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STATE OF NEW MEXICO  
ENERGY, MINERALS, AND NATURAL RESOURCES DEPARTMENT  
OIL CONSERVATION DIVISION  
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IN THE MATTER OF THE HEARING  
CALLED BY THE OIL CONSERVATION  
DIVISION FOR THE PURPOSE OF  
CONSIDERING:  
Case No. 24683

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HEARING  
DATE: Thursday, June 11, 2026  
TIME: 9:01 a.m.  
BEFORE: Hearing Examiner Albert C.S. Chang  
LOCATION: Pecos Hall  
Wendell Chino Building  
1220 South St. Francis Drive  
Santa Fe, NM 87505  
REPORTED BY: Ryan Auten  
JOB NO.: 8225039

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

2   ALSO PRESENT:

3           Greg Bloom, Designee, New Mexico State Land  
4           Office

5           Dr. William Ampomah, Designee, Energy, Minerals  
6           and Natural Resource Department

7           Sheila Apodaca, Commission Clerk

8           Gerasimos Razatos, EMNRD (by videoconference)

9           Tiffany Wallace, Oxy USA, Inc. (by  
10          videoconference)

11          Liliana Castillo, Public Attendee (by  
12          videoconference)

13          Andrea Felix, Public Attendee (by  
14          videoconference)

15          Richard Moore, SLO (by videoconference)

16          Jessica Portmess, Public Attendee (by  
17          videoconference)

18          Aaron B. Tucker, Public Attendee (by  
19          videoconference)

20          Brian Sweeney, Public Attendee (by  
21          videoconference)

22          Denise Willie, Public Attendee (by  
23          videoconference)

24          Philip Goetze, EMNRD (by videoconference)

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

Rebecca Sobel, Public Attendee (by  
videoconference)

Rose Rushing, Public Attendee (by  
videoconference)

Justin Wrinkle, EMNRD (by videoconference)

Zachary Pavlik, Public Attendee (by  
videoconference)

Chris Moander, EMNRD (by videoconference)

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P R O C E E D I N G S

THE HEARING EXAMINER: Thank you very much. Good morning. This is Chair Albert Chang of the New Mexico Oil Conservation Commission. It is right after nine o'clock on June 11th of 2026, and I'm calling the meeting of the Oil Conservation Commission to order, please.

Commission Clerk, may we please have the roll?

MS. APODACA: Yes.

Commissioner Bloom?

MR. BLOOM: Here.

MS. APODACA: Chair Chang?

THE HEARING EXAMINER: Present.

MS. APODACA: Commissioner Ampomah?

DR. AMPOMAH: Present.

THE HEARING EXAMINER: Thank you. I'll confirm that we have a quorum and full attendance. Is there any discussion on the proposed agenda for today?

MR. BLOOM: Mr. Chair, I would move to push the approval of the OCC minutes from the May 13, 2026, meeting to our July meeting.

DR. AMPOMAH: Second.

THE HEARING EXAMINER: Any commissioners opposed? Without opposition, so

1 adopted. Is there a motion to approve the agenda with  
2 that amendment?

3 MR. BLOOM: Mr. Chair, I so move.

4 DR. AMPOMAH: Second, again.

5 THE HEARING EXAMINER: Thank you very  
6 much. The agenda is adopted for today. I will make a  
7 brief note that the two items were removed from the  
8 final agenda today. At the request of the parties,  
9 the consolidated cases of Goodnight Midstream/Empire  
10 has been continued to the July 16th OCC Meeting, so  
11 it's not being discussed today.

12 And the, the Class VI case had  
13 originally, the commission had originally intended to  
14 have a status conference on that, but I think we  
15 looked through it and decided that we could decide the  
16 one pending motion before us on the briefing and that  
17 we didn't need any further status conferences at this  
18 time, since I think we're all aware of what the status  
19 is and there's been scheduling order out, so.

20 With that, the only matter left on our  
21 agenda today is Case No. 24683: WELC Application for  
22 Rulemaking, to Amend NMAC's divisions 19.15.2,  
23 19.15.5, 19.15.8, 19.15.9, and 19.15.25. If I recall,  
24 and commissioners perhaps refresh my recollection, but  
25 there is three outstanding items that I think we need

1 to resolve, all of which is in 19.15.8.

2 First, it's clarifying language to  
3 ensure that the various single-well bond categories do  
4 not overlap. There was also a discussion around  
5 whether or not proximity of operations to, or  
6 interference from nearby fracturing, stimulation  
7 drilling should be a -- should be included as a --

8 DR. AMPOMAH: Exemption.

9 THE HEARING EXAMINER: As a -- as a --

10 MR. BLOOM: Possible variance?

11 THE HEARING EXAMINER: Yeah, as a  
12 possible reason to grant a variance. So that's issue  
13 number 2. And issue number 3 is how to handle the  
14 first two years of approved temporary abandonment  
15 status.

16 Am I missing any other -- or are there  
17 any other outstanding areas where we need to review?

18 MR. BLOOM: Mr. Chair, as I was  
19 reviewing the -- this case, one other thing that  
20 occurred to me that we can touch on today. I was just  
21 planning to raise it when we got there, but let me get  
22 down there in my notes. If we were to look at  
23 19.15.8.9(F), on F, there are no dates for  
24 implementation or when such bonding is required.

25 So my understanding would be that this

1 would just flow with the end of the rule saying that  
2 this would come into effect May 1, 2029.

3 THE HEARING EXAMINER: Well, at the  
4 very minimum, there's a question as to whether what  
5 the effective date should be or whether it should just  
6 simply come into effect when the rule goes into  
7 effect. So I'll mark that down as another area to  
8 discuss and clarify

9 MR. BLOOM: Because yes, because under  
10 D and E we have, we specifically state, "beginning May  
11 1, 2029." So it's something to discuss.

12 THE HEARING EXAMINER: Okay. Sounds  
13 good. Any issues that others -- okay.

14 Okay. Is there any one of those issues  
15 that the commission would like to take up first?

16 MR. BLOOM: Mr. Chair, something that  
17 we could perhaps knock out quickly would be a variance  
18 for the language around seismicity. And let me get to  
19 that. There was a list of potential variances, or  
20 variance that NMOGA had in its alternative language.  
21 We went through all of them, and I think the one we  
22 were left -- well we, I think we're adopting, a  
23 variant -- a variance for a physical impediment  
24 limiting the wells and midstream takeaway capacity.

25 But then we're also considering E,

1 NMOGA's E, which is a proximity operation or  
2 interference including nearby fracturing, stimulation,  
3 drilling or operations impacting safe or prudent  
4 pressure practices. There are instances where  
5 production will cease on a well that is deemed to be  
6 too close for safety reasons to completion operations.  
7 i.e. fracturing or stimulation.

8 So I think it would be good to -- to  
9 allow this variance. I don't think it will come up  
10 very frequently at all. But I do think that would be  
11 the right thing to do. And I'd love to hear from  
12 Dr. Ampomah about this with his engineering  
13 background.

14 DR. AMPOMAH: Thank you  
15 Commissioner Bloom. So that has been my argument that  
16 that is a safety issue, and certainly we were able to  
17 rule out most of the points that NMOGA raised. And it  
18 still falls under the stipulated agreement. But I  
19 thought that that provision with regards to the  
20 stimulation operations and all of that was not really  
21 covered. And as you said correctly, this is something  
22 that we really need to address to make sure that  
23 operators can, more or less, perform the operations in  
24 a safe manner. Thank you.

25 THE HEARING EXAMINER: Okay. Thank

1 you. Perhaps, Dr. Ampomah, you could help me, is "a  
2 proximity operation." Is that a technical term, or  
3 should it be "a proximity of operations"?

4 DR. AMPOMAH: No, the proximity is more  
5 like close by operations and, I mean, I would say OCD  
6 will have discretion on the operator has to, more or  
7 less, defend the proximity definition to OCD for OCD'S  
8 consideration. Because I think that's going to be  
9 very difficult for me to see proximity and say that  
10 probably 1,000 feet, probably 2,000 feet will be a  
11 good proximity.

12 So I -- I believe that OCD can have  
13 that discretion to decide what -- whether what the  
14 operator is saying is, more or less, defensible to  
15 meet the proximity criteria.

16 THE HEARING EXAMINER: Oh, yes. So,  
17 sorry, I don't disagree with that, but I'm trying to  
18 say, does this -- I'm just trying to make sure that  
19 this wording works for everybody. Should it read "a  
20 proximity operation," or should it read "proximity of  
21 operations"? Does that matter to you?

22 DR. AMPOMAH: "Of" will probably make  
23 it more clearer.

24 THE HEARING EXAMINER: So "proximity of  
25 operations," comma, "or interference."

1 DR. AMPOMAH: Yeah, that works too.

2 THE HEARING EXAMINER: Okay. Well, I  
3 know this is in the weeds, but we might as well get,  
4 you know, get it to say exactly what we want it to say  
5 now as opposed to trying to come back and fix it  
6 later.

7 DR. AMPOMAH: Okay.

8 MR. BLOOM: And, Mr. Chair, yeah, I was  
9 also thinking, we need to make sure that this flows  
10 well out of D(3).

11 THE HEARING EXAMINER: Right. Well,  
12 would it help if -- well, and we also need to, I think  
13 Commissioner Bloom is correct that we also want to  
14 make sure it flows out of the rest of D(3), and that  
15 it all fits together grammatically. I think the next  
16 unenumerated paragraph under, I -- so not I, but  
17 the -- if you look at, NMOGA has a proposed paragraph  
18 right here where they've made grammatical changes so  
19 that it fits with the expanded list of exempt or  
20 potential rationales for variance.

21 So, Sheila, would -- could you do us a  
22 favor? Would you mind pulling up the Word document  
23 with the language that had been circulated with the  
24 commissioners last night? Maybe we could have that  
25 live and we can just make sure that we have all the

1 wording the way we want it. I figured we could do it  
2 live where we can see it. Thank you.

3 MR. BLOOM: Mr. Chair, perhaps you  
4 would clarify for the record of this document that  
5 you're referring to, its genesis, and how we came to  
6 obtain it.

7 THE HEARING EXAMINER: Sure. Given the  
8 multitude of track changes and it got a little hard to  
9 follow. So I took just 19.15.8 and 19.8.8 and -- I'm  
10 sorry. Yeah, 19.15.8, and I don't even think I took  
11 all of it, but I took the applicant's red lines and  
12 did my best to incorporate the changes that the  
13 commission had adopted, or had so far at least  
14 tentatively agreed to adopt, added the change,  
15 including language from NMOGA that the commission also  
16 wishes to adopt.

17 So this is my attempt at pulling  
18 together for at least a demonstrative for to guide our  
19 discussions of where we are at at the moment. And the  
20 new highlighted language in gray, highlighted in gray,  
21 or under lighted in gray, is new language that I  
22 proposed for discussion today that is meant to address  
23 the overlapping bonding category issues that was also  
24 raised. So hopefully this helps.

25 Sheila, do you mind going --

1 Go ahead, Commissioner Bloom.

2 MR. BLOOM: Oh, Mr. Chair, I was just  
3 going to suggest where we could perhaps enter this new  
4 variance language.

5 THE HEARING EXAMINER: Yeah.

6 MR. BLOOM: And so I would go down to  
7 under D, under low producing wells, 3, and we have the  
8 first sentence there. It says, "An operator of a low  
9 producing well may request a variance to the one well  
10 plugging financial assurance requirement of \$150,000  
11 upon a demonstration satisfactory to the division that  
12 there is a physical impediment limiting the well's  
13 midstream takeaway capacity, or there is a proximity  
14 operation or interference including fracturing,  
15 stimulation drilling, or operations impacting safe or  
16 putting pressure practices."

17 THE HEARING EXAMINER: Okay. So let's  
18 give our commission clerk a chance to maybe type that  
19 in. So "capacity," comma, "or proximity of  
20 operations." Well, that's too many or's if we also  
21 have, "or interference." Would it be fine if we  
22 simply left it at "interference" instead of mere  
23 "proximity"? What if we simply started at  
24 "interference"?

25 MR. BLOOM: "Or interference from

1 nearby operations"?

2 THE HEARING EXAMINER: Okay, let's do  
3 that. "Nearby operations," comma, "fracturing,"  
4 comma, "stimulation," comma.

5 DR. AMPOMAH: Fracturing and  
6 stimulation, this is under stimulation so you can take  
7 out --

8 THE HEARING EXAMINER: Don't even need  
9 fracturing; right?

10 DR. AMPOMAH: Yes. Just do  
11 stimulation, yeah.

12 THE HEARING EXAMINER: Okay. Or  
13 drilling. because I'm going to skip operations  
14 because we already put operations in there. We just  
15 reordered it. "Or drilling impacting safe or prudent  
16 pressure practices," period. And then get rid of the  
17 next three words. Great.

18 Madam Clerk, would you mind  
19 highlighting or somehow marking that as new language?  
20 I think we're running out of colors here, but that  
21 works for me if --

22 MR. BLOOM: Looks fine.

23 THE HEARING EXAMINER: That that works  
24 for everybody else. Okay. So then we go down to, so  
25 the new language down here might also need to reflect.

1 So the next sentence there, "a demonstration" should  
2 track NMOGA's paragraph after part I; right? And  
3 actually I like NMOGA's suggestion that says, "the  
4 demonstration" versus "a demonstration." Do we care?

5 MR. BLOOM: We'll go with that.

6 DR. AMPOMAH: As the lawyer says.

7 THE HEARING EXAMINER: It's okay.

8 MR. SHANDLER: Commissioner, I'm fine  
9 with "the demonstration."

10 THE HEARING EXAMINER: Okay. "The  
11 demonstration shall include a certification from the  
12 operator detailing the nature of the" --

13 DR. AMPOMAH: Constraint.

14 THE HEARING EXAMINER: Do we, I think  
15 the reason NMOGA proposes constraint is because safety  
16 pressure practices are more of a, it is a broader  
17 constraint than mere physical impediment.

18 DR. AMPOMAH: That's correct.

19 THE HEARING EXAMINER: So I would  
20 accept NMOGA's proposal to alter that to constraint.  
21 Could we change that to constraint?

22 Okay.

23 MR. BLOOM: And we will delete physical  
24 impediment?

25 THE HEARING EXAMINER: Yeah.

1 Explaining why --

2 MR. BLOOM: The constraint.

3 THE HEARING EXAMINER: The constraint,  
4 again, yeah. Is outside the -- yeah. So delete those  
5 two words. We want to delete physical impediment.  
6 Yeah. So, "Explaining why the constraint is outside  
7 the control of the operator, detailing the  
8 alternatives that were or are being explored to  
9 address the," so, again, it's broader than just lack  
10 of takeaway capacity, so "the constraint and an  
11 estimated date of when the constraint will be  
12 corrected."

13 MR. BLOOM: That was easy.

14 THE HEARING EXAMINER: That works for  
15 me. Does that work for everybody?

16 DR. AMPOMAH: It does. And I thank you  
17 all for considering this. Appreciate that.

18 THE HEARING EXAMINER: Of course. Of  
19 course. Thank you for raising it.

20 Since we are in this document already,  
21 that resolves this issue, right?

22 DR. AMPOMAH: Yes. Mr. Chair.

23 THE HEARING EXAMINER: Okay. So since  
24 we're in this document already, would it be all right  
25 if we went through my proposed other grayed language

1 or changes to ensure that the bonding, single-well  
2 bonding categories do not overlap?

3 MR. BLOOM: Yes, Mr. Chair. I'd be  
4 glad to do that.

5 THE HEARING EXAMINER: Okay. Thank  
6 you. So the first change I made starts with  
7 subsection C.

8 If our commission clerk would be so  
9 kind as to scroll up. Oh, that's too -- thank you.

10 So under subsection C, I think it  
11 originally said D and E, but I believe it's D, E, and  
12 F. If somebody could please double check that and let  
13 me know if they agree with that.

14 MR. BLOOM: I'm sorry, what are you  
15 referring to, Mr. Chair?

16 DR. AMPOMAH: Active lawsuit not  
17 subject to -- yeah. That is correct.

18 MR. BLOOM: Yes.

19 THE HEARING EXAMINER: Is there consent  
20 from my fellow commissioners to make that editorial  
21 change to D, E, and F?

22 DR. AMPOMAH: Yes.

23 THE HEARING EXAMINER: Okay.

24 MR. BLOOM: Yes. And I would agree to  
25 the other changes in light gray there as well, in that

1 same line.

2 DR. AMPOMAH: Yes.

3 THE HEARING EXAMINER: Okay. No  
4 opposition to that?

5 DR. AMPOMAH: No opposition.

6 THE HEARING EXAMINER: Okay. What  
7 about D? If we go down to the next section then, D.  
8 So D, E, and F, for clarity, refer to, respectively,  
9 wells that are subject to single-well bonding due to  
10 low production, wells that are subject to single-well  
11 bonds based on operator portfolio risk, and wells that  
12 are subject to single-well bonding due to inactivity.  
13 So now we're in D.

14 And again, I think it's pretty clear  
15 from the record that there isn't -- if anybody  
16 intended for these three categories to stack on top of  
17 each other to create, you know, one to create multiple  
18 overlapping \$150,000 bonds on top of each other, you  
19 would end up with a well that is significantly more  
20 bonded than the cost to plug the well, and there would  
21 be no evidence in the record to support bonding a well  
22 to hopefully not \$450,000.

23 And so that's not -- hopefully, nobody  
24 had ever had that intent. If that was ever the  
25 intent, I don't think that would be something the

1 commission could adopt. So we just want to make sure.  
2 So all I'm trying to do here is propose language where  
3 we can articulate how these three categories can fit  
4 together without any gaps but not overlap.

5 MR. BLOOM: Mr. Chair, I agree. And --  
6 and I think there's a lot of time spent from all sides  
7 talking about what it costs to -- to reasonably plug  
8 an abandoned well. And, you know, we've landed on  
9 this number of 150,000. I think we heard numerous  
10 times the actual number was closer to 163,000, but it  
11 was rounded down for simplicity's sake.

12 So I really don't recall, either,  
13 any -- any sort of programmatic move to have bond  
14 stacking or multiples of \$150,000. So I agree that we  
15 should proceed and make sure that this rule does not,  
16 you know, double or triple bond a well.

17 THE HEARING EXAMINER: At least. Yes,  
18 perfect. Certainly at least not at the single-well  
19 level; right? So financial assurance of 150,000 for  
20 each low-producing well prior to transfer, unless the  
21 well being transferred is already covered by a one  
22 well financial assurance under section, so D(2), right  
23 below, is where I'm trying to capture the fact that  
24 after beginning May 1 of 2029, so let's say in 2030,  
25 you could have a well being transferred that is

1 already bonded under D(2).

2 MR. BLOOM: Because it's low producing;  
3 correct?

4 THE HEARING EXAMINER: Correct.

5 MR. BLOOM: And then it's transferred.  
6 And so you would not want it to be bonded yet again.

7 THE HEARING EXAMINER: Yeah. Right?  
8 So it's already bonded. It's being transferred. So  
9 unless the well being transferred is covered by a one  
10 well financial assurance under subsection D(2) and  
11 then E, so if something is already covered under  
12 operator portfolio risk, then you don't need another  
13 additional financial assurance, or F, which is  
14 inactivity.

15 DR. AMPOMAH: Yes.

16 MR. BLOOM: Mr. Chair, I would agree.

17 THE HEARING EXAMINER: Okay.

18 MR. BLOOM: Mr. Chair?

19 THE HEARING EXAMINER: Please.

20 MR. BLOOM: A side note. Under D(1),  
21 it's, we say, "As of the effective date of amendments,  
22 a transferring operator shall provide a one well  
23 plugging financial assurance of \$150,000 for each low  
24 producing well prior to transfer." I -- I don't know  
25 if it's clear or if it changes the intent at all if

1 that were to be "prior to transfer approval"?

2 Because I think that's what my  
3 understanding here is, that the OCD will not approve  
4 transfer until that bond is in place. But maybe it  
5 reads the same way without the word approval. I don't  
6 know.

7 THE HEARING EXAMINER: I think what  
8 you're trying to articulate is that in the real world,  
9 sometimes approval to transfer and the actual transfer  
10 happen on separate occasions; right? They don't,  
11 they're not simultaneous and they're not synonymous.  
12 Which, I can see that.

13 MR. BLOOM: Yeah, I think that would be  
14 my concern was that there might be a -- a thought that  
15 there are other ways that wells are transferred, and  
16 this is about OCD transfer approval.

17 THE HEARING EXAMINER: Okay. I don't  
18 have --

19 MR. BLOOM: So maybe it should read  
20 "prior to OCD transfer approval."

21 THE HEARING EXAMINER: Prior to. I see  
22 what you're saying. I'm struggling to wordsmith this  
23 a little bit.

24 MR. BLOOM: So, essentially, what would  
25 be happening is that the transferee operator will

1 provide the one well plugging assurance for each low  
2 producing well before the OCD gives transfer approval.  
3 I think that this is where this is going. I think  
4 this is where we want that to go. I -- I don't know  
5 if the transfer is -- is clear enough.

6 THE HEARING EXAMINER: I mean, I see  
7 where you're going with this, but then it seems  
8 clearer. Then, we'd have to -- or it would be easier  
9 if we could flip the entire sentence and simply say  
10 OCD shall not approve a transfer until the operator  
11 has provided plugging financial assurance; right?  
12 Because that's really what you're trying to get to.

13 MR. BLOOM: I think so

14 THE HEARING EXAMINER: Transferring  
15 operator shall provide a one well plugging financial  
16 assurance. I mean, I see where you're going with  
17 that. That would require a little bit more in-depth  
18 wordsmithing though.

19 MR. BLOOM: Yeah. Which we could do.  
20 But on the other hand, I -- I don't know how much  
21 wordsmithing we want to do and -- and we could have  
22 some unintended consequence as well. I'm trying not  
23 to, but this is a pretty interconnected complex rule  
24 in some way. So perhaps we just leave it as is.

25 THE HEARING EXAMINER: Would you mind

1 if we -- I mean, I think you make a fair point though.  
2 Would you mind if we have our commission clerk, our  
3 Madam Clerk, put a comment bubble flagging that as an  
4 issue so that we can maybe think about how to  
5 wordsmith this without having to pause this.

6 MR. BLOOM: Yeah. I'd be fine having  
7 to put a flag for a moment. Yeah.

8 THE HEARING EXAMINER: Okay.

9 Madam Clerk, would you be so kind as to  
10 just put a review comment bubble about how prior to,  
11 and then -- or you could just highlight it, whatever  
12 is easiest. Just a reminder.

13 DR. AMPOMAH: So, Mr. Chair, can we  
14 look at the A 19.15.8.9? In there, there is a  
15 statement that requires OCD to approve. So you're  
16 saying the division shall not approve and the operator  
17 shall not proceed with any proposed drilling or  
18 acquisition of operating authority under 15.9 --  
19 19.15.9.9 NMAC until the operator has finished the  
20 required financial assurance. So does that not really  
21 cover the concerns of Commissioner Bloom?

22 THE HEARING EXAMINER: That's a good --  
23 thank you for pointing that out. We'll give  
24 Commissioner Bloom and us a chance so we can all  
25 review it.

1 MR. BLOOM: Yes, I think that would  
2 cover it.

3 DR. AMPOMAH: And even it goes on to  
4 say, "This subsection A applies to subsections B  
5 through H of this section."

6 MR. BLOOM: Let me take a quick look at  
7 this again.

8 THE HEARING EXAMINER: Take your time.

9 MR. BLOOM: I am not sure, you know, I  
10 look at A and -- and saying that the -- the division,  
11 essentially, is requiring that the operator not  
12 proceed until, "Proceed with drilling or acquisition  
13 until the financial assurance is in hand." And then  
14 D(1) says is actually when that shall be undertaken.  
15 So I don't know if, you know, transfer needs to be  
16 elaborated on.

17 THE HEARING EXAMINER: Well, yeah.  
18 You're still questioning whether the 150,000 needs to  
19 be furnished prior to mere approval of the transfer,  
20 or whether it merely needs to be furnished by the  
21 point, by the time, of the transfer; right? That's  
22 what you're trying to get at?

23 MR. BLOOM: That's correct, yes. I  
24 don't know if it needed more clarity or not. Perhaps  
25 it's fine, you know, just as transfer, but you know.

1 THE HEARING EXAMINER: I could see  
2 it --

3 MR. BLOOM: We can call it preceding  
4 transfer approval.

5 THE HEARING EXAMINER: Well, I think I  
6 could see it either way, but -- did you have a comment  
7 Commissioner Ampomah?

8 DR. AMPOMAH: So, Commissioner Bloom,  
9 on this one, I do see acquisition of operating  
10 authority more or less closer to the transfer too;  
11 right? Do you see it differently?

12 MR. BLOOM: I agree. I agree.

13 THE HEARING EXAMINER: Okay.

14 Madam Clerk, could we please highlight.  
15 It looks like you've got the comment on -- we're  
16 scrolling around a little. We're not on the page  
17 here.

18 DR. AMPOMAH: Scroll up.

19 THE HEARING EXAMINER: Scroll up,  
20 please. Too far. Okay. Stop. Right there. Right  
21 there. Okay. Let's say you got the comment on the  
22 NMAC part. The words I think that we need to  
23 highlight here for discussion later is transfer or  
24 prior to transfer. So right before it goes gray,  
25 maybe you could highlight that in bright highlighter

1 yellow or something along those lines. So just the  
2 word transfer.

3 MR. SHANDLER: So, Mr. Chair, you have  
4 a variety of options, but I think the best position  
5 right now is the first two days of deliberations,  
6 you've identified problems that were stated in the  
7 record, and you've tried to come up with a solution.  
8 After the second day, you couldn't find a solution  
9 offered by the parties that today you're trying to  
10 come up with your proposed language to these problems.

11 I would stick to things that have been  
12 identified by the parties as problems in coming up  
13 with solutions. I think if you're not sure of  
14 language now, and it hasn't been identified in the  
15 record as a problem, I would defer to the parties that  
16 spent years on this on the language.

17 THE HEARING EXAMINER: Thank you.

18 Sheila, could we highlight in yellow?  
19 Not gray, yellow, bright yellow. Thank you.

20 Yes. So I hear that, which is why I'm  
21 merely highlighting it and not making any changes at  
22 the moment, but I wanted to at least acknowledge that  
23 Commissioner Bloom had a question about the language  
24 here. So if it's all right with you, Commissioner  
25 Bloom, we've put a pin. Let's put a pin in that and

1 come back to it.

2 MR. BLOOM: That's fine.

3 THE HEARING EXAMINER: So the rest of  
4 the gray highlighting continues to be my attempts,  
5 clunky or otherwise, to resolve the potential for  
6 double bonding that came up when Dr. Ampomah was  
7 reviewing this language. So D(2), my attempt to  
8 resolve that is to add the language in gray there.  
9 "An operator shall provide a one well plugging  
10 financial assurance for each low producing well that  
11 is not covered by a one well financial assurance under  
12 subsections E or F."

13 The reason I did not include -- well,  
14 so this is already in D; right? So this is D(2). And  
15 so the point is to make sure that D, E, and F do not  
16 stack on top of each other. So if D kicks in -- so  
17 this only applies for wells that are not covered by E  
18 or F

19 MR. BLOOM: Makes sense to me.

20 DR. AMPOMAH: Makes sense to me.

21 THE HEARING EXAMINER: Okay. The next  
22 two are just me clarifying that, or wells. We're  
23 talking about specifically low producing wells. So  
24 one or more low producing well instead of well or  
25 wells.

1 MR. BLOOM: That's fine.

2 THE HEARING EXAMINER: Just so that  
3 we're limiting it to the low producing in this  
4 section. Okay. And then the next line down is  
5 actually, you know, we're going to come back to the  
6 part in green because that's actually a slightly  
7 different thought that I have. So --

8 MR. BLOOM: I wouldn't mind taking it  
9 in turn, if -- if you don't mind.

10 THE HEARING EXAMINER: Oh, okay. Sure.

11 MR. BLOOM: Work our way through it. I  
12 think I see where you're going, but if you just talk  
13 to, I don't think it'd be a very long conversation.

14 THE HEARING EXAMINER: Sure. Okay.

15 If we could go down to subsection 4 and  
16 5, then. Can we scroll down just a little bit more?  
17 Thank you. Perfect.

18 Okay, so the language here is actually  
19 off to the side in a bubble. I know when we first  
20 discussed this, we took the language from 19.15.4,  
21 which is our own rehearing language. I simply looked  
22 to 19.15.17.16, where the division has otherwise a  
23 variance provision and the language is ever so  
24 slightly different in 19.15.17.16. And I think it  
25 avoids the failure language, and it simply replaces it

1 with, if the division does not take any action.

2 And that way an action could be to  
3 extend, for example, if the, for whatever reason the  
4 division found that an operator needed more time, the  
5 division wanted more time to negotiate some sort of a  
6 longer time period for acting on the variance, this  
7 would match the other variance language in other parts  
8 of the end matters.

9 MR. BLOOM: Yeah, I like the  
10 substitution.

11 THE HEARING EXAMINER: Yeah. That the  
12 division administers.

13 DR. AMPOMAH: I support this as well.

14 THE HEARING EXAMINER: Thank you.  
15 Okay. And then the rest of it that's highlighted is  
16 simply the language that we had otherwise already  
17 discussed.

18 MR. BLOOM: Yes.

19 MR. SHANDLER: Mr. Chair, I sent an  
20 email that the language that you agreed upon that I  
21 sent you inadvertently left out a sentence that was in  
22 NMOGA's proposal language. So I don't know, a last  
23 sentence was intended to -- is what you wanted or was  
24 carried over by error.

25 THE HEARING EXAMINER: The division --

1 could you, I'm sorry, remind me of the sentence that  
2 I'm looking at again, please.

3 MR. SHANDLER: All right. So right  
4 where the cursor is, it says, "If the division denies  
5 the operator's variance, the operator shall have 30  
6 days in which to file a request for hearing with the  
7 division," period. "Normal appeal and hearing  
8 procedures apply and such hearing shall be conducted  
9 pursuant to the procedures for adjudicatory  
10 proceedings in 19.15.4 NMAC."

11 THE HEARING EXAMINER: I think that was  
12 intentional. I believe we actually discussed this, if  
13 I recall correctly, because 19.15.4 is the  
14 adjudicatory provision. So pursuant to normal  
15 procedures in 19.15.4 is already captured by simply  
16 referencing 19.15.4.

17 MR. BLOOM: I recall that discussion as  
18 well, Mr. Chair.

19 DR. AMPOMAH: Yeah, I remember we  
20 discussed about just ending at 19.15.4 NMAC because  
21 that takes care of the normal appeal procedures.

22 MR. SHANDLER: Yeah. Okay. That's  
23 resolved. Thank you.

24 THE HEARING EXAMINER: Yeah, that was  
25 my understanding was that 19.15.4 captures the rest of

1 that sentence. Okay. Then moving on, scrolling,  
2 continuing on down. This is an unfortunate page  
3 break, I apologize. But the intent here is for E.

4 So now we're talking about wells that  
5 could otherwise be perfectly operational, churning out  
6 oil in perfect condition, but that the applicant urges  
7 us to bond for because it's owned by an operator with  
8 20 percent or more of wells and therefore this is a  
9 portfolio risk provision; right?

10 So here's the way that I am intending  
11 it to read and you, you guys can tell me if this makes  
12 any sense to you. "Beginning May 1st of 2029, an  
13 operator with 20 percent or more of their wells in  
14 inactive status, approved temporarily abandoned  
15 status, or expired temporarily abandoned status, or a  
16 combination thereof shall provide a one well plugging  
17 financial assurance in the amount of 150,000 for each  
18 well that is registered to the operator," comma, "but  
19 not covered by a one well financial assurance under  
20 subsection D or F."

21 Because by definition this operator  
22 will also have -- well, this operator could also have  
23 inactive wells; right? Because 20 percent or more.  
24 But those inactive wells would be bonded under F and  
25 not bonded under E. E would bond the wells that are

1 for that particular operator that is not already  
2 bonded under F or D.

3 DR. AMPOMAH: Mr. Chair, that is  
4 correct.

5 MR. BLOOM: I agree. Yeah.

6 THE HEARING EXAMINER: Okay. Thank you  
7 very much. And then for F, I didn't make any changes  
8 because everything else references back to F already,  
9 so.

10 MR. BLOOM: I agree.

11 THE HEARING EXAMINER: I don't think we  
12 need to say that F only applies if the others don't  
13 apply. But you tell me if I'm -- I had to think about  
14 this in, like, three dimensions, and.

15 MR. BLOOM: So if there was an operator  
16 that had a number of wells but one was inactive, that  
17 well would be bonded --

18 THE HEARING EXAMINER: Under F.

19 MR. BLOOM: Under F, and then if they  
20 went over 20 percent they would have to bond all their  
21 other wells minus the one that's covered under F. So  
22 we're good. So just I think we got rid of the double  
23 bonding possibilities this way.

24 THE HEARING EXAMINER: If anybody sees  
25 any gaps, let me know. I got myself quite in a few

1 knots trying to untangle that. Trying to make sure  
2 that we left no gaps, but also no over overlaps.

3 MR. BLOOM: Right. Right. No, it's  
4 tricky. I think you did it, so thank you.

5 DR. AMPOMAH: So, Mr. Chair, with that  
6 we are excluding the two years?

7 THE HEARING EXAMINER: So that was  
8 going to be the next topic was, then let's talk about  
9 two years.

10 DR. AMPOMAH: Okay. Okay. Then, I  
11 agree. Okay.

12 THE HEARING EXAMINER: Okay.

13 MR. SHANDLER: So, Mr. Chair, let me  
14 just build a little bit of record for the appellate,  
15 and these will be softball questions, but for the  
16 appellate record. So the problem that you're working  
17 to resolve here, is it the double bonding between SLO  
18 and the OCD, or is it stacking? Tell the Court and  
19 the readers of the record what problem you're trying  
20 to solve.

21 THE HEARING EXAMINER: Happy to do  
22 that. The basis of all the evidence that we heard  
23 throughout this entire rulemaking, and the statutory  
24 basis thereof, is that we need to have a single-well  
25 financial assurance that reasonably approximates the

1 cost of plugging that well. We've got various  
2 categories being proposed by the applicants here for  
3 the commission to consider, each of which could lead  
4 to a \$150,000 single-well bond.

5 Sections D, E, and F as originally  
6 drafted intentionally or unintentionally, I think  
7 unintentionally, at least led some of the  
8 commissioners to be concerned that they could be read  
9 as independent conditions that could all each apply  
10 and require \$150,000 bond and therefore could be read  
11 to stack and require bonding of 300 or even 450  
12 thousand dollars.

13 That would be beyond the scope of the  
14 evidence of what was supported and beyond what the  
15 statute would allow. And so we are trying to clarify  
16 that these three provisions operate together without  
17 gaps between the categories, but also without creating  
18 an overlap such that these are three separate  
19 situations that can lead to a well being bonded at  
20 150,000. But we wanted to make sure that there's  
21 clarity and language so that there's no confusion as  
22 to whether or not these three con conditions would  
23 lead to stacking bonds of 150,000 per well.

24 MR. BLOOM: And just, Mr. Shandler,  
25 I -- I --you know, you mentioned the potential of

1 double bonding with the Land Office. I think we would  
2 note, and as I've noted previously in this forum and  
3 on the record, that the Land Office is apparently  
4 conducting a rulemaking at this time related to  
5 financial assurances. It is not concluded. So we do  
6 not know if there would be double bonding there.

7 Also the Land Office cannot call an OCD  
8 bond under current state law. So those two bonding  
9 worlds do not yet intersect. And I think lastly,  
10 there's probably more to say on this, but at least for  
11 today at least, lastly, the Land Office is bonding at  
12 the lease level and not at the well level. And I  
13 think typically there are on average a number of wells  
14 on each Land Office bonded lease.

15 So whatever, you know, I think if the  
16 Land Office lands \$150,000 per lease, you know, that  
17 might be divided among the number of wells that are  
18 out there in terms of the financial assurance that is  
19 available, and could be something like, you know,  
20 50,000 a well or \$30,000 a well. So different tracks,  
21 apples and oranges.

22 THE HEARING EXAMINER: And if I could  
23 just also add quickly for the record that in proposing  
24 the language that we discussed today in the  
25 highlighted or under lighted in gray, I did not

1 consider the SLO or any potential bonding action that  
2 may or may not be contemplated by the state Land  
3 Office. This was merely to avoid duplicative readings  
4 between subsections D, E and F of 19.15.8.9, and  
5 merely to prevent these three categories in this one  
6 section of the proposed NMAC from stacking.

7 MR. SHANDLER: Okay, that's great. And  
8 I know I'm just trying to deal with this quote here  
9 from the Supreme Court. "A ruling by an  
10 administrative agency is arbitrary capricious if it is  
11 unreasonable or without rational basis when viewed in  
12 the light of the whole record." And I think that for  
13 the reader, you guys have provided your  
14 reasonableness, your rational basis, and reviewed in  
15 the light of the record. I cannot guarantee the  
16 parties will not still say this is arbitrary and  
17 capricious, but at least the judge and the law clerks  
18 will now read this.

19 My final point is, Chair, if you could  
20 just talk about your credentials for a minute, because  
21 these are, you're offering these things not as a  
22 public member of the chiropractic board, but as, I  
23 guess, the governor appointed chair of the OCD. So if  
24 you could just spend like 14 seconds telling the judge  
25 who you are, so the judge might provide some deference

1 to you.

2 THE HEARING EXAMINER: Well, sure. So  
3 I am a licensed professional engineer in the state of  
4 New Mexico. I am also a licensed attorney in the  
5 state of New Mexico. I am serving at the pleasure of  
6 the governor as the director of the New Mexico Oil  
7 Conservation Commission, and as by operation of law,  
8 therefore also a member of the New Mexico Oil  
9 Conservation Commission and sit here in that capacity.

10 And certainly while I proffer language  
11 here in order to address the concerns raised by my  
12 fellow commissioners, I think my fellow commissioners  
13 are also very experienced commission members who have  
14 gone through many rulemakings and have been very  
15 thoughtful and detailed in reviewing the proposed  
16 language in front of them. And we've all worked very  
17 hard to try to make sure that we adopt a rule that is  
18 as clear and as implementable and as fair to the  
19 public and stakeholders as we can.

20 MR. SHANDLER: Okay. One last thing.  
21 I swear you said you are the OCC director.

22 THE HEARING EXAMINER: Oh, I apologize.

23 MR. SHANDLER: Just want to make sure  
24 because the courts do not know the difference. So  
25 let's just spend another 13 seconds talking about the

1 difference.

2 THE HEARING EXAMINER: I'm the director  
3 of the Oil Conservation Division, which is a division  
4 in the Energy, Minerals, and Natural Resources  
5 Department. In that capacity I report to the cabinet  
6 secretary for the Energy, Minerals, and Natural  
7 Resources Department by operation of law under the New  
8 Mexico Oil and Gas Act. The director of the Oil  
9 Conservation Division sits on and typically chairs the  
10 New Mexico Oil Conservation Commission.

11 MR. SHANDLER: Thank you.

12 THE HEARING EXAMINER: Hopefully, that  
13 lays sufficient foundation. That's all I have in  
14 terms of grayed lines to clarify how these sections  
15 should -- these three, D, E, and F; right -- these  
16 three subsections should read next to each other.

17 The only other remaining issue, I  
18 think, in front of us today, knock on wood, is the  
19 question that Commissioner Ampomah had raised around  
20 the first two years of a temporary abandonment  
21 process. And I will open the floor, but I had some  
22 thoughts there as well that I can share.

23 MR. BLOOM: Commissioner?

24 DR. AMPOMAH: Yeah. Please, go ahead.

25 THE HEARING EXAMINER: Okay.

1           Madam Clerk, would you mind pulling up  
2 the demonstrative that I also shared last night as I  
3 was trying to map out how all these different  
4 provisions fit together, and how these issues might  
5 interconnect, so that the public can see what I'm,  
6 what I'm trying to illustrate here? Thank you. Would  
7 you mind scrolling over just a little bit so we can  
8 see that first full box in its entirety? Great, thank  
9 you. Actually, I like the zoomed in version because  
10 I'd like to address one of these boxes at a time if we  
11 could.

12           Okay. So I understand there's NMOGA  
13 proposed and based on NMOGA's proposals, Commissioner  
14 Ampomah, you had raised the question as to whether the  
15 first two years of approved temporary abandonment,  
16 i.e. inactivity, should be exempt from bonding because  
17 operators could put their wells into TA sometimes for  
18 knowing, not because of neglect, but for perfectly  
19 rational operational reasons. Which, to be fair, I  
20 take your point.

21           But the way I currently see these  
22 provisions stacking together, blue lines is my very  
23 rough attempt at trying to figure out when a well  
24 could go from a mere blanket bond to a single-well  
25 bond. And broadly speaking, we could have active

1 wells that become -- we may have an active well that  
2 becomes necessary for single-well bond merely because  
3 of the operator risk; right? So that's the first  
4 short blue arrow.

5 Then you could skip that step  
6 completely and go from an active well only subject to  
7 a blanket bond to a well that's subject to a single-  
8 well bond due to low production.

9 DR. AMPOMAH: Yes.

10 THE HEARING EXAMINER: You could also  
11 skip the low production completely and you could go  
12 from a regular active producing well straight to TA  
13 status; right? So those are the three ways.

14 And then the yellow arrows is where I'm  
15 drawing where you could have changes of status of your  
16 well, and in fact they probably should be double ended  
17 arrows because people can take wells out of inactivity  
18 back in the low production and vice versa; right? But  
19 the point is those are -- I left them in yellow  
20 because there would be no change in the bond status.  
21 It would be 150, to 150, to 150. I was trying to  
22 understand the point that you were raising,  
23 Commissioner Ampomah.

24 And if we could scroll down to the next  
25 chart, Madam Clerk.

1           The concern that I had is, if we were  
2           to allow an approved TA bonding exception, talking  
3           about the first two years of that temporary  
4           abandonment, I wanted to make sure I understand your  
5           intent. And I was concerned whether or not we'd end  
6           up in a situation where we could end up bonding a  
7           well, only to unbond the well, to then rebond that  
8           same well.

9           DR. AMPOMAH: Mr. Chair, so the  
10          proposed two year except. So assuming a well is and  
11          active well, and whatever reason straightaway goes to  
12          temporary abandonment status. That is the approved TA  
13          status. Now what that two year provision is providing  
14          is that that well is still bonded under the active  
15          blanket bonding, and it will take the operator two  
16          years to make a decision as to what they want to do  
17          with their well, or get into the inactivity where it  
18          needs to be bonded 150,000. So they are not actually  
19          without a bond. There is a bond.

20          THE HEARING EXAMINER: Right. We agree  
21          that there is a blanket bond for the operator but not  
22          a single-well bond at 150,000; right?

23          DR. AMPOMAH: That is correct.

24          THE HEARING EXAMINER: Okay. But if  
25          somebody were to shut that well in, wouldn't the first

1 180, so at day 181. So we may need to review the  
2 definition of low production because I think if you  
3 shut it in the first 180 days, nothing happens. But  
4 day 181, it becomes by definition a low producing  
5 well. And so if the low producing well, you would  
6 already have to put up \$150,000 bond.

7 DR. AMPOMAH: So Mr. Chair, you were  
8 trying to -- I think the last time that we're  
9 discussing this -- you were trying to include the days  
10 of inactivity before that well becomes TA, which I  
11 supported.

12 THE HEARING EXAMINER: Okay.

13 DR. AMPOMAH: Yeah. But we did not  
14 resolve that. So if we resolve that, then what you  
15 are proposing is more or less, you know, I do support  
16 that. But we need to really clarify the time period  
17 because from what you just said, what that means is  
18 that if OCD do have a discretion that a well has to be  
19 180 days without, more or less, being moved to a TA,  
20 then it means that by the time that operator starts to  
21 even think about TA, the well already fall under the  
22 low production. So that one, I'll agree with you on  
23 that. But if not, then we still need to discuss.

24 THE HEARING EXAMINER: And so I'm not  
25 even -- I don't know that I'm proposing anything. I

1 just want to make sure that we are on the same page as  
2 to how these definitions interact with each other.  
3 Because I'm not clear that I understand how. I just  
4 don't want to end up in a situation where we could end  
5 up bonding something for six months, unbonding it and  
6 then having to rebond it in another few months; right?

7 So I just want to make sure that we are  
8 on the same page and understand how the definitions of  
9 these various categories interact with each other  
10 first, and then we can talk about whether or not we  
11 agree or disagree with how, you know, what they should  
12 do.

13 Thank you for the demo. I think that's  
14 all we need from that demonstratives. Thank you,  
15 Sheila.

16 So partly, it's because we've got a  
17 bunch of definitions that seem very circular to me.  
18 Like, so low producing well means an oil or gas  
19 well -- at least as proposed by the applicants,  
20 right -- that produced less than 180 days and less  
21 than 1,000 barrels of oil. So if it's been shut in  
22 for more than 180 days, then it can't have produced  
23 1,000 barrels of oil and --

24 DR. AMPOMAH: Mr. Chair, so that is  
25 correct. But don't you also believe that there could

1 be an active well that operator, more or less, applies  
2 to be TA without that well being a low producer?

3 THE HEARING EXAMINER: The way that  
4 this definition is written, it doesn't say anything  
5 about what they applied for or didn't apply for. They  
6 become low producing whether they like it or not. You  
7 know, regardless of what they applied for at day 181.  
8 So I think perhaps the definition is what we need to  
9 amend. Is that what you're suggesting?

10 DR. AMPOMAH: Not necessarily. So my  
11 understanding is that NMOGA is requesting. So if you  
12 remember, I mean, the applicant to OCD, it was not the  
13 original intent to use inactivity well to, more or  
14 less, give -- come out with a 20 percent. It was  
15 mostly on the low producer wells based on all the  
16 evidence that we heard, you know.

17 And based on the joint stipulation,  
18 they now move to use the inactivity wells, which I  
19 support because those are the high-risk wells; right?  
20 But after that then NMOGA is thinking, gosh, there's a  
21 possibility that an active well will straight away  
22 become a TA well, and they still want to keep that  
23 two-year provision in there to avoid operator moving  
24 straightaway from active well under the blanket bond,  
25 straightaway to, let's say, 150,000 -- 150,000

1 individual single-well bond.

2 Now what that is going to do is you're  
3 going to see a lot of premature plugging of wells.  
4 Because an operator will look at, do I need to plug  
5 this well at 150,000, or put a bonding on it for  
6 150,000? You know, so you're going to have a lot of  
7 operators moving straightaway to, more or less, plug  
8 their wells to avoid the bonding. And that will, more  
9 or less, cause waste where we are, more or less, now  
10 producing more because wells can be worked down to  
11 produce more.

12 THE HEARING EXAMINER: I couldn't  
13 disagree more. The \$150,000 is not a cash flow. I  
14 mean there's multiple instruments here to provide  
15 financial assurance. I mean, I know that I have  
16 carried more than \$150,000 worth of financial  
17 assurance when I drive a motor vehicle. And I suspect  
18 that all three of us up here, if not more of us, all  
19 provide more than \$150,000 worth of financial  
20 assurance to drive our own vehicles.

21 So the idea that financial assurance  
22 is -- is the same as the cost of actually conducting  
23 that activity is -- is not correct at all. So merely  
24 being insured for, that's like saying people will burn  
25 down, you know, like -- look, home -- homeowner's

1 insurance is a financial assurance; right? So if  
2 somebody has \$150,000 worth of financial assurance on  
3 their -- on their home, as in, like, having  
4 homeowner's insurance for \$150,000, that doesn't mean  
5 they're going to -- that's not the same as spending  
6 \$150,000 to -- to rebuild your house; right? Those  
7 two -- those two things don't connect.

8 And also, if a well -- so I guess I  
9 would go back to, if we're so afraid of bonding a  
10 temporarily abandoned well, then what are we doing  
11 bonding -- then -- then why would you be okay with  
12 bonding a single well that might be producing,  
13 theoretically at least, producing at a -- at a -- at  
14 an extraordinary rate going gangbusters merely because  
15 it's owned by an operator with other problems in their  
16 portfolio?

17 DR. AMPOMAH: Mr. Chair, so this issue  
18 was discussed extensively, you know. So what I'm just  
19 saying is that I'm looking at a situation where a well  
20 is an active well. Okay? A well is an active well

21 THE HEARING EXAMINER: Yes.

22 DR. AMPOMAH: That for some reason,  
23 let's say they have to do a work over on that well to  
24 increase the production or do something, that well  
25 needs to be TA for a short period of time.

1 THE HEARING EXAMINER: Yes.

2 DR. AMPOMAH: Now what NMOGA is saying  
3 is that, for that situation, that well should be  
4 spared two years, and be excluded from the 150,000  
5 single-well bond, for just two years.

6 THE HEARING EXAMINER: Okay.

7 DR. AMPOMAH: For the operator to  
8 decide what they really want to do. Now, if let's say  
9 that well is already low-producing well, okay, if that  
10 well is already low-producing well, then that well  
11 already bonded at \$150,000. So that well do not  
12 necessarily fall under the situation that I'm  
13 describing. So that is the one that I really want us  
14 to really work through.

15 Now you -- you suggested that in normal  
16 OCD practice, even before a well becomes TA, they've  
17 already gone through a period of inactivity; right?  
18 So I thought we would probably work on the language to  
19 include all that inactivity time period to really  
20 offset that two years. So in that case, we don't  
21 really need to put any two years in the rule, but  
22 start the inactivity right from the time that they  
23 stop, let's say producing, or even when they started  
24 applying for the TA.

25 THE HEARING EXAMINER: Okay, so let's

1 make sure we're on the same page about when this  
2 proposed two years should or shouldn't apply because I  
3 think you've just told me that if you, at least, you  
4 believe that if, again, an active well, it could be a  
5 high-producing well, but let's just say the operator  
6 is considered a risky operator because of other wells  
7 that they own; right? Because 20 percent; right?

8 So let's just say this operator has 50  
9 inactive wells, but they have one awesome money-making  
10 well. That money-making well is already bonded under  
11 the operator portfolio risk provision. If they were  
12 to TA this wonderful well, let's call it the Wonderful  
13 Well, would you then force OCD to unbond, give back  
14 the \$150,000, only to then rebond after two years?

15 DR. AMPOMAH: Mr. Chair, no, because  
16 that one, they've already fallen on the portfolio risk  
17 where the one well is more like, the inactivity well,  
18 inactive wells is over 20 percent. So that one, given  
19 all the active wells, are bonded singly, you know, by  
20 150,000. So they are not -- they do not enjoy that  
21 provision.

22 But assuming an operator do have more  
23 active wells than their inactive wells, and they just  
24 want to move one well, which is an active well, to a  
25 TA status to work on it, that is where I'm coming

1 from.

2 THE HEARING EXAMINER: Okay, so then,  
3 maybe I just don't understand NMOGA's proposed  
4 language the same way you do. So would you remind me,  
5 again, the page that I can find the specific NMOGA  
6 language that impacts this?

7 MR. BLOOM: I believe it's page 25.

8 DR. AMPOMAH: Page 25.

9 MR. BLOOM: You remember the  
10 alternative language? Yes.

11 DR. AMPOMAH: Page 24 of 105. Yeah.

12 THE HEARING EXAMINER: Okay. I'm  
13 sorry.

14 DR. AMPOMAH: And Mr. Chair, let me say  
15 that what NMOGA is proposing, they do not include the  
16 time that the well starts to be inactive. And you  
17 made a case that that well, before it even becomes  
18 TA'd, has already enjoyed multiple days of no  
19 production.

20 THE HEARING EXAMINER: I want to make  
21 sure I follow, because maybe I'm not. But let me read  
22 this again because maybe I'm not reading this the same  
23 way that you are. "Inactive wells and wells in  
24 expired or approved TA status for more than two  
25 years." I see. So you -- I think you're saying that

1 based on the way we drafted the previous provisions,  
2 if D doesn't apply because it's not -- or except this  
3 is not D. This is actually F; right?

4 DR. AMPOMAH: F, yes.

5 THE HEARING EXAMINER: F, it's  
6 mislabeled as F, yeah. So I think what you're saying  
7 is, because if F doesn't apply, D and E would still  
8 apply, based on the way that we've drafted the  
9 language above.

10 DR. AMPOMAH: That is correct.

11 THE HEARING EXAMINER: I see. So if we  
12 go back to this little dive, so here to here this  
13 doesn't exist.

14 DR. AMPOMAH: That is -- that -- that  
15 is correct.

16 THE HEARING EXAMINER: But we preserve  
17 this.

18 DR. AMPOMAH: That is correct.

19 THE HEARING EXAMINER: Okay. Now I'm  
20 on the same page. Okay.

21 Well, in that case, if our, Commission  
22 Clerk, would you mind pulling up the Word document  
23 with the language that we've been wordsmithing, again?  
24 Perhaps we can go through this and make sure that we  
25 look at a final version of what we're trying to adopt.

1 DR. AMPOMAH: Yes.

2 THE HEARING EXAMINER: Okay. Could we  
3 go down to F in that? There we go. Okay.

4 So what parts of NMOGA's language would  
5 we be adopting here?

6 DR. AMPOMAH: Mr. Chair, so I will say  
7 that, so let's say, inactive wells and wells in  
8 expired or approved --

9 THE HEARING EXAMINER: Okay. So let's,  
10 for the commission clerk's clarity, let's get -- so we  
11 delete the word "approved." We delete the word "and."  
12 If so, then we go to -- we keep the word "expired,"  
13 but then we go to -- then we add "or approved,"  
14 "expired or approved." And then at the end of that  
15 sentence, before the period, we add the words "for  
16 more than two years."

17 DR. AMPOMAH: And -- and, Mr. Chair, I  
18 will add that for more than two years, "not subject to  
19 the low-producing provision." And then I think the  
20 low -- yeah, because you had a point about, what if  
21 that was a low-producing well. I mean, that well  
22 already needs to be bonded at 150.

23 MR. BLOOM: So, Doctor, probably you  
24 would add at the end of that the words "for more than  
25 two years that are not subject to D above"?

1 THE HEARING EXAMINER: Well, that's  
2 what I was trying to figure --

3 MR. BLOOM: Is that right? Okay.

4 DR. AMPOMAH: And that will satisfy the  
5 concern that you had.

6 THE HEARING EXAMINER: I'm trying to  
7 figure out whether that's even necessary to satisfy.  
8 Because maybe I'm just reading it back. So maybe we  
9 can, so you can read it, and maybe tell me if I'm just  
10 reading it wrong, or reading it. But D and E would  
11 still independently apply to anything that F didn't  
12 apply to; right?

13 DR. AMPOMAH: That F did not apply to.

14 THE HEARING EXAMINER: Because isn't  
15 that the grayed language that we just added today was  
16 to make sure that D and E would still independently  
17 apply?

18 DR. AMPOMAH: Okay, let's see.

19 THE HEARING EXAMINER: Because if it's  
20 not covered by financial, not covered by a one well  
21 financial assurance under F, then D would apply.

22 DR. AMPOMAH: Yes.

23 THE HEARING EXAMINER: So I think the  
24 grayed language today actually resolves that problem;  
25 right?

1 DR. AMPOMAH: Okay. Okay.

2 THE HEARING EXAMINER: Am I -- well,  
3 no, no. Tell me if I'm correct. I'm asking a  
4 question legitimately.

5 DR. AMPOMAH: So I will say that, let's  
6 try to frame F, and then we can crosscheck.

7 THE HEARING EXAMINER: Okay.

8 DR. AMPOMAH: To make sure that we are  
9 on the same page on that.

10 THE HEARING EXAMINER: Are you  
11 tracking? Does that make sense? Okay.

12 Then in that case if, Madam Clerk, if  
13 you could leave that, just cut that for now, the "not  
14 subject to low producing provision." Just leave it at  
15 more than two years, and then we can go back and see  
16 if that tracks. Okay. Then, hang on. Now I've got  
17 to go back.

18 MR. BLOOM: And, Ms. Apodaca, if you  
19 could, I think I sent you some language this morning.  
20 If you could pull that up. I might have a better  
21 phrasing of this.

22 THE HEARING EXAMINER: Okay. Because  
23 that was what I was concerned about is having to  
24 unbond low-producing operators.

25 DR. AMPOMAH: Yeah. You do not unbond,

1     yeah.

2                   THE HEARING EXAMINER:   Okay.   So as  
3     long as we're on the same page about what we intend,  
4     then we can figure out how to make the language read  
5     the way we want to read.

6                   DR. AMPOMAH:    Okay.

7                   MR. BLOOM:   Commissioners, if you look  
8     at your screen, there might be a clearer way to -- to  
9     state this.  I believe as we currently, or as we just  
10    had on the screen a moment ago, there could be some  
11    confusion around whether expired TA wells have been,  
12    wells that are expired TA would have a two-year grace  
13    period as well.  I think this clarifies exactly which  
14    wells would be treated and how they would be treated.

15                  DR. AMPOMAH:   Okay.  Mr. Chair, this  
16    provision, what Commissioner Bloom drafted here, still  
17    satisfies what we are discussing, so.

18                  MR. BLOOM:   Mr. Chair, if -- if I read  
19    the alternative NMOGA language in there, red line,  
20    green line, green font draft, it says right now  
21    "inactive wells and wells in expired or approved  
22    temporarily abandoned status for more than two years."  
23    So could that be interpreted as --

24                  THE HEARING EXAMINER:   Expired from  
25    more than two years?  Is that what you're --

1 MR. BLOOM: Expired for more than two  
2 years. The -- the expired wells wouldn't have to bond  
3 until more than two years passed; right? So I would  
4 change the -- the first line, and then the second  
5 sentence as well, to -- to clear that up.

6 DR. AMPOMAH: And the comma kind of  
7 does the magic, I guess.

8 MR. BLOOM: Yeah.

9 THE HEARING EXAMINER: I see what  
10 you're doing there, and I understand. For record  
11 purposes, I was going to go with the proposed language  
12 from NMOGA and just clean that up. Like, because we  
13 could write it, that way we can say, you know, we're  
14 using something that's on the -- off the record.

15 Well, tell me if this works and then we  
16 can go back to that. What if we said, "An operator  
17 shall provide financial assurance for wells that are  
18 inactive," comma, "wells in expired temporary  
19 abandoned status," comma, "or approved temporarily  
20 abandoned status for more than two years."

21 MR. SHANDLER: So, Mr. Chair, I think  
22 you guys are going to get everyone angry at you with  
23 this proposed language. So the law that the two  
24 parties have total disagreement on is 70-2-14, and  
25 you're fine to choose one legal interpretation or not.

1 But the law itself says, "Require one well financial  
2 assurance on any well that's been held in TA status  
3 for more than two years."

4 So I believe the NMOGA would say the  
5 two year language has to be with all TA, not just  
6 expired TA, not just approved TA, all TA. So  
7 Commissioner Bloom's language, the way I read it, says  
8 that the two years is only attached to approved TA.  
9 So I think NMOGA would say that's wrong. And  
10 certainly the applicants believe that this is an  
11 incorrect reading of the law. That there is no two  
12 year thing done currently, and NMOGA is making up what  
13 doesn't even is required right now.

14 DR. AMPOMAH: But -- but, Zach, so for  
15 a well to be classified as expired TA, it means it has  
16 undergone, or gone through, approved TA, and expired.

17 MR. SHANDLER: Commissioner, I see  
18 your -- I understand your point. I'm just seeing that  
19 NMOGA's language, the two years seems to modify both  
20 types of TAs, not just one type of TA.

21 MR. BLOOM: So let me, let me look at  
22 70-2-14 again. It says, "The OCD shall require a one  
23 well financial assurance on any well that has been  
24 held in temporarily abandoned status for more than two  
25 years."

1 THE HEARING EXAMINER: So if I may just  
2 jump in real fast, we had this discussion on Friday, I  
3 believe. In my reading of that provision, it says  
4 "more than," so we are required to bond wells that  
5 have been TA for more than two years. It is silent as  
6 to what we should or shouldn't bond under two years.  
7 So that's why, in my view, now I understand that that  
8 might, that is probably not, or that perhaps is not, I  
9 don't want to assume that may or may not be the views  
10 of any other parties.

11 But in my view, we can bond TA'd wells  
12 that have been TA'd for less than two years. But we  
13 certainly don't have to. And so that's why I think  
14 the law here gives us latitude to split the baby, if  
15 that is where we want to go. Now as a matter of  
16 policy, whether that's where we want to go, certainly  
17 still up for debate. And I would be fine simply  
18 saying as soon as you're TA, you're bonded.

19 I mean, why are we bonding a perfectly  
20 good, you know, the good excellent well, that I was  
21 just talking about earlier, our perfectly producing  
22 well, our Wonderful Well, if we're not going to  
23 similarly treat, you know, if we don't have the  
24 resolve, if you will, so to speak, to bond a well in  
25 TA'd status, then what's the point of going all the

1 way out and bonding even low producing, or wells that  
2 may simply be owned by an operator of concern.

3 MR. BLOOM: Mr. Chair, I -- I also, the  
4 first part of your statement there, I went on at some  
5 length of about this last week on the record about  
6 the -- the discretion we have under 70-2-14. I agree  
7 with your comments that it's clear that we can require  
8 a one well financial assurance after well's been held  
9 in TA status for more than two years.

10 And I believe we have the authority to  
11 do so, you know, under that as well. The legislature  
12 spoke on what happens after two years. Did not --  
13 does not tell us anything about the first two year  
14 period, so.

15 DR. AMPOMAH: Mr. Chair, so the expired  
16 TA is a new language that has been added. So from  
17 what Zach is saying, Zach, definitely there's no way  
18 I'm going to support a provision that gives two more  
19 years to expire TA wells. I mean, I will not support  
20 that provision. It definitely has to be a well that  
21 has been approved.

22 Because now they've made that  
23 distinction by defining what the expired TA is, and  
24 then also approved TA, they've defined that in the new  
25 rule that we are working on. So we -- we can or

1 should be able to really read through the lines to  
2 make sure that we are not really giving two years  
3 grace period to expired TA status wells.

4 MR. SHANDLER: And I was the one that  
5 introduced the word grace period. And I think I got  
6 to fix that again. The way I understand everyone has  
7 a bond. It's a continuing bond. No one loses a bond  
8 and gets a grace period where they're not bonded.  
9 It's just, as a bookkeeper, if you have an active,  
10 well, let's say you're the operator, and you're like,  
11 "As an operational side, I want to make it an inactive  
12 well," okay?

13 As the bookkeeper, I'm like, "You know  
14 what? I love the blanket bond. It's much more  
15 affordable. Can we keep that blanket bond as long as  
16 we possibly can?" And I think your proposal's like,  
17 "Yeah, they should be able to keep it at least two  
18 more years." Whereas the applicant's proposal's like,  
19 "No bookkeeper, as soon as that becomes inactive  
20 according to the definitions, you have to do maybe the  
21 more expensive bond."

22 I think that's the debate. And I  
23 apologize that I ever used the word grace period to  
24 give the readers of the record to think that there's a  
25 period of time when someone is free of bonding.

1 THE HEARING EXAMINER: Yes. I don't  
2 think we're -- or at least I'm not under the  
3 impression that there is, that the blanket bond would  
4 ever not apply. What we're talking about is whether  
5 the 150,000 single-well bond applies and when it  
6 should apply.

7 MR. BLOOM: Exactly.

8 THE HEARING EXAMINER: And I think the  
9 question is now limited to, so I think we, it sounds  
10 like we have all agreed that if a well is already low  
11 producing or already an operator portfolio risk bonded  
12 well at the single bond level, at the single-well  
13 level that, from my understanding is, all three of us,  
14 and correct me if I'm wrong, but all three of us agree  
15 that we should not be unbonding a low-producing well  
16 or unbonding an operator portfolio risk well merely  
17 because it goes into a TA status; right?

18 We're only talking about the situation  
19 where we're going from a perfectly good active well  
20 with no other single bond applicable, single-well bond  
21 applicable situation, going straight from this  
22 non-single-well bond situation into inactivity,  
23 whether or not this little bubble right here on the  
24 corner of -- whether there should be this box right  
25 here.

1 I think that's what Dr. Ampomah is  
2 talking about. It's just this white box. Okay. Now,  
3 as a matter of policy, we can still debate whether or  
4 not that is grace, or that, well, certainly to use  
5 Dr. Ampomah's language, whether there would be -- we  
6 certainly don't want to create a situation that could  
7 lead to waste; right?

8 That's certainly -- now, I don't, as a  
9 matter of policy, I don't think that it would lead to  
10 creating waste, but we can certainly debate whether or  
11 not the precise contours of how far we should bond is.  
12 That's exactly what we're here to do. I am happy to  
13 invite debate on this point.

14 I think Commission Counsel's point, and  
15 correct me if I'm wrong, but I think Commission  
16 Counsel's point is that if we didn't split the  
17 difference, and went with the applicant's proposal as  
18 written, there would be less room for debate as to how  
19 the law applies. But I --

20 MR. BLOOM: Mr. Chair, I think at this  
21 point I lost track of what the proposal is, now. I  
22 proposed some language. We heard from Mr. Shandler  
23 some back and forth.

24 THE HEARING EXAMINER: Putting aside  
25 whether or not NMOGA's language is perfectly well

1 wordsmithed, I think the question is whether or not  
2 this two years should come; right? Like whether or  
3 not or not there should be a two year exemption from  
4 bonding for a well that is going into an approved TA  
5 status and only approved TA status from only a  
6 situation where they're not otherwise already bonded  
7 at a single-well level.

8 DR. AMPOMAH: That is correct. So,  
9 Mr. Chair, is it possible for us to look at  
10 Commissioner Bloom's suggestion and then try to see if  
11 we can rework on what NMOGA is proposing to still,  
12 more or less, heed to our understanding and not  
13 necessarily NMOGA's understanding?

14 THE HEARING EXAMINER: Please. This is  
15 the time to debate.

16 DR. AMPOMAH: Okay. So Commissioner  
17 Bloom, you are starting with wells in approved TA  
18 status, or you still have the inactive -- inactive  
19 wells there?

20 MR. BLOOM: I'm sorry. Sorry,  
21 Mr. Ampomah, could you, please, restate the question?

22 DR. AMPOMAH: Yeah, so I'm trying to  
23 see how we can reword the existing NMOGA's language to  
24 incorporate what you have here because I mean what you  
25 have here supports what I'm thinking.

1 MR. BLOOM: Okay.

2 Ms. Apodaca, I think we might need that  
3 language back, please. Thank you.

4 DR. AMPOMAH: So if you can help us  
5 where we can rework on the F to incorporate the  
6 understanding that you just showed to what is here  
7 because Chair doesn't want us to really change a lot.

8 MR. BLOOM: Yeah. I'm not sure  
9 where -- where you want to go, unfortunately. So I  
10 thought I fixed it there. But if this is the  
11 direction we want to go, if we want to create that  
12 carve out for good well that's going into TA status  
13 for two years, and we don't believe it needs a bond.  
14 I think we heard a lot of testimony from -- from all  
15 sides that wells that are in, was it 90 percent of  
16 wells, that were in TA status have been put back into  
17 production in five years, right?

18 DR. AMPOMAH: Yeah, that's correct.

19 MR. BLOOM: Yeah. So, yeah. So the  
20 concern is wells that are out past five years, seven  
21 years at that point there's very little chance that  
22 they would go back into trust.

23 DR. AMPOMAH: But what we are  
24 discussing right now will force a pretest to, more or  
25 less, come back quickly instead of waiting for the

1 five years, they'll come back quickly.

2 MR. BLOOM: Within two years.

3 DR. AMPOMAH: Within two years.

4 MR. BLOOM: Potentially, yes. There  
5 would be a little financial incentive.

6 DR. AMPOMAH: Exactly, to do that.

7 Yeah. So, Mr. Chair, I mean what will be the problem  
8 if we just use what Commissioner Bloom has here and  
9 then replace that? Because I do see that that  
10 clearly, more or less, satisfies the intention. I do  
11 not have any problem using the language, but it sound  
12 like you have some concerns there.

13 THE HEARING EXAMINER: I will. So I'm  
14 not sure. So are you proposing that this goes after  
15 "an operator shall provide financial," like, where  
16 does this fit into here?

17 DR. AMPOMAH: It sounds to me that if  
18 starting the whole of F with this language we are  
19 replacing the first part of, the first part and second  
20 part, of F with this language.

21 MR. BLOOM: Yes. Let me lean over and  
22 show you, Mr. Chair. Would be, where it starts with  
23 F, we would, from the word "inactive," we would cut  
24 all that. and go all the way down to through the end  
25 of the first sentence, end of the second sentence.

1 I'm sorry, not the end of the second sentence. We'll  
2 get to the second mention of the word "status" before  
3 the comma there, that's what we replace. It's going  
4 to be at the end here.

5 DR. AMPOMAH: Exactly. Exactly.

6 THE HEARING EXAMINER: As a mere point  
7 of, just for clarity of grammar, I would, if this is  
8 the path the commission wants to go down, I would  
9 suggest "wells that are in," so basically making it  
10 parallel statuses; right? "That are in approved TA  
11 status for more than two years that are in inactive  
12 status or are in expired TA status." So you're  
13 talking about status, status, status as opposed to a  
14 well and then the status. The status, well, status.

15 MR. BLOOM: Okay, that makes sense.

16 THE HEARING EXAMINER: "An operator  
17 shall provide financial assurance for wells that are,"  
18 so the way they have it is inactive. Is that a blue  
19 pen? That's fine. Comma, "wells in expired TA status  
20 or wells in," yeah, they also have it all jumbled up.  
21 "Wells in approved temporarily abandoned status of  
22 more than two years." Okay. Okay. So basically once  
23 you -- I see where you guys are going with this.

24 MR. BLOOM: Mr. Chair, could I ask for  
25 a 10 minute break?

1 THE HEARING EXAMINER: Sure.

2 MR. BLOOM: Thank you.

3 THE HEARING EXAMINER: Well, I'll call  
4 a recess. Let's come back at 10:45. Okay, thank you.

5 (Off the record.)

6 THE HEARING EXAMINER: Good morning.  
7 It's 11:10. This is Chair Albert Chang, and I'm  
8 calling the commission meeting back to order. I  
9 apologize for the delay. I think we need to pick back  
10 up where we were talking about the temporarily  
11 abandoned status and the language for subsection F of  
12 19.15.8.9.

13 Okay. Have you any updates on the  
14 proposed language in front of us?

15 DR. AMPOMAH: Mr. Chair, so where we  
16 left off was that we will probably stick with  
17 Commissioner Bloom's suggested title, and still go  
18 back to the same language that NMOGA proposed and then  
19 try to work off from "the operator shall provide  
20 financial assurance," so.

21 THE HEARING EXAMINER: Okay. I think  
22 we are ending up. They're actually pretty darn close.  
23 so. Okay. Wells. Would you like to read some  
24 proposed language here?

25 MR. BLOOM: Sure.

1 THE HEARING EXAMINER: Go for it.

2 MR. BLOOM: Yeah. Mr. Chair, I think  
3 you had, looking at the language in front of us,  
4 second sentence, I believe you suggested adding the  
5 word "that" in two places that would be, "an operator  
6 shall provide financial assurance for wells that are  
7 an approved TA status for more than two years that are  
8 inactive wells or that are wells in expired TA  
9 status."

10 THE HEARING EXAMINER: That are.

11 MR. BLOOM: And then after or.

12 THE HEARING EXAMINER: Actually, I  
13 was -- may I suggest, "in approved TA status for more  
14 than two years," comma, "in inactive status," comma,  
15 "or in expired temporary abandonment status."

16 MR. BLOOM: Oh, very good. Yes.

17 THE HEARING EXAMINER: Does that work?

18 DR. AMPOMAH: Mm-hmm.

19 THE HEARING EXAMINER: Sorry, we  
20 weren't talking about the title, Madam Clerk. Leave  
21 that for a second.

22 So that second sentence, "an operator  
23 shall provide financial assurance for wells that are  
24 in approved TA status for more than two years," comma,  
25 "in inactive status." So change that to "in," get rid

1 of "are," inactive status. So delete "wells" and put  
2 "status" instead. "Or" delete the next three words,  
3 "in expired TA status."

4 MR. BLOOM: I think where we have "TA"  
5 we should just write out "temporarily abandoned" in  
6 both locations. Thank you.

7 Then, Mr. Chair, I would like to ask us  
8 to consider ending the sentence at the word -- ending  
9 the second sentence at the word "status" with a period  
10 because it goes on to say, "or for which the operator  
11 is seeking approved temporary abandonment status  
12 pursuant to," et cetera, et cetera; right?

13 THE HEARING EXAMINER: No, I would end  
14 it there. Yes, I agree.

15 MR. BLOOM: Yeah, because if we include  
16 that there's -- there's this sort of -- it opens up  
17 this gray area where something's not expired nor  
18 expired TA status nor TA status. It's, they're  
19 seeking it and that would have to be bonded, which  
20 wouldn't make any sense either, so.

21 THE HEARING EXAMINER: Okay. Yeah.

22 MR. BLOOM: Are we done?

23 THE HEARING EXAMINER: Sheila, or,  
24 Madam Clerk, would you mind copying that language into  
25 your, the earlier, so that we can consolidate the

1 documents for our commission counsel to review?

2 MR. BLOOM: Mr. Chair, while the -- the  
3 clerk is working on that, will we receive a -- I think  
4 what -- I'll make this request. I request that we all  
5 receive a copy of what we have approved so far, where  
6 this is at now, review it and bring any changes.  
7 Well, I don't know if we can, you know, yes, I guess  
8 we need to bring any changes to the next meeting.

9 THE HEARING EXAMINER: Yeah, I'm fine  
10 with that. I was imagining this as a -- and I can  
11 either call a special in order to make it happen a  
12 little faster, or we can wait until the next  
13 commission meeting. But I think it's, given the  
14 number of deep dives we've gone into many of these  
15 sections, I agree that I think it would be helpful for  
16 us to have a final draft to review as a whole package  
17 up or down as like a third reading, if you will;  
18 right? Third reading of the bill.

19 MR. BLOOM: Yes, Mr. Chair. I think  
20 that's exactly how we should proceed. And I need to  
21 note as well that I'll be out in July and will miss  
22 that meeting. So I don't know if we want to  
23 reschedule, or if we want to do a special for this. I  
24 would certainly be open to that as well.

25 THE HEARING EXAMINER: Okay. Let's

1 finish the wordsmithing here, and then we can  
2 schedule, and I think we're done, as far as I know;  
3 right?

4 DR. AMPOMAH: Yeah.

5 THE HEARING EXAMINER: And then we can  
6 schedule the next meeting, and then we'll be good.  
7 Okay. Let's just read the -- now we reviewed the rest  
8 already. Wait, now that doesn't, because now we've  
9 got the period in the wrong spot.

10 MR. BLOOM: Oh, so --

11 THE HEARING EXAMINER: May I -- oh, go  
12 ahead.

13 MR. BLOOM: Mr. Chair, yes. I think  
14 once the clerk replaces the language here for us,  
15 we'll be able to say something to the effect of, we'll  
16 continue that second sentence we just updated. Yeah.  
17 That needs to somehow link to the 1 and 2, number 1  
18 and number 2 below; correct?

19 THE HEARING EXAMINER: So we need to  
20 delete all of -- first, let's get rid of the bolding  
21 for that first, the full sentence. And starting with  
22 "an operator" all the way to "statuses" that, not  
23 bolded, please. No, no. The heading needs to be  
24 bolded. I'm sorry. Yes. Yeah. So unbold that,  
25 right? Okay. Now I would delete the words "or for

1 which the operator is seeking approved temporary  
2 abandonment pursuant to the" and that. Get rid of all  
3 of that. And, yeah. So now it should read "or in  
4 expired status in one of the following categories."

5 MR. BLOOM: I agree. Thank you.

6 THE HEARING EXAMINER: Let me review  
7 this against the original applicant's one, which --

8 MR. BLOOM: I'm going to check my list  
9 of our to-do list as well for today.

10 THE HEARING EXAMINER: Where is 9(F)?  
11 "Shall provide financial assurance for wells that are  
12 approved" -- I'm trying to compare this to, so we  
13 would strike even, so this language is still struck,  
14 even though it's in the original applicant's language;  
15 right?

16 MR. BLOOM: Yes, Mr. Chair.

17 DR. AMPOMAH: Yes. Yeah.

18 MR. BLOOM: Yes.

19 THE HEARING EXAMINER: "Wells that are  
20 in approved temporarily abandoned status for more than  
21 two years." May I strike the two words in the title,  
22 in the bolded title, the first two words of the second  
23 line to strike that are so it will read, "wells that  
24 are in approved temporarily abandoned status for more  
25 than two years," comma, "inactive wells," comma, "and

1 wells that are in expired TA status." Does that work?

2 DR. AMPOMAH: Yeah.

3 MR. BLOOM: Yes, Mr. Chair, and we  
4 should probably replace TA.

5 THE HEARING EXAMINER: Yes.

6 DR. AMPOMAH: Yes.

7 MR. BLOOM: And again, down below in  
8 this next sentence, we have TA again.

9 THE HEARING EXAMINER: And, all right,  
10 let's save that, not to lose anything.

11 MR. BLOOM: We got through my list,  
12 Mr. Chair. I can't think of anything else.

13 THE HEARING EXAMINER: Okay. And just  
14 for the record, Commission Clerk, could you pull up  
15 the little, the demonstrative and the chart again?  
16 Because I just want to put it on the record what we  
17 had discussed because I know there was a little bit of  
18 circling up here that's not necessarily on the YouTube  
19 videos.

20 All right. So I just want to confirm  
21 with my fellow commissioners our understanding and for  
22 the understanding of so that Commission Counsel can  
23 also make sure that what we came up with actually  
24 accurately reflects what we intended to do.

25 Could you scroll down to the bottom,

1 Madam Clerk? No, no. Just where you were, where we  
2 were at when we first started. Yeah. And then if we  
3 could put the whole box on the screen. So scroll to  
4 the side a little bit. Thank you so much.

5 All right, so we've got active wells at  
6 the top. So in that first blank box at the top, we've  
7 got wells that are not subject to single-well bonding  
8 requirements. At least not mandatory single-well  
9 bonding requirements because they are active wells  
10 that are eligible for a blanket. We are not, I think  
11 the commission agrees with me that the situations  
12 where we have the red arrows are not acceptable to the  
13 commission. We are not going to have wells subject to  
14 a single-well bond due to low production. We're not  
15 going to let it have an exemption from a single-well  
16 bond under for that as a two year period.

17 We're not going to allow that because  
18 we're not going to have something unbond only to come  
19 back and rebond. To the extent that we had this whole  
20 discussion as to the two year exemption for approved  
21 temporarily abandonment status, that our intention is  
22 only to have it apply to the situation illustrated by  
23 the longest blue arrow in the far right where we're  
24 talking about a well for a -- I don't want to use the  
25 word perfectly good well, but an active, good

1 producing well owned and operated by an operator  
2 without an unacceptable level of portfolio risk going  
3 straight into an approved temporarily abandonment  
4 status.

5 And if it's not going to go into a --  
6 if it's not being approved, for whatever reason, if it  
7 does not go through that approval process, it would  
8 still end up landing in a bonded as inactive or  
9 abandoned. So we're only talking about a situation  
10 where we will give an operator that two year grace --  
11 that two year, and to avoid the word grace period.

12 But that will avoid requiring a bond  
13 for two years only if an operator stays out of the low  
14 production category by obtaining an approved TA within  
15 the first 180 days, and somehow brings it back to  
16 active status within that first two years or else they  
17 will fall into the inactivity category and be bonded  
18 at the single-well level; correct?

19 And also I just want to confirm with  
20 the commissioners that the intent is to not allow this  
21 two years to be renewable. That it is a one time, two  
22 year period only; right?

23 DR. AMPOMAH: That is correct.

24 MR. BLOOM: Mr. Chair, that's correct,  
25 I believe. That's how it reads.

1 DR. AMPOMAH: Mm-hmm.

2 THE HEARING EXAMINER: Okay. If  
3 Commission Counsel finds that in that we've missed the  
4 mark in how we drafted it, please do let us know. But  
5 that is the intent to know. I want to make sure that  
6 the intent of the commission is laid out clearly for  
7 the record.

8 DR. AMPOMAH: And, Mr. Chair, so if you  
9 look at the F, the last sentence is saying, "covering  
10 all wells of operator subject to subsection D of  
11 19.15.8.9 NMAC." Meaning that is a low producing  
12 provision. Thank you.

13 THE HEARING EXAMINER: Excellent.  
14 Thank you so much. I don't think we need that  
15 demonstrative anymore. I think with that we've  
16 wrapped up the sort of second reading, if you will, of  
17 the second reading stage of this rulemaking. Is there  
18 anything else before I move on to other items on the  
19 agenda for today?

20 MR. BLOOM: Mr. Chair, just to  
21 summarize, we'll get a final draft to review that we  
22 may have a special meeting to work through that, and  
23 might potentially reschedule the July meeting in my  
24 absence, depending on what is on the agenda

25 THE HEARING EXAMINER: In that case,

1 while I have the commissioners, if we don't mind, is  
2 this a good time for all of us to take a quick look at  
3 our agendas to see if we can perhaps at least hold  
4 some potential times for us to meet again, especially  
5 if you're not available in July? Because that will  
6 also impact, I think -- well, actually no, you're,  
7 you're not involved in Goodnight/Empire; right? So  
8 that could still stay on books.

9 DR. AMPOMAH: Okay, good. Okay, thank  
10 you. Thank you.

11 MR. BLOOM: I know I'm available most  
12 of the week of Monday, July 6th, and most of the week  
13 of Monday, July 20th.

14 THE HEARING EXAMINER: Just a second to  
15 boot up my computer here. What are your dates that  
16 are effective for you, Commissioner Ampomah?

17 DR. AMPOMAH: Yeah, so I'm not also  
18 available on the week of the 6th of July, but I'm  
19 available on the week of the 13th of July.

20 MR. BLOOM: I'm out. I'm out the  
21 entirety of the week of the 13th.

22 THE HEARING EXAMINER: So the weeks  
23 that are good for both of you would be just the week  
24 of July 6th, is that right?

25 DR. AMPOMAH: No.

1 THE HEARING EXAMINER: Oh.

2 MR. BLOOM: July 20th?

3 DR. AMPOMAH: Yeah, July 20th.

4 THE HEARING EXAMINER: I apologize.

5 MR. BLOOM: No worries. And I'll  
6 notice too that our state, that on the week of the  
7 27th, I believe we begin the Class VI hearings.

8 DR. AMPOMAH: Yeah.

9 THE HEARING EXAMINER: I'm sorry, say  
10 that again?

11 MR. BLOOM: The week of July 27th, we  
12 begin the Class VI OCC hearings rulemaking.

13 THE HEARING EXAMINER: Is there any  
14 date that works for either one of you before  
15 July 20th?

16 DR. AMPOMAH: Before?

17 THE HEARING EXAMINER: Yes.

18 DR. AMPOMAH: Before. Maybe it comes  
19 down. Let me go fast because I'm sure flexible.

20 MR. BLOOM: For me it would be  
21 July 1st.

22 DR. AMPOMAH: July 1st?

23 THE HEARING EXAMINER: Wow.

24 MR. BLOOM: Because the week of the 6th  
25 is out. The week of the 13th is out.

1 DR. AMPOMAH: Let me check.

2 MR. BLOOM: So if you were only to do  
3 Goodnight/Empire at the regularly scheduled hearing,  
4 Baylor [ph] would be here for that and I would not  
5 need to be present.

6 THE HEARING EXAMINER: Okay. But I'm  
7 thinking perhaps we should hold at least the morning  
8 of July 1st for a possible special to go over the  
9 final rule. Because I don't want to hold that for  
10 more than a month and a half.

11 MR. BLOOM: Sure.

12 DR. AMPOMAH: Mr. Chair, let me check,  
13 because I do have troubles.

14 THE HEARING EXAMINER: I can also make  
15 myself available the last full week of June, if that  
16 helps.

17 DR. AMPOMAH: No, so the, the 1st  
18 works. I get back to Albuquerque on the 30th.

19 THE HEARING EXAMINER: Okay.

20 DR. AMPOMAH: So I can be here on the  
21 1st of July.

22 THE HEARING EXAMINER: All right. So  
23 let's hold July 1st as a possible.

24 Commission Counsel, would that give you  
25 enough time to prepare a final draft of the

1 commission's review?

2 MR. SHANDLER: Yes.

3 THE HEARING EXAMINER: Okay. Well, I  
4 could move my afternoons, too, if necessary. But for  
5 now, let's hold the morning. Hopefully, if we're  
6 looking at a final draft for an or down vote as a  
7 whole with only a few, hopefully, we won't need the  
8 whole day,

9 MR. BLOOM: Mr. Chair, yeah, we --  
10 we've been surprised before, so I'll -- I'll make the  
11 whole day available. I have some things I can  
12 reschedule in the afternoon, and if we need more time,  
13 we'll have it.

14 THE HEARING EXAMINER: Great. Okay.  
15 The only other things that I have on my -- so July 1st  
16 for a possible special to be confirmed later, and then  
17 those of us who are involved in Goodnight/Empire will  
18 plan on meeting on July 16th, unless otherwise  
19 indicated in the meantime. And the only other things  
20 I have on the agenda for today is any, if any, is  
21 whether or not there's an update on pending OCC  
22 litigation.

23 MR. SHANDLER: Mr. Chair, there's no  
24 update at this time.

25 THE HEARING EXAMINER: Okay. I don't

1 have any other business unless commissioners have any  
2 other business to propose?

3 MR. BLOOM: No, Mr. Chair.

4 THE HEARING EXAMINER: All right. In  
5 that case, I'll take a motion to adjourn.

6 MR. BLOOM: I so move.

7 DR. AMPOMAH: I second.

8 THE HEARING EXAMINER: Any opposition?  
9 Without opposition we're adjourned.

10 Thank you all very much.

11 (Whereupon, at 11:32 a.m., the  
12 proceeding was concluded.)

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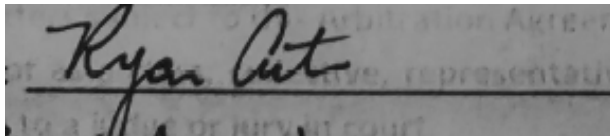
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CERTIFICATE

I, RYAN AUTEN, the officer before whom the foregoing proceedings were taken, do hereby certify that any witness(es) in the foregoing proceedings, prior to testifying, were duly sworn; that the proceedings were recorded by me and thereafter reduced to typewriting by a qualified transcriptionist; that said digital audio recording of said proceedings are a true and accurate record to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



RYAN AUTEN  
Notary Public in and for the  
State of New Mexico

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I, JANET STANFORD, 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.



JANET STANFORD

[1 - 87571]

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[88202 - amend]

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[amendment - assurance]

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[bond - chair]

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[chair - concern]

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[dr - examiner]

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[finish - gray]

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[illustrate - kind]

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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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THE ABOVE RULES ARE CURRENT AS OF APRIL 1,  
2019. PLEASE REFER TO THE APPLICABLE STATE RULES  
OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

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