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

IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
COMMISSION FOR THE PURPOSE OF
CONSIDERING: CASE NO.
Proposed Amendments to 19.15.2, 24683
19.15.5, 19.15.8, 19.15.9,
19.15.25 NMAC.

HEARING
DATE: Wednesday, July 1, 2026
TIME: 9:02 a.m.
BEFORE: Chairman Albert C.S. Chang
LOCATION: Wendell Chino Building, Pecos Hall
1220 South Saint Francis Drive
Santa Fe, NM 87505
REPORTED BY: Gerald Aragon
JOB NO.: 8274585

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A P P E A R A N C E S

ON BEHALF OF NEW MEXICO OIL CONSERVATION COMMISSION:

ZACHARY SHANDLER, ESQUIRE

New Mexico Department of Justice

P.O. Box 1508

Santa Fe, NM 87504

zshandler@nmdoj.gov

(505) 270-9049

ALSO PRESENT:

William Ampomah, Commissioner, New Mexico Oil
Conservation Commission

Greg Bloom, Commissioner, New Mexico Oil
Conservation Commission

Sheila Apodaca, Law Clerk, New Mexico Oil
Conservation Commission

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E X H I B I T S

NO.

DESCRIPTION

ID/EVD

(None marked.)

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

2 THE CHAIR: Good morning. My name is
3 Albert Chang. This is a meeting of the New Mexico Oil
4 Conservation Commission, special meeting. It is July
5 1, 2026. The time is just after 9:00 a.m., so I'd
6 like to go ahead and call the meeting to order.

7 Commission Madam Clerk, would you
8 please call the roll?

9 THE CLERK: Commissioner Ampomah?

10 COMMISSIONER AMPOMAH: Present.

11 THE CLERK: Commissioner Chair Chang?

12 THE CHAIR: Present.

13 THE CLERK: Commissioner Bloom?

14 COMMISSIONER BLOOM: Present.

15 THE CLERK: Okay.

16 THE CHAIR: We're all present and
17 accounted for. We have quorum. Thank you all very
18 much. May I proceed with any discussion on the agenda
19 for today, please?

20 COMMISSIONER BLOOM: I move to approve
21 the agenda.

22 COMMISSIONER AMPOMAH: I'm okay with
23 the agenda too. Thank you.

24 THE CHAIR: Doctor, second?

25 COMMISSIONER AMPOMAH: Oh, second.

1 THE CHAIR: Thank you. It's been moved
2 and seconded. Is there any objection?

3 Without objection, the agenda is
4 adopted. I'd like to turn to -- then to the approval
5 of the minutes for the OCC meeting on May 13th of
6 2026. Is there any discussion on that item?

7 COMMISSIONER BLOOM: Mr. Chair, I
8 reviewed the minutes. They look good to me. I would
9 move to approve the minutes of the May 13, 2026, OCC
10 meeting.

11 COMMISSIONER AMPOMAH: Mr. Chair, I do
12 review as well, and I do second.

13 THE CHAIR: Moved and seconded to
14 approve the minutes of the OCC meeting from May 13th
15 of 2026. Is there any objection?

16 Without objection, so adopted. Moving
17 on then to the main item for today, which is Case
18 Number 24683 in front of the Commission, which is the
19 Western Environmental Law Center's application for
20 rulemaking to amend sections of the New Mexico
21 Administrative Code 19.15.2, 19.15.5, 19.15.8,
22 19.15.9, and 19.15.25.

23 I wanted to note that our commission
24 counsel has provided us with final redline changes,
25 and so we have those versions in binders in front of

1 us today. Would it be all right with commissioners if
2 we moved through each of the NMAC -- each part of the
3 NMAC and just see if there's any further comments or
4 if -- just to confirm the commissioners are fine with
5 the changes as written or whether there's any
6 additional discussion?

7 COMMISSIONER BLOOM: Mr. Chair, I had
8 the opportunity to review the final redline that Mr.
9 Shandler put together for us.

10 THE CHAIR: Uh-huh.

11 COMMISSIONER BLOOM: And I had a few
12 things that I caught, mostly nitpicks. I don't know
13 if we just want to go through, and, you know, we could
14 flag anything we've already found or if your
15 preference is to go line by line.

16 THE CHAIR: Not necessarily line by
17 line, but I was at least going to -- you know how
18 our -- in our binders, they're tabbed by sections? I
19 was going to just open all the things in 2 and then
20 all the things in 5, 8, 9, 25. And then I figured we
21 can come back and do the statement of reasons at the
22 end.

23 COMMISSIONER AMPOMAH: Yeah.

24 THE CHAIR: Is that all right?

25 COMMISSIONER BLOOM: Very good. That

1 would work fine. Thank you.

2 THE CHAIR: Okay. All right. So in
3 that case, I will turn to -- discussion to NMAC'S
4 19.15.2.

5 COMMISSIONER BLOOM: Mr. Chair, I had
6 no issues with anything in 2.

7 THE CHAIR: Okay. We'll give
8 Commissioner Ampomah just a minute to check.

9 COMMISSIONER AMPOMAH: Yeah, I also do
10 not have any issue with 2.

11 THE CHAIR: Okay. With no additional
12 debate from me either, I will turn to 19.15.5.

13 COMMISSIONER BLOOM: Mr. Chair,
14 19.15.5.9.A(5) -- let me get there. It would just be
15 the removal of a hyphen, might need the addition of a
16 space there. This is -- if we're looking at the
17 bottom of page 1, just above where it says "B.
18 Inactive Wells," it says "Currently meets the
19 requirements of 19.15.27.8.A(2)(d)." I don't believe
20 we need the hyphen in there.

21 THE CHAIR: Right. It's just the extra
22 hyphen?

23 COMMISSIONER BLOOM: Yeah. Yeah.

24 COMMISSIONER AMPOMAH: Mr. Chang, no
25 issues for me on 5.

1 THE CHAIR: Okay. Just give me a
2 second. I agree with -- it's just typographical
3 updates here, so let me just -- but let me make a --
4 make sure I make that note. Okay. Any other notes,
5 concerns, debate on 19.15.5?

6 COMMISSIONER BLOOM: No, Mr. Chair.

7 COMMISSIONER AMPOMAH: No, Mr. Chair.

8 THE CHAIR: Okay. None -- no concerns
9 from me either in -- from 19.15.5 beyond what we've
10 already discussed, so I'll turn to 19.15.8.

11 COMMISSIONER BLOOM: Mr. Chair, I had
12 just one, again, small edit on this. 19.15.8.9.D
13 would change "low producing" to read "low producing
14 wells."

15 THE CHAIR: I'm sorry. 19.15.8.9.D as
16 in David; right?

17 COMMISSIONER BLOOM: Yes.

18 COMMISSIONER AMPOMAH: Page 2?

19 COMMISSIONER BLOOM: I actually had a
20 few -- maybe a few things here. Hold on.

21 THE CHAIR: Okay.

22 COMMISSIONER BLOOM: Yeah. Yeah. Top
23 of page 2, "D. Low Producing," I think that should be
24 "Low Producing Wells."

25 COMMISSIONER AMPOMAH: "Producing

1 wells," you said. Is that the first one?

2 THE CHAIR: That's the heading.

3 COMMISSIONER BLOOM: That was the first
4 one I mentioned, yeah, on the heading. And then --
5 let's see -- I had something else to remove here.
6 Let's see. Just above that in "C. Active Wells," I
7 was thinking perhaps remove the word "categories"
8 there before the colon. So we have "An
9 operator" -- under "C. Active Wells," "An operator
10 shall provide financial assurances for wells that are
11 not subject to Subsections D, E, and F of 19.15.8.9
12 NMAC via one of the following" -- actually, I don't --
13 you can skip that. I think it's fine to say
14 "categories."

15 THE CHAIR: Oh, just to -- whether the
16 Subsections 1, 2, 3 -- 1 and 2 --

17 COMMISSIONER BLOOM: Are categories or
18 not. I don't know.

19 THE CHAIR: I have no strong opinions
20 on that. I feel like either way it works.

21 COMMISSIONER BLOOM: I think we can
22 leave it. It reads fine now.

23 THE CHAIR: Okay.

24 COMMISSIONER BLOOM: Below, going to
25 D(2), underneath that, "low producing wells" --

1 THE CHAIR: Uh-huh.

2 COMMISSIONER BLOOM: -- just
3 grammatically "Each operator with" -- right now, it
4 reads "Each operator with one or more low producing
5 wells shall annually review." I'm wondering if that
6 should be "Each operator with one or more low
7 producing well or wells."

8 THE CHAIR: "One or more low producing
9 well." Maybe an "S" in brackets, in like -- "well,"
10 bracket, "S"?

11 COMMISSIONER BLOOM: So I'm not sure
12 I've seen that in -- typically in the way rules are
13 constructed --

14 THE CHAIR: Okay.

15 COMMISSIONER BLOOM: -- bracketing "S,"
16 so.

17 THE CHAIR: Not covered by -- hang on.
18 "With one or more -- each operator with one or more
19 low producing well or wells." You're just trying to
20 make the grammar fit; right?

21 COMMISSIONER BLOOM: Yes. Yes.

22 THE CHAIR: I'll turn to commission
23 counsel on that one as to whether -- what the best way
24 to do that might be.

25 MR. SHANDLER: So, Mr. Chair, the

1 applicants had "well or wells," and my notes said that
2 you had struck or the Commission had struck "or
3 wells." So it's however you grammatically want that
4 sentence to read.

5 THE CHAIR: "Or wells." Okay?

6 MR. SHANDLER: So it sounds like you're
7 going to restore the applicants' language "or wells."

8 THE CHAIR: "Or wells." Okay.

9 COMMISSIONER BLOOM: Below that, in 3,
10 we have "take away" as two words. But when we talk
11 about oil and gas takeaway capacity, it's one word.

12 THE CHAIR: Could I just see the line
13 that you're on real fast? It's the third line down?

14 COMMISSIONER BLOOM: Yeah. Third line,
15 "Midstream's takeaway capacity," "midstream takeaway
16 capacity."

17 THE CHAIR: Okay.

18 MR. SHANDLER: So you want it one word
19 or two words?

20 COMMISSIONER BLOOM: One word.

21 MR. SHANDLER:

22 COMMISSIONER BLOOM: Yeah. It jumped
23 out at me as two words. I did a little research, and
24 generally, the standard for oil and gas is one word
25 for takeaway. That's all I had for 8.

1 THE CHAIR: Do you have a -- do you
2 have an opinion on whether that needs to be one word
3 or two?

4 COMMISSIONER AMPOMAH: Oh, boy. So
5 Commissioner Bloom said in the typical oil and gas, so
6 I would probably have to do a little bit of search,
7 but I do not have any strong opinion on that.

8 THE CHAIR: Yeah, I don't either. I've
9 seen it as one word. I've -- I don't think it's going
10 to be the end of the world if it is -- ends up being
11 two, but I have seen people spell it as one. Okay.

12 And you said no further issues,
13 Commissioner Bloom?

14 COMMISSIONER BLOOM: Correct.

15 COMMISSIONER AMPOMAH: Well, Mr. Chair,
16 so under D -- 1D, the -- D(1), so the effective date
17 of amendment --

18 COMMISSIONER BLOOM: Uh-huh.

19 COMMISSIONER AMPOMAH: -- can we
20 discuss that, or it's just going to -- do we have a
21 date for that or --

22 THE CHAIR: That -- we will get a date
23 when the -- I think that needs to be -- commissioner
24 counsel can probably explain this better than I can,
25 but I think there -- that date will become apparent to

1 us only upon the filing of a final complete rule;
2 right?

3 MR. SHANDLER: Yes.

4 COMMISSIONER AMPOMAH: Thank you. Then
5 I do not have any further inputs on this.

6 COMMISSIONER BLOOM: Mr. Chair --
7 sorry. I'm just looking at my other notes here.
8 Guess we're still on 8. At 19.15.8.9.D(1), it says --
9 Dr. Ampomah just reminded me of this. We have -- as
10 of the effective dates, that would read something like
11 "As of the July 1," which would be awkward. I think
12 we take out the word "the," and it would just be "As
13 of."

14 THE CHAIR: Oh, yeah. Sure. "As of"
15 whatever the date is. Yeah, "As of July 1st," "As of
16 May 1st." Yep. Okay. I apologize to those in the
17 audience who are finding this incredibly dry and
18 boring, but we're trying to get it right. Nothing
19 further. Okay. So anything further from anybody
20 on -- from any commissioners on 19.15.8?

21 COMMISSIONER BLOOM: No, Mr. Chair.

22 THE CHAIR: No. Okay.

23 COMMISSIONER AMPOMAH: No, Mr. Chair.

24 THE CHAIR: Then I will turn to
25 19.15.9. Commissioners, anything?

1 COMMISSIONER BLOOM: No, Mr. Chair.

2 COMMISSIONER AMPOMAH: No, Mr. Chair.

3 THE CHAIR: One second to review my own
4 notes here. Nope, I'm good. Okay. With no further
5 reviews on that section, I will turn to 19.15.25.

6 COMMISSIONER BLOOM: Mr. Chair, I had
7 no suggested edits there.

8 THE CHAIR: And, Commissioner, if you
9 need more time, I'm happy to give you more time.

10 COMMISSIONER AMPOMAH: No, so the same
11 one under 9.E --

12 THE CHAIR: Uh-huh.

13 COMMISSIONER AMPOMAH: -- so the
14 effective date of this rule, would that also fall
15 under the same discussion that --

16 THE CHAIR: Yes.

17 COMMISSIONER AMPOMAH: Okay.

18 THE CHAIR: Yeah. We should probably
19 keep that highlighted too since the other one was
20 highlighted so we don't miss it.

21 COMMISSIONER AMPOMAH: Yeah. And we
22 missed a lot in the -- in some of the parts. I tried
23 to highlight some of them, but yeah, if we can do
24 that, that would be good.

25 THE CHAIR: Yes.

1 COMMISSIONER BLOOM: Yes. We might do
2 a search for "effective" and --

3 THE CHAIR: But I think this one's
4 actually okay, because "the" -- you know, "the" falls
5 inside the bracket. So as long as we cancel
6 everything in the bracket when we replace it with a
7 date, it should work.

8 COMMISSIONER BLOOM: Yes.

9 THE CHAIR: It was an issue in the
10 other one because "the" was outside the bracket, you
11 know. Okay. Did you want to do a control find and
12 make a note of that on the record now of "the
13 effective date"?

14 COMMISSIONER BLOOM: I looked, and if
15 there's -- right, there's a number of those, I don't
16 know if we want to necessarily -- I don't know if we
17 need to go through and highlight those all --

18 THE CHAIR: Okay.

19 COMMISSIONER BLOOM: -- now, but --

20 THE CHAIR: Okay.

21 COMMISSIONER BLOOM: -- perhaps as
22 follow up after.

23 THE CHAIR: Sure.

24 COMMISSIONER AMPOMAH: Yeah. And most
25 of them are in the -- 25, so.

1 THE CHAIR: Okay. We'll just make sure
2 that we highlight those so we know for later, but
3 that's not a substantive change to anything; right?
4 We're just highlighting the fact that we got to update
5 that when there is an effective date. Okay.

6 Anything -- and in that case, I will -- it doesn't
7 sound like there's any further comments, but I'll give
8 commissioners a few moments to just go through their
9 final notes one last time, make sure we haven't missed
10 anything.

11 COMMISSIONER BLOOM: Mr. Chair, I'm
12 good. I -- would we want to vote to adopt these final
13 changes?

14 THE CHAIR: Well, I'm just giving Dr.
15 Ampomah just a chance to make sure we haven't missed
16 anything.

17 COMMISSIONER AMPOMAH: Yeah. So can we
18 check the original -- the one that we worked on to see
19 that low producing was -- you know, I tried to find
20 the definition of "low producing well" in the version
21 that counsel shared with us.

22 THE CHAIR: Uh-huh.

23 COMMISSIONER AMPOMAH: But I cannot
24 find that.

25 THE CHAIR: So that would be back in 2,

1 Subpart 2 or Part 2; right?

2 COMMISSIONER BLOOM: So we're looking
3 at the top of page 6 related to Part 2. "Low
4 producing well means an oil or gas well that produced
5 less than 180 days and less than 1,000 barrels of oil
6 equivalent within a consecutive 12-month period."

7 THE CHAIR: Give us just one second.
8 That's page 6.

9 COMMISSIONER AMPOMAH: Page 6. Okay.
10 So then definitely we are changing the one that
11 Commissioner Bloom talked about to "low producing
12 wells."

13 THE CHAIR: Which one? I'm sorry.
14 Could --

15 COMMISSIONER AMPOMAH: So there was
16 a --

17 COMMISSIONER BLOOM: I believe that was
18 in 8.

19 COMMISSIONER AMPOMAH: Eight, yeah. So
20 yes, 8 -- yeah.

21 THE CHAIR: Oh, the -- yes, yes, yes.

22 COMMISSIONER AMPOMAH: So we're
23 changing to "wells." Okay.

24 THE CHAIR: Yeah, it's -- it was just
25 missing a -- it was just a missing word, yep.

1 COMMISSIONER AMPOMAH: I wanted to just
2 clarify that. Thank you.

3 THE CHAIR: Yep.

4 COMMISSIONER BLOOM: And that was just
5 because the previous section was "active wells," and
6 then we get down to D, it's "low producing wells."

7 THE CHAIR: Yeah.

8 COMMISSIONER BLOOM: Yeah.

9 THE CHAIR: Yeah. Well -- and plus it
10 matches with the definition in 2, so.

11 COMMISSIONER BLOOM: Yes.

12 THE CHAIR: Okay. With most
13 commissioners seeming satisfied, in that case, I
14 will -- with the -- I'll take a vote -- a roll call
15 vote if we could, Madam Clerk, on the package of rules
16 in front of us today as compiled by commission counsel
17 with the few editorial and typographical changes
18 discussed today. I'll take that as a motion first, I
19 guess.

20 COMMISSIONER BLOOM: Mr. Chair, I would
21 so move.

22 THE CHAIR: Again, you cut -- sorry.

23 COMMISSIONER BLOOM: Mr. Chair, I so
24 move.

25 COMMISSIONER AMPOMAH: Mr. Chair, I

1 second.

2 THE CHAIR: Okay. Moved and seconded.
3 I'll call the -- if the commission clerk would please
4 call the roll.

5 THE CLERK: Okay. Commissioner
6 Ampomah?

7 COMMISSIONER AMPOMAH: Approved.

8 THE CLERK: Commissioner Chang?

9 THE CHAIR: Yes.

10 COMMISSIONER AMPOMAH: And Commissioner
11 Bloom?

12 COMMISSIONER BLOOM: Approve.

13 THE CHAIR: With that, very good, we
14 have a rules package in front of us. Thank you all
15 very much. Then I'll turn to the order and the
16 statement of reasons that have been drafted for us by
17 commission counsel.

18 COMMISSIONER BLOOM: Mr. Chair, I just
19 have a couple things I would flag.

20 THE CHAIR: Please.

21 COMMISSIONER BLOOM: Bottom of page 2,
22 Roman numeral IV. We get back into the -- there's
23 actually -- I think it might be highlighted in yellow,
24 or maybe I highlighted that.

25 COMMISSIONER AMPOMAH: Yeah.

1 THE CHAIR: Yes.

2 COMMISSIONER BLOOM: We restored "or
3 wells" there.

4 THE CHAIR: We did just do that.

5 COMMISSIONER BLOOM: Yeah. So we'll
6 want to make that change. And then -- so going down
7 to Roman numeral VI on the next page, I just had some
8 wordsmithing there that I sent to Mr. Shandler.

9 THE CHAIR: Would you like to --

10 COMMISSIONER BLOOM: Sheila, I believe
11 I sent those to you. Would you be able to put those
12 on the screen for us, Ms. Apodaca? Thank you. While,
13 that's coming up also, I think the standard is -- for
14 NMOGA, N-M-O-G-A, to be spelled as one group of five
15 continuous letters without the break between "NM" and
16 "OGA". I mentioned that to Mr. Shandler. He had no
17 opposition to that, so I think we should just go with
18 spelling it out as NMOGA.

19 THE CHAIR: No opposition from me on
20 spelling NMOGA as -- the acronym as -- without the
21 space.

22 THE CLERK: And my laptop is wanting to
23 restart now.

24 THE CHAIR: Oh, no.

25 THE CLERK: So it'll be a moment.

1 THE CHAIR: We can bear with you. It's
2 okay.

3 THE CLERK: Okay.

4 COMMISSIONER BLOOM: We wouldn't want
5 to get out of here too soon. And the only other thing
6 I had any comments on, we can look at that once Ms.
7 Apodaca gets this pulled up, but it was just some of
8 the language around "double bonding."

9 THE CHAIR: And which paragraph is that
10 just so I can have it marked and ready to discuss?

11 COMMISSIONER BLOOM: Yes. Looking at
12 the bottom of page 3 --

13 THE CHAIR: Uh-huh.

14 COMMISSIONER BLOOM: -- Roman numeral
15 X, "X."

16 THE CHAIR: Uh-huh.

17 COMMISSIONER BLOOM: I made some
18 substantial changes there --

19 THE CHAIR: Okay.

20 COMMISSIONER BLOOM: -- that we should
21 look at --

22 THE CHAIR: Okay.

23 COMMISSIONER BLOOM: -- once we get
24 them pulled up.

25 THE CHAIR: Okay. In addition to that,

1 I just also wanted the commissioner's opinions on --
2 at the very bottom of page 1, while we're waiting for
3 our documents to pull up, we don't have to discuss
4 this right now, but I thought I would ask for your
5 input on adopt and incorporate the applicants' notice
6 and the proposed statement of reasons. The -- what we
7 ended up adopting is -- there's certainly a lot that
8 did come from the applicants, but it wasn't all of it.

9 So I wanted to talk through and see
10 whether there's -- we want to be more specific about
11 which -- maybe which paragraphs we are declining to
12 adopt or did adopt or adopted in other ways. I know
13 that the commission counsel provided modifications,
14 but for example-- let me just pull up an example.

15 Let's see. In the applicants' proposed
16 finding of fact, there was a bunch of findings around
17 allowing interested persons to request a hearing, but
18 we ended up going in a different direction for that
19 particular issue. So I'm wondering whether we need to
20 call out the paragraphs that we didn't adopt or
21 whether the way that -- as drafted, you know.

22 Whereas, if we gave additional reasons
23 for changes that we made, whether that sort of
24 implies -- whether that's sufficiently clear basically
25 as to what we did or did not adopt out of the

1 applicants' proposed statement of reasons. So I just
2 wanted to flag that as a -- as something to discuss.

3 COMMISSIONER BLOOM: Sure. Mr. Chair,
4 perhaps to keep this brief and not to get bogged down
5 in research here at the last moments, we could say
6 something to the effect of -- we go with the language
7 as stated and then add something like "except for
8 numbers" --

9 THE CHAIR: Something -- yeah.

10 COMMISSIONER BLOOM: -- you know --

11 THE CHAIR: Something along those
12 lines.

13 COMMISSIONER BLOOM: -- below that
14 highlight those few things where we adopted some of --
15 I believe, NMOGA, perhaps IPANM, and OXY's proposals.

16 THE CHAIR: Something -- yeah.
17 Something along those lines, yeah. Or I don't know if
18 that's even necessary, but I wanted to flag that as a
19 discussion item since I wasn't sure whether it was
20 sufficiently -- whether the Commission was comfortable
21 and wanted to -- any further.

22 Madam Clerk, are we --

23 THE CLERK: No, I'm having a real
24 problem. I'm going to have to go visit IT real quick
25 and see what --

1 THE CHAIR: That's okay. In that case,
2 should we take a -- would you -- would it be helpful
3 if we took a recess?

4 THE CLERK: Yes.

5 THE CHAIR: Just a -- okay.

6 THE CLERK: Yeah --

7 THE CHAIR: Why don't we say -- with
8 IT, I hate to say ten minutes because things don't
9 always resolve themselves in ten minutes. Let's at
10 least do 15, so let's say 9:45? Okay.

11 COMMISSIONER BLOOM: Very good. Thank
12 you.

13 THE CHAIR: In that case, we'll --
14 we're on recess. Thank you.

15 (Off the record.)

16 THE CHAIR: Okay. Thank you all for
17 your patience. Calling the meeting of the New Mexico
18 Oil Conservation Commission back to order. I think we
19 have the document now in front of us. I'll turn to
20 Commissioner Bloom.

21 COMMISSIONER BLOOM: Mr. Chair, thank
22 you.

23 Ms. Apodaca, thank you.

24 All right. I'm looking at Roman
25 numeral VI at the top of page 3. You can see some

1 highlights there or some red lines. Let's see. Clerk
2 scrolling there for us. Okay. There we go. Just
3 some slightly different language, wanted to see if
4 that would meet with your approval.

5 THE CHAIR: No objections from me.

6 COMMISSIONER AMPOMAH: Yeah, no
7 objection from my side as well.

8 COMMISSIONER BLOOM: Okay. And then if
9 we scroll down to X below, Roman numeral X, I took
10 another crack at the issue about bond stacking --
11 overlapping bonds versus --

12 THE CHAIR: Uh-huh.

13 COMMISSIONER BLOOM: -- double bonding
14 and tried to clean that up a little bit and strengthen
15 it as well. And it spills over a little bit further
16 down too. We can read through this part.

17 THE CHAIR: Understand that any --
18 okay. Well, I'll let Commissioner Ampomah comment
19 first.

20 COMMISSIONER AMPOMAH: So, Commissioner
21 Bloom, I thought that even aside the State Lands
22 Office issue, we were looking at the various
23 categories to make sure that there will be no
24 situation where there will be multiple bonding or
25 double bonding. So I'm not sure if the State Lands

1 Office situation was the main driver for our
2 discussion.

3 I thought that the Chairman showed us a
4 chart that we went through it to make sure that we do
5 not really have double bonding. So I'm not sure
6 about -- the Commission also concludes that a double
7 bonding issue is premature for discussion. I thought
8 based on the rule that we were working on, we tried to
9 avoid the double bonding based on the rules.

10 THE CHAIR: Well --

11 COMMISSIONER BLOOM: Yes

12 THE CHAIR: Please, go ahead.

13 COMMISSIONER BLOOM: Yeah, so I think
14 in the draft that we have here, there's a distinction
15 that's being made between bond stacking, which would
16 have been a well under OCD rule having to be bonded
17 multiple times; right?

18 And then I think Mr. Shandler, in
19 drafting this statement of reasons, noted that NMOGA
20 had -- if not other parties, had brought up another
21 sort of facet of this, which would be that while we're
22 doing an OCD financial assurances rule, the New Mexico
23 State Land Office is doing so also. So he
24 distinguished these two by calling one -- you know,
25 the first one inside the OCD rule bond stacking or

1 overlapping bonding and said that NMOGA had brought up
2 a double bonding issue, which would be, you know,
3 bonding under the OCD rule and then bonding --
4 getting -- having to be bonded under the land office.
5 So I hope that clarifies.

6 THE CHAIR: Yeah, I think I understood
7 the intent, but it was a little hard to -- because I
8 think for the most part, people were using "double
9 bonding." I don't think we really talked about bond
10 stacking that much during the deliberations. During
11 the deliberations and as well prior to the
12 deliberations, "double bonding" was used to refer to
13 different issues.

14 And I think that's part of the
15 confusion that we're trying to clean up here, but I'm
16 not sure how to do that most eloquently on paper.
17 What we're trying to say is that we did address to the
18 extent that the original proposed rule could be read
19 as OCD requiring multiple bonds of \$150,000 on the
20 same well, that the Commission took a lot of action to
21 make sure that we try to make that as clear as -- that
22 language as clear as possible.

23 To the extent that there was a
24 secondary issue of whether -- as a policy matter,
25 whether or not we should even be requiring this bond

1 through OCD, if there could potentially be other
2 bonding mechanisms on the industry as a whole through
3 other agencies, that -- I think we all agree that
4 that -- what State Land Office may or may not do in
5 the future is not something we can consider.

6 So I think that's -- I think that
7 paragraph was -- we were just trying to say that, but
8 how we do that is, of course -- and how we best
9 articulate that on paper is what we're trying to
10 figure out right now. So if there's a better way to
11 phrase it, I think we're all ears.

12 COMMISSIONER AMPOMAH: So, Mr. Chair,
13 you're saying that that is why we do have "The
14 Commission also concludes the double bonding issue."
15 I thought specifically with State Lands Office
16 situation, it's more or less premature, so --

17 THE CHAIR: Yeah. How about this,
18 instead of that word -- because "double bonding" is
19 used so in so many different ways, so many different
20 times, I don't want -- how about if we say "The
21 Commission also concludes that issues related to
22 other" -- you know, "whether or not other agencies may
23 also require bonding is outside the scope of -- is
24 premature and outside the scope" or something along
25 those lines, just a way to avoid that word.

1 COMMISSIONER BLOOM: Mr. Chair?

2 THE CHAIR: Yeah. Yeah.

3 COMMISSIONER BLOOM: Perhaps we could
4 scrap the existing language in 10 and -- or even my
5 changes here, and -- I mean, clearly if we go back up
6 to the top of this section -- this is all under B(1);
7 right?

8 THE CHAIR: Uh-huh.

9 COMMISSIONER BLOOM: We have language
10 that amply describes what we were trying to do, why
11 these changes to the applicants' language was made.
12 Perhaps we just rework 10 --

13 THE CHAIR: Yes.

14 COMMISSIONER BLOOM: -- and simply --

15 THE CHAIR: Address --

16 COMMISSIONER BLOOM: -- say that we
17 were trying to get at the issue of having to have
18 multiple bonds under the OCD rule and discussion of --
19 and this was not -- I don't know. I don't know where
20 we go from there, but --

21 THE CHAIR: Yeah, maybe 10 could simply
22 say that to the extent discussion of -- there was
23 discussion of other agencies potentially also
24 requiring bonding in the future, that that was not
25 considered in -- that would be premature and it's

1 outside the scope of what we could consider in this.

2 COMMISSIONER BLOOM: Perfect.

3 COMMISSIONER AMPOMAH: Yeah, I agree to
4 that.

5 THE CHAIR: You want to try to write
6 down what I just --

7 COMMISSIONER BLOOM: Yeah.

8 THE CHAIR: -- verbally threw out
9 there?

10 COMMISSIONER BLOOM: So I believe you
11 said "To the extent that other agencies could require
12 financial assurances in the future" --

13 THE CHAIR: "To the extent that there
14 was discussion of other agencies potentially also
15 requiring financial assurance in the future."

16 COMMISSIONER BLOOM: So what I have is
17 "To the extent that there was discussion of other
18 agencies potentially also requiring financial
19 assurances in the future" --

20 THE CHAIR: Comma --

21 COMMISSIONER BLOOM: -- "the
22 Commission" --

23 THE CHAIR: -- "the Commission finds
24 that the issue is premature and outside the scope of
25 what the Commission can consider for this rulemaking."

1 COMMISSIONER BLOOM: "The Commission
2 finds that the issue is premature and outside the
3 scope of what the Commission can" --

4 THE CHAIR: "Consider in this
5 rulemaking."

6 COMMISSIONER BLOOM: Sure. I think I
7 like -- I like that in lieu of everything that was in
8 10 previously and my changes. I was just scrapping
9 all that and going with this, yes.

10 MR. SHANDLER: Are you typing this, or
11 she's typing this?

12 COMMISSIONER BLOOM: Oh, okay. You're
13 seeing Ms. Apodaca typing that, yes.

14 THE CHAIR: "To the extent that there
15 was discussion of other agencies potentially also
16 requiring financial assurance."

17 COMMISSIONER BLOOM: Yeah.

18 THE CHAIR: How about let's specify
19 "oil and gas industry financial assurance"? Because
20 again, it's not -- I mean, to the extent that we
21 discussed proposals from the State Land Office, that's
22 not a well. You know, it's an industry level, so "oil
23 and gas industry financial assurance."

24 Commission Counsel, do you have any
25 suggestions or edits on that?

1 MR. SHANDLER: So telling the court,
2 why do you think it's premature?

3 THE CHAIR: Uh-huh.

4 MR. SHANDLER: Is it because the land
5 office rulemaking is still pending?

6 THE CHAIR: Yes. And also, I mean,
7 I -- I mean, leaving it broad -- right? -- like any --
8 I don't know what other agencies may or may not want
9 financial assurance from the oil and gas industry in
10 the future and who or who -- or may not. Like, it
11 would be speculative for us to weigh what other
12 agencies may or may not choose to do in the future;
13 right? We have to look at the landscape of what we're
14 rulemaking in as the regulatory landscape exists at
15 this time. Is that -- is there a better way to phrase
16 that?

17 MR. SHANDLER: So, Mr. Chair, I'm just
18 the scribe here or Sheila is the scribe, so I don't
19 have a particular strong opinion legally. I'm just
20 trying to figure out whether the appellate writers --

21 THE CHAIR: Sure.

22 MR. SHANDLER: -- briefers are --

23 THE CHAIR: Please.

24 MR. SHANDLER: -- are they going to
25 read this transcript? And I hope they do because I

1 think the transcript will inform the court exactly
2 what this says that means. So I don't have anything
3 additional.

4 COMMISSIONER AMPOMAH: Are we deleting
5 the --

6 THE CHAIR: We would -- yeah. There
7 would be a replacement. That's the thought. Yeah.

8 COMMISSIONER BLOOM: Mr. Chair, I think
9 this goes where we want. It simply says that if
10 there's discussion of other agencies doing something
11 in the future, I -- I think that says that, you know,
12 we can't be dealing with that as we go through this
13 rulemaking. When those -- when that rulemaking is,
14 you know, incomplete or anything else, you know, it is
15 immature, and it's outside the scope what we consider.
16 I mean, I think it's sort of all there.

17 THE CHAIR: How about just one last
18 edit? How about after "To the extent that there was
19 discussion of other agency -- to the extent that there
20 was discussion that other agencies may potentially
21 also require," because I just want to hammer home that
22 the issue is that --

23 COMMISSIONER BLOOM: That would also
24 work.

25 THE CHAIR: The issue is that while

1 other agencies may consider that -- yeah, you can
2 leave -- the word "also" is still in there -- "may
3 potentially also require." "To the extent that there
4 was discussion that other agencies may potentially
5 also require oil and gas financial assurance in the
6 future, the Commission finds that" -- well, it -- and
7 again, so we've put "may, potential, in the future."

8 I think the issue is clear that we
9 can't weigh speculative concerns that isn't -- that
10 may or may not happen and isn't currently the
11 landscape of -- the regulatory landscape as we
12 understand it.

13 COMMISSIONER BLOOM: I agree. I'm good
14 with this language as proposed.

15 COMMISSIONER AMPOMAH: Yeah, I'm in
16 support of this one too.

17 THE CHAIR: Okay.

18 COMMISSIONER AMPOMAH: Thank you.

19 THE CHAIR: So in that case, then the
20 original, the -- yeah, that paragraph would -- okay.
21 Okay.

22 COMMISSIONER BLOOM: That's all I had,
23 Mr. Chair, with respect to the statement of reason. I
24 believe that was well drafted.

25 Thank you, Mr. Shandler.

1 COMMISSIONER AMPOMAH: Mr. Chair, I do
2 have few. So can we go to --

3 THE CHAIR: Please.

4 COMMISSIONER AMPOMAH: -- the A? Can
5 we start with A?

6 THE CHAIR: Of course.

7 COMMISSIONER AMPOMAH: And I'll go to
8 Number 4.

9 THE CHAIR: A --

10 COMMISSIONER AMPOMAH: A(4). Yes. So
11 "The Commission adopts and incorporates
12 applicants'" -- so that whole statement, I feel like
13 it's so broad. And I'm not sure if we probably will
14 want to discuss that and probably even take it off
15 because if you go all the way to B or even if you go
16 to -- let's go to 6, Number 6. Let's go down to 6.

17 THE CHAIR: Uh-huh.

18 COMMISSIONER AMPOMAH: So the
19 Commission finds that the applicant notice of filing
20 closing arguments and proposed statements or reactions
21 provided a preponderance of" -- that one too is so
22 broad from my opinion, because are we looking at the
23 stipulated agreement or the actual applicants'
24 closing? Now -- but if you go to D(7), you see that
25 all of the applicants' rule changes are adopted except

1 as supplemented in the -- following the law. So I
2 mean, we described where we differ from, let's say,
3 the joint stipulation or even the applicants' proposed
4 rule. So I feel like D(4) and then even D(6) probably
5 would have to discuss and see if we need that.

6 THE CHAIR: Well -- or maybe narrow it
7 a little bit.

8 COMMISSIONER AMPOMAH: Narrow it a
9 little bit, yeah.

10 THE CHAIR: Sure.

11 COMMISSIONER AMPOMAH: And then -- so
12 if we go to Number 2 --

13 THE CHAIR: Uh-huh.

14 COMMISSIONER AMPOMAH: If we go down to
15 Number 2 -- right there. So on the first line, "The
16 Commission adopts applicants' language." So that one
17 too, I'm still confused. Is it the joint stipulated
18 language, or what are we referring to here? And that
19 would be it for me -- all for me. Thank you.

20 THE CHAIR: Let me mark that real fast,
21 and then we can turn the discussion. We can certainly
22 clarify -- for this part right here, I think we can
23 clarify, and commission counsel can help me with the
24 exact title of the document we were looking at. But I
25 believe it was the applicants' final -- I wasn't sure

1 whether it's called the final joint stipulated
2 language, but it's the final version. But we can
3 certainly make sure that we clarify which version that
4 we were looking at and that -- looking at adopting.

5 In terms of the questions around Part
6 A, around adopting the applicants' proposed findings
7 of fact and conclusions of law, I understand and I'm
8 trying to find the most effective and efficient way
9 for us to perhaps adopt something a little bit more
10 narrow than that or be more specific about what we're
11 trying to adopt.

12 Because I will say, when I -- turning
13 just -- I'm not sure that -- for example, I'm not sure
14 that Paragraph 53 in the applicants' findings of fact
15 is particularly necessary to get to where we got to.
16 And also, Paragraphs 258 through 261 discusses the --
17 our findings of fact that would support language that
18 the Commission did not in fact adopt around interested
19 persons being able to require a hearing.

20 So I don't know if we want to quickly
21 run through and see if there are other paragraphs that
22 we want to decline to adopt and be more specific about
23 which paragraphs we do adopt and which paragraphs we
24 don't adopt, or if -- I'll leave it open to the
25 commissioners on thoughts as to what the most

1 effective and efficient way to do that might be.

2 COMMISSIONER AMPOMAH: So, Mr. Chair,
3 so if you go to the Number 7 -- 17, it says "All" --
4 number 7 -- 17, yeah.

5 THE CHAIR: What are -- which document
6 are you looking at?

7 COMMISSIONER AMPOMAH: I'm looking at
8 the statement of reasoning, so A.

9 THE CHAIR: Okay. So A, Roman little
10 numeral vii.

11 COMMISSIONER AMPOMAH: Yes.

12 THE CHAIR: A.1, Roman numeral vii.

13 COMMISSIONER AMPOMAH: Yes. So "All of
14 the applicants' rule changes are adopted except as
15 supplemented in the following below." So you see
16 commission counsel went through B, talking --
17 highlighting the ones that we did not agree to.

18 THE CHAIR: Yes.

19 COMMISSIONER AMPOMAH: So that is why I
20 feel like probably -- I mean, even D(6) and then D(4),
21 is it really necessary for us to include that in
22 there?

23 MR. SHANDLER: Mr. Chair, I advise it
24 is necessary. So the parties over my objection agreed
25 to do 75 page findings of fact. Okay? So unless you

1 want a 75 page finding of fact, you need to adopt one
2 of the parties as your baseline. And this is still
3 like a 12-page supplement to their 75 pages. So maybe
4 if this was in previous years when parties would do
5 ten-page findings of facts, this would be sufficient.
6 But that is not the world that they all agreed to live
7 in. And so the world you're living in is you got to
8 adopt to one of theirs and supplement it unless you
9 want your own 75 page one.

10 THE CHAIR: Yeah, we -- I mean, we do
11 need to have findings of fact to support whatever we
12 are -- ended up adopting. I do think we want to
13 narrow some of the language in here. For example, I'm
14 not sure that we adopted all of the applicants'
15 proposed rule changes, some of it which we explicitly
16 declined.

17 So I -- it might be that "We are
18 adopting applicants' rules changes as modified in the
19 following below," might be more accurate than to say
20 that we adopt -- because there are parts of the
21 applicants' language that we didn't adopt; right? But
22 we can -- so -- and we did adopt language as
23 proposed -- I mean, as noted in the modifications, we
24 did adopt language proposed by other parties
25 throughout the -- which is why I -- I mean, I take Mr.

1 Shandler's point that we do need to lay out what
2 findings of fact support our ultimate decision.

3 But I think that means -- and I
4 don't -- and I concur that the applicants' proposed
5 findings of fact are a good starting point. But I
6 do -- I'm trying to find the most effective way for us
7 to adopt a sufficient basis of fact without having to
8 completely rewrite the whole thing.

9 So I'm wondering whether there are --
10 we can call out specific paragraphs we want to adopt
11 and paragraphs that we don't want to adopt, or whether
12 commissioners want to take a little bit more time to
13 go through and see and maybe get a redline of what
14 applicants provided.

15 COMMISSIONER BLOOM: Mr. Chair, I -- it
16 appears there are some findings or paragraphs that you
17 don't like. Perhaps we could write those as, you
18 know, "except for the following" and simply list them
19 as a way -- as a matter of expediency, or perhaps we
20 could change the language that exists in the current
21 statement just to say something, you know, largely
22 adopts or -- I don't know that I love that for some
23 reasons.

24 THE CHAIR: Yeah.

25 COMMISSIONER BLOOM: So perhaps you --

1 if you have -- there's ones you have problems with,
2 let's look at them, and we can just write that they're
3 excluded.

4 THE CHAIR: Sure. Yes. And so in that
5 case, why don't we turn to the applicants' -- so this
6 is also in your binders. Let's turn to the
7 applicants' closing arguments and proposed statements
8 of reasons.

9 There's two ways of doing what --
10 Commissioner Bloom, you're talking about we can
11 specifically call out the paragraphs we do want to
12 adopt, you know, Paragraphs 5 through 125 or vice
13 versa -- right? -- call out the paragraphs we don't
14 want to -- that we decline to adopt. So I don't know
15 if you guys want to just walk through this real fast.

16 I know a couple jumped out at me as I'd
17 rather not adopt. I will say that some paragraphs are
18 somewhat intermingled in that we may want parts of the
19 findings of fact. But given that the document was
20 written by the parties, it is a little bit more
21 argumentative than I think the Commission would have
22 written some of the findings had we started -- had we
23 written our own.

24 So let's start, for example, with
25 the -- oh, so go ahead. Did you have a thought on

1 that?

2 COMMISSIONER BLOOM: I'd be interested
3 to see how you want to approach this, or we could take
4 a -- you know, 15 or 20-minute recess and simply go
5 through these on our own and --

6 THE CHAIR: Okay. I did go -- sure.
7 I'm --

8 COMMISSIONER BLOOM: And if there's
9 any, like -- you'd like to highlight right now, that
10 could be helpful for us as we're considering.

11 THE CHAIR: Sure. So a couple of
12 things that I already highlighted, I think for
13 example -- and these are just examples. This is
14 definitely not an exhaustive list, but I had a
15 question around the applicants' experts and data. So
16 this is sort of big Roman numeral section number III
17 that starts on page 15. The applicants provide a
18 number of findings of fact around their experts, but
19 it -- the findings of fact do not provide the experts
20 of the other parties -- right? -- just the applicants'
21 experts.

22 So I think we should either supplement
23 by taking the findings of facts of other parties that
24 discuss the -- all of the witnesses that we relied on
25 and/or heard from, or else it might be more expedient

1 to. I'm not sure that we necessarily need a findings
2 of fact about people's biographies, but I would -- I
3 wouldn't include only the applicants' experts without
4 also including findings of fact around all of the
5 experts that the Commission heard from because that
6 just seemed a little more one-sided than the
7 Commission need -- would like to be, at least would be
8 my preference.

9 Some of the findings, this is not so
10 much a paragraph that I can specifically call out, but
11 some of the findings in the parties' engagement
12 section -- so this would be Section 2 before that --
13 were also a little pointed, so I don't know that we
14 put -- the Commission wants to be as pointed as
15 phrased by the applicants.

16 And then there's the question of the
17 unnumbered paragraphs all the way up at the front, the
18 preliminary statement itself. Some of that is very
19 good background, but I'm -- I just want to be clear as
20 to what -- are we adopting the preliminary statements,
21 the -- you know, all of those -- the sort of more
22 argumentative parts of this filing or just the
23 findings and the numbered paragraphs of the proposed
24 statement of reasons.

25 You see how on page 11 of this

1 document, it goes from sort of like an argumentative
2 brief to numbered proposed statements of reasons;
3 right? So do -- are we only adopting the proposed
4 statement of reasons, or are we -- you know, are -- or
5 what parts of the document ahead of that are we also
6 adopting?

7 MR. SHANDLER: So, Mr. Chair, I would
8 advise you of a range of options, but the strongest
9 option is that -- adopt even the unnumbered parts.
10 That's when they make their legal arguments.

11 THE CHAIR: Sure.

12 MR. SHANDLER: And this case will
13 largely turn on the legal arguments, so you got to
14 have that in there so the court knows what your
15 position was.

16 THE CHAIR: Fair enough. Thank you.
17 And I wasn't necessarily saying that we shouldn't
18 adopt them. I just wanted the commissioners to have
19 considered that and made a considered decision in what
20 they're choosing to adopt.

21 And then the parts that did also jump
22 out at me is at the -- sorry. I'm jumping around in
23 this document a little bit. But I know Paragraphs 258
24 through 261 are findings of fact that support allowing
25 all interested persons to file for a hearing. And I

1 think the Commission did not, in fact, adopt that
2 language, so wasn't sure whether we should call out
3 those specific paragraphs as not being --

4 COMMISSIONER BLOOM: Those numbers
5 again?

6 THE CHAIR: 258 through 261. And it's
7 258 through 261, so it's all of those paragraphs,
8 yeah. And then just one real quick thing to highlight
9 for commissioners -- I'm sorry -- again, this is on
10 page 21, but say Paragraph 53, Paragraph 53 calls out
11 an example that the applicant urged the Commission to
12 consider, but I'm not sure that we need it. And it
13 seems a little bit more thumb in the eyeball of a
14 particular operator than we -- than the Commission
15 would want to have on the record, so thoughts for my
16 fellow commissioners to consider.

17 I'm happy to give everybody a chance to
18 maybe go over those documents just a little bit. What
19 would be a good amount of time? Should we plan on
20 taking an early lunch and -- so that we can all
21 individually take -- come back at one, or what's a
22 good amount of time for commissioners?

23 COMMISSIONER BLOOM: I would say I am
24 familiar with these, having read them at least a
25 couple times. Half an hour right now, we come back

1 at, say, 10:45 or 11:00, and maybe we finish up before
2 lunch?

3 THE CHAIR: Okay.

4 COMMISSIONER AMPOMAH: I would say
5 eleven, yeah.

6 THE CHAIR: Okay. In that case, I will
7 call for a recess until eleven. Thank you all very
8 much.

9 (Off the record.)

10 THE CHAIR: Good morning. It is still
11 morning. Welcome back from recess. This is the
12 continuation of the meeting of the New Mexico Oil
13 Conservation Commission. We were discussing the
14 rulemaking petition in front of us today and the
15 various proposed findings of facts and conclusions of
16 laws to explain and give support to the rule that the
17 Commission is considering today. I guess, is --
18 anybody want to open the discussions in particular?

19 COMMISSIONER BLOOM: Mr. Chair. Yeah,
20 Mister -- yes. Thank you for your comments on this.
21 And I would agree with you that cutting Point 53 and
22 Points 258 through 261 would make sense. These are on
23 pages 21 and pages 69 of the applicants' statement of
24 facts. You know, overall in reviewing this, I believe
25 that the statement of facts support very nicely the

1 statement of reason that we're creating. And I
2 wouldn't want to pare that down too much or make a,
3 you know, holey Swiss cheese out of it --

4 THE CHAIR: Sure.

5 COMMISSIONER BLOOM: -- or anything
6 along those lines. I heard your comments earlier
7 about the bios, for example, of the applicants'
8 witnesses. You know, I thought those were fine. I
9 think it's important to have something that would
10 tell, you know, a subsequent court or anything like
11 that who those people are. You know, I don't know --
12 you know, had other parties prevailed, I think we'd be
13 talking about their witnesses as -- you know, not
14 including them would -- is no way meant to disparage
15 them, but would -- and then the work that they put in
16 and their expertise.

17 But I think leaving that in would be
18 appropriate in looking at the rest of the applicants'
19 sections. I thought those seemed fine and do a good
20 job of making the case and explaining where we're
21 going.

22 COMMISSIONER AMPOMAH: Thank you,
23 Commissioner Bloom. So I do have -- so I started
24 reading from page 1 of the document, so that is where
25 they have the preliminary statements, the closing

1 arguments, page 3. Okay.

2 So I felt like the closing arguments
3 starting from I, II, III all more or less supports
4 what the reasoning behind the adoption of the rules.
5 Now -- but I'll look at page number 4.

6 THE CHAIR: Uh-huh.

7 COMMISSIONER AMPOMAH: So page number
8 4, there is a one well. That will be one well
9 plugging financial assurance of 150 for all wells
10 approved TA or expired TA or a blanket bond equal to
11 an average of the 150,000. I think that one too
12 supports our reasoning as well, so I do not have any
13 problem with that.

14 Now, if I move to page 6, the last
15 paragraph before you go to 2, so --

16 THE CHAIR: Uh-huh.

17 COMMISSIONER AMPOMAH: -- "Third,
18 industry argues applicants' proposal 15 --
19 19.15.8.9.F(1) NMAC requires one well FA for wells in
20 TA less than two years, violates the blanket bond."
21 So that paragraph, I thought that we made some changes
22 with regards to allowing the wells that are in TA --
23 approved TA for more than two years before --

24 THE CHAIR: Okay

25 COMMISSIONER AMPOMAH: -- we slap them

1 with the 150. So there, I thought that we probably
2 have to look at that. Because if we are adopting
3 almost all of it, I feel like we have some different
4 thoughts there if we --

5 THE CHAIR: Okay.

6 COMMISSIONER AMPOMAH: So I'll flag
7 that. And then 2, 3 are more or less in line with
8 what we've talked about.

9 THE CHAIR: Uh-huh.

10 COMMISSIONER AMPOMAH: And then also,
11 they did a great job responding to the questions that
12 the hearing officer raised with regards to whether
13 we're preventing waste, we have the authority. So
14 they really -- they handled all of that in B, C.

15 THE CHAIR: Uh-huh.

16 COMMISSIONER AMPOMAH: So I feel like
17 we can really adopt those. And then when we get into
18 the proposed statement of reasoning, as I read through
19 it, I thought that the ones that we cited -- they
20 really arranged them in really good patterns. But let
21 me first talk about the parties' engagement.

22 THE CHAIR: Uh-huh.

23 COMMISSIONER AMPOMAH: So, Mr. Chair,
24 you highlighted that as "Do we really need that?" But
25 I thought that 19, 20, 21 really was very important

1 because they're saying -- so if you read through 19,
2 saying "During the hearing, OCC members encouraged the
3 parties to" --

4 THE CHAIR: Sure.

5 COMMISSIONER AMPOMAH: So if you look
6 at the 19 all the way to 22, more or less supported
7 what we suggested to the parties. So if we really
8 want to strike the whole of the parties' engagements,
9 definitely 19, 20, 21, 22 more or less is something
10 that we supported.

11 THE CHAIR: Sure.

12 COMMISSIONER AMPOMAH: So I know you
13 flagged that one, so.

14 THE CHAIR: Well, yeah, just for
15 discussion, I don't have a major problem with it.
16 Okay?

17 COMMISSIONER AMPOMAH: Okay. Okay.
18 And then when we go to Number 3, III, applicants
19 experts and data -- and we've talked a little bit
20 about this. So if you look at OCD's discussions of
21 the experts, you know, OCD presents vast, broad --
22 broader experts. So maybe we can look at that one and
23 see if we can just replace that --

24 THE CHAIR: Supplement?

25 COMMISSIONER AMPOMAH: Yeah, supplement

1 that with the II.

2 COMMISSIONER BLOOM: Which one was
3 that -- I'm sorry -- Dr. Ampomah?

4 THE CHAIR: So I think under Section
5 III, starting on page 15, the applicants walk through
6 each of their witnesses.

7 COMMISSIONER BLOOM: Yes.

8 THE CHAIR: But there really isn't
9 particular discussion of the witnesses put on by other
10 parties. If we turn to -- and don't let me speak for
11 you, Dr. Ampomah, please. You're welcome to interrupt
12 me if I'm mischaracterizing anything. The OCD's final
13 proposed findings of facts walks through OCD's
14 witnesses as well as the -- as well as witnesses
15 from -- proposed by industry.

16 So it -- we may be able to
17 supplement -- I think it's fine to provide the
18 findings related to the witnesses that the applicants
19 provided, but also to include discussions that OCD
20 provided in their findings of fact around OCD's
21 witnesses as well as industry's witnesses.

22 COMMISSIONER AMPOMAH: Yeah, Mr. Chair.
23 And then still -- but --

24 THE CHAIR: Or at least we may want to
25 consider that.

1 COMMISSIONER AMPOMAH: We may just want
2 to consider that. Now -- but if you look at E, so the
3 applicants' data-based case --

4 THE CHAIR: Uh-huh.

5 COMMISSIONER AMPOMAH: -- I thought --
6 I mean, OCD has adopted the same thing that the
7 applicant provided.

8 THE CHAIR: Uh-huh.

9 COMMISSIONER AMPOMAH: So definitely
10 that one, I do support that we keep that --

11 THE CHAIR: Okay.

12 COMMISSIONER AMPOMAH: -- in there.
13 And then also 53, page 21, I support -- you
14 highlighted the 53.

15 THE CHAIR: Uh-huh.

16 COMMISSIONER AMPOMAH: That statement
17 there, I thought probably we strike that too. I
18 support that.

19 THE CHAIR: Okay.

20 COMMISSIONER AMPOMAH: We strike that.
21 Now -- but what about 57? So I thought that 57 was
22 okay. "Mr. Peltz details," yeah, "efforts other oil
23 and gas" -- comparing the other states too. So I
24 thought that was a really --

25 THE CHAIR: It's okay. I don't think

1 it's necessary, but I'm -- I don't see as harmful.

2 COMMISSIONER AMPOMAH: Okay. Now, when
3 we get into the actual proposals, this will be my
4 suggestion: that the ones that we made some
5 modifications to, we adopt what commissioner counsel
6 provided to us because in there, he gives -- he gave
7 the ones that we made modifications to without
8 reasoning to that.

9 THE CHAIR: Yes.

10 COMMISSIONER AMPOMAH: So if we can
11 replace those entire section from the -- with the --
12 what the applicant is providing, because there are
13 some places that we did not agree --

14 THE CHAIR: Correct.

15 COMMISSIONER AMPOMAH: -- with the
16 applicant. And I feel like commission counsel
17 really -- he highlighted those. So if we can replace
18 that --

19 THE CHAIR: Well, yeah, that's why I
20 specifically wanted to call out the sections where
21 the -- we want to -- where the commission counsel's
22 provided reasoning is replacing, and therefore we're
23 not adopting what the applicant did. I mean, he kind
24 of said that -- in the commission counsel's document,
25 it says "As modified by," so maybe that's sufficient.

1 But if we have a capacity to more
2 clearly call out exactly which sections we are
3 modifying and therefore not adopting, certainly that
4 would be -- I think -- we're just trying to do the
5 best possible job, I think, for the record.

6 COMMISSIONER BLOOM: Mr. Chair, I think
7 that in the -- I mean, just to note that in the -- our
8 draft statement of reasons, when we break with the
9 applicants and do things like don't require a bond for
10 the first two years of --

11 THE CHAIR: Right.

12 COMMISSIONER BLOOM: -- TA status, I
13 mean, we have language about that here that shows how
14 we're breaking with the applicants. So I don't know
15 that we need to cut paragraphs necessarily out of
16 the -- out of our support for this necessarily, and I
17 think maybe making work for ourselves for very little
18 additional benefit, so something to think about.

19 THE CHAIR: Well, that's -- yeah,
20 that's just -- I think that's the discussion. I
21 just -- I wanted to make sure we weren't going to be
22 adopting a finding of fact from the applicant that
23 might contradict the findings of fact that -- and then
24 have two contradictory findings of facts in the
25 record.

1 But I also -- to your point, and this
2 is -- I'm being a little both sides here because I'm
3 inviting your input. I do think that the commission
4 counsel did say that, you know, as modified by what
5 the commission counsel wrote up. So we may not need
6 to have to, but it's just a question of how thorough
7 we want to be in -- or how thorough we're capable of
8 being before we get ourselves into more trouble.

9 COMMISSIONER BLOOM: Yeah. I'm worried
10 that we're going to confuse readers by, you know,
11 having 15 things that aren't included, you know, that
12 we're not referring to in the applicants' statement of
13 reasons and --

14 THE CHAIR: I think that's the crux of
15 the debate as to like what's the most effective way
16 for us to handle this, yeah.

17 COMMISSIONER AMPOMAH: So, Commissioner
18 Bloom -- so if you look at the statement of reasonings
19 as drafted by commission counsel, the -- under
20 A(14) --

21 COMMISSIONER BLOOM: Which page are you
22 on?

23 COMMISSIONER AMPOMAH: I'm on page --
24 probably this one will be page 1.

25 THE CHAIR: Very bottom of page 1.

1 COMMISSIONER AMPOMAH: Yeah, very
2 bottom of page 1. So I feel like that is very broad,
3 you know. So "The Commission adopts and incorporates
4 applicants' notice of filing, closing arguments, and
5 proposed statement of reasoning as its own finding of
6 facts and conclusions of law as a reason for the
7 action taken." I feel like that is very broad.

8 But if you go down, I'm thinking about
9 a language similar to (D)17, where it's saying all of
10 the applicants' rule changes are adopted. So this one
11 is a rule change, not the reasoning -- right? --
12 saying the rule changes are adopted except as
13 supplemented in the following below. So if we can
14 have similar language to also more or less complement
15 D(4), that will more or less -- at least resolve my
16 issue.

17 THE CHAIR: I think -- and Commissioner
18 Ampomah was -- is trying to suggest something that is
19 similar to what you had suggested earlier, which is to
20 say under 4, that the Commission adopts so on and so
21 forth except for paragraphs, and then lists a few
22 things that --

23 COMMISSIONER BLOOM: Yeah.

24 THE CHAIR: -- the commissioner feels
25 is in tension with what we decided.

1 COMMISSIONER BLOOM: Yeah.

2 THE CHAIR: And I know even that can
3 take a bit of time to make sure we get just right, but
4 I -- we can try, and if it doesn't work, we can come
5 back and revisit, perhaps.

6 COMMISSIONER AMPOMAH: Mr. Chair, so
7 that is going to take a lot of time. But I was
8 thinking that, I mean, the applicant really -- so they
9 discussed their reasonings pertaining to each proposed
10 rule.

11 THE CHAIR: Yes.

12 COMMISSIONER AMPOMAH: So if we can
13 just make a general statement similar to what
14 commission counsel has made for the rule itself and
15 try to use our reasoning instead of their reasoning so
16 we don't necessarily have to go in there and then be
17 listening -- listing, let's say, Section 1, 2, 3, 4.

18 THE CHAIR: Okay.

19 COMMISSIONER AMPOMAH: I don't know if
20 I'm making sense.

21 THE CHAIR: Help me understand how you
22 would phrase that.

23 COMMISSIONER AMPOMAH: Okay. So I
24 will -- let's say -- under 4, for instance, I will say
25 that I'm thinking about something to the effect of --

1 let me see the heading that they used. So here, they
2 go -- they start with the "V. Applicants' Proposal,"
3 and they start listing in those --

4 THE CHAIR: Yes.

5 COMMISSIONER AMPOMAH: -- each
6 proposal.

7 THE CHAIR: Yes.

8 COMMISSIONER AMPOMAH: So the ones that
9 we have issues with that the commission counsel has
10 really specified under B(1) and (2) --

11 THE CHAIR: Uh-huh.

12 COMMISSIONER AMPOMAH: -- I'm thinking
13 about a way for us to more or less use that, to
14 replace all those sections that they're talking about
15 the applicants' proposal -- replace all those sections
16 with what the commission counsel has provided.

17 THE CHAIR: Right. Aren't we saying
18 the same thing? So 19.15.8.9.C, for example --
19 right? -- 19 or -- because commission counsel has
20 provided language around 19.15.8.9.

21 COMMISSIONER AMPOMAH: Yeah.

22 THE CHAIR: And so if we flip to the
23 applicants' discussion of 19.15.8.9, that would be
24 15.8.9 --

25 COMMISSIONER AMPOMAH: So that would

1 be --

2 THE CHAIR: -- Paragraphs ninety --
3 well, ninety -- yeah. Starting in Paragraphs 94;
4 right? 19.15.8.9, so that would be starting at
5 Paragraph 94?

6 COMMISSIONER AMPOMAH: Yes.

7 THE CHAIR: So are you -- so just so I
8 understand, your proposal is to replace -- so not
9 adopt -- Paragraphs 94 all the way through 99, none
10 of -- nothing between Paragraphs 94 and 99 from the
11 applicant and you -- and adopt instead the paragraphs
12 from commission counsel; correct?

13 COMMISSIONER AMPOMAH: That is correct.

14 THE CHAIR: So before we toss the baby
15 out with the bath water though, I think I need to make
16 sure that I read 94 through 99.

17 COMMISSIONER BLOOM: And this would
18 be -- I'm sorry. This would be substituting the
19 language in B that the -- our counsel prepared?

20 THE CHAIR: Yes.

21 COMMISSIONER AMPOMAH: Yes, or
22 referencing that instead of going in there, listing --
23 because I'm not sure if we can go by and say, "Okay.
24 We take out 95, take out 96, 99." I mean, those can
25 be a lot of work.

1 COMMISSIONER BLOOM: I think that B
2 makes it clear that this is a modification to the
3 applicants' proposal and would supplant that, and
4 therefore, we don't need to make that change.

5 COMMISSIONER AMPOMAH: So what about if
6 we go to 4 -- 1.F.A(14), and then we say that the
7 commissioner adopts and incorporates applicants'
8 notice of closing -- filing, closing arguments, and
9 proposed statement of reasons as its own finding of
10 facts, blah, blah, blah, as own reason for action
11 taken except the sections as presented in B, C.

12 COMMISSIONER BLOOM: Okay.

13 COMMISSIONER AMPOMAH: Yeah.

14 THE CHAIR: Well -- or so basically,
15 you just want the same language as in 7 then; right?
16 You just want the words "except as modified below"?

17 COMMISSIONER AMPOMAH: And it saves us
18 going through -- the whole thing. Yeah.

19 THE CHAIR: Okay. So -- but that's the
20 whole -- that was -- goes back to my -- the question
21 that I had earlier: Is the Commission satisfied that
22 if we put "except as modified by this order" --- is
23 that sufficient, or would the Commission like to go
24 through and discuss paragraph by paragraph?

25 COMMISSIONER AMPOMAH: I feel like that

1 should be sufficient than going in there and picking
2 paragraph --

3 COMMISSIONER BLOOM: I agree. I don't
4 believe we need to go paragraph by paragraph, except
5 for perhaps citing the few that you had pointed out
6 before the break, Mr Chair.

7 THE CHAIR: Okay. So in that case,
8 maybe, commission clerk, would you like -- if we could
9 have the commission counsel's rulemaking order up
10 again. Then we can perhaps see the changes and make
11 sure that all commissioners are on -- that we're A,
12 not talking past each other, and B, that we have the
13 language that --

14 COMMISSIONER BLOOM: Please, thank you.

15 THE CHAIR: -- that we desire.

16 MR. SHANDLER: You can use --
17 Commissioner Bloom's is the most up to date one.

18 THE CHAIR: I think Commissioner
19 Bloom's computer isn't linked up to --

20 COMMISSIONER BLOOM: Yeah, Ms. Apodaca
21 has that.

22 THE CHAIR: Oh, okay. Okay. So let's
23 start with page -- at the bottom of page 1; right? So
24 the language here is "The Commission adopts and
25 incorporates applicants' notice of filing, closing

1 argument, and proposed statement of reasons as its own
2 findings of fact, conclusions law, and its own reasons
3 for the action taken, except as modified by this
4 order -- except where modified" or however you guys
5 want to wordsmith that. Are we satisfied with this
6 language in front of your screen?

7 COMMISSIONER BLOOM: That would work
8 for me, yes, Mr. Chair.

9 COMMISSIONER AMPOMAH: Yeah, it does.
10 It does.

11 THE CHAIR: Okay. If we could scroll
12 down just a little bit more to 6 and 7. I know you
13 had a question around 6. Is -- did we have any -- did
14 you -- Commissioner Ampomah, did you have any other
15 thoughts?

16 COMMISSIONER AMPOMAH: Let's see. No,
17 I do not have any problem with that.

18 THE CHAIR: Six. Okay.

19 COMMISSIONER AMPOMAH: Yeah, six.

20 THE CHAIR: Okay. On 7, I still
21 suggest instead of "supplemented" -- because if we
22 simply supplement, we will end up with contradictory
23 findings of fact, so I think that needs to read as
24 "modified in the following below."

25 COMMISSIONER AMPOMAH: Okay.

1 COMMISSIONER BLOOM: Yeah, I'd agree.

2 THE CHAIR: Okay. Now, the specific
3 paragraphs that we would like to -- there were some
4 paragraphs that we specifically would like to exclude;
5 right? So -- even if we're not going to exclude
6 everything. So let's go up -- back up -- I'm sorry --
7 back up to, yeah, the bottom of the first page, Part
8 4 -- Subpart 4.

9 Could we have the bottom of the first
10 page? We're on the second page. Yeah. Thank you.
11 Right there. So maybe right in front -- right after
12 the words "action taken" in that last line, we need to
13 say "except," list paragraphs X, Y, and Z and "except
14 as modified by this order."

15 COMMISSIONER BLOOM: Okay.

16 THE CHAIR: Does that work?

17 COMMISSIONER AMPOMAH: Yeah, that works
18 if we can at least extract those sections. Yeah.

19 THE CHAIR: Okay. So in that case, so
20 right after "action taken," if we could add the words
21 "except paragraphs," and so now we got to go find the
22 paragraph numbers. I had them all bookmarked, if I --

23 COMMISSIONER BLOOM: Was it 53 and --

24 THE CHAIR: Fifty-three sounds correct,
25 but let me just flip to it so I -- except Paragraph

1 53. And how -- what do we think about Paragraph 57,
2 yes or no? I'm on the fence about that one. It's --
3 I don't think it's necessary, but --

4 COMMISSIONER AMPOMAH: Yeah. And since
5 we are trying to stay away from naming the witnesses
6 from the applicants' closing, I'll probably exclude
7 the 57.

8 THE CHAIR: Okay. Exclude 57.

9 COMMISSIONER BLOOM: Hold on. I -- Dr.
10 Ampomah, I might argue for the inclusion there. I --

11 COMMISSIONER AMPOMAH: Okay.

12 COMMISSIONER BLOOM: I don't -- I mean,
13 if it simply said "The applicants' detailed efforts"
14 or "The applicants' witnesses detailed efforts," you
15 know, another oil producing -- or just mentioned it
16 without Mr. Peltz, you know, we wouldn't be talking
17 about any witnesses. But I, you know --

18 THE CHAIR: Fair enough.

19 COMMISSIONER BLOOM: I think it can
20 carry some weight. I don't know that it needs to be
21 excluded.

22 THE CHAIR: Okay. It doesn't.

23 COMMISSIONER AMPOMAH: I can see.

24 THE CHAIR: Okay. No problem. And
25 then the other paragraphs that I found that I was

1 uncomfortable with is Paragraphs 258 --

2 COMMISSIONER BLOOM: Through 261?

3 THE CHAIR: Yeah, 258 through 261. But
4 I don't know if there are other paragraphs that
5 commissioners -- so then, Madam Clerk, you'll have to
6 put comma and "except."

7 COMMISSIONER AMPOMAH: Mr. Chair, so
8 can we look at -- Mr. Chair, can we look at 126?

9 THE CHAIR: Sure.

10 MR. SHANDLER: -- finish his sentence?

11 COMMISSIONER AMPOMAH: Yeah, I was
12 still listening.

13 MR. SHANDLER: I thought the chair had
14 another comma that he wanted to put in.

15 THE CHAIR: Yes.

16 Sheila, so after, through 261, do comma
17 and "except"; right? So that way it says, you know,
18 "except paragraphs," whatever, and "except" -- nope.

19 COMMISSIONER BLOOM: "Except," yep.

20 THE CHAIR: You had it correct. Yep.
21 That's perfect. So now we may add more numbers,
22 paragraphs. So what was it -- 120, what was it?

23 COMMISSIONER AMPOMAH: 126, page 38.

24 I'm thinking about -- did we hear a lot
25 of evidence about lawsuits as a result of transfers?

1 THE CHAIR: We read the paragraphs in
2 front and behind, so I'm -- we're not cutting out
3 something that makes it not hang together. Let me
4 see.

5 COMMISSIONER AMPOMAH: Meaning --

6 THE CHAIR: Yeah, I don't think it's
7 necessary because the rest of it still hangs together.

8 COMMISSIONER AMPOMAH: Yeah --
9 separate.

10 THE CHAIR: I don't think it's
11 necessarily harmful to keep in there, but I don't --

12 COMMISSIONER BLOOM: I don't think it's
13 harmful, and again, I would just worry that we're
14 going to Swiss cheese this document upon which a lot
15 of our conclusions and work depends. And I think this
16 gets at some of the issues of why we're making changes
17 related to operator transfer and strengthening
18 conditions for those transfers to happen.

19 COMMISSIONER AMPOMAH: Yeah, but I'm
20 just asking, just to refresh my memory, if there was
21 evidence shown during the hearing about this
22 particular issue. I'm trying to remember. These are
23 strong words though. There has been a series of
24 recent lawsuits on grounds of fraudulent transfer. So
25 I'm not sure if we had a lot of testimonies about this

1 subject.

2 COMMISSIONER BLOOM: Yeah.

3 THE CHAIR: A lot, I don't know about a
4 lot. I seem to -- my recollection was that there was
5 some testimony as to whether or not it was a lot of
6 testimony or how well emphasized it was. It --

7 COMMISSIONER AMPOMAH: Okay.

8 THE CHAIR: You know, that is -- I want
9 to say there was a -- there was at least some
10 testimony on that.

11 COMMISSIONER AMPOMAH: Okay. Okay.
12 Then I'll defer to your discretion too. Thank you.

13 THE CHAIR: Yeah, I don't have a strong
14 preference on that one.

15 COMMISSIONER AMPOMAH: Oh, we've
16 already taken care of 261.

17 THE CHAIR: Yes, we have.

18 COMMISSIONER AMPOMAH: Okay.

19 THE CHAIR: So now my only question
20 that I wanted to come back is since we are adopting
21 the discussion as to the applicants' witnesses, would
22 we also like to adopt some of the discussions of
23 witnesses that OCD's finding of fact walks through?

24 COMMISSIONER BLOOM: So the Chair is
25 reviewing the OCD's findings of fact, and quite a

1 portion of the entire document actually goes
2 through -- nearly half goes -- is just about --

3 THE CHAIR: The witness, yes.

4 COMMISSIONER BLOOM: -- OCD's
5 witnesses, other -- all the other witnesses.

6 THE CHAIR: Yes.

7 COMMISSIONER BLOOM: We could
8 conceivably bring in, in the first paragraphs of our
9 statement, that we're also referring to this in
10 support of our case -- I mean, bring in, refer to all
11 of the OCD --

12 THE CHAIR: Yeah. I'm looking at --

13 COMMISSIONER BLOOM: -- closing.

14 THE CHAIR: Particularly OCD's -- I
15 think Paragraphs 23 is when they start going through
16 witnesses and the facts, and then the last paragraph
17 is 132. The rest of the documents from OCD, I think,
18 would be -- is not necessarily bad, but it's just
19 duplicative, I think, of what we've already adopted by
20 the applicants' finding of fact.

21 But I do want to make sure that before
22 we adopt something, that we're not adopting anything
23 that the Commission is uncomfortable with, so I will
24 give everybody some time to at least read these couple
25 of pages.

1 COMMISSIONER AMPOMAH: And I do not see
2 NMOGA and IPANM having similar section in their
3 closing similar to what the applicant and OCD did,
4 really targeting each of the experts and then
5 summarizing their testimony. I don't see that
6 clearly. I do know that NMOGA and -- it was embedded.

7 THE CHAIR: It was embedded, yeah.

8 COMMISSIONER AMPOMAH: Yeah.

9 COMMISSIONER BLOOM: I think the OCD's
10 work does, you know, make some good points about
11 the -- you know, begins with the applicable legal
12 standards. So, you know, we -- some of the language
13 about, you know, OCC rules only be said if they're not
14 arbitrary, capricious, or is abuse, gets into some of
15 the other foundations of our rulemaking authority.

16 You know, I think all that's helpful.
17 I don't have any issue. I think there is a mention in
18 there about, you know, bonding of the first two years
19 of TA status. Obviously, went a different way. We
20 could talk about that, but --

21 THE CHAIR: Oh. Can you highlight that
22 paragraph? Because I want to make sure if we do go
23 down the road of adopting anything from this document
24 that we don't adopt anything that is contradictory to
25 what the Commission actually ended up doing.

1 COMMISSIONER BLOOM: Yeah, let me find
2 that again. Believe we're looking at page 6 of 37,
3 second line down from the top. The paragraph begins
4 with applicants' and OCD's proposal.

5 THE CHAIR: Okay.

6 COMMISSIONER BLOOM: Applicants' and
7 OCD's proposal at 19.15.8.9.F(1) NMAC requiring one
8 well financial assurances for wells and TA less than
9 two years does not violate the blanket bond cap.

10 THE CHAIR: Okay.

11 COMMISSIONER BLOOM: Even there
12 though -- and I think that crosswalks to the area
13 where we made changes and went against the applicants.
14 Even if this were still cited in there, it would just
15 make the case that it doesn't violate the blanket bond
16 cap. I don't think it --

17 THE CHAIR: Okay.

18 COMMISSIONER BLOOM: Doesn't speak
19 against our position ultimately where we came down on
20 this.

21 THE CHAIR: So what does -- what's the
22 Commission's pleasure, I guess? Is there any part
23 of -- because we went -- kind of went from not
24 including any part of OCD's proposed findings of fact
25 to the entire -- I think we heard discussion about the

1 entire document. Or do we want to adopt only limited
2 paragraphs such as, for example, the divisions,
3 witnesses, and data, so just Paragraphs 23 through 56,
4 and just leave it at that, or what is the Commission's
5 pleasure?

6 COMMISSIONER AMPOMAH: Mr. Chair, on
7 that one, so even if you look through that, you see
8 that OCD is also presenting the division witnesses.

9 THE CHAIR: Yes.

10 COMMISSIONER AMPOMAH: Right. So I
11 feel like it would be an addition to what the
12 applicant already also presented. And then if you go
13 to OXY, OXY also has a statement. They do have
14 proposed finding of facts. The first "I," they
15 have -- they described their witnesses.

16 THE CHAIR: Yes.

17 COMMISSIONER AMPOMAH: It is only NMOGA
18 that I did not see. Their witness are all embedded --

19 THE CHAIR: Yes.

20 COMMISSIONER AMPOMAH: -- in their
21 document. So I don't think we can only adopt -- only
22 OCD without adopting the applicant. And then OXY, at
23 least they provided because I thought that OCD also
24 presented some witnesses outside the division, but I
25 don't see that.

1 THE CHAIR: They do. It starts at
2 Paragraph 59 on page 21.

3 COMMISSIONER AMPOMAH: Fifty-nine.
4 Okay. Okay.

5 THE CHAIR: But it's mostly a rebuttal
6 to those witnesses, not -- you know, not a summary of
7 those witnesses. Now, what we're talking about here
8 is our findings of fact; right? So we don't
9 necessarily have to agree or disagree with -- if -- to
10 the extent that we're adopting any findings of fact,
11 it is our opinion as to what this witness provided and
12 whether or not we found them to be credible.

13 COMMISSIONER AMPOMAH: Okay. Then I
14 agree that at least OCD one more or less extends to
15 the other witnesses, especially in the rebuttal.
16 Okay. That is more comprehensive compared to that of
17 the applicant. Okay.

18 THE CHAIR: But if we were to adopt it
19 as our findings, then I just want to make sure that
20 each commissioner has had a chance to review what is
21 put down. Because you know, for example, in certain
22 paragraphs, the proposed finding of fact from OCD
23 proposes to find that certain witnesses were
24 incorrect.

25 And so if we were to adopt that as our

1 finding, it -- we would be -- we would need to be sure
2 that that is -- that our judgment is the same and that
3 we also found that witness to be either incorrect, not
4 credible, or whatever that might be.

5 COMMISSIONER AMPOMAH: So what about if
6 we more or less use NMOGA style by not really talking
7 about any witness?

8 THE CHAIR: That's fine as well. I
9 mean, I'm merely laying out as an option for the
10 Commission to consider whether or not there is any
11 other findings of fact and other -- from the other
12 parties that the Commission wishes to adopt as its own
13 finding of fact.

14 COMMISSIONER AMPOMAH: So let me ask --

15 THE CHAIR: And if there's none,
16 there's none.

17 COMMISSIONER AMPOMAH: Yeah. So if we
18 exclude, let's say, any witnesses in any of these
19 finding of facts, does that have any limits, you know,
20 issues with our statement of reasoning or finding of
21 facts?

22 THE CHAIR: I think -- say that again.

23 COMMISSIONER AMPOMAH: So I'm asking if
24 we are to exclude all the witnesses, I mean --

25 THE CHAIR: Sure.

1 COMMISSIONER AMPOMAH: Yeah. Both --
2 let's say --

3 THE CHAIR: All witnesses.

4 COMMISSIONER AMPOMAH: -- all witnesses
5 from, let's say, the applicants' finding of facts and
6 we adopt that. Is there any limitation -- like, is
7 there any problems with that?

8 THE CHAIR: Well, I think the
9 discussions of the witnesses provide a foundation as
10 to why we got to the decision that we did because the
11 idea is not just that these witnesses exist. The idea
12 is that we are making a record for -- well, for the
13 parties and for potential reviewers that -- which
14 witnesses we found to be credible in their testimony,
15 which witnesses we did not find to be credible in
16 their testimony, and how the testimony presented lays
17 a foundation for the decision being made today.

18 And of course, a question always comes
19 up as to how detailed is a sufficiently detailed
20 foundation. The -- you know, one always hopes to
21 provide the most detailed work product we can. But I
22 think the standard that we need clear here is that
23 we're not being -- making an arbitrary or capricious
24 decision and that we can point to a sufficient
25 foundation of evidence that was considered, debated,

1 thought about, that we made reasonably considered
2 decisions.

3 COMMISSIONER AMPOMAH: Mr. Chair, so if
4 you look at --

5 THE CHAIR: Tell me if I'm wrong,
6 Commission Counsel, but that's -- I think that's --

7 COMMISSIONER AMPOMAH: Okay.

8 THE CHAIR: -- that's where we're at.

9 COMMISSIONER AMPOMAH: So if you look
10 at the applicants' Number III --

11 THE CHAIR: Uh-huh.

12 COMMISSIONER AMPOMAH: -- the
13 applicants' expert and data, they are describing the
14 background of the experts.

15 THE CHAIR: Yes, I agree.

16 COMMISSIONER AMPOMAH: You know, so
17 it's the background of the experts, not necessarily
18 what they said; right?

19 THE CHAIR: I agree.

20 COMMISSIONER AMPOMAH: So in that
21 case -- then from what you just said, I'm a little bit
22 concerned about adopting OCD's portion where they are
23 rebutting the other experts, you know, because that
24 one, it means we need to go back and read through that
25 one after the other to see if we agree. So if it is

1 just the bios of the applicants, then it sounds to me
2 that we can adopt those from all the other parties
3 because it's just a bio.

4 THE CHAIR: Fair enough. I also don't
5 think the -- in my opinion at least, bios, I don't
6 think they're harmful for us to adopt as a finding of
7 fact. But I also think bios are relatively -- they're
8 not going to be a strong finding of fact that
9 really -- because at the end of the day, it's what do
10 we -- what witness testimony really buttresses the
11 decision we're making today; right?

12 Somebody's biography may inform our
13 decision as to how we weighted their credibility, but
14 merely their biography isn't going -- you know,
15 somebody's biography in and of itself isn't going to
16 be the most heavily weighted point of --

17 COMMISSIONER BLOOM: Question, Dr.
18 Ampomah, are you saying bring in the bios that appear
19 in OCD's closing or bios across the record that we've
20 come across?

21 COMMISSIONER AMPOMAH: No, so I -- you
22 know, I just went back to OCD's witnesses in terms of
23 the division aspect.

24 THE CHAIR: Yes, sir.

25 COMMISSIONER AMPOMAH: I mean, you'll

1 see that at least the end of each paragraph, they
2 describe what each of them talked about.

3 THE CHAIR: Yes.

4 COMMISSIONER AMPOMAH: You know, but
5 you don't see that in the applicants' --

6 THE CHAIR: That's correct.

7 COMMISSIONER AMPOMAH: Right? You
8 don't see that.

9 THE CHAIR: I agree.

10 COMMISSIONER AMPOMAH: But I'm also
11 concerned about OCD talking about other witnesses.

12 COMMISSIONER BLOOM: Yeah.

13 COMMISSIONER AMPOMAH: It's more like a
14 rebuttal. I do not agree with this -- that becomes
15 our statement, which I'm a little bit concerned about.

16 THE CHAIR: Well, and even -- if we
17 were to adopt OCD's statement, let's say, you know,
18 Mister -- let's say Paragraph 24, Mr. Wrinkle
19 identifies specific variables for marginal wells.
20 That is the -- if we were to adopt that paragraph, we
21 would be adopting that as our conclusion as well.

22 So if -- that's why I'm asking, and
23 maybe if the Commission does not want to do that,
24 that's totally fine. But remember, we're also doing
25 that when we adopt the applicants' findings of fact

1 that we are adopting.

2 COMMISSIONER BLOOM: Mr. Chair, I
3 agree. I mean, I think we're talking about, you know,
4 preponderance of the evidence presented by the
5 applicants, and OCD have moved us. And generally,
6 that's summarized in their closing and statements of
7 fact. I don't think courts or others would think that
8 we're necessarily in lockstep with the entirety of
9 that as it's written, given the way that our counsel
10 has structured our closing statement here.

11 COMMISSIONER AMPOMAH: Yeah. I want to
12 ask commission counsel for his thoughts about, let's
13 say, including actual experts. You know, I do
14 understand my fellow commissioner saying that we need
15 to discuss the evidence, but I thought that is what
16 we -- more or less we've highlighted in our reasoning.
17 You know, it all based on the testimony that we
18 listened through couple of weeks. So I'm still not
19 sure if we have to really, really put in all of these
20 experts.

21 MR. SHANDLER: So, Mr. Chair, it seems
22 like there's a series of categories here. It appears
23 that the first question is that the applicants'
24 finding of fact has several findings about their own
25 witnesses, and they -- I don't recall them having any

1 findings about the opposing witnesses. My
2 recollection is that OCD had findings of both the
3 applicants and OCD witnesses and also had some
4 findings about the other sides or the opponents to the
5 rule witnesses. And I think that's where you said
6 they rebutting some stuff.

7 So again, you have a series of options.
8 I think the strongest option is to have something in
9 your adoption of the findings referring to the
10 witnesses. I think that provides the foundation of --
11 for the court, they know who these people are, and it
12 is the building block of the applicants' other
13 findings.

14 And then there are other findings where
15 they talk about, "Okay. And this rule changed. This
16 is underlined." They have three or four findings
17 where they then incorporate the witnesses' names and
18 exhibits. So arguably, you could say -- I would -- I
19 don't want to talk about any of the witnesses. I
20 don't even want to go there. Under that idea, I think
21 it'd still be okay because the applicants' other
22 findings incorporate the witnesses.

23 COMMISSIONER AMPOMAH: Yes, yes.

24 MR. SHANDLER: I'll just say I think
25 that's a less strong document as opposed to just

1 having the applicants' summary of the witnesses and
2 adopting that. I think that is a stronger foundation,
3 but these are just options.

4 COMMISSIONER BLOOM: It seems like one
5 of the proposals here, Mr. Chair, that you've put
6 forth, would be to simply bring in a portion of OCD's
7 closing where it talks about its witnesses, and I'd be
8 fine to do that and exclude their statements about
9 NMOGA and IPANM'S and others' witnesses.

10 THE CHAIR: Okay. So maybe let's take
11 this in turn, but -- if you have a thought first, and
12 then we can --

13 COMMISSIONER AMPOMAH: And then, like I
14 was saying, OXY also summarized their witnesses too in
15 their first statement, but I do not see the same for
16 NMOGA and then IPANM, yeah.

17 THE CHAIR: So it doesn't -- yeah. So
18 that's not -- how the parties chose to wrote -- write
19 up their proposed finding of facts is up to them;
20 right? At this point, we can either adopt something
21 because we like the way it was written, or we can
22 write our own.

23 Now, I don't necessarily think we have
24 to walk through every single witness, but my point is
25 that the more that we can tie our decision back to

1 "Because these witnesses convinced us of certain
2 facts" -- but that's the whole point of these proposed
3 findings of fact; right? The point of the findings of
4 fact lists what each witness said and as --
5 particularly OCD's version, it ties -- it proposes and
6 asks the Commission to find certain witnesses credible
7 and certain witnesses not credible.

8 COMMISSIONER AMPOMAH: Yeah, Mr. Chair,
9 on that one, I will say that I don't think I'm
10 ready --

11 THE CHAIR: Understood. That's a
12 whole -- yeah, yeah.

13 COMMISSIONER AMPOMAH: -- to take,
14 let's say, OCD's description of other witnesses
15 without really going back to do my research to really
16 concur --

17 THE CHAIR: Understood.

18 COMMISSIONER AMPOMAH: -- yeah, with
19 those statements.

20 THE CHAIR: Understood. That's fine.
21 But so the -- but the first -- so whether or not we're
22 ready today to do that is -- you know, if you want
23 more time and we find that that's an important thing
24 to do and you would like more time, we can certainly
25 go down that path.

1 But the first question I want to ask
2 is: Is the Commission satisfied with only the findings
3 of facts as proposed by the applicant and as modified
4 by commission counsel? Or is there any other findings
5 of fact from other parties, however they're formatted,
6 whether it's about a witness or may -- or just
7 about -- is there any other findings of fact that
8 other commissioners find convincing, found was
9 important to your decision-making that you wish to
10 include as part of our findings of fact; right?

11 For example, OXY made some points
12 around -- you know, I haven't even had -- I
13 haven't -- I apologize, but I don't have a bookmark.
14 But OXY's findings of -- we did adopt some proposed
15 amendments from OXY. So it may be helpful to adopt
16 certain paragraphs of OXY's findings of fact that
17 would bolster and support and be the foundation for
18 the parts of the rule where we did take OXY's proposed
19 language.

20 Does that make -- that's all I'm
21 asking, is whether there's any interest by
22 commissioners to try to supplement the findings of
23 facts as -- so we've already considered the findings
24 of fact from the applicant. We've considered the
25 findings of fact as modified by commission counsel.

1 If commissioners feel that that is
2 sufficient, great. If commissioners feel that that
3 still leaves some gaps where we would like to make
4 it -- make the -- our documents stronger by looking at
5 other bits and pieces of -- or, you know, maybe there
6 are other findings -- proposed findings of facts from
7 other parties, including OXY, NMOGA, IPANM, OCD -- I'm
8 merely putting that out there.

9 And if the Commission is satisfied and
10 comfortable that the findings of fact as adopted,
11 incorporated, and modified here is sufficient, that's
12 fine as well. That is the Commission's decision.

13 COMMISSIONER AMPOMAH: Mr. Chair, so if
14 you look at the joint stipulation, you will see that
15 the applicant and all the other parties, they work
16 towards a particular goal.

17 THE CHAIR: Of course.

18 COMMISSIONER AMPOMAH: So I would
19 still -- I still feel comfortable with the applicants'
20 copy. Now, where we disagree, I will say that we
21 really captured mostly, yeah, from all the other
22 parties.

23 THE CHAIR: Okay.

24 COMMISSIONER AMPOMAH: You know, yeah,
25 we -- the commission counsel really captured that --

1 THE CHAIR: Okay.

2 COMMISSIONER AMPOMAH: -- into that.

3 So I do not -- and if you look at the applicants, they
4 also talk about what others are saying as well --

5 THE CHAIR: Okay.

6 COMMISSIONER AMPOMAH: -- in their
7 proposal, so I feel like it's very comprehensive, very
8 strong. And where we have this -- the disagreement,
9 we more or less pointed that out.

10 THE CHAIR: Okay. So what -- I think
11 what I'm hearing is that you feel that there are no
12 further gaps that you want to go through the other --
13 and try to adopt findings -- additional findings of
14 fact beyond what we already have in front of us.
15 Okay.

16 Are you on the same page, Commissioner
17 Bloom?

18 COMMISSIONER BLOOM: Yes.

19 THE CHAIR: Okay. In that case, are we
20 ready to adopt the order as drafted by commission
21 counsel and as modified today and as it appears in
22 front of us? Would we like to scroll through this
23 document one last time before adopting it?

24 I can ask our commission clerk to give
25 us -- to scroll through the document and just

1 highlight the changes here, if that's helpful. So
2 apostrophes had changed. We've excluded a few
3 paragraphs and modified. Okay.

4 MR. SHANDLER: So, Mr. Chair, Roman
5 numeral II under B(1), Roman numeral II, you've
6 verbally made some changes that we probably should do
7 right now.

8 THE CHAIR: Let's do it.

9 MR. SHANDLER: So right where it says,
10 "It reads," the second line where -- right where your
11 cursor is, if you could type in capital L, "low
12 producing" inside the quote.

13 THE CHAIR: "Low" --

14 MR. SHANDLER: No, before "as," "low
15 producing," and then add the word "wells," period.
16 Now, under the system I used, I would not underline
17 "low producing" because those -- that's in the
18 applicants' language. So if you could note that
19 somehow, that the only thing that's been added here is
20 "wells."

21 Then continuing on, as of -- and then
22 strike through "the." And then for some reason, I
23 didn't bracket "effective." There should be a front
24 bracket before "effective" and a -- after
25 "amendments." Thank you.

1 THE CHAIR: Both the "well" needs to
2 be -- "low producing well," that "well," "W" should be
3 capitalized, I think. And "low producing wells" is, I
4 believe, bolded as a heading. Actually, do you
5 remember whether it was "low producing well" or
6 "wells"? It was plural -- right? -- "wells"?

7 COMMISSIONER BLOOM: Plural, yeah.

8 THE CHAIR: Okay. I'm fine with that
9 paragraph. Is there anything -- any other changes
10 that you recall that we may -- that we need to update
11 this?

12 MR. SHANDLER: Mr. Chair, throughout
13 the document, I had the space between "NMOGA." I do
14 it like eight times, so that's going to have to be --

15 THE CHAIR: Sure.

16 MR. SHANDLER: -- found and replaced.

17 THE CHAIR: That's easy enough. Okay.

18 COMMISSIONER AMPOMAH: And, Mr. Chair,
19 so just to even reiterate the question that you asked
20 us about -- do we want to go back and adopt, so if you
21 scroll down to before the conclusion, you'll see that
22 even the commission counsel is adopting -- we are
23 adopting OXY's arguments -- you know, multiple
24 arguments, if we can go all the way down. So I do
25 feel like commission counsel's draft is really

1 comprehensive, you know, trying to adopt from --

2 THE CHAIR: Okay.

3 COMMISSIONER AMPOMAH: -- the other
4 parties as well, so.

5 THE CHAIR: Okay. All right. Is there
6 any -- because if -- speak now or sort of forever hold
7 your peace, but if there's any further changes or
8 concerns with the order as drafted by our commission
9 counsel and as amended today or with any other
10 amendments still to come -- because the next thing I'm
11 going to do is ask for vote to approve the order.

12 COMMISSIONER BLOOM: I think we're
13 ready to vote, Mr. Chair.

14 COMMISSIONER AMPOMAH: Yeah, we're
15 ready to vote.

16 THE CHAIR: Okay. In that case, if
17 somebody would -- if one of my fellow commissioners
18 would not -- would be so kind as to move.

19 COMMISSIONER BLOOM: Yes, Mr. Chair. I
20 would move to approve the order as drafted here in
21 front of us today.

22 COMMISSIONER AMPOMAH: Mr. Chair, I
23 second.

24 THE CHAIR: I'm happy to take a roll
25 call.

1 THE CLERK: Okay. Commissioner
2 Ampomah?

3 COMMISSIONER AMPOMAH: Approved.

4 THE CLERK: Commissioner Chang?

5 THE CHAIR: Approved.

6 THE CLERK: And Commissioner Bloom?

7 COMMISSIONER BLOOM: Approved.

8 THE CHAIR: Okay. Without objection,
9 we've adopted a rulemaking order, and we've adopted a
10 rules package. Thank you all very much. Is there any
11 other business for today?

12 COMMISSIONER BLOOM: No, Mr. Chair.
13 Thank you.

14 And thank you for your work on this,
15 Dr. Ampomah and all the parties and our clerk and our
16 counsel here. Thank you all.

17 THE CHAIR: Thank you. Thank you all.
18 Our next meeting will be on July 16th of 2026. And
19 with that, I'll take a motion to adjourn.

20 COMMISSIONER AMPOMAH: Mr. Chair, quick
21 one. So when are we getting the package for the
22 rulemaking, for the UIC Class VI to start reviewing,
23 or are we using the old packet that Sheila shared with
24 us, or is there any new thing coming?

25 THE CHAIR: So on that particular

1 rulemaking, I believe that documents are starting to
2 trickle in. There was a -- I believe Sheila just
3 received briefs in chief, but more documents will be
4 coming, and they will be shared with you as the
5 rulemaking documents come in.

6 COMMISSIONER AMPOMAH: Okay. Thank
7 you. Need more time to review.

8 THE CHAIR: Okay. If there's nothing
9 else, I will take a motion to adjourn.

10 COMMISSIONER BLOOM: Mr. Chair, I so
11 move.

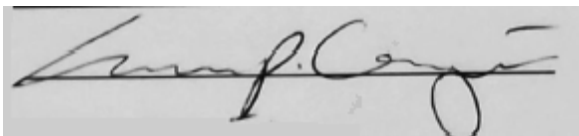
12 COMMISSIONER AMPOMAH: Mr. Chair, I
13 second.

14 THE CHAIR: Hearing no objection, we
15 are adjourned. Thank you all very much.

16 (Whereupon, at 12:06 p.m., the
17 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.

A handwritten signature in black ink, appearing to read "Gerald Aragon", written over a horizontal line.

GERALD ARAGON
Notary Public in and for the
State of New Mexico

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I, CECILIA GONZALEZ, 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.

A handwritten signature in black ink, appearing to be 'CG' or 'C. Gonzalez', written in a cursive style.

CECILIA GONZALEZ

[1 - 6]

1	1508 2:5	1d 12:16	3
1 1:14 4:5 7:17 9:16,16 12:16 13:8,11 22:2 29:6 47:24 48:19 55:24,25 56:2 57:17 58:10 61:23 70:7 85:5 1,000 17:5 1.f.a 60:6 10 29:4,12,21 31:8 10:45 46:1 11 43:25 11:00 46:1 12 17:6 39:3 120 65:22 1220 1:18 125 41:12 126 65:8,23 12:06 89:16 13 5:9 132 68:17 13th 5:5,14 14 55:20 60:6 15 24:10 42:4 42:17 48:18 51:5 55:11 15.8.9 58:24 150 48:9 49:1 150,000 27:19 48:11	16th 88:18 17 38:3,4 56:9 180 17:5 19 49:25 50:1,6 50:9 58:19 19.15.2 1:9 5:21 19.15.2. 7:4 19.15.25 1:11 19.15.25. 5:22 14:5 19.15.27.8.a 7:19 19.15.5 1:10 5:21 8:5,9 19.15.5. 7:12 19.15.5.9.a 7:14 19.15.8 1:10 5:21 13:20 19.15.8. 8:10 19.15.8.9 9:11 58:23 59:4 19.15.8.9. 58:20 19.15.8.9.c 58:18 19.15.8.9.d 8:12,15 13:8 19.15.8.9.f 48:19 70:7 19.15.9 1:10 5:22 19.15.9. 13:25	1st 13:15,16 2 2 6:19 7:6,10 7:19 8:18,23 9:16,16,25 16:25 17:1,1,3 18:10 19:21 36:12,15 43:12 48:15 49:7 57:17 58:10 20 42:4 49:25 50:9 2026 1:14 4:5 5:6,9,15 88:18 21 45:10 46:23 49:25 50:9 52:13 72:2 22 50:6,9 23 68:15 71:3 24 77:18 24683 1:9 5:18 25 6:20 15:25 258 37:16 44:23 45:6,7 46:22 65:1,3 261 37:16 44:24 45:6,7 46:22 65:2,3 65:16 67:16 270-9049 2:8	3 9:16 11:9 21:12 24:25 48:1 49:7 50:18 57:17 30094 91:16 34945 90:21 37 70:2 38 65:23 4 4 35:8,10 36:4 38:20 48:5,8 56:15,20 57:17 57:24 60:6 63:8,8 5 5 6:20 7:14,25 41:12 505 2:8 53 37:14 45:10 45:10 46:21 52:13,14 63:23 64:1 56 71:3 57 52:21,21 64:1,7,8 59 72:2 6 6 17:3,8,9 35:16,16,16 36:4 38:20 48:14 62:12,13

[6 - ahead]

70:2 69 46:23	above 7:17 9:6 abuse 69:14	administrative 5:21	72:10 75:22 77:21 78:1
7	accounted 4:17	adopt 16:12	80:2 84:23
7 35:24 38:3,4 60:15 62:12,20 75 38:25 39:1,3 39:9	accurate 39:19 90:9 91:5 acronym 20:20 action 27:20 56:7 60:10 62:3 63:12,20 90:12,16 91:8 91:12	22:5,12,12,20 22:25 37:9,11 37:18,22,23,24 39:1,8,20,21,22 39:24 40:7,10 40:11 41:12,14 41:17 44:9,18 44:20 45:1 49:17 53:5 59:9,11 67:22 68:22 69:24 71:1,21 72:18 72:25 73:12 74:6 76:2,6 77:17,20,25 80:20 82:14,15 84:13,20 86:20 87:1	86:22,23 adoption 48:4 79:9 adopts 35:11 36:16 40:22 56:3,20 60:7 61:24 advise 38:23 44:8 agencies 28:3 28:22 29:23 30:11,14,18 31:15 32:8,12 33:10,20 34:1 34:4
8	active 9:6,9 18:5	actual 35:23 53:3 78:13	agency 33:19
8 6:20 11:25 13:8 17:18,20 8274585 1:21 87504 2:6 87505 1:19	actually 8:19 9:12 15:4 19:23 68:1 69:25 86:4	adopted 5:4,16 22:12 23:14 35:25 38:14 39:14 52:6 56:10,12 68:19 83:10 88:9,9	agenda 4:18,21 4:23 5:3 agree 8:2 28:3 30:3 34:13 38:17 46:21 53:13 61:3 63:1 72:9,14 75:15,19,25 77:9,14 78:3
9	add 23:7 63:20 65:21 85:15	adopting 22:7 37:4,6 39:12 39:18 43:20 44:3,6 49:2 53:23 54:3,22 67:20 68:22 69:23 71:22	agreed 38:24 39:6 agreement 35:23
9 6:20 9.e 14:11 94 59:3,5,9,10 59:16 95 59:24 96 59:24 99 59:9,10,16 59:24 9:00 4:5 9:02 1:15 9:45 24:10	added 85:19 addition 7:15 21:25 71:11 additional 6:6 7:11 22:22 33:3 54:18 84:13		ahead 4:6 26:12 41:25
a	address 27:17 29:15 adjourn 88:19 89:9 adjourned 89:15		
a.1 38:12 a.m. 1:15 4:5 ability 90:10 91:7 able 20:11 37:19 51:16			

[ahead - arbitrary]

44:5	49:6,10,16,23	annually 10:5	43:3,15 46:23
albert 1:16 4:3	50:5,12,17,25	anybody 13:19	47:7,18 48:18
allowing 22:17	51:3,11,22	46:18	50:18 51:5,18
44:24 48:22	52:1,5,9,12,16	apodaca 2:15	52:3 54:9,14
amend 5:20	52:20 53:2,10	20:12 21:7	55:12 56:4,10
amended 87:9	53:15 55:17,23	24:23 31:13	58:2,15,23
amendment	56:1,18 57:6	61:20	60:3,7 61:25
12:17	57:12,19,23	apologize 13:16	64:6,13,14
amendments	58:5,8,12,21,25	82:13	67:21 68:20
1:9 82:15	59:6,13,21	apostrophes	70:4,6,13 74:5
85:25 87:10	60:5,13,17,25	85:2	75:10,13 76:1
amount 45:19	62:9,14,16,19	apparent 12:25	77:5,25 78:5
45:22	62:25 63:17	appear 76:18	78:23 79:3,12
amply 29:10	64:4,10,11,23	appears 40:16	79:21 80:1
ampomah 2:11	65:7,11,23	78:22 84:21	83:19 84:3
4:9,10,22,25	66:5,8,19 67:7	appellate 32:20	85:18
5:11 6:23 7:8,9	67:11,15,18	applicable	application
7:24 8:7,18,25	69:1,8 71:6,10	69:11	5:19
12:4,15,19	71:17,20 72:3	applicant 35:19	approach 42:3
13:4,9,23 14:2	72:13 73:5,14	45:11 52:7	appropriate
14:10,13,17,21	73:17,23 74:1	53:12,16,23	47:18
15:24 16:15,17	74:4 75:3,7,9	54:22 57:8	approval 5:4
16:23 17:9,15	75:12,16,20	59:11 69:3	25:4
17:19,22 18:1	76:18,21,25	71:12,22 72:17	approve 4:20
18:25 19:6,7	77:4,7,10,13	82:3,24 83:15	5:9,14 19:12
19:10,25 25:6	78:11 79:23	applicants 11:1	87:11,20
25:18,20 28:12	80:13 81:8,13	11:7 22:5,8,15	approved 19:7
30:3 33:4	81:18 83:13,18	23:1 29:11	48:10,23 88:3
34:15,18 35:1	83:24 84:2,6	35:12,23,25	88:5,7
35:4,7,10,18	86:18 87:3,14	36:3,16,25	aragon 1:20
36:8,11,14	87:22 88:2,3	37:6,14 38:14	90:2,22
38:2,7,11,13,19	88:15,20 89:6	39:14,18,21	arbitrary 69:14
46:4 47:22	89:12	40:4,14 41:5,7	74:23
48:7,17,25		42:15,17,20	

[area - bloom]

area 70:12 arguably 79:18 argue 64:10 argues 48:18 argument 62:1 argumentative 41:21 43:22 44:1 arguments 35:20 41:7 44:10,13 48:1 48:2 56:4 60:8 86:23,24 arranged 49:20 articulate 28:9 aside 25:21 asked 86:19 asking 66:20 73:23 77:22 82:21 asks 81:6 aspect 76:23 assurance 30:15 31:16,19 31:23 32:9 34:5 48:9 assurances 9:10 26:22 30:12,19 70:8 attorney 90:14 91:10 audience 13:17 audio 90:8 91:3	authority 49:13 69:15 average 48:11 avoid 26:9 28:25 awkward 13:11 b b 3:1 7:17 29:6 35:15 38:16 49:14 58:10 59:19 60:1,11 61:12 85:5 baby 59:14 back 6:21 16:25 19:22 24:18 29:5 45:21,25 46:11 57:5 60:20 63:6,7 67:20 75:24 76:22 80:25 81:15 86:20 background 43:19 75:14,17 bad 68:18 barrels 17:5 based 26:8,9 52:3 78:17 baseline 39:2 basically 22:24 60:14 basis 40:7	bath 59:15 bear 21:1 begins 69:11 70:3 behalf 2:2 believe 7:19 17:17 20:10 23:15 30:10 34:24 36:25 46:24 61:4 70:2 86:4 89:1 89:2 benefit 54:18 best 10:23 28:8 54:5 90:10 91:6 better 12:24 28:10 32:15 beyond 8:9 84:14 big 42:16 binders 5:25 6:18 41:6 bio 76:3 biographies 43:2 biography 76:12,14,15 bios 47:7 76:1,5 76:7,18,19 bit 12:6 25:14 25:15 36:7,9 37:9 40:12 41:20 44:23	45:13,18 50:19 57:3 62:12 75:21 77:15 bits 83:5 blah 60:10,10 60:10 blanket 48:10 48:20 70:9,15 block 79:12 bloom 2:13 4:13,14,20 5:7 6:7,11,25 7:5 7:13,23 8:6,11 8:17,19,22 9:3 9:17,21,24 10:2,11,15,21 11:9,14,20,22 12:5,13,14,18 13:6,21 14:1,6 15:1,8,14,19,21 16:11 17:2,11 17:17 18:4,8 18:11,20,23 19:11,12,18,21 20:2,5,10 21:4 21:11,14,17,20 21:23 23:3,10 23:13 24:11,20 24:21 25:8,13 25:21 26:11,13 29:1,3,9,14,16 30:2,7,10,16,21 31:1,6,12,17 33:8,23 34:13
--	--	--	---

[bloom - chair]

34:22 40:15,25 41:10 42:2,8 45:4,23 46:19 47:5,23 51:2,7 54:6,12 55:9 55:18,21 56:23 57:1 59:17 60:1,12 61:3 61:14,20 62:7 63:1,15,23 64:9,12,19 65:2,19 66:12 67:2,24 68:4,7 68:13 69:9 70:1,6,11,18 76:17 77:12 78:2 80:4 84:17,18 86:7 87:12,19 88:6 88:7,12 89:10 bloom's 61:17 61:19 bogged 23:4 bolded 86:4 bolster 82:17 bond 25:10 26:15,25 27:9 27:25 48:10,20 54:9 70:9,15 bonded 26:16 27:4 bonding 21:8 25:13,24,25 26:5,7,9 27:1,2	27:3,3,9,12 28:2,14,18,23 29:24 69:18 bonds 25:11 27:19 29:18 bookmark 82:13 bookmarked 63:22 boring 13:18 bottom 7:17 19:21 21:12 22:2 55:25 56:2 61:23 63:7,9 box 2:5 boy 12:4 bracket 10:10 15:5,6,10 85:23,24 bracketing 10:15 brackets 10:9 break 20:15 54:8 61:6 breaking 54:14 brief 23:4 44:2 briefers 32:22 briefs 89:3 bring 68:8,10 76:18 80:6 broad 32:7 35:13,22 50:21 56:2,7	broader 50:22 brought 26:20 27:1 building 1:17 79:12 bunch 22:16 business 88:11 buttresses 76:10 c c 2:1 4:1 9:6,9 49:14 60:11 c.s. 1:16 call 4:6,8 18:14 19:3,4 22:20 40:10 41:11,13 43:10 45:2 46:7 53:20 54:2 87:25 called 1:6 37:1 calling 24:17 26:24 calls 45:10 cancel 15:5 cap 70:9,16 capable 55:7 capacity 11:11 11:15,16 54:1 capital 85:11 capitalized 86:3 capricious 69:14 74:23	captured 83:21 83:25 care 67:16 carry 64:20 case 1:8 5:17 7:3 16:6 18:13 24:1,13 34:19 41:5 44:12 46:6 47:20 52:3 61:7 63:19 68:10 70:15 75:21 84:19 87:16 categories 9:7 9:14,17 25:23 78:22 caught 6:12 cecilia 91:2,17 center's 5:19 certain 72:21 72:23 81:1,6,7 82:16 certainly 22:7 36:21 37:3 54:3 81:24 certificate 90:1 91:1 certify 90:4 91:2 chair 4:2,11,12 4:16,24 5:1,7 5:11,13 6:7,10 6:16,24 7:2,5,7 7:11,13,21 8:1
---	--	--	---

[chair - clerk]

8:6,7,8,11,15	38:2,5,9,12,18	74:3,8 75:3,5,8	38:14 39:15,18
8:21 9:2,15,19	38:23 39:10	75:11,15,19	48:21 56:10,12
9:23 10:1,8,14	40:15,24 41:4	76:4,24 77:3,6	61:10 66:16
10:17,22,25	42:6,11 44:7	77:9,16 78:2	70:13 85:1,6
11:5,8,12,17	44:11,16 45:6	78:21 80:5,10	86:9 87:7
12:1,8,15,22	46:3,6,10,19	80:17 81:8,11	changing 17:10
13:6,14,21,22	47:4 48:6,16	81:17,20 83:13	17:23
13:23,24 14:1	48:24 49:5,9	83:17,23 84:1	chart 26:4
14:2,3,6,8,12	49:15,22,23	84:5,10,19	check 7:8 16:18
14:16,18,25	50:4,11,14,24	85:4,8,13 86:1	cheese 47:3
15:3,9,18,20,23	51:4,8,22,24	86:8,12,15,17	66:14
16:1,11,14,22	52:4,8,11,15,19	86:18 87:2,5	chief 89:3
16:25 17:7,13	52:25 53:9,14	87:13,16,19,22	chino 1:17
17:21,24 18:3	53:19 54:6,11	87:24 88:5,8	choose 32:12
18:7,9,12,20,22	54:19 55:14,25	88:12,17,20,25	choosing 44:20
18:23,25 19:2	56:17,24 57:2	89:8,10,12,14	chose 80:18
19:9,13,18,20	57:6,11,18,21	chairman 1:16	cited 49:19
20:1,4,9,19,24	58:4,7,11,17,22	26:3	70:14
21:1,9,13,16,19	59:2,7,14,20	chance 16:15	citing 61:5
21:22,25 23:3	60:14,19 61:6	45:17 72:20	clarifies 27:5
23:9,11,16	61:7,15,18,22	chang 1:16 4:3	clarify 18:2
24:1,5,7,13,16	62:8,11,18,20	4:11 7:24 19:8	36:22,23 37:3
24:21 25:5,12	63:2,16,19,24	88:4	class 88:22
25:17 26:10,12	64:8,18,22,24	change 8:13	clean 25:14
27:6 28:12,17	65:3,7,8,9,13	16:3 20:6	27:15
29:1,2,8,13,15	65:15,20 66:1	40:20 56:11	clear 22:24
29:21 30:5,8	66:6,10 67:3,8	60:4	27:21,22 34:8
30:13,20,23	67:13,17,19,24	changed 79:15	43:19 60:2
31:4,14,18	68:3,6,12,14	85:2	74:22
32:3,6,17,21,23	69:7,21 70:5	changes 5:24	clearly 29:5
33:6,8,17,25	70:10,17,21	6:5 16:13	54:2 69:6
34:17,19,23	71:6,9,16,19	18:17 21:18	clerk 2:15 4:7,9
35:1,3,6,9,17	72:1,5,18 73:8	22:23 29:5,11	4:11,13,15
36:6,10,13,20	73:15,22,25	31:8 35:25	18:15 19:3,5,8

[clerk - commissioner]

20:22,25 21:3	11:2 18:16	7:24 8:6,7,11	38:2,7,11,13,19
23:22,23 24:4	19:3,17 22:13	8:17,18,19,22	40:15,25 41:10
24:6 25:1 61:8	23:20 24:18	8:25 9:3,17,21	42:2,8 45:4,23
65:5 84:24	26:6 27:20	9:24 10:2,11	46:4,19 47:5
88:1,4,6,15	28:14,21 30:22	10:15,21 11:9	47:22,23 48:7
closing 35:20	30:23,25 31:1	11:14,20,22	48:17,25 49:6
35:24 41:7	31:3,24 34:6	12:4,5,13,14,15	49:10,16,23
47:25 48:2	35:11,19 36:16	12:18,19,23	50:5,12,17,25
56:4 60:8,8	36:23 37:18	13:4,6,21,23	51:2,7,22 52:1
61:25 64:6	38:16 41:21	14:1,2,6,8,10	52:5,9,12,16,20
68:13 69:3	43:5,7,14 45:1	14:13,17,21	53:2,5,10,15
76:19 78:6,10	45:11,14 46:13	15:1,8,14,19,21	54:6,12 55:9
80:7	46:17 53:16,21	15:24 16:11,17	55:17,17,21,23
code 5:21	53:24 55:3,5	16:23 17:2,9	56:1,17,23,24
colon 9:8	55:19 56:3,20	17:11,15,17,19	57:1,6,12,19,23
come 6:21 22:8	57:14 58:9,16	17:22 18:1,4,8	58:5,8,12,21,25
45:21,25 57:4	58:19 59:12	18:11,20,23,25	59:6,13,17,21
67:20 76:20	60:21,23 61:8	19:5,7,8,10,10	60:1,5,7,12,13
87:10 89:5	61:9,24 68:23	19:12,18,21,25	60:17,25 61:3
comes 74:18	69:25 73:10,12	20:2,5,10 21:4	61:14,17,18,20
comfortable	75:6 77:23	21:11,14,17,20	62:7,9,14,16,19
23:20 83:10,19	78:12 81:6	21:23 23:3,10	62:25 63:1,15
coming 20:13	82:2,4,25 83:9	23:13 24:11,20	63:17,23 64:4
88:24 89:4	83:25 84:20,24	24:21 25:6,8	64:9,11,12,19
comma 30:20	86:22,25 87:8	25:13,18,20,20	64:23 65:2,7
65:6,14,16	commission's	26:11,13 28:12	65:11,19,23
comment 25:18	70:22 71:4	29:1,3,9,14,16	66:5,8,12,19
comments 6:3	83:12	30:2,3,7,10,16	67:2,7,11,15,18
16:7 21:6	commissioner	30:21 31:1,6	67:24 68:4,7
46:20 47:6	2:11,13 4:9,10	31:12,17 33:4	68:13 69:1,8,9
commission 1:3	4:11,13,14,20	33:8,23 34:13	70:1,6,11,18
1:7 2:2,12,14	4:22,25 5:7,11	34:15,18,22	71:6,10,17,20
2:16 4:4,7 5:18	6:7,11,23,25	35:1,4,7,10,18	72:3,13,20
5:23 10:22	7:5,8,9,13,23	36:8,11,14	73:5,14,17,23

[commissioner - creating]

74:1,4 75:3,7,9 75:12,16,20 76:17,21,25 77:4,7,10,12,13 78:2,11,14 79:23 80:4,13 81:8,13,18 83:13,18,24 84:2,6,16,18 86:7,18 87:3 87:12,14,19,22 88:1,3,4,6,7,12 88:20 89:6,10 89:12 commissioner's 22:1 commissioners 6:1,4 13:20,25 16:8 18:13 37:25 40:12 44:18 45:9,16 45:22 61:11 65:5 82:8,22 83:1,2 87:17 compared 72:16 comparing 52:23 compiled 18:16 complement 56:14 complete 13:1 completely 40:8	comprehensive 72:16 84:7 87:1 computer 61:19 conceivably 68:8 concerned 75:22 77:11,15 concerns 8:5,8 34:9 87:8 concluded 89:17 concludes 26:6 28:14,21 conclusion 77:21 86:21 conclusions 37:7 46:15 56:6 62:2 66:15 concur 40:4 81:16 conditions 66:18 confirm 6:4 confuse 55:10 confused 36:17 confusion 27:15 consecutive 17:6 conservation 1:3,6 2:2,12,14	2:16 4:4 24:18 46:13 consider 28:5 30:1,25 31:4 33:15 34:1 45:12,16 51:25 52:2 73:10 considered 29:25 44:19,19 74:25 75:1 82:23,24 considering 1:8 42:10 46:17 constructed 10:13 continuation 46:12 continuing 85:21 continuous 20:15 contradict 54:23 contradictory 54:24 62:22 69:24 control 15:11 convinced 81:1 convincing 82:8 copy 83:20 correct 12:14 53:14 59:12,13 63:24 65:20	77:6 counsel 5:24 10:23 12:24 16:21 18:16 19:17 22:13 31:24 36:23 38:16 53:5,16 55:4,5,19 57:14 58:9,16 58:19 59:12,19 75:6 78:9,12 82:4,25 83:25 84:21 86:22 87:9 88:16 90:11,14 91:7 91:10 counsel's 53:21 53:24 61:9 86:25 couple 19:19 41:16 42:11 45:25 68:24 78:18 course 28:8 35:6 74:18 83:17 court 32:1 33:1 44:14 47:10 79:11 courts 78:7 covered 10:17 crack 25:10 creating 47:1
--	---	--	--

[credibility - document]

credibility 76:13 credible 72:12 73:4 74:14,15 81:6,7 crosswalks 70:12 crux 55:14 current 40:20 currently 7:18 34:10 cursor 85:11 cut 18:22 54:15 cutting 46:21 66:2	day 76:9 days 17:5 dealing 33:12 debate 7:12 8:5 55:15 debated 74:25 decided 56:25 decision 40:2 44:19 74:10,17 74:24 76:11,13 80:25 82:9 83:12 decisions 75:2 decline 37:22 41:14 declined 39:16 declining 22:11 defer 67:12 definitely 17:10 42:14 50:9 52:9 definition 16:20 18:10 deleting 33:4 deliberations 27:10,11,12 department 1:2 2:4 depends 66:15 describe 77:2 described 36:2 71:15 describes 29:10	describing 75:13 description 3:2 81:14 desire 61:15 detailed 64:13 64:14 74:19,19 74:21 details 52:22 differ 36:2 different 22:18 25:3 27:13 28:19,19 49:3 69:19 digital 90:8 91:3 direction 22:18 disagree 72:9 83:20 disagreement 84:8 discretion 67:12 discuss 12:20 21:10 22:3 23:2 35:14 36:5 42:24 60:24 78:15 discussed 8:10 18:18 31:21 57:9 discusses 37:16 discussing 46:13	discussion 4:18 5:6 6:6 7:3 14:15 23:19 26:2,7 29:18 29:22,23 30:14 30:17 31:15 33:10,19,20 34:4 36:21 50:15 51:9 54:20 58:23 67:21 70:25 discussions 46:18 50:20 51:19 67:22 74:9 disparage 47:14 distinction 26:14 distinguished 26:24 division 71:8 71:24 76:23 divisions 71:2 doctor 4:24 document 24:19 36:24 38:5 41:19 44:1,5,23 47:24 53:24 66:14 68:1 69:23 71:1,21 79:25 84:23,25 86:13
d			
d 4:1 7:19 8:23 9:11,25 12:16 12:16 18:6 35:24 36:4,4 38:20,20 56:9 56:15 data 42:15 50:19 52:3 71:3 75:13 date 1:14 12:16 12:21,22,25 13:15 14:14 15:7,13 16:5 61:17 dates 13:10 david 8:16			

[documents - expert]

documents 22:3 45:18 68:17 83:4 89:1,3,5 doing 26:22,23 33:10 41:9 69:25 77:24 double 21:8 25:13,25 26:5 26:6,9 27:2,8 27:12 28:14,18 dr 13:9 16:14 51:3,11 64:9 76:17 88:15 draft 26:14 54:8 86:25 drafted 19:16 22:21 34:24 55:19 84:20 87:8,20 drafting 26:19 drive 1:18 driver 26:1 dry 13:17 duly 90:5 duplicative 68:19	early 45:20 ears 28:11 easy 86:17 edit 8:12 33:18 editorial 18:17 edits 14:7 31:25 effect 23:6 57:25 effective 12:16 13:10 14:14 15:2,13 16:5 37:8 38:1 40:6 55:15 85:23,24 efficient 37:8 38:1 efforts 52:22 64:13,14 eight 17:19 86:14 either 7:12 8:9 9:20 12:8 42:22 73:3 80:20 eleven 46:5,7 eloquently 27:16 embedded 69:6 69:7 71:18 emphasized 67:6 employed 90:11,14 91:8 91:11	employee 90:13 91:10 encouraged 50:2 ended 22:7,18 39:12 69:25 ends 12:10 energy 1:2 engagement 43:11 49:21 engagements 50:8 entire 53:11 68:1 70:25 71:1 entirety 78:8 environmental 5:19 equal 48:10 equivalent 17:6 es 90:4 especially 72:15 esquire 2:3 evd 3:2 everybody 45:17 68:24 evidence 65:25 66:21 74:25 78:4,15 exact 36:24 exactly 33:1 54:2	example 22:14 22:14 37:13 39:13 41:24 42:13 45:11 47:7 58:18 71:2 72:21 82:11 examples 42:13 except 23:7 35:25 38:14 40:18 56:12,21 60:11,16,22 61:4 62:3,4 63:13,13,21,25 65:6,17,18,18 65:19 exclude 63:4,5 64:6,8 73:18 73:24 80:8 excluded 41:3 64:21 85:2 exhaustive 42:14 exhibits 79:18 exist 74:11 existing 29:4 exists 32:14 40:20 expediency 40:19 expedient 42:25 expert 75:13
e			
e 2:1,1 3:1 4:1,1 9:11 52:2 earlier 47:6 56:19 60:21			

[expertise - fine]

expertise 47:16 experts 42:15 42:18,19,21 43:3,5 50:19 50:21,22 69:4 75:14,17,23 78:13,20 expired 48:10 explain 12:24 46:16 explaining 47:20 explicitly 39:15 extends 72:14 extent 27:18,23 29:22 30:11,13 30:17 31:14,20 33:18,19 34:3 72:10 extra 7:21 extract 63:18 eyeball 45:13	54:22,23 62:2 62:23 67:23,25 68:20 70:24 72:8,10,22 73:11,13 76:7 76:8 77:25 78:7,24 81:3,4 82:5,7,10,16,24 82:25 83:10 84:14 facts 39:5 42:23 46:15,24 46:25 51:13 54:24 56:6 60:10 68:16 71:14 73:19,21 74:5 80:19 81:2 82:3,23 83:6 fair 44:16 64:18 76:4 fall 14:14 falls 15:4 familiar 45:24 fast 11:13 36:20 41:15 fe 1:19 2:6 feel 9:20 35:12 36:4 38:20 49:3,16 53:16 56:2,7 60:25 71:11 83:1,2 83:19 84:7,11 86:25	feels 56:24 fellow 45:16 78:14 87:17 felt 48:2 fence 64:2 fifty 63:24 72:3 figure 28:10 32:20 figured 6:20 file 44:25 filing 13:1 35:19 43:22 56:4 60:8 61:25 final 5:24 6:8 13:1 16:9,12 36:25 37:1,2 51:12 financial 9:10 26:22 30:12,15 30:18 31:16,19 31:23 32:9 34:5 48:9 70:8 financially 90:15 91:11 find 15:11 16:19,24 37:8 40:6 63:21 70:1 72:23 74:15 81:6,23 82:8 finding 13:17 22:16 39:1 54:22 56:5	60:9 67:23 68:20 71:14 72:22 73:1,13 73:19,20 74:5 76:6,8 78:24 80:19 findings 22:16 37:6,14,17 38:25 39:5,11 40:2,5,16 41:19,22 42:18 42:19,23 43:1 43:4,9,11,23 44:24 46:15 51:13,18,20 54:23,24 62:2 62:23 67:25 70:24 72:8,10 72:19 73:11 77:25 78:24 79:1,2,4,9,13 79:14,16,22 81:3,3 82:2,4,7 82:10,14,16,22 82:23,25 83:6 83:6,10 84:13 84:13 finds 30:23 31:2 34:6 35:19 fine 6:4 7:1 9:13,22 47:8 47:19 51:17 73:8 77:24
f			
f 9:11 fa 48:19 facet 26:21 fact 16:4 22:16 37:7,14,17,18 38:25 39:1,11 40:2,5,7 41:19 42:18,19 43:2 43:4 44:24 45:1 51:20			

[fine - greg]

80:8 81:20 83:12 86:8 finish 46:1 65:10 first 9:1,3 18:18 25:19 26:25 36:15 49:21 54:10 63:7,9 68:8 69:18 71:14 78:23 80:11,15 81:21 82:1 fit 10:20 five 20:14 flag 6:14 19:19 23:2,18 49:6 flagged 50:13 flip 58:22 63:25 follow 15:22 following 9:12 36:1 38:15 39:19 40:18 56:13 62:24 foregoing 90:3 90:4 91:4 forever 87:6 formatted 82:5 forth 56:21 80:6 found 6:14 64:25 72:12 73:3 74:14 82:8 86:16	foundation 74:9,17,20,25 79:10 80:2 82:17 foundations 69:15 four 79:16 francis 1:18 fraudulent 66:24 front 5:18,25 18:16 19:14 24:19 43:17 46:14 62:6 63:11 66:2 84:14,22 85:23 87:21 further 6:3 12:12 13:5,19 13:19 14:4 16:7 23:21 25:15 84:12 87:7 90:13 91:9 future 28:5 29:24 30:12,15 30:19 32:10,12 33:11 34:6,7	31:19,23 32:9 34:5 52:23 general 57:13 generally 11:24 78:5 gerald 1:20 90:2,22 getting 27:4 88:21 give 7:7 8:1 14:9 16:7 17:7 45:17 46:16 68:24 84:24 given 41:19 78:9 gives 53:6 giving 16:14 go 4:6 6:13,15 15:17 16:8 20:17 23:6,24 25:2 26:12 29:5,20 33:12 35:2,7,15,15,16 35:16,24 36:12 36:14 38:3 40:13 41:25 42:4,6 45:18 48:15 50:18 56:8 57:16 58:2 59:23 60:6,23 61:4 63:6,21 69:22 71:12 75:24 79:20 81:25	84:12 86:20,24 goal 83:16 goes 33:9 44:1 60:20 68:1,2 going 6:17,19 9:24 11:7 12:9 12:20 20:6 22:18 23:24 31:9 32:24 47:21 54:21 55:10 57:7 59:22 60:18 61:1 63:5 66:14 68:15 76:8,14,15 81:15 86:14 87:11 gonzalez 91:2 91:17 good 4:2 5:8 6:25 14:4,24 16:12 19:13 24:11 34:13 40:5 43:19 45:19,22 46:10 47:19 49:20 69:10 grammar 10:20 grammatically 10:3 11:3 great 49:11 83:2 greg 2:13
	g		
	g 4:1 20:14 gaps 83:3 84:12 gas 11:11,24 12:5 17:4		

[grounds - interested]

grounds 66:24 group 20:14 guess 13:8 18:19 46:17 70:22 guys 41:15 62:4	50:2 66:21 84:11 89:14 heavily 76:16 help 36:23 57:21 helpful 24:2 42:10 69:16 82:15 85:1 hereto 90:15 91:11 highlight 14:23 15:17 16:2 23:14 42:9 45:8 69:21 85:1 highlighted 14:19,20 19:23 19:24 42:12 49:24 52:14 53:17 78:16 highlighting 16:4 38:17 highlights 25:1 hold 8:20 64:9 87:6 holey 47:3 home 33:21 hope 27:5 32:25 hopes 74:20 hour 45:25 huh 6:10 10:1 12:18 14:12 16:22 21:13,16	25:12 29:8 32:3 35:17 36:13 48:6,16 49:9,15,22 52:4,8,15 58:11 75:11 hyphen 7:15,20 7:22	incomplete 33:14 incorporate 22:5 79:17,22 incorporated 83:11 incorporates 35:11 56:3 60:7 61:25 incorrect 72:24 73:3 incredibly 13:17 individually 45:21 industry 28:2 31:19,22,23 32:9 48:18 51:15 industry's 51:21 inform 33:1 76:12 input 22:5 55:3 inputs 13:5 inside 15:5 26:25 85:12 instance 57:24 intent 27:7 interest 82:21 interested 22:17 37:18 42:2 44:25 90:15 91:12
h			
h 3:1 half 45:25 68:2 hall 1:17 hammer 33:21 handle 55:16 handled 49:14 hang 10:17 66:3 hangs 66:7 happen 34:10 66:18 happy 14:9 45:17 87:24 hard 27:7 harmful 53:1 66:11,13 76:6 hate 24:8 heading 9:2,4 58:1 86:4 hear 65:24 heard 42:25 43:5 47:6 70:25 hearing 1:5,13 22:17 37:19 44:25 49:12		i	
		idea 74:11,11 79:20 identifies 77:19 ii 48:3 51:1 85:5,5 iii 42:16 48:3 50:18 51:5 75:10 immature 33:15 implies 22:24 important 47:9 49:25 81:23 82:9 inactive 7:18 include 38:21 43:3 51:19 82:10 included 55:11 including 43:4 47:14 70:24 78:13 83:7 inclusion 64:10	

[intermingled - line]

intermingled 41:18 interrupt 51:11 inviting 55:3 ipanm 23:15 69:2 80:16 83:7 ipanm's 80:9 issue 7:10 15:9 22:19 25:10,22 26:7 27:2,24 28:14 29:17 30:24 31:2 33:22,25 34:8 56:16 66:22 69:17 issues 7:6,25 12:12 27:13 28:21 58:9 66:16 73:20 it'd 79:21 it'll 20:25 item 5:6,17 23:19 iv 19:22	jump 44:21 jumped 11:22 41:16 jumping 44:22 justice 2:4	69:13,16,18 72:6,21 73:19 74:20 75:16,23 76:14,22 77:4 77:17 78:3,13 78:17 79:11 81:22 82:12 83:5,24 86:23 87:1 knowledge 90:10 91:6 knows 44:14	69:12 82:19 85:18 laptop 20:22 largely 40:21 44:13 law 2:15 5:19 36:1 37:7 56:6 62:2 laws 46:16 lawsuits 65:25 66:24 lay 40:1 laying 73:9 lays 74:16 leave 9:22 34:2 37:24 71:4 leaves 83:3 leaving 32:7 47:17 legal 44:10,13 69:11 legally 32:19 letters 20:15 level 31:22 lieu 31:7 limitation 74:6 limited 71:1 limits 73:19 line 6:15,15,16 6:17 11:12,13 11:14 36:15 49:7 63:12 70:3 85:10
	k	l	
	keep 14:19 23:4 52:10 66:11 kind 53:23 70:23 87:18 know 6:12,13 6:17 9:18 15:4 15:11,16,16 16:2,19 22:12 22:21 23:10,17 26:24 27:2 28:22 29:19,19 31:22 32:8 33:11,14,14 37:20 40:18,21 40:22 41:12,14 41:16 42:4 43:13,21 44:4 44:23 46:24 47:3,8,10,11,11 47:12,13 50:12 50:21 54:14 55:4,10,11 56:3 57:2,19 62:12 64:15,16 64:17,20 65:4 65:17 67:3,8 69:6,10,11,12	land 26:23 27:4 28:4 31:21 32:4 lands 25:21,25 28:15 landscape 32:13,14 34:11 34:11 language 11:7 21:8 23:6 25:3 27:22 29:4,9 29:11 34:14 36:16,18 37:2 37:17 39:13,21 39:22,24 40:20 45:2 54:13 56:9,14 58:20 59:19 60:15 61:13,24 62:6	
j			
job 1:21 47:20 49:11 54:5 joint 36:3,17 37:1 83:14 judgment 73:2 july 1:14 4:4 13:11,15 88:18			

[lines - midstream]

lines 23:12,17 25:1 28:25 47:6 linked 61:19 list 40:18 42:14 63:13 listened 78:18 listening 57:17 65:12 listing 57:17 58:3 59:22 lists 56:21 81:4 little 11:23 12:6 25:14,15 27:7 36:7,9 37:9 38:9 40:12 41:20 43:6,13 44:23 45:13,18 50:19 54:17 55:2 62:12 75:21 77:15 live 39:6 living 39:7 location 1:17 lockstep 78:8 long 15:5 look 5:8 21:6 21:21 32:13 41:2 48:5 49:2 50:5,20,22 52:2 55:18 65:8,8 71:7 75:4,9 83:14 84:3	looked 15:14 looking 7:16 13:7 17:2 21:11 24:24 25:22 35:22 36:24 37:4,4 38:6,7 47:18 68:12 70:2 83:4 lot 14:22 22:7 27:20 57:7 59:25 65:24 66:14,25 67:3 67:4,5 love 40:22 low 8:13,13,23 8:24 9:25 10:4 10:6,8,19 16:19,20 17:3 17:11 18:6 85:11,13,14,17 86:2,3,5 lunch 45:20 46:2	57:14 70:13 74:17 75:1 82:11 85:6 main 5:17 26:1 major 50:15 make 8:3,4,4 10:20 15:12 16:1,9,15 20:6 25:23 26:4 27:21,21 37:3 44:10 46:22 47:2 54:21 57:3,13 59:15 60:4 61:10 68:21 69:10,22 70:15 72:19 82:20 83:3,4 makes 60:2 66:3 making 47:20 54:17 57:20 66:16 74:12,23 76:11 82:9 marginal 77:19 mark 36:20 marked 3:3 21:10 matches 18:10 matter 1:5 27:24 40:19 mean 29:5 31:20 32:6,7 33:16 36:2 38:20 39:10,23	39:25 52:6 53:23 54:7,13 57:8 59:24 64:12 68:10 73:9,24 76:25 78:3 meaning 66:5 means 17:4 33:2 40:3 75:24 meant 47:14 mechanisms 28:2 meet 25:4 meeting 4:3,4,6 5:5,10,14 24:17 46:12 88:18 meets 7:18 members 50:2 memory 66:20 mention 69:17 mentioned 9:4 20:16 64:15 merely 73:9 76:14 83:8 mexico 1:1 2:2 2:4,11,13,15 4:3 5:20 24:17 26:22 46:12 90:24 midstream 11:15
	m		
	m 20:14 madam 4:7 18:15 23:22 65:5 made 21:17 22:23 26:15 29:11 44:19 48:21 53:4,7		

[midstream's - o]

midstream's 11:15 minerals 1:2 minute 7:8 42:4 minutes 5:5,8,9 5:14 24:8,9 mischaracteri... 51:12 missed 14:22 16:9,15 missing 17:25 17:25 mister 46:20 77:18 modification 60:2 modifications 22:13 39:23 53:5,7 modified 39:18 53:25 55:4 60:16,22 62:3 62:4,24 63:14 82:3,25 83:11 84:21 85:3 modifying 54:3 moment 20:25 moments 16:8 23:5 month 17:6 morning 4:2 46:10,11 motion 18:18 88:19 89:9	move 4:20 5:9 18:21,24 48:14 87:18,20 89:11 moved 5:1,13 6:2 19:2 78:5 moving 5:16 multiple 25:24 26:17 27:19 29:18 86:23	43:1,7 45:12 49:24 54:15 55:5 59:15 60:4 61:4 63:12 73:1 74:22 75:24 78:14 86:10 89:7 needs 12:2,23 62:23 64:20 86:1 neither 90:11 91:7 new 1:1 2:2,4 2:11,13,15 4:3 5:20 24:17 26:22 46:12 88:24 90:24 nicely 46:25 nine 72:3 ninety 59:2,3 nitpicks 6:12 nm 1:19 2:6 20:15 nmac 1:11 6:2 6:3 9:12 48:19 70:7 nmac's 7:3 nmdoj.gov 2:7 nmoga 20:14 20:18,20 23:15 26:19 27:1 69:2,6 71:17 73:6 80:9,16	83:7 86:13 nope 14:4 65:18 notary 90:23 note 5:23 8:4 15:12 54:7 85:18 noted 26:19 39:23 notes 8:4 11:1 13:7 14:4 16:9 notice 22:5 35:19 56:4 60:8 61:25 number 5:18 15:15 35:8,16 36:12,15 38:3 38:4 42:16,18 48:5,7 50:18 75:10 numbered 43:23 44:2 numbers 23:8 45:4 63:22 65:21 numeral 19:22 20:7 21:14 24:25 25:9 38:10,12 42:16 85:5,5
	n	n 2:1 4:1 20:14 name 4:2 names 79:17 naming 64:5 narrow 36:6,8 37:10 39:13 natural 1:2 nearly 68:2 necessarily 6:16 15:16 43:1 44:17 54:15,16 57:16 66:11 68:18 72:9 75:17 78:8 80:23 necessary 23:18 37:15 38:21,24 53:1 64:3 66:7 need 7:15,20 14:9 15:17 22:19 36:5 39:1,11 40:1	
			o
			o 4:1 20:14

[objection - oxy's]

objection 5:2,3 5:15,16 25:7 38:24 88:8 89:14 objections 25:5 obviously 69:19 occ 5:5,9,14 50:2 69:13 ocd 26:16,22,25 27:3,19 28:1 29:18 50:21 51:19 52:6 68:11,17 69:3 71:8,22,23 72:14,22 77:11 78:5 79:2,3 83:7 ocd's 50:20 51:12,13,20 67:23,25 68:4 68:14 69:9 70:4,7,24 75:22 76:19,22 77:17 80:6 81:5,14 office 25:22 26:1,23 27:4 28:4,15 31:21 32:5 officer 49:12 90:2 oga 20:16	oh 4:25 9:15 12:4 13:14 17:21 20:24 31:12 41:25 61:22 67:15 69:21 oil 1:3,6 2:2,11 2:13,15 4:3 11:11,24 12:5 17:4,5 24:18 31:19,22 32:9 34:5 46:12 52:22 64:15 okay 4:15,22 7:2,7,11 8:1,4,8 8:21 9:23 10:14 11:5,8 11:17 12:11 13:16,19,22 14:4,17 15:4 15:11,18,20 16:1,5 17:9,23 18:12 19:2,5 21:2,3,19,22,25 24:1,5,10,16 25:2,8,18 31:12 34:17,20 34:21 38:9,25 42:6 46:3,6 48:1,24 49:5 50:16,17,17 52:11,19,22,25 53:2 57:18,23 59:23 60:12,19	61:7,22,22 62:11,18,20,25 63:2,15,19 64:8,11,22,24 67:7,11,11,18 70:5,10,17 72:4,4,13,16,17 75:7 79:15,21 80:10 83:23 84:1,5,10,15,19 85:3 86:8,17 87:2,5,16 88:1 88:8 89:6,8 old 88:23 once 21:6,23 one's 15:3 ones 38:17 41:1 49:19 53:4,7 58:8 open 6:19 37:24 46:18 operator 9:9,9 10:3,4,6,18 45:14 66:17 opinion 12:2,7 32:19 35:22 72:11 76:5 opinions 9:19 22:1 opponents 79:4 opportunity 6:8 opposed 79:25	opposing 79:1 opposition 20:17,19 option 44:9 73:9 79:8 options 44:8 79:7 80:3 order 4:6 19:15 24:18 60:22 61:9 62:4 63:14 84:20 87:8,11,20 88:9 original 16:18 27:18 34:20 outcome 90:16 91:12 outside 15:10 28:23,24 30:1 30:24 31:2 33:15 71:24 overall 46:24 overlapping 25:11 27:1 own 14:3 39:9 41:23 42:5 56:5 60:9,10 62:1,2 73:12 78:24 80:22 oxy 71:13,13,22 80:14 82:11,15 83:7 oxy's 23:15 82:14,16,18
--	---	---	--

[oxy's - portion]

86:23	61:4,4 63:22	parties 26:20	persons 22:17
p	63:25 64:1	38:24 39:2,4	37:19 44:25
p 2:1,1 4:1	68:16 69:22	39:24 41:20	pertaining 57:9
p.m. 89:16	70:3 72:2 77:1	42:20,23 43:11	petition 46:14
p.o. 2:5	77:18,20 86:9	47:12 49:21	phrase 28:11
package 18:15	paragraphs	50:3,7,8 51:10	32:15 57:22
19:14 88:10,21	22:11,20 37:16	73:12 74:13	phrased 43:15
packet 88:23	37:21,23,23	76:2 80:18	picking 61:1
page 7:17 8:18	40:10,11,16	82:5 83:7,15	pieces 83:5
8:23 17:3,8,9	41:11,12,13,17	83:22 87:4	places 53:13
19:21 20:7	43:17,23 44:23	88:15 90:12,14	plan 45:19
21:12 22:2	45:3,7 54:15	91:8,11	please 4:8,19
24:25 38:25	56:21 59:2,3,9	parts 14:22	19:3,20 26:12
39:1,3,5,9	59:10,11 63:3	39:20 41:18	32:23 35:3
42:17 43:25	63:4,13,21	43:22 44:5,9	51:11 61:14
45:10 47:24	64:25 65:1,4	44:21 82:18	pleasure 70:22
48:1,5,7,14	65:18,22 66:1	past 61:12	71:5
51:5 52:13	68:8,15 71:2,3	path 81:25	plugging 48:9
55:21,23,24,25	72:22 82:16	patience 24:17	plural 86:6,7
56:2 61:23,23	85:3	patterns 49:20	plus 18:9
63:7,10,10	pare 47:2	peace 87:7	point 40:1,5
65:23 70:2	part 6:2 17:1,3	pecos 1:17	46:21 55:1
72:2 84:16	25:16 27:8,14	peltz 52:22	74:24 76:16
pages 39:3	36:22 37:5	64:16	80:20,24 81:2
46:23,23 68:25	63:7 70:22,24	pending 32:5	81:3
paper 27:16	82:10	people 12:11	pointed 43:13
28:9	particular	27:8 47:11	43:14 61:5
paragraph	22:19 32:19	79:11	84:9
21:9 28:7	45:14 46:18	people's 43:2	points 46:22
34:20 37:14	51:9 66:22	perfect 30:2	69:10 82:11
43:10 45:10,10	83:16 88:25	65:21	policy 27:24
48:15,21 59:5	particularly	period 17:6	portion 68:1
60:24,24 61:2	37:15 68:14	85:15	75:22 80:6
	81:5		

[position - read]

position 44:15 70:19 possible 27:22 54:5 potential 34:7 74:13 potentially 28:1 29:23 30:14,18 31:15 33:20 34:3,4 preference 6:15 43:8 67:14 preliminary 43:18,20 47:25 premature 26:7 28:16,24 29:25 30:24 31:2 32:2 prepared 59:19 91:3 preponderance 35:21 78:4 present 2:10 4:10,12,14,16 presented 60:11 71:12,24 74:16 78:4 presenting 71:8 presents 50:21 prevailed 47:12 preventing 49:13 previous 18:5 39:4	previously 31:8 prior 27:11 90:5 probably 12:6 12:24 14:18 35:13,14 36:4 38:20 49:1 52:17 55:24 64:6 85:6 problem 23:24 48:13 50:15 62:17 64:24 problems 41:1 74:7 proceed 4:18 proceeding 89:17 91:4 proceedings 90:3,5,6,9 91:6 produced 17:4 producing 8:13 8:13,23,24,25 9:25 10:4,7,8 10:19 16:19,20 17:4,11 18:6 64:15 85:12,15 85:17 86:2,3,5 product 74:21 proposal 48:18 58:2,6,15 59:8 60:3 70:4,7 84:7 proposals 23:15 31:21	53:3 80:5 proposed 1:9 22:6,15 23:1 27:18 34:14 35:20 36:3 37:6 39:15,23 39:24 40:4 41:7 43:23 44:2,3 46:15 49:18 51:13,15 56:5 57:9 60:9 62:1 70:24 71:14 72:22 80:19 81:2 82:3,14,18 83:6 proposes 72:23 81:5 provide 9:10 42:17,19 51:17 74:9,21 provided 5:24 22:13 35:21 40:14 51:19,20 52:7 53:6,22 58:16,20 71:23 72:11 provides 79:10 providing 53:12 public 90:23 pull 22:3,14 pulled 21:7,24	purpose 1:7 put 6:9 20:11 34:7 43:14 47:15 51:9 60:22 65:6,14 72:21 78:19 80:5 putting 83:8
q			
qualified 90:7 question 42:15 43:16 55:6 60:20 62:13 67:19 74:18 76:17 78:23 82:1 86:19 questions 37:5 49:11 quick 23:24 45:8 88:20 quickly 37:20 quite 67:25 quorum 4:17 quote 85:12			
r			
r 2:1 4:1 raised 49:12 range 44:8 rather 41:17 reactions 35:20 read 8:13 11:4 13:10 25:16 27:18 32:25			

[read - reviewers]

45:24 49:18 50:1 59:16 62:23 66:1 68:24 75:24 readers 55:10 reading 47:24 reads 9:22 10:4 85:10 ready 21:10 81:10,22 84:20 87:13,15 real 11:13 23:23,24 36:20 41:15 45:8 really 26:5 27:9 38:21 49:14,17 49:20,20,24,25 50:7 51:8 52:24 53:17 57:8 58:10 69:4 73:6 76:9 76:10 78:19,19 81:15,15 83:21 83:25 86:25 reason 34:23 47:1 56:6 60:10 85:22 reasonably 75:1 reasoning 38:8 48:4,12 49:18 53:8,22 56:5 56:11 57:15,15 73:20 78:16	reasonings 55:18 57:9 reasons 6:21 19:16 22:6,22 23:1 26:19 40:23 41:8 43:24 44:2,4 54:8 55:13 60:9 62:1,2 rebuttal 72:5 72:15 77:14 rebutting 75:23 79:6 recall 78:25 86:10 received 89:3 recent 66:24 recess 24:3,14 42:4 46:7,11 recollection 67:4 79:2 record 15:12 24:15 45:15 46:9 54:5,25 74:12 76:19 90:9 91:5 recorded 90:6 recording 90:8 91:4 red 25:1 redline 5:24 6:8 40:13 reduced 90:7	refer 27:12 68:10 referencing 59:22 referring 36:18 55:12 68:9 79:9 refresh 66:20 regards 48:22 49:12 regulatory 32:14 34:11 reiterate 86:19 related 17:3 28:21 51:18 66:17 90:11 91:7 relative 90:13 91:10 relatively 76:7 relied 42:24 remember 66:22 77:24 86:5 reminded 13:9 removal 7:15 remove 9:5,7 replace 15:6 50:23 53:11,17 58:14,15 59:8 replaced 86:16 replacement 33:7	replacing 53:22 reported 1:20 request 22:17 require 28:23 30:11 33:21 34:3,5 37:19 54:9 requirements 7:19 requires 48:19 requiring 27:19,25 29:24 30:15,18 31:16 70:7 research 11:23 23:5 81:15 resolve 24:9 56:15 resources 1:2 respect 34:23 responding 49:11 rest 47:18 66:7 68:17 restart 20:23 restore 11:7 restored 20:2 result 65:25 review 5:12 6:8 10:5 14:3 72:20 89:7 reviewed 5:8 reviewers 74:13
---	--	--	--

[reviewing - seen]

reviewing 46:24 67:25 88:22 reviews 14:5 revisit 57:5 rework 29:12 rewrite 40:8 right 6:1,24 7:2 7:21 8:16 10:3 10:20 13:2,18 15:15 16:3 17:1 22:4 24:24 26:17 28:10 29:7 32:7,13 36:15 36:22 39:21 41:13 42:9,20 44:3 45:25 54:11 56:11 57:3 58:17,19 59:4 60:15 61:23 63:5,11 63:11,11,20 65:17 71:10 72:8 75:18 76:11 77:7 80:20 81:3 82:10 85:7,9 85:10 86:6 87:5 road 69:23 roll 4:8 18:14 19:4 87:24	roman 19:22 20:7 21:14 24:24 25:9 38:9,12 42:16 85:4,5 rule 13:1 14:14 26:8,16,22,25 27:3,18 29:18 35:25 36:4 38:14 39:15 46:16 56:10,11 56:12 57:10,14 79:5,15 82:18 rulemaking 5:20 30:25 31:5 32:5,14 33:13,13 46:14 61:9 69:15 88:9,22 89:1,5 rules 10:12 18:15 19:14 26:9 39:18 48:4 69:13 88:10 run 37:21 s s 2:1 3:1 4:1 10:9,10,15 saint 1:18 santa 1:19 2:6 satisfied 18:13 60:21 62:5 82:2 83:9	saves 60:17 saying 28:13 44:17 50:1,2 56:9,12 58:17 76:18 78:14 80:14 84:4 says 7:17,18 13:8 33:2,9,11 38:3 53:25 65:17 85:9 scope 28:23,24 30:1,24 31:3 33:15 scrap 29:4 scrapping 31:8 screen 20:12 62:6 scribe 32:18,18 scroll 25:9 62:11 84:22,25 86:21 scrolling 25:2 search 12:6 15:2 second 4:24,25 5:12 8:2 14:3 17:7 19:1 63:10 70:3 85:10 87:23 89:13 secondary 27:24 seconded 5:2 5:13 19:2	section 14:5 18:5 29:6 42:16 43:12,12 51:4 53:11 57:17 69:2 sections 5:20 6:18 47:19 53:20 54:2 58:14,15 60:11 63:18 see 6:3 9:5,6 11:12 16:18 22:9,15 23:25 24:25 25:1,3 35:24 36:5 37:21 38:15 40:13 42:3 43:25 50:23 53:1 58:1 61:10 62:16 64:23 66:4 69:1,5 71:7,18 71:25 75:25 77:1,5,8 80:15 83:14 86:21 seeing 31:13 seem 67:4 seemed 43:6 47:19 seeming 18:13 seems 45:13 78:21 80:4 seen 10:12 12:9 12:11
--	---	---	--

[sense - statements]

sense 46:22 57:20 sent 20:8,11 sentence 11:4 65:10 separate 66:9 series 66:23 78:22 79:7 several 78:24 shandler 2:3 6:9 10:25 11:6 11:18,21 13:3 20:8,16 26:18 31:10 32:1,4 32:17,22,24 34:25 38:23 44:7,12 61:16 65:10,13 78:21 79:24 85:4,9 85:14 86:12,16 shandler's 40:1 shared 16:21 88:23 89:4 sheila 2:15 20:10 32:18 65:16 88:23 89:2 showed 26:3 shown 66:21 shows 54:13 side 25:7 sided 43:6 sides 55:2 79:4	signature 90:21 91:16 similar 56:9,14 56:19 57:13 69:2,3 simply 29:14 29:21 33:9 40:18 42:4 62:22 64:13 80:6 single 80:24 sir 76:24 situation 25:24 26:1 28:16 six 62:18,19 skills 90:10 91:6 skip 9:13 slap 48:25 slightly 25:3 small 8:12 somebody 87:17 somebody's 76:12,15 somewhat 41:18 soon 21:5 sorry 8:15 13:7 17:13 18:22 44:22 45:9 51:3 59:18 63:6	sort 22:23 26:21 33:16 42:16 43:21 44:1 87:6 sound 16:7 sounds 11:6 63:24 76:1 south 1:18 space 7:16 20:21 86:13 speak 51:10 70:18 87:6 special 4:4 specific 22:10 37:10,22 40:10 45:3 63:2 77:19 specifically 28:15 41:11 43:10 53:20 63:4 specified 58:10 specify 31:18 speculative 32:11 34:9 spell 12:11 spelled 20:14 spelling 20:18 20:20 spills 25:15 stacking 25:10 26:15,25 27:10 standard 11:24 20:13 74:22	standards 69:12 start 35:5 41:24 58:2,3 61:23 68:15 88:22 started 41:22 47:23 starting 40:5 48:3 51:5 59:3 59:4 89:1 starts 42:17 72:1 state 1:1 25:21 25:25 26:23 28:4,15 31:21 90:24 stated 23:7 statement 6:21 19:16 22:6 23:1 26:19 34:23 35:12 38:8 40:21 43:18,24 44:4 46:23,25 47:1 49:18 52:16 54:8 55:12,18 56:5 57:13 60:9 62:1 68:9 71:13 73:20 77:15,17 78:10 80:15 statements 35:20 41:7
--	---	--	---

[statements - talked]

43:20 44:2 47:25 78:6 80:8 81:19 states 52:23 status 54:12 69:19 stay 64:5 stipulated 35:23 36:17 37:1 stipulation 36:3 83:14 strengthen 25:14 strengthening 66:17 strike 50:8 52:17,20 85:22 strong 9:19 12:7 32:19 66:23 67:13 76:8 79:25 84:8 stronger 80:2 83:4 strongest 44:8 79:8 struck 11:2,2 structured 78:10 stuff 79:6 style 73:6 subject 9:11 67:1	subpart 17:1 63:8 subsections 9:11,16 subsequent 47:10 substantial 21:18 substantive 16:3 substituting 59:18 sufficient 39:5 40:7 53:25 60:23 61:1 74:24 83:2,11 sufficiently 22:24 23:20 74:19 suggest 56:18 62:21 suggested 14:7 50:7 56:19 suggestion 53:4 suggestions 31:25 summarized 78:6 80:14 summarizing 69:5 summary 72:6 80:1 supplant 60:3	supplement 39:3,8 42:22 50:24,25 51:17 62:22 82:22 supplemented 36:1 38:15 56:13 62:21 support 34:16 37:17 39:11 40:2 44:24 46:16,25 52:10 52:13,18 54:16 68:10 82:17 supported 50:6 50:10 supports 48:3 48:12 sure 8:4 10:11 13:14 15:23 16:1,9,15 23:3 23:19 25:23,25 26:4,5 27:16 27:21 31:6 32:21 35:13 36:10,25 37:3 37:13,13 39:14 41:4 42:6,11 43:1 44:11 45:2,12 47:4 50:4,11 54:21 57:3 59:16,23 61:11 65:9 66:25 68:21 69:22 72:19	73:1,25 78:19 86:15 swiss 47:3 66:14 sworn 90:5 system 85:16 t t 3:1 ta 48:10,10,20 48:22,23 54:12 69:19 70:8 tabbed 6:18 take 11:10 13:12 18:14,18 24:2 35:14 39:25 40:12 42:3 45:21 57:3,7 59:24 59:24 80:10 81:13 82:18 87:24 88:19 89:9 takeaway 11:11,15,15,25 taken 56:7 60:11 62:3 63:12,20 67:16 90:3,12 91:9 talk 11:10 22:9 49:21 69:20 79:15,19 84:4 talked 17:11 27:9 49:8
---	--	---	--

[talked - transcript]

50:19 77:2 talking 38:16 41:10 47:13 58:14 61:12 64:16 72:7 73:6 77:11 78:3 talks 80:7 targeting 69:4 tell 47:10 75:5 telling 32:1 ten 24:8,9 39:5 tension 56:25 terms 37:5 76:22 testifying 90:5 testimonies 66:25 testimony 67:5 67:6,10 69:5 74:14,16,16 76:10 78:17 thank 4:17,23 5:1 7:1 13:4 18:2 19:14 20:12 24:11,14 24:16,21,23 34:18,25 36:19 44:16 46:7,20 47:22 61:14 63:10 67:12 85:25 88:10,13 88:14,16,17,17 89:6,15	theirs 39:8 thing 21:5 40:8 45:8 52:6 58:18 60:18 81:23 85:19 87:10 88:24 things 6:12,19 6:20 8:20 19:19 23:14 24:8 42:12 54:9 55:11 56:22 think 8:23 9:13 9:21 12:9,23 12:25 13:11 15:3 19:23 20:13,17 24:18 26:13,18 27:6 27:8,9,14 28:3 28:6,6,11 31:6 32:2 33:1,8,11 33:16 34:8 36:22 39:12 40:3 41:21 42:12,22 45:1 47:9,12,17 48:11 51:4,17 52:25 54:4,5,6 54:17,18,20 55:3,14 56:17 59:15 60:1 61:18 62:23 64:1,3,19 66:6 66:10,12,15	68:15,17,19 69:9,16,17 70:12,16,25 71:21 73:22 74:8,22 75:6 76:5,6,7 78:3,7 78:7 79:5,8,10 79:20,24 80:2 80:23 81:9 84:10 86:3 87:12 thinking 9:7 56:8 57:8,25 58:12 65:24 third 11:13,14 48:17 thorough 55:6 55:7 thought 22:4 25:21 26:3,7 28:15 33:7 41:25 47:8,19 48:21 49:1,19 49:25 52:5,17 52:21,24 65:13 71:23 75:1 78:15 80:11 thoughts 37:25 45:15 49:4 62:15 78:12 three 63:24 79:16 threw 30:8	thumb 45:13 tie 80:25 ties 81:5 time 1:15 4:5 14:9,9 16:9 32:15 40:12 45:19,22 57:3 57:7 68:24 81:23,24 84:23 89:7 times 26:17 28:20 45:25 86:14 title 36:24 today 4:19 5:17 6:1 18:16,18 46:14,17 74:17 76:11 81:22 84:21 87:9,21 88:11 together 6:9 66:3,7 took 24:3 25:9 27:20 top 8:22 17:3 24:25 29:6 70:3 toss 59:14 totally 77:24 towards 83:16 transcriber 91:1 transcript 32:25 33:1
--	---	---	---

[transcript - want]

91:3,5 transcriptionist 90:8 transfer 66:17 66:24 transfers 65:25 66:18 trickle 89:2 tried 14:22 16:19 25:14 26:8 trouble 55:8 true 90:9 91:5 try 27:21 30:5 57:4,15 82:22 84:13 trying 10:19 13:18 27:15,17 28:7,9 29:10 29:17 32:20 37:8,11 40:6 54:4 56:18 64:5 66:22 87:1 turn 5:4 7:3,12 8:10 10:22 13:24 14:5 19:15 24:19 36:21 41:5,6 44:13 51:10 80:11 turning 37:12 two 11:10,19 11:23 12:3,11	26:24 41:9 48:20,23 54:10 54:24 69:18 70:9 type 85:11 typewriting 90:7 typical 12:5 typically 10:12 typing 31:10,11 31:13 typographical 8:2 18:17	55:19 56:20 57:24 58:10 79:20 85:5,16 underline 85:16 underlined 79:16 underneath 9:25 understand 25:17 34:12 37:7 57:21 59:8 78:14 understood 27:6 81:11,17 81:20 unnumbered 43:17 44:9 update 16:4 86:10 updates 8:3 urged 45:11 use 57:15 58:13 61:16 73:6 used 27:12 28:19 58:1 85:16 using 27:8 88:23	various 25:22 46:15 vast 50:21 verbally 30:8 85:6 versa 41:13 version 16:20 37:2,3 81:5 versions 5:25 versus 25:11 vi 20:7 24:25 88:22 vice 41:12 vii 38:10,12 violate 70:9,15 violates 48:20 visit 23:24 vote 16:12 18:14,15 87:11 87:13,15
	u		w
	uh 6:10 10:1 12:18 14:12 16:22 21:13,16 25:12 29:8 32:3 35:17 36:13 48:6,16 49:9,15,22 52:4,8,15 58:11 75:11 uic 88:22 ultimate 40:2 ultimately 70:19 uncomfortable 65:1 68:23 under 9:9 12:16 14:11,15 26:16 27:3,4 29:6,18 51:4	v	w 86:2 waiting 22:2 walk 41:15 51:5 80:24 walks 51:13 67:23 want 6:13 11:3 11:18 15:11,16 16:12 20:6 21:4 22:10 28:20 30:5 32:8 33:9,21

[want - wrote]

35:14 37:20,22 39:1,9,12 40:10,11,12 41:11,14,15,18 42:3 43:19 45:15 46:18 47:2 50:8 51:24 52:1 53:21 55:7 60:15,16 62:5 67:8 68:21 69:22 71:1 72:19 77:23 78:11 79:19,20 81:22 82:1 84:12 86:20 wanted 5:23 18:1 22:1,9 23:2,18,21 25:3 44:18 53:20 54:21 65:14 67:20 wanting 20:22 wants 43:14 waste 49:13 water 59:15 way 9:20 10:12 10:23 22:21 28:10,25 32:15 35:15 37:8 38:1 40:6,19 43:17 47:14 50:6 55:15 58:13 59:9	65:17 69:19 78:9 80:21 86:24 ways 22:12 28:19 41:9 we've 6:14 8:9 34:7 49:8 50:19 67:15 68:19 76:19 78:16 82:23,24 85:2 88:9,9 wednesday 1:14 weeks 78:18 weigh 32:11 34:9 weight 64:20 weighted 76:13 76:16 welcome 46:11 51:11 wells 7:18 8:14 8:24 9:1,6,9,10 9:25 10:5,7,19 11:1,3,5,7,8 17:12,23 18:5 18:6 20:3 48:9 48:19,22 70:8 77:19 85:15,20 86:3,6,6 wendell 1:17 went 26:4 38:16 69:19 70:13,23,23	76:22 western 5:19 william 2:11 wish 82:9 wishes 73:12 witness 68:3 71:18 72:11 73:3,7 76:10 80:24 81:4 82:6 90:4 witnesses 42:24 47:8,13 51:6,9 51:14,14,18,21 51:21 64:5,14 64:17 67:21,23 68:5,5,16 71:3 71:8,15,24 72:6,7,15,23 73:18,24 74:3 74:4,9,11,14,15 76:22 77:11 78:25 79:1,3,5 79:10,17,19,22 80:1,7,9,14 81:1,6,7,14 wondering 10:5 22:19 40:9 word 9:7 11:11 11:18,20,24 12:2,9 13:12 17:25 28:18,25 34:2 85:15	words 11:10,19 11:23 60:16 63:12,20 66:23 wordsmith 62:5 wordsmithing 20:8 work 7:1 15:7 33:24 47:15 54:17 57:4 59:25 62:7 63:16 66:15 69:10 74:21 83:15 88:14 worked 16:18 working 26:8 works 9:20 63:17 world 12:10 39:6,7 worried 55:9 worry 66:13 wrinkle 77:18 write 30:5 40:17 41:2 80:18,22 writers 32:20 written 6:5 41:20,22,23 78:9 80:21 wrong 75:5 wrote 55:5 80:18
---	--	---	---

[x - zshandler]

x	66:6,8,19 67:2
x 3:1 21:15,15 25:9,9 63:13	67:13 68:12 69:7,8 70:1 73:17 74:1
y	77:12 78:11
y 63:13 yeah 6:23 7:9 7:23,23 8:22 8:22 9:4 11:14 11:22 12:8 13:14,15 14:18 14:21,23 15:24 16:17 17:19,20 17:24 18:7,8,9 19:25 20:5 23:9,16,17 24:6 25:6 26:13 27:6 28:17 29:2,2 29:21 30:3,7 31:17 33:6,7 34:1,15,20 36:9 38:4 39:10 40:24 45:8 46:5,19 50:14,25 51:22 52:22 53:19 54:19 55:9,16 56:1,23 57:1 58:21 59:3 60:13,18 61:20 62:9,19 63:1,7 63:10,17,18 64:4 65:3,11	80:16,17 81:8 81:12,12,18 83:21,24 86:7 87:14 years 39:4 48:20,23 54:10 69:18 70:9 yellow 19:23 yep 13:16 17:25 18:3 65:19,20
	z
	z 63:13 zachary 2:3 zshandler 2:7

New Mexico Rules of Civil Procedure for the
District Courts

Article 5, Rule 1-030

(e) Review by Witness; Changes; Signing.

If requested by the deponent or a party before completion of the deposition, the deponent shall have thirty (30) days after being notified by the officer that the transcript or recording is available in which to review the transcript or recording and, if there are changes in form or substance, to sign a statement reciting such changes and the reasons given by the deponent for making them. The officer shall indicate in the certificate prescribed by Subparagraph (1) of Paragraph F of this rule whether any review was requested and, if so, shall append any changes made by the deponent during the period allowed.

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OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

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