIPP: So, you know, we've heard a
5 lot about orphan wells in New Mexico. Would you
6 consider there to be an orphan well problem or a
7 crisis affecting the industry at this moment?

8 MR. SHARPE: No, I don't consider it.
9 I've looked at the -- I've looked at the list of the
10 1800 wells that are on the -- the state's orphan well
11 list, and the vast majority of those are legacy wells
12 that occurred, you know, well before the -- the
13 current regulatory environment that has been, you
14 know.

15 Again to the -- to the states, you
16 know, the state has really stepped up its compliance
17 on wells that are shut in, either requiring them to be
18 T&A or be produced or whatever. And so they've stayed
19 on top of that.

20 And that is -- that is -- so the -- the
21 problem is -- I say the problem. You know, I don't
22 think the problem is growing at any kind of a rate
23 that cannot be managed with the current bonding,
24 bonding setup.

25 And that the -- the industry, you know,

1 the, again, what the opponents of oil and gas, you
2 know, want to make sure that -- that the state doesn't
3 hold the bag, so to speak, for the cost of, you know,
4 plugging these orphan wells.

5 And that the industry ultimately
6 would -- would, you know, pay for the wells, and the
7 industry is paying for their wells. The industry is
8 the state.

9 The industry contributes more than \$15
10 billion in 2024 to the State of New Mexico. And so to
11 the extent that the state, you know, has some wells
12 that they're going to have to find money to -- to
13 plug, it's coming from the oil and gas industry.

14 The second point is that the -- the oil
15 and gas conservation tax that was put in place
16 specifically to create money --

17 MR. TREMAINE: Objection, Madam Hearing
18 Officer. I've been letting Mr. Sharpe go on. But
19 this is well outside the scope of the proffered
20 testimony. I'm trying not to object, but we're
21 getting far afield.

22 THE HEARING OFFICER: Yeah.

23 Sorry, Ms. Tripp, I think it is far
24 afield.

25 BY MS. TRIPP:

1 MS. TRIPP: So, Mr. Sharpe, to bring
2 you back to the proposed rule and the surety
3 requirements are you familiar with the increase in
4 financial assurance?

5 MR. SHARPE: I am.

6 MS. TRIPP: Okay. And in looking at
7 how is Merrion currently bonded? What kind of form do
8 you use?

9 MR. SHARPE: I -- I guess I'd like to
10 address the question as to whether that additional
11 surety is needed or not. And if -- if they use the
12 oil and gas conservation tax for its intended
13 purposes --

14 MR. TREMAINE: Objection.

15 MR. SHARPE: Then use --

16 MR. TREMAINE: Objection. Witness is
17 trying to answer the question that I objected to and
18 which was sustained.

19 THE HEARING OFFICER: Right.

20 Ms. Tripp, you really --

21 MR. SHARPE: Okay.

22 THE HEARING OFFICER: He needs to stick
23 with his pre-trial testimony.

24 MS. TRIPP: Thank you, ma'am.

25 BY MS. TRIPP:

1 MS. TRIPP: So how is Merrion currently
2 bonded? Is it a cash bond or a surety bond that
3 Merrion uses?

4 MR. SHARPE: So Merrion has \$1.5
5 million in cash bonds in place in Colorado, Wyoming,
6 and New Mexico. We have \$150,000 nationwide bond
7 that's due to be released because the -- the 1.5
8 million is a recent -- we've recently been required to
9 do that.

10 We have a small right of way damage
11 bond in New Mexico, and we have blanket New Mexico
12 plugging bond, as well also a cash bond and a cd.

13 MS. TRIPP: And so if this rule is
14 adopted and financial assurance is increased for
15 marginal wells, do you anticipate an effect on
16 Merrion?

17 MR. SHARPE: I do anticipate an effect
18 on Merrion. You know, I, the first effect is that
19 we're going to have a hard time doing what we've done
20 through our life, and that is to, you know, buy wells
21 that are uneconomic to major operators.

22 And -- and you know, that those --
23 those operators are -- are going to be -- either the
24 rules are going to prohibit it or because of the
25 threat of the rules, those operators are going to be

1 reticent to -- to sell to us. So that's going to be a
2 major effect.

3 To the fact that we've got to, you
4 know, post \$150,000 for our first two wells. Again,
5 that's a -- that's a cashflow impact, and, you know,
6 negatively affects our ability to use that money for,
7 you know, helping to grow our company.

8 MS. TRIPP: And then you've also
9 offered some testimony about plugging costs. And
10 we've already referred to the fact that Merrion has
11 plugged a lot of its wells and that Merrion's wells
12 are generally in the shallower formations. And so
13 what kinds of plugging costs does Merrion see?

14 MR. SHARPE: I just went through -- we
15 see plugging costs from the mid-thirties to, I mean,
16 we have some wells that we estimate are going to --
17 are -- are going to cost over a hundred thousand
18 dollars to plug.

19 But I just analyzed our average, let
20 me -- I'm sorry -- let me find that. So we have,
21 in -- in New Mexico, we have a 153 zones. So that --
22 that's a completed interval. So we have a lot of
23 commingled wells, Gallup, Dakota Wells, or whatever.
24 And we -- we track each zone on its own.

25 The average plugging costs, we -- we

1 account for the plugging costs and our internal
2 valuation reserves every year we plan on having to
3 plug those wells. Our average estimated cost is
4 \$52,000 for each of those zones.

5 And again, it ranges from \$30,000 --
6 ishkadish -- for shallow Pictured Cliffs, Mesa Verde
7 wells to, you know, 75, \$80,000 for Mesa Verde, Dakota
8 Wells.

9 MS. TRIPP: Okay, thank you. Now, let
10 me see. So you presented direct testimony, and then
11 there was an opportunity for other witnesses to
12 provide rebuttal. Have you reviewed any of that
13 rebuttal testimony as it pertains to your own?

14 MR. SHARPE: Remind me. I -- I did the
15 one, but I can't -- it's not on the top of my head
16 right now. I think it was just the -- you talked
17 about the Farmington C Com well. And I have reviewed
18 it, but I don't -- it's not coming in off the top of
19 my head.

20 MS. TRIPP: Sure. So Mr. Purvis took
21 issue with your testimony that responsible operators
22 plug wells and that the proposed rule changes were
23 unnecessary.

24 And he stated at Exhibit 74, page 7,
25 line 20, that this argument is "pure opinion,

1 subjective, and anecdotal, and it's not a suitable
2 basis to deal with a multi-billion dollar risk."

3 Now, Mr. Sharpe, we've met several
4 times, and you strike me as somebody who's interested
5 in the data.

6 And so, since you submitted your direct
7 testimony in response to the allegation that it was
8 pure opinion, subjective, and anecdotal, have you made
9 any analysis of the data that's available in this
10 rulemaking?

11 MR. SHARPE: Thank you. I have. I
12 have -- I've looked at the -- the plugging list.

13 MS. FOX: Objection, Madam Hearing
14 Officer.

15 THE HEARING OFFICER: Hold on,
16 Mr. Sharpe.

17 Ms. Fox?

18 MS. FOX: Mr. Sharpe didn't submit
19 rebuttal. And if this is surrebuttal, then the
20 specific rebuttal testimony needs to be identified and
21 then responded to.

22 THE HEARING OFFICER: Ms. Tripp, would
23 you please identify the rebuttal testimony he's
24 responding to?

25 MS. TRIPP: Yes, Madam Hearing Officer,

1 I'll repeat again the citation to Mr. Purvis
2 testimony. That's Exhibit 74 -- Applicant's Exhibit
3 74, page 7, line 20.

4 THE HEARING OFFICER: Thank you.

5 MS. TRIPP: Where Mr. Purvis states
6 that Mr. Sharpe's argument is pure opinion subjective
7 and anecdotal and not a suitable basis to deal with a
8 multi-billion dollar risk.

9 THE HEARING OFFICER: All right.

10 MS. TRIPP: And so I think is that
11 sufficient?

12 THE HEARING OFFICER: Thank you. If
13 that's what Mr. Sharpe is referring, yes.

14 MS. TRIPP: Yes.

15 BY MS. TRIPP:

16 MS. TRIPP: Go ahead, Mr. Sharpe.
17 You're referring to the master orphan, the spreadsheet
18 provided by OCD.

19 MR. SHARPE: Yeah, the master orphan
20 spreadsheet and whether you know who the bad actors
21 have been and whether most operators are doing what
22 they need to do.

23 Of the -- of the operators identified
24 on the master list, most of those have been out of
25 business for years. They don't show up in Enverus.

1 They aren't -- they don't exist. You know, the -- the
2 most of the wells are legacy wells that again have
3 been on the orphan list for years.

4 You know, haven't been plugged by the
5 state even though they have, you know, they're the
6 ones that have been negligent in -- in addressing that
7 issue and using the funds that are already available
8 to address that issue.

9 And less than a hundred, as far as I
10 can tell, of the wells actually have -- have been
11 added to the list in the last few years, indicating
12 that, you know, most operators are not orphaning their
13 wells.

14 Most operators are -- are operating
15 their wells prudently and plugging their wells when
16 they need to be plugged.

17 MS. TRIPP: Okay, thank you,
18 Mr. Sharpe. I don't have any further questions.

19 So I turn the witness over.

20 THE HEARING OFFICER: All right. Thank
21 you very much.

22 Ms. Fox, do you have questions?

23 MS. FOX: Thank you Madam Hearing
24 Officer, just a couple.

25 CROSS EXAMINATION

1 BY MS. FOX:

2 MS. FOX: Hello, Mr. Sharpe. My name
3 is Tannis Fox, and I'm a lawyer with Western
4 Environmental Law Center, and I represent Applicants
5 in this proceeding.

6 MR. SHARPE: Hello?

7 MS. FOX: And I just have a couple --
8 can you hear me?

9 MR. SHARPE: I can.

10 MS. FOX: Oh, great. You began your
11 testimony stating that you had a correction to your
12 testimony based on the fact that you had misunderstood
13 the definition of marginal well in this proceeding;
14 correct?

15 MR. SHARPE: That is correct.

16 MS. FOX: And I'm looking at page 4 of
17 your written direct testimony. And what was the
18 marginal well definition that you were relying upon
19 for your direct testimony?

20 MR. SHARPE: The IRS definition.

21 MS. FOX: And -- I'm sorry, go ahead.

22 MR. SHARPE: The IRS definition.

23 MS. FOX: And how does the IRS define
24 marginal well?

25 MR. SHARPE: I believe it's less than

1 15 BOE or I -- it's -- off the top of my head, I -- I
2 don't know. Like, I don't remember exactly what I
3 used. And -- and I don't think I put a number of how
4 many wells are marginal.

5 I just said the vast majority are. And
6 at 20 MCF a day, whatever the IRS definition is, our
7 average well is definitely less than that marginal
8 amount status.

9 MS. FOX: So the federal definition --
10 IRS definition -- is 15 BOE and the marginal
11 definition, marginal well definition, for purposes of
12 this proceeding, is on average 2.7 BOE. And there's a
13 day operation, a day limitation too, as well.

14 The marginal well definition being used
15 in this proceeding is significantly lower than the
16 marginal well definition you were originally using;
17 correct?

18 MR. SHARPE: I understand that.

19 MS. FOX: Yeah. But I'm correct in
20 what I just asked you; right? It's significantly
21 lower.

22 MR. SHARPE: Significantly.

23 MS. FOX: So then that testimony, Madam
24 Hearing Officer, appears on page 4 going into page 5
25 of his testimony, just for the record.

1 BY MS. FOX:

2 MS. FOX: Because you estimated that
3 Merrion would need to finance an additional \$9.45
4 million in bonding; correct?

5 MR. SHARPE: Had I been accurate, yes.

6 MS. FOX: No, but that is what your
7 incorrect estimate was.

8 MR. SHARPE: That is -- that is my
9 incorrect estimate.

10 MS. FOX: And what was the basis of
11 your misunderstanding of what the definition of
12 marginal well was for purposes of this proceeding?

13 MR. SHARPE: Just again, my own fault
14 being a -- lack of digging in and -- and trying to
15 clarify with the New Mexico Oil and Gas attorneys
16 before, you know, and -- and not a full understanding
17 of the rule.

18 I'd read summaries of the rule. I had
19 not read -- I -- I honestly still haven't read the
20 full rule word for word. I've read analyses and
21 summaries of it.

22 MS. FOX: Sure. Now you said that
23 understanding now what the definition is for marginal
24 well, you said that Merrion has two marginal wells in
25 its portfolio; correct?

1 MR. SHARPE: Yes.

2 MS. FOX: So that would mean an
3 additional \$300,000 in financial assurance that
4 Merrion would need to put up for those two marginal
5 wells; correct?

6 MR. SHARPE: At this point in time,
7 you're right.

8 MS. FOX: And then there's been
9 testimony from industry witnesses in this proceeding
10 that the amount of money that you would actually --
11 that a company an operator -- would actually have to
12 put up for a particular bond is in the range of two to
13 three percent.

14 And so if let's just use three percent.
15 So if you had to put up a premium of three percent for
16 the \$300,000, that would be an additional \$9,000 per
17 year that Merrion would need to put up as a result of
18 if the rules as proposed were adopted by this
19 commission; correct?

20 MR. SHARPE: That is not correct.
21 Surety bonds cost ten percent. Or at least they,
22 that's what was quoted to Merrion. So it would be
23 \$30,000 a year.

24 MS. FOX: Okay.

25 MR. SHARPE: For -- for the surety

1 bond. But the -- the biggest deal is it'd be \$15,000
2 per year on top of those wells. That's just going to
3 make it that much harder to justify spending money on
4 those wells and return them into production.

5 MS. FOX: These wells are in
6 production.

7 MR. SHARPE: Return --

8 MS. FOX: Marginal wells, they're in
9 production; correct?

10 MR. SHARPE: Well, we produce a little
11 bit out the -- we still squeak a little bit of gas out
12 of the PC and the Fruitland Coal, but, I mean, it's
13 uneconomic. It needs to be recompleted into the --
14 the -- we need to get the Dakota back on -- on the --
15 on the Farmington C Com, in any case.

16 And the other well -- the other well
17 that is marginal has a pump unit that -- and I'm not
18 sure operations told me today it's either a pumping
19 unit or downhole problem, but basically it's -- it's
20 producing by flowing a little bit of gas up the
21 casing.

22 MS. FOX: On one of your slides, I
23 believe that you said Merrion started in 1981; is that
24 correct?

25 MR. SHARPE: Merrion --

1 MS. FOX: Or maybe it was in your
2 testimony.

3 MR. SHARPE: -- Oil and Gas was formed
4 in 1981 through Merrion and Bayless that had been
5 operating in Merrion Bayless. But basically
6 Merrion -- Merrion has been in business since 1960.

7 MS. FOX: And you said that if the
8 rules as proposed here would've been an operation when
9 Merrion started, Merrion wouldn't have been able to
10 start; correct?

11 MR. SHARPE: We'd have, I mean, I think
12 J. Greg still would've been able to drill that first
13 well, but the -- their -- their method of growth,
14 their -- their niche, if you will.

15 As is the niche of many small operators
16 has been to take the wells that are no longer economic
17 for majors to operate and to take those over and to
18 cut costs and to -- and to make those work again
19 with -- virtual connectivity interruption --

20 MS. FOX: Whoops, he cut out.
21 Convenient.

22 THE HEARING OFFICER: Mr. Sharpe,
23 you're frozen.

24 MR. SHARPE: Are you back?

25 BY MS. FOX:

1 MS. FOX: Oh yeah, yes. Yeah, you cut
2 out for a minute.

3 So let me -- so you're changing your
4 testimony then with respect to your testimony that
5 said that if the rules as proposed were in effect when
6 Merrion came into business, Merrion wouldn't have come
7 into business. You're changing that testimony;
8 correct?

9 MS. TRIPP: Objection. I think that
10 misstates the answer.

11 MR. SHARPE: I mean, that -- I don't
12 whether J. Greg would've -- I think he probably still
13 would've come up and drill that well, but would they,
14 you know, would we be here today? I don't think we'd
15 be here today. I guess that was my point. I think --
16 I think we'd had to go away long before this.

17 MS. FOX: And when you say you're
18 referring to the rules as proposed, are you saying
19 that the rules as proposed with today's dollars a
20 hundred --

21 If rules requiring bonding at \$150,000
22 in the 1960s would've been effect, that would've
23 affected either the business initiation or ongoing
24 operations or? Is that what you're saying? Is that
25 your testimony?

1 MR. SHARPE: Yes, it is.

2 MS. FOX: Is he cutting out again?

3 BY MS. FOX:

4 MR. SHARPE: No, no. That is my
5 testimony.

6 MS. FOX: Okay. Oh, so your hypothesis
7 is that if the rules as proposed in the 1960s or 1981
8 proposed \$150,000 bond, Merrion wouldn't have come
9 into effect or it would've changed its business
10 operations? Is that what you're saying?

11 MR. SHARPE: It's not just the \$150,000
12 bond. It's the limitation on being able to transfer
13 wells or -- or convey wells or assign wells from large
14 operators to small independents.

15 MS. FOX: Okay. Thank you.

16 And then just one other point, Madam
17 Hearing Officer. Ms. Tripp said that she -- that they
18 would submit documents from Mr. Sharpe as part of
19 public comment, but I think as a witness, if he is
20 going to present written documentation, he needed to
21 have done that through his testimony.

22 THE HEARING OFFICER: Yeah, I think,
23 Ms. Tripp, that there were deadlines even for fact
24 witnesses here.

25 MS. TRIPP: Yes, ma'am. Yes, Madam

1 Hearing Officer, I wasn't -- not him as a witness.

2 THE HEARING OFFICER: Okay, thank you.

3 Let's see. We --

4 MS. FOX: Thank you, Mr. Sharpe.

5 THE HEARING OFFICER: Yes, Ms. Fox.

6 Thank you, Mr. Sharpe.

7 There will be other questions I believe
8 from other parties, but we need a ten-minute break
9 before the four o'clock public comment.

10 So, Mr. Sharpe, can you stay on the
11 platform for a little bit longer?

12 MR. SHARPE: I sure can. How long --
13 like till 4:30? Or I guess -- how long do public
14 comments go?

15 THE HEARING OFFICER: I don't believe
16 we're going to have a lot of public comment today. I
17 had only one person actually sign up. There might be
18 someone else, but it won't be very long. The
19 interruption.

20 MR. SHARPE: Okay.

21 THE HEARING OFFICER: Thank you.

22 (Off the record.)

23 THE HEARING OFFICER: Let's come back
24 from the break please. It is four o'clock. We
25 reached another public comment session. I believe I

1 see someone in the room who might be wanting to offer
2 public comment.

3 Yes, sir. Great. Come on up to the
4 witness stand, if you would. And just a couple of
5 things. I'm going to ask you to spell your first and
6 last name for the transcript, ask you to swear or
7 affirm to tell the truth and then ask you to keep your
8 comments to about three minutes.

9 So if you would spell your first and
10 last name.

11 GLENN WIALE: Glenn, G-L-E-N-N, Wiale,
12 W-I-A-L-E.
13 WHEREUPON,

14 GLENN WIALE,
15 called as a witness and having been first duly sworn
16 to tell the truth, the whole truth, and nothing but
17 the truth, was examined and testified as follows:

18 THE HEARING OFFICER: Thank you. I'll
19 start your time.

20 GLENN WIALE: Good afternoon,
21 Commissioners. Oil and gas is a boom and bust
22 industry. Bust times are devastating for the industry
23 and even worse for New Mexicans who rely on the
24 industry for their livelihood.

25 We all know the big bust is coming

1 eventually. Either the hydrocarbon reserves will be
2 depleted or new energy sources like renewables or
3 fusion power will make hydrocarbons obsolete. The
4 devastation of that big final bust will drive many oil
5 and gas companies out of business.

6 Operators will walk away from their
7 leases and mass without cleaning up. We already have
8 a case study from the big bust in the uranium
9 industry. Our state is struggling to fund the
10 billions of dollars required to remediate the damage
11 caused by that industry.

12 And that industry was much, much
13 smaller than oil and gas. Today the state's
14 Legislative Finance Committee believes that the
15 state's exposure for environmental cleanup of oil and
16 gas wells is \$1 billion.

17 By the time industry finally pulls out,
18 it could grow to tens of billions. Building oil pads
19 and their access roads as well as extracting and
20 emitting toxic chemicals from the earth for profit is
21 a privilege that we, the people, grant to the oil and
22 gas operators.

23 In exchange for this right, they must
24 clean up their messes. They must restore our land,
25 water, and air to its natural state when they're done.

1 Adults in this world are responsible for cleaning up
2 their messes, period.

3 If the industry policed its own members
4 to do their part, then there would be no need for
5 assurance bonds. But industry has failed to act
6 responsibly. This leaves the state to finish the job.

7 Industry points out that they are taxed
8 to pay for reclamation. The legislature should direct
9 all money in the reclamation fund to be used for oil
10 and gas reclamation.

11 However, the argument that this would
12 provide sufficient funds for plugging wells is a red
13 herring. And the oil and gas industry knows that.
14 They know that reclamation funds also cover the
15 cleanup of environmental damage caused by operators at
16 facilities that have no wells.

17 The taxes which go into the reclamation
18 fund are also insufficient to cover those other
19 environmental messes caused by the industry. The
20 state needs sufficient funding to clean up both well
21 sites and non-well sites. We need sufficient
22 assurance, bonding, and the reclamation fund.

23 I do feel that one point made by
24 industry is fair. I hope your rules will ensure that
25 plugged wells are inspected promptly and bonds are

1 released promptly after the inspection passes.

2 But I implore you to pass responsible
3 energy policy, protect our land, health, and future,
4 and financial stability. Increase the bonding
5 requirements, especially the egregiously small blanket
6 bonding requirement, so New Mexico has the resources
7 to clean up abandoned oil and gas sites. Thank you.

8 THE HEARING OFFICER: Thank you,
9 Mr. Wiale.

10 I don't see anyone else in the room at
11 this time. Let's turn to the platform. Let's see.
12 We have Natalie Sommer, I believe.

13 Ms. Sommer, can you unmute yourself?

14 MS. SOMMER: Yes, I'm here.

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

17 MS. SOMMER: Yes. Natalie, N-A-T-A-L-
18 I-E, Sommer, S-O-M-M-E-R.

19 WHEREUPON,

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

24 Thank you. I'll start your time.

25 MS. SOMMER: Thank you.

1 Good afternoon, commissioners. Thank
2 you for the opportunity to speak today and share my
3 perspective.

4 My name is Natalie, and I'm a lifelong
5 resident of New Mexico. I've spent a significant
6 portion of my life recreating in the diverse
7 landscapes of southeastern New Mexico where much of
8 our state's oil and gas production takes place. I
9 know how special this region is.

10 The Permian Basin's desert trails,
11 grassland habitats, and vast network of limestone
12 caves form a place where geology, history, and human
13 experience meet. And it deserves protection equal to
14 its value.

15 That's why I support stronger oil and
16 gas bonding rules to ensure corporations, not
17 taxpayers, bear the cost of cleaning up after
18 drilling.

19 Right now, New Mexico faces an
20 estimated 700 million to \$1.6 billion in potential
21 well cleanup costs because current bonding levels are
22 far too low. Covering only a small fraction of real
23 cleanup expenses.

24 Wells left unplugged make our
25 communities vulnerable to pollution, degrade the lands

1 and waters that define our identity as New Mexicans,
2 and leave our taxpayers responsible for the bill.

3 The Permian Basin isn't just an oil
4 field. It's also home to Carlsbad Caverns National
5 Park, Sitting Bull Falls, and Pecos River Valley, all
6 of which draw hundreds of thousands of visitors each
7 year.

8 When wells leak or landscapes are
9 scarred by neglect, it doesn't just harm wildlife and
10 water quality. It harms local economies, built on
11 clean air, clear skies, and natural beauty.

12 New Mexico has already shown innovative
13 leadership through the taxation and revenue
14 departments award-winning oil and gas compliance tool,
15 which has been recognized nationally for improving
16 data transparency and accountability.

17 Strengthening bonding rules complements
18 this investment. It ensures our commitment to
19 responsibility, extends beyond production tracking to
20 full cleanup, aligning with the state's values of
21 fairness and fiscal prudence.

22 If you drill, you clean it. That seems
23 like common sense and basic fairness. Every
24 responsible business pays the true cost of operating
25 from insurance to safety compliance. Oil and gas

1 shouldn't be different.

2 Bonding for clean up isn't a burden.
3 It's accountability. It's simply part of doing
4 business responsibility -- responsibly. I urge the
5 Oil Conservation Commission to adopt strong modern
6 bonding rules that protect our public lands, our
7 health and the future of New Mexico's people and
8 economy. Thank you.

9 THE HEARING OFFICER: Thank you,
10 Ms. Sommer.

11 Is there anyone else on the platform
12 who'd like to offer public comment in this session?
13 Our next public comment session will be nine a.m. on
14 Monday.

15 If you can, raise your virtual hand.
16 If you have dialed in on a phone, you can raise your
17 virtual hand by pressing star five.

18 All right. In that case, thank you.
19 We will return to Mr. Sharpe and his questioning.

20 There you are.

21 MR. SHARPE: I'm here.

22 THE HEARING OFFICER: Thank you very
23 much, Mr. Sharpe.

24 Let's see. Where did I -- I believe
25 it's Mr. Tremaine? Yes?

1 MR. TREMAINE: I believe it's where
2 we're at Madam Hearing Officer. Thank you.

3 THE HEARING OFFICER: Thank you.

4 CROSS EXAMINATION

5 BY MR. TREMAINE:

6 MR. TREMAINE: Good afternoon,
7 Mr. Sharpe. My name is Jesse Tremaine. I am the
8 legal director for the Oil Conservation Division. I
9 do have a couple questions for you today.

10 MR. SHARPE: Thank you -- or sure.

11 MR. TREMAINE: All right, Mr. Sharpe,
12 did you hear Mr. Powell's testimony and rebuttal and
13 surrebuttal testimony the other day?

14 MR. SHARPE: I did not.

15 MR. TREMAINE: You did not. Okay. At
16 the beginning of your testimony, you addressed the
17 confusing or conflicting definitions of marginal
18 wells, which you used in preparing your direct and
19 appropriately adjusted your testimony and your
20 assessment of marginal wells; correct?

21 MR. SHARPE: Yes.

22 MR. TREMAINE: Okay. So by your
23 assessment and your revised testimony today, Merrion
24 has two wells which would fall into the proposed
25 definition of marginal well category; correct?

1 MR. SHARPE: Yes.

2 MR. TREMAINE: Okay. I just want to be
3 clear here because yet, after that revision, when
4 offering your conclusions, you showed a slide and
5 reiterated a \$945,000 annual impact to Merrion;
6 correct?

7 MR. SHARPE: On the -- for the bonding,
8 no. I did -- I didn't show the slide. And Ms. Tripp
9 may have had -- Ms. Tripp may have had --

10 MS. TRIPP: I believe we can amend
11 those demonstratives or strike them. We're not --

12 MR. TREMAINE: I'll just ask a
13 clarifying question.

14 BY MR. TREMAINE

15 So, Mr. Sharpe, if with your revised
16 understanding of the marginal well category and
17 determining that you have two wells in marginal well
18 status, would you agree that Merrion, if at the time
19 that that rule went into effect, Merrion would have to
20 provide \$300,000 in financial assurance?

21 MR. SHARPE: That is my understanding.

22 MR. TREMAINE: Okay.

23 MR. SHARPE: Based on the latest
24 conversations.

25 MR. TREMAINE: Okay. But that won't

1 happen until 2028; correct?

2 MR. SHARPE: That is also my
3 understanding.

4 MR. TREMAINE: Okay. I want to ask you
5 just a couple questions because you responded to some
6 surrebuttal comments and testimony about the Farm C
7 Com, and I believe you had indicated that that well
8 had been plugged back to the Fruitland Coal; correct?

9 MR. SHARPE: Yeah, I believe both the
10 Fruitland and the PC are -- have been re have been
11 completed in it.

12 MR. TREMAINE: Okay.

13 MR. SHARPE: Commingled right now.

14 MR. TREMAINE: And then you indicated
15 that Merrion's plan was to go in and drill out and do
16 a workover on that well; is that correct?

17 MR. SHARPE: That is the plan.

18 MR. TREMAINE: And how much do you
19 expect that drilling out and working over that well to
20 cost?

21 MR. SHARPE: I don't have a -- I don't
22 have a -- an analysis of that. If I were to make a
23 guess, I would think we could get it done for less
24 than a hundred thousand.

25 MR. TREMAINE: Okay. So to plan for

1 drilling out the plug and work over, you reasonably
2 have to expect the well to make money after performing
3 that work; correct?

4 MR. SHARPE: Yes.

5 MR. TREMAINE: So is it your testimony
6 today that after drilling out that plug and performing
7 a workover, that you would reasonably expect that well
8 would be unable to produce for more than 180 days per
9 year?

10 MR. SHARPE: No. I think it'll be on
11 production virtually all the time once we -- once we
12 drill out and get it on. The Dakota, when we
13 abandoned that zone and for the uphold recompletion
14 was making 50 to 60 MCF a day. And that is -- that is
15 economic.

16 MR. TREMAINE: So based on your
17 workover plans and reasonable projections, once that's
18 completed, that well would no longer fall into the
19 marginal well proposed definition, would it?

20 MR. SHARPE: That's our hope.

21 MR. TREMAINE: Thank you. So you
22 talked about the impacts of financial assurance. And
23 we just clarified the \$300,000 financial assurance
24 impact that would hit Merrion in 2028. Are you
25 testifying today that the premiums on \$300,000 in

1 additional FA in 2028 will be a hardship for Merrion?

2 MR. SHARPE: It'll be a hardship for
3 those wells. And the -- the owners and those wells.
4 I mean, the -- the wells have to pay the cost of it.
5 And it's going to be a significant increase in the
6 operating expense of those wells over a thousand
7 dollars a month.

8 MR. TREMAINE: Okay. But so that's a
9 no as to Merrion as a whole?

10 MR. SHARPE: As a whole, we can afford
11 the -- the \$300,000. Merrion Oil and Gas is not in
12 debt. And -- and so we have, you know, some
13 horsepower left and -- and can deal with that -- that
14 obligation.

15 It was my direct testimony that there
16 are a number of operators who won't be able to do
17 that. That are either carrying debt. And the only
18 way they're going to come up with more money is to
19 borrow it.

20 And that those other -- many of those
21 operators are going to walk away. And this rule is
22 going to backfire, and it's going to dump --

23 MR. TREMAINE: Well, Mr. Sharpe, I'm
24 asking you about -- my question to you is about
25 Merrion. So I'll let those other operators testify on

1 their own.

2 You talked about the force plugged M&M
3 well. I just want to ask you, do you dispute that if
4 Merrion is "force plugging" another operator's well,
5 that that means that at least one regulatory entity
6 had to pursue an enforcement action related to the
7 well?

8 MR. SHARPE: I would say yes. They --
9 the BLM pursued an enforcement action.

10 MR. TREMAINE: Okay. Another question
11 on that. I believe you had indicated that Merrion was
12 a 50-percent record title holder in that well. Is it
13 common in record title arrangements that record title
14 holders receive benefits from production and
15 development of wells in which they hold record title?

16 MR. SHARPE: No. Not in a -- no.
17 Operating rights own the -- actually own the wells and
18 drilled the wells. We, you know, on that lease, we
19 never did own the PC rights, which is, I believe
20 that's a PC well.

21 Our operating rights are only as to
22 the -- from the base of the PC to the base of the
23 Dakota. And on that lease. And so -- but record
24 title is not depth-segregated, at least with the BLM.
25 And so we had no economic benefit in that well.

1 MR. TREMAINE: Thank you for that,
2 Mr. Sharpe. Do you agree that, you know, as an
3 operator, Merrion, that production reporting is an
4 important requirement for operators in New Mexico?

5 MR. SHARPE: Sure.

6 MR. TREMAINE: And a failure to report
7 production is a violation of OCD rules; correct?

8 MR. SHARPE: I would assume.

9 MR. TREMAINE: And a lack of production
10 reporting occurring for over a year means a well is
11 inactive; correct?

12 MR. SHARPE: I would assume.

13 MR. TREMAINE: Would you dispute that
14 according to the, you know, most liberal
15 interpretation of Exhibit 16, there are 599 separate
16 OGRIDS that have at least one registered well
17 associated with them?

18 MR. SHARPE: I can't speak to that.

19 MR. TREMAINE: Okay. Would you dispute
20 from OCD Surrebuttal Exhibit Number 3, that there are
21 113 operators who have not reported any production
22 since August of 2024?

23 MR. SHARPE: Again, I -- I cannot speak
24 to that. I -- I really didn't listen to the, you
25 know, that testimony or see that -- see those

1 exhibits.

2 MR. TREMAINE: Okay, thank you. Would
3 you dispute my math that 113 of 599 is a little shy of
4 19 percent?

5 MR. SHARPE: Sounds -- sounds like good
6 math to me.

7 MR. TREMAINE: All right. You made a
8 statement during your testimony that orphan wells and
9 non-compliance of is concentrated in a small number of
10 bad actors. Is that an accurate statement?

11 MR. SHARPE: That is an accurate
12 statement.

13 MR. TREMAINE: Okay. If 113 operators,
14 or approaching 19 percent of operators have portfolios
15 which have failed to produce or failed to report
16 production in well over a year and are out of
17 compliance is inactive wells, would you maintain that
18 statement that orphan wells are a problem of a few
19 select bad actors?

20 MR. SHARPE: Well, the -- those wells
21 have not been orphaned yet. They have not been left
22 to the state. You know, those -- those operators are
23 still, I'm assuming that the operator -- the operators
24 on the orphan well list that you -- that OCD provided.
25 I couldn't find most of those operators in Enverus.

1 I mean, and most of them I've never
2 heard of. And you know, they -- they went away so
3 long ago that they don't even show up in the -- in the
4 public databases.

5 And so in terms of the, you know,
6 the -- the orphaned wells, and just because wells, you
7 know, production hadn't been reported, doesn't mean
8 that well has been the orphaned.

9 You know, again, I -- I maintained that
10 most operators, as your statistics demonstrated, are
11 prudent operators.

12 And even the ones that -- that may not
13 have reported production, I think many of those still
14 have, you know, they haven't -- they haven't
15 abandoned, they haven't walked away from, you know,
16 from all their wells.

17 Now, again, in my direct, one of my
18 contention is as soon as you put this bonding
19 requirement on those 130 some --

20 MR. TREMAINE: Well, Mr. Sharpe, I'm
21 not asking you about that. I'm asking you about your
22 assertions that the orphan well problem is attributed
23 to a very small percentage of bad actors.

24 So are you testifying to the commission
25 today that the almost 19 percent of operators who have

1 not reported production in over a year, which means
2 their portfolios are 100 percent inactive and have to
3 be plugged pursuant to 19.15.25.8, are not of a
4 concern of becoming orphaned?

5 MR. SHARPE: Well, hit them of \$150,000
6 bond, and they're darn sure going to come -- become
7 orphaned.

8 MR. TREMAINE: I'll pass the witness.
9 Thank you.

10 THE HEARING OFFICER: All right. Thank
11 you, Mr. Tremaine.

12 Mr. Biernoff.

13 MR. BIERNOFF: Thank you, Madam Hearing
14 Officer.

15 CROSS EXAMINATION

16 BY MR. BIERNOFF:

17 MR. BIERNOFF: Good afternoon,
18 Mr. Sharpe. Ari Biernoff. I'm a lawyer for the New
19 Mexico State Land Office and the Commissioner of
20 Public Lands.

21 Let's talk a little bit more about the
22 plugging that Merrion undertook that you described in
23 your direct testimony and reviewed a little bit with
24 Mr. Tremaine just now.

25 Do I have this right? Merrion was one

1 of the record title holders of a lease, and there was
2 a well on that acreage operated by M&M. So far so
3 good?

4 MR. SHARPE: Yep. Yes, sir.

5 MR. BIERNOFF: Okay. And why was it
6 that Merrion was called upon to plug that well?

7 MR. SHARPE: Because once the -- once
8 the operator goes away and M&M went bankrupt, then
9 the -- the BLM goes to record title to require them
10 to -- to address that issue. We're still -- we're
11 still in the food chain in terms of liability.

12 MR. BIERNOFF: Okay. M&M went
13 bankrupt. Do you have any idea of how many wells M&M
14 operated at the time that it went bankrupt?

15 MR. SHARPE: I don't, but they are in
16 your -- their -- M&M is in the OCD list of orphaned
17 wells.

18 MR. BIERNOFF: Was M&M --

19 MR. SHARPE: Actually, I can -- I can
20 give you a number on that. Hang on a sec.

21 MR. BIERNOFF: Oh, okay. Yeah, if you
22 have it accessible, I -- I'd be happy to hear it.

23 MR. SHARPE: Well, I -- all I know is
24 that I say -- I'm sorry, this is taking just a sec.
25 Why don't you go on with your questions, and I'll try

1 to -- I'll put that down while I'm doing this.

2 MR. BIERNOFF: That's fine. Thank you,
3 Mr. Sharpe. Did Merrion plug any other wells that
4 were operated by M&M that were on Merrion lease
5 acreage other than the one that you've talked about?

6 MR. SHARPE: That is the only one that
7 we -- that is the only one that Merrion has been
8 affected by. We have been -- we -- we don't -- we
9 don't own any -- we did own the deep rights, but I
10 think those have been sold.

11 We own no operating rights in that
12 lease, yet we own the record title. So one of the, I
13 mean, one of our practices when we convey wells from
14 now on is to try to make sure that record title goes
15 with it so we're not left holding the bag.

16 MR. BIERNOFF: Understood. And the
17 state system is similar in that regard to BLM. Has
18 Merrion plugged other wells that were operated by
19 other companies aside from M&M?

20 MR. SHARPE: This is the first I'm
21 aware of.

22 MR. BIERNOFF: Okay. Would you
23 consider M&M to be a bad operator or a non-compliant
24 operator?

25 MR. SHARPE: They're gone. They must

1 be. They -- they couldn't have been a very good
2 operator.

3 MR. BIERNOFF: Do you know what
4 happened to the owner of M&M?

5 MR. SHARPE: I -- I have no idea.

6 MR. BIERNOFF: Okay.

7 MR. SHARPE: We actually tried to buy a
8 bunch of their production a while back or 20 years ago
9 and -- and were not successful in being able to do
10 that. But I've never really dealt with them directly.
11 I dealt through an intermediary.

12 MR. BIERNOFF: Okay. Would it be
13 useful for your company --for Merrion -- in instances
14 where you're called upon as the record title holder to
15 plug a non-compliant operator's wells to have access
16 to any bonds that that bad operator had on file with
17 the relevant regulatory agency?

18 MR. SHARPE: It would absolutely be
19 helpful to have access to the bonds, but we do not.
20 And under the current rule, or -- or at least the --
21 the way the current bonds are being done, we wouldn't
22 have --

23 Even if they had \$150,000 bond on
24 there, you don't get access to that money until you
25 plug the well. And so you've got to plug and fan the

1 well, which is a two-, three-year process, you know,
2 to get a fan before that bond is released.

3 And so that's the other irony here, is
4 that the operator's got to come up with a money twice,
5 they got to bond it, then they got to plug the well
6 and then wait for their bond to be released. And --

7 MR. BIERNOFF: Well, I appreciate the
8 additional detail, but my question was pretty narrow.
9 It was whether it would be beneficial for Merrion to
10 have access in this example to M&M's bonds if there --

11 MR. SHARPE: If the rules could --
12 could allow that -- allow access to the bond money to
13 plug the wells while you're plugging the wells, that
14 would be awesome.

15 MR. BIERNOFF: Okay. Thank you very
16 much, Mr. Sharpe.

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

19 Let's see, we don't have Ms. Nanasi.

20 Mr. Maxwell, do you have questions of
21 Mr. Sharpe?

22 MR. MAXWELL: I have no questions.
23 Thank you.

24 THE HEARING OFFICER: Thank you.
25 Mr. Rankin?

1 MR. RANKIN: No questions.

2 THE HEARING OFFICER: All right.

3 MR. RANKIN: Thank you very much.

4 THE HEARING OFFICER: Thank you.

5 EOG is monitoring.

6 Mr. Suazo?

7 MR. SUAZO: No questions for this
8 witness.

9 THE HEARING OFFICER: All right.

10 And Ms. Tripp, do you have any
11 redirect?

12 MS. TRIPP: Very briefly, Madam Hearing
13 Officer. Just because there were a couple numbers
14 thrown around and I want to make sure that the
15 record's clear.

16 REDIRECT EXAMINATION

17 BY MS. TRIPP:

18 MS. TRIPP: So, Mr. Sharpe, I think
19 we've established that Merrion has two marginal wells
20 that qualify as marginal under the proposed rules. Is
21 that right?

22 MR. SHARPE: Yes.

23 MS. TRIPP: Okay. And the part --
24 which I'm showing you showing that most of the wells
25 we operate make only 10,000 to 20,000 per year in

1 profit. Any changes to that part of your testimony?

2 MR. SHARPE: No, 65 percent of our
3 wells make less than \$15,000 a year.

4 MS. TRIPP: And so to the extent, we
5 also talked about, so that's \$300,000 in financial
6 assurance for those two wells.

7 Merrion is cash-bonded. So even if
8 there was a 10 percent premium, you're not paying
9 \$15,000 a year on those wells. What does Merrion have
10 to do to put a cash bond down?

11 MR. SHARPE: Take money out of one
12 account and put it in one you can't touch. And so
13 we've chose to do that. You know, we're, luckily --
14 we're -- Merrion is lucky enough to have the cash to
15 be able to do that, let me say that.

16 And, but nonetheless, that money is --
17 is out of circulation. The cost of that money -- and
18 there is a cost of not -- not having access to your
19 money, you know, that is affecting the -- will affect
20 the economics of those wells.

21 MS. TRIPP: And the amount of that
22 money we're talking about is not 15,000 per well.
23 We're talking about \$150,000 in cash that's set aside.

24 So total effect if this rule was
25 implemented, would be that Merrion would need to post

1 two separate \$150,000 bonds, which would move 300,000
2 of capital that you would otherwise allocate. Is that
3 correct?

4 MR. SHARPE: That's my understanding.

5 MS. TRIPP: Okay. Thank you. And then
6 you were asked a little bit about the percentage of
7 operators and the way you understand the rules, even
8 if there are 20 percent -- we'll call them "bad
9 actors" in quotes.

10 Does the rule only target that 20
11 percent, or does the rule also affect the 80 percent
12 of responsible operators who plug their wells?

13 MR. SHARPE: It affects everybody.
14 I'll -- a hundred percent of the operators.

15 MS. TRIPP: Thank you.

16 No further questions, Madam Hearing
17 Officer. And actually --

18 THE HEARING OFFICER: Thank you.

19 MS. TRIPP: -- we will proffer -- I
20 forgot to proffer Mr. Hanagan's rebuttal testimony and
21 then Mr. Sharpe's direct testimony.

22 THE HEARING OFFICER: I'll pause in the
23 event there are objections. All right, thank you.
24 They're admitted. Commissioner Ampomah, do you have
25 questions?

1 (IPANM Exhibit 3 was marked for
2 identification and received into
3 evidence.)
4 MR. AMPOMAH: No, I do not. Thank you.
5 THE HEARING OFFICER: Commissioner
6 Bloom?
7 MR. BLOOM: No questions, Madam Hearing
8 Officer.
9 Mr. Sharpe, thank you for your time
10 today.
11 THE HEARING OFFICER: Chair Chang.
12 MR. SHARPE: Thank you all for the
13 opportunity.
14 THE HEARING OFFICER: Hold on one
15 second.
16 GLENN WIALE: No questions for me
17 either, so thank you.
18 THE HEARING OFFICER: Okay, thank you,
19 Mr. Chair.
20 If there's no reason not to excuse
21 Mr. Sharpe.
22 Thank you very much, Mr. Sharpe.
23 MR. SHARPE: My wife says there are
24 several reasons not to excuse me, but thank you. I
25 will take my --

1 THE HEARING OFFICER: All righty, so
2 we're going to recess here for the weekend, and see
3 you back --

4 MR. CLOUTIER: Madam Hearing Officer,
5 just one thing. I'm not able to keep up with the
6 e-mails. Mr. Gilstrap may be unavailable first thing
7 Monday morning.

8 And if that's the case, we'll switch
9 him and Mr. Winchester in order, but I'll let
10 everybody know over the weekend when I get it sorted
11 out.

12 THE HEARING OFFICER: Thank you very
13 much for that, Mr. Cloutier.

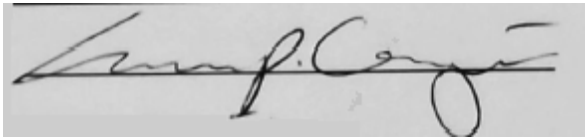
14 So thank you all. Have a great
15 weekend. Happy Halloween, and we'll see you Monday at
16 nine a.m.

17 (Whereupon, at 6:31 p.m., the
18 proceeding was concluded.)
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CERTIFICATE

I, GERALD ARAGON, 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 14, 2025

GERALD ARAGON
Notary Public in and for the
State of New Mexico

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I, PAMELA AHRENS, 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 14, 2025



PAMELA AHRENS

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