

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

IN THE MATTER OF THE HEARING CALLED
BY THE OIL CONSERVATION DIVISION FOR
THE PURPOSE OF CONSIDERING:

APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION COMPLIANCE AND ENFORCEMENT BUREAU FOR A COMPLIANCE ORDER AGAINST CANO PETRO OF NEW MEXICO, INC., FOR WELLS OPERATED IN CHAVES AND ROOSEVELT COUNTIES, NEW MEXICO. CASE NO. 16040

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

April 5, 2018

Santa Fe, New Mexico

BEFORE: WILLIAM V. JONES, CHIEF EXAMINER
LEONARD LOWE, TECHNICAL EXAMINER
DAVID K. BROOKS, LEGAL EXAMINER

This matter came on for hearing before the New Mexico Oil Conservation Division, William V. Jones, Chief Examiner, Leonard Lowe, Technical Examiner, and David K. Brooks, Legal Examiner, on Thursday, April 5th, 2018, at the New Mexico Energy, Minerals and Natural Resources Department, Wendell Chino Building, 1220 South St. Francis Drive, Porter Hall, Room 102, Santa Fe, New Mexico.

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APPEARANCES

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1 (10:18 a.m.)

2 EXAMINER JONES: We're going to call Case
3 Number 16040, application of New Mexico Oil Conservation
4 Division Compliance and Enforcement Bureau for a
5 compliance order against Cano Petro of New Mexico,
6 Incorporated, for wells operated in Chaves and Roosevelt
7 Counties, New Mexico.

8 Call for appearances.

9 MR. HERRMANN: Mr. Examiner, Keith Herrmann
10 representing the Compliance and Enforcement Bureau.

11 MR. PADILLA: Mr. Examiner, Ernest L.
12 Padilla for Cano Petro of New Mexico.

13 MR. FRERICHS: Scott Frerichs for U.S.
14 Specialty Insurance.

15 MR. PADILLA: I have one witness to be
16 sworn, Mr. Examiner.

17 MR. HERRMANN: I have one witness as well.

18 EXAMINER JONES: Mr. Frerichs, do you have
19 a witness?

20 MR. FRERICHS: No witnesses, no exhibits,
21 Your Honor.

22 EXAMINER JONES: Thank you.

23 Will the two witnesses please stand and the
24 court reporter please swear the witness?

25 (Mr. Sanchez and Mr. Ochoa sworn.)

1 DANIEL SANCHEZ,
2 after having been first duly sworn under oath, was
3 questioned and testified as follows:

4 MR. HERRMANN: May it please the Examiner,
5 I'll begin our direct examination.

6 EXAMINER JONES: Go ahead.

7 DIRECT EXAMINATION

8 BY MR. HERRMANN:

9 **Q. Mr. Sanchez, will you please state your name,**
10 **title and place of employment for the record?**

11 A. Daniel Sanchez. I'm the Compliance and
12 Enforcement manager for the Oil Conservation Division
13 Santa Fe Office.

14 **Q. And could you briefly describe the duties you**
15 **perform for the OCD?**

16 A. I oversee the three district offices of Hobbs,
17 Artesia, Aztec. I am the UIC coordinator for the EPA's
18 UIC, Underground Injection Control, and I work for the
19 BLM and the State Land Office on co-jurisdictional
20 issues.

21 **Q. Have you researched the violations detailed in**
22 **this application for hearing?**

23 A. Yes, I have.

24 **Q. And have you previously testified in an expert**
25 **capacity before the Oil Conservation Division?**

1 A. Yes, I have.

2 MR. HERRMANN: At this time I'd move to
3 admit Mr. Sanchez as an expert witness in compliance
4 with the rules and regulations related to the production
5 of oil and gas in the state of New Mexico.

6 EXAMINER JONES: Any objections?

7 MR. PADILLA: No objection.

8 MR. FRERICHS: No objection.

9 EXAMINER JONES: Thank you.
10 He is so qualified.

11 **Q. (BY MR. HERRMANN) Mr. Sanchez, will you please**
12 **identify this operator?**

13 A. This is Cano Petro of New Mexico, Inc.

14 **Q. And referring to Exhibit 1, could you identify**
15 **their OGRID number and the officers of record?**

16 A. Their OGRID number is 248802, and their
17 officers of record are indicated as being the two
18 directors, Orville B. Nichols and Richard R. Nichols,
19 and the director EMP [sic] is Rick Harris.

20 **Q. Are there any other officers identified on the**
21 **Secretary of State information?**

22 A. President, Richard Nichols; Secretary, Orville
23 Nichols; Chief Financial Officer, Phillip Burch; and the
24 president is John Archer.

25 **Q. In what county or counties are the wells**

1 **located?**

2 A. Chaves and Roosevelt.

3 **Q. Are they near any towns or residential areas?**

4 A. No, not near, not too close.

5 **Q. Does Exhibit 1 also identify applicable**
6 **financial assurance provided by the operator?**

7 A. Yes, it does.

8 **Q. Could you summarize their financial assurance**
9 **status?**

10 A. Currently, they have 77 single well bonds
11 totaling -- let's see -- \$671,619. They've got a
12 blanket bond for \$50,000, and they are currently in need
13 of four additional single well bonds in the amount of
14 \$35,154.

15 **Q. That answers my next few questions.**

16 **Was notice of this enforcement action sent**
17 **at least 60 days prior to commencing this enforcement**
18 **for this hearing?**

19 A. Yes, it was.

20 **Q. When was Cano notified of those violations?**

21 A. They were notified by a letter from me on June
22 20th, 2017.

23 **Q. And is a copy of that notice contained in**
24 **Exhibit 4?**

25 A. Yes, it is.

1 Q. At the time that notice was sent out, how many
2 inactive wells did Cano have?

3 A. 229.

4 Q. And were -- at the time of filing this
5 application, how many did they have?

6 A. 267.

7 Q. And as of today?

8 A. 269.

9 Q. So it is increasing?

10 A. Yes.

11 Q. Has Cano contacted you in an effort to resolve
12 these actions -- or these violations?

13 A. No.

14 Q. So in summary, of the items required under
15 19.15.5.9, Subsection 8, does Cano currently meet the
16 financial assurance requirements?

17 A. No, sir.

18 Q. And is that contained in Exhibit 2 -- or excuse
19 me -- Exhibit 3?

20 A. Exhibit 3. Yes, they are.

21 Q. And do they have more than five wells out of
22 compliance with 19.15.25.8 NMAC?

23 A. Yes, they do.

24 Q. And one more time, what's that total?

25 A. 269 out of their 323 wells.

1 **Q. What permitting restrictions are imposed on an**
2 **operator who is out of compliance with OCD 5.9?**

3 A. The OCD -- well, as an operator, they may not
4 be allowed to drill, acquire or produce any additional
5 wells and will not be able to obtain any new injection
6 permits, be in violation --

7 **Q. For as long as they remain out of compliance,**
8 **they're severely restricted in their ability to operate?**

9 A. That's correct.

10 **Q. Did you estimate the plugging costs of their**
11 **wells?**

12 A. Yes, I did. Based on the previous 21 that
13 we've done so far this year -- they're pretty similar in
14 terms of the depth of the wells -- we came out with an
15 average of \$28,001 per well. And if we were to plug all
16 269 of their inactive wells, based on that number, that
17 would cost \$7,532,324.

18 **Q. What corrective action is the Division**
19 **requesting?**

20 A. We're asking that they come into compliance
21 with 5.9, both in financial assurance and the inactive
22 well rule.

23 **Q. Within a specified time period?**

24 A. Yeah. Working with them to get into compliance
25 may take some time, but at least a starting point would

1 be, I would say, 45 days out.

2 Q. Okay. And this was an exhibit I had to prepare
3 last-minute. We received an amended entry of appearance
4 yesterday. But I would like you to identify Exhibit 6
5 for us.

6 A. Exhibit 6 is Cano's production by year in 2007
7 to 2016 of oil -- of barrels of oil, Mcf of gas and
8 water production and water injection.

9 Q. And what would you like to highlight on this
10 exhibit?

11 A. That the last three years, 2014, '15 and '16,
12 their gas production has dropped dramatically, from
13 71,303 Mcf to 25 Mcf.

14 Q. That's 25.0?

15 A. And that's 25.0 Mcf.

16 Q. And was this information pulled from OCD
17 records?

18 A. Yes, it was.

19 MR. HERRMANN: At this time I would like to
20 move to admit Exhibits 1 through 4 and 6.

21 (NM OCD Exhibit Numbers 1 through 4 and 6
22 are offered into evidence.)

23 Q. (BY MR. HERRMANN) Mr. Sanchez, were 1 through 4
24 and 6 prepared by you or under your direction?

25 A. Yes, they were.

1 MR. HERRMANN: I would move to admit those.

2 EXAMINER JONES: Any objection?

3 MR. PADILLA: No objection.

4 MR. HERRMANN: And I would also like to --

5 MR. FRERICHS: I'm sorry. No objection.

6 MR. HERRMANN: I'm sorry, Scott.

7 I would also move to admit Exhibit 5, which
8 was prepared by myself, which is an Affidavit of
9 Service.

10 EXAMINER JONES: It's state records; is
11 that correct? You want to still admit it as an exhibit?

12 MR. HERRMANN: Yes. Everyone has appeared,
13 so I don't think we will have a notice issue, but just
14 for preservation of the record.

15 EXAMINER JONES: Any objections to Exhibit
16 5?

17 MR. PADILLA: None.

18 MR. FRERICHS: (No response.)

19 EXAMINER JONES: Exhibits 1 through 6 are
20 admitted into the record.

21 (NM OCD Compliance and Enforcement Bureau
22 Exhibit Numbers 1 through 6 are offered and
23 admitted into evidence.)

24 EXAMINER JONES: Mr. Padilla?

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CROSS-EXAMINATION

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BY MR. PADILLA:

Q. Mr. Sanchez, have you conducted a field study of the wells operated by Cano?

A. Not personally, but the district office has been conducting inspections of those wells. Actually, from October of 2016 to the most recent ones in January of this year, they've been doing inspections. There are quite a few out there. We have limited resources, so they are getting to them.

Q. Do you have any information today concerning the condition of the wells?

MR. HERRMANN: I'm going to object to this questioning because that is outside the scope of this hearing. We are here strictly to discuss their production data and the number of inactive wells, not wells on a specific compliance basis.

EXAMINER BROOKS: Well, I think I will overrule that objection because the only objection would be to relevance, and we won't consider -- we can consider it relevant to the issues.

EXAMINER JONES: Okay. Go ahead, Mr. --

Q. (BY MR. PADILLA) Let me probably ask the question a different way. The only reason you're bringing this action today is because of inactivity in

1 **accordance with Rule 5.9; is that right?**

2 A. Yes.

3 **Q. You haven't cited any environmental or other**
4 **hazards as a reason for bringing this action?**

5 A. No.

6 MR. HERRMANN: I'll object. We stated in
7 our application that this is strictly the 5.9 issues,
8 and the OCD has reserved the right to bring additional
9 compliance action it may discover on-site.

10 EXAMINER BROOKS: Okay. I will advise that
11 the objection be overruled.

12 MR. PADILLA: I don't believe I have any
13 further questions.

14 EXAMINER JONES: Mr. Frerichs?

15 MR. FRERICHS: Yeah. I have two what I
16 hope will be brief questions.

17 CROSS-EXAMINATION

18 BY MR. FRERICHS:

19 **Q. Sir, when Mr. Herrmann asked you how long it**
20 **would take to bring the matter into compliance, I**
21 **thought your response was: It would take quite some**
22 **time. Did I hear that correctly?**

23 A. Yes.

24 **Q. And can you give me a better ballpark of what**
25 **you meant by it would take quite some time?**

1 MR. HERRMANN: I'm going to object and say
2 that's outside the scope of Mr. Sanchez' testimony. He
3 does not have access to Cano's manpower data or know how
4 many -- know how much resources they would actually
5 contribute to returning this field to compliance.

6 EXAMINER BROOKS: I'll overrule the
7 objection.

8 EXAMINER JONES: Go ahead and answer.

9 THE WITNESS: Okay. No, not without
10 knowing what their financial status is, their manpower
11 and what they're actually willing to -- or they're
12 capable of doing even in six months. I really couldn't
13 tell you how long it would take to bring all this back
14 into compliance.

15 Q. (BY MR. FRERICHS) All right. And then I think
16 you followed up with Mr. Herrmann and you made a
17 reference that 45 days is a starting point. Did I hear
18 that correctly?

19 A. Yeah. We would be asking for 45 days for Cano
20 to respond after the issuance of a hearing order here on
21 how they intend to come into compliance.

22 Q. All right. So if I understand correctly, then,
23 you wouldn't be expecting full compliance in 45 days,
24 but just some kind of action plan within 45 days?

25 A. That would be great, but yes, an action plan

1 would work.

2 **Q. All right. Thank you.**

3 MR. FRERICHS: That's all the questions I
4 have.

5 EXAMINER JONES: Mr. Lowe?

6 We'll give you a chance to redirect in a
7 minute, Mr. Herrmann.

8 CROSS-EXAMINATION

9 BY EXAMINER LOWE:

10 **Q. That 45 days is just like a ballpark you came**
11 **up with for all scenarios of this type?**

12 A. That's -- well, we feel that's a pretty safe
13 number for any operator to respond --

14 **Q. Just to respond?**

15 A. -- to a hearing order.

16 Yeah.

17 **Q. Meaning, they will have a plan, or they're**
18 **going to do something?**

19 A. Yes.

20 **Q. Okay. That's all I have for now.**

21 EXAMINER JONES: Mr. Brooks?

22 EXAMINER BROOKS: No questions.

23 CROSS-EXAMINATION

24 BY EXAMINER JONES:

25 **Q. Mr. Sanchez, is this a remote area relatively**

1 **speaking?**

2 A. Yes, it is.

3 Q. Do you supervise the inspectors that would be
4 going out to this --

5 A. Yes, I do.

6 Q. -- OCD inspectors?

7 Have they talked about any H2S issues?

8 A. Not that I'm aware of, not that I remember.

9 Q. Does the remoteness of this area change the
10 amount of money it would take to plug these wells, or do
11 you think -- do you have an estimate on how much it
12 would cost to plug these wells?

13 A. Like I said earlier, prior to setting up this
14 case, we -- the OCD had plugged a number of wells this
15 year. And based on the cost that we incurred to plug
16 those wells, I did an estimate on what it would cost to
17 continue plugging, and we came up with that -- \$20,001
18 [sic] was the average for all of the wells we've done so
19 far. So I applied that to the 269 inactive wells. Now,
20 if nothing was to occur and they were to be plugged,
21 they would be required to plug them.

22 Q. Thank you. I apologize for not paying
23 attention.

24 Now, you said the number of inactive wells
25 has increased in the past -- in the recent past and over

1 the past year. How did they increase? Is it that they
2 took them off line, or did they exceed a time period of
3 inactivity?

4 A. They exceeded the 15 months required, to get on
5 the inactive well list.

6 Q. And what about the gas reporting that is -- you
7 pointed out that the gas production dropped off. Is
8 that -- is that -- did your inspectors go out and check
9 to see if there was any flaring or venting going on, or
10 has there been some venting or some flaring approved out
11 there?

12 A. I have not gotten into the specific details of
13 what they've been finding out there as they're doing
14 these inspections yet.

15 Q. Okay. And you haven't had a response from Cano
16 Petro as far as --

17 A. No.

18 Q. -- trying to get them into an agreed compliance
19 order?

20 A. No.

21 Q. Okay. Thanks.

22 EXAMINER JONES: Any redirect?

23 MR. HERRMANN: Yes, Mr. Examiner.

24

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REDIRECT EXAMINATION

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BY MR. HERRMANN:

Q. Mr. Sanchez, as an operator in this state, Cano has an obligation to comply with the rules and regulations regarding oil and gas production, correct?

A. Yes.

Q. And when you sent the notice of violation contained in Exhibit 4, that contained an offer to enter into an agreed compliance order?

A. Yes, it did.

Q. So if we do not -- just to clarify the relief we are requesting here, we state in our application we would like compliance within 45 days, and if -- if it is not achieved, we would like to see -- or we would like the Division to be authorized to plug and abandon Cano's wells using their financial assurance?

A. That's correct.

Q. So we are seeking a formal compliance order from the Division that they comply with the rules, and if not, the Division will be authorized to plug and abandon Cano's wells, and the financial assurance will be forfeited toward plugging expenses?

A. That's correct.

Q. Thank you.

EXAMINER JONES: Mr. Padilla?

1 MR. PADILLA: I don't have any questions.

2 EXAMINER JONES: Mr. Frerichs, any more
3 questions?

4 MR. FRERICHS: No. Thank you.

5 EXAMINER JONES: We don't have any more
6 questions of this witness.

7 Thank you, Mr. Sanchez.

8 THE WITNESS: You're welcome.

9 EXAMINER JONES: Does that conclude the
10 Applicant's case?

11 MR. HERRMANN: Yes. That concludes our
12 presentation.

13 EXAMINER JONES: Okay.

14 MR. PADILLA: Mr. Examiner, we will call
15 Ernest Ochoa.

16 ERNEST OCHOA,
17 after having been previously sworn under oath, was
18 questioned and testified as follows:

19 DIRECT EXAMINATION

20 BY MR. PADILLA:

21 Q. Mr. Ochoa, would you please state your name and
22 where you live?

23 A. Ernest Ochoa, Roswell, New Mexico.

24 Q. Mr. Ochoa, what do you do for a living?

25 A. I am a consultant. I do contract pumping,

1 safety, whatever.

2 Q. Mr. Ochoa, have you ever testified in any
3 capacity before this agency?

4 A. No.

5 Q. Would you tell the Examiners what your
6 experience is in -- first of all, you're not a petroleum
7 engineer, neither are you a geologist, right?

8 A. That's correct.

9 Q. Can you tell the Examiners what your experience
10 working in the oil industry has been?

11 A. Basically, it's been hands-on from
12 fracturing -- I worked for Western Company.

13 Q. Is Western Company a predecessor of --

14 A. B.J. Hughes.

15 Q. -- Baker Hughes?

16 A. Yes.

17 Q. And it's a service company?

18 A. It is a service company -- it used to be a
19 service company, but they were bought out by B.J.
20 Hughes, and they did the same thing as Halliburton and
21 Dal Oil [sic].

22 Q. How long did you work for --

23 A. Six years.

24 Q. And what did you do?

25 A. I started out as an operator -- equipment

1 operator, and then I was a trainer. I trained new-hires
2 for operating equipment, doing frac jobs, acid jobs, all
3 sorts of fracturing equipment, well work equipment.

4 **Q. And you did that for six years?**

5 A. Yes.

6 **Q. And that was downhole -- downhole work, as well
7 as surface work, I take it?**

8 A. They basically do downhole work like
9 Halliburton does.

10 **Q. What did you do after that?**

11 A. I went to work for Phillips Petroleum as a
12 field operator. And the distinction between a field
13 operator and a pumper is that when you get a field, the
14 way Phillips did it is you had an area, and if you had
15 compressors there, you had pipelines; you had meters
16 that you had to calibrate. You did gas measurement, but
17 you did all this compression. So that's -- I learned
18 production that way and basically got my, you know, feet
19 wet doing measurement, compression, production of oil
20 wells and gas wells. And it was up in the Texas
21 Panhandle where I got all my training.

22 **Q. And how long did you work for Phillips?**

23 A. 22 years.

24 **Q. How many?**

25 A. 22 years.

1 **Q. Okay. And did you retire from Phillips?**

2 A. When they merged with ConocoPhillips, they were
3 offering these retirement packages -- actually, layoff
4 packages, because they were trying to eliminate -- a lot
5 of Conoco and Phillips people, they were duplicating.
6 So they were offering these packages basically for the
7 people in the corporate offices. So it wasn't offered
8 to field people, but somehow one of my bosses got me the
9 retirement -- or the layoff, and I got a big financial
10 bonus out of taking that. I wasn't really old enough to
11 retire, so I went to work doing other things.

12 **Q. What did you do next?**

13 A. I went to work for Key Energy for their fishing
14 and rental division as a safety coordinator for the
15 Permian Basin, Rocky Mountain, the Mid-Con and the
16 southern region. So I was traveling a lot and --

17 **Q. Can you tell us more or less what your duties
18 were in terms of safety?**

19 A. Well, I did on-site inspections, facility
20 inspections, make sure that they complied with all
21 safety, OSHA compliance, whether it was in the yards or
22 on location, when they did these jobs, if they had the
23 right equipment and that kind of stuff. So it was all
24 OSHA stuff, basically.

25 **Q. And how long did you stay there?**

1 A. That was six years.

2 **Q. And where did you go next?**

3 A. Well, I contract pump for Merit Energy and then
4 some independents, mainly production. That's kind of
5 been my forte, production.

6 **Q. With Merit Energy, what kind of -- did you
7 handle any waterfloods?**

8 A. It was a waterflood. It was a Devon project at
9 one time, and then Merit bought it. It was like 387 oil
10 wells and that many injections. They handled between --
11 it was about 35,000 barrels of water a day. I was in on
12 that.

13 **Q. Were you sort of the man at the wheel in
14 running the waterflood?**

15 A. No. They had another -- he was one of the
16 Devon guys that stayed with that project.

17 **Q. But in terms of hands-on work, that was you at
18 the wheel?**

19 A. Yes. Yes, sir.

20 **Q. How long did you stay with Merit?**

21 A. I just worked there a year. And I left because
22 of their noncompliance in safety. So at that time, they
23 had lost two employees in Wyoming due to H2S, so -- and
24 they weren't compliant in their H2S in the Loco Hills
25 area. So it wasn't a safe environment to work, so I

1 left.

2 **Q. Where did you go next?**

3 A. Well, basically, it was back into safety. My
4 son and a friend of his started a safety company,
5 because he used to be the director of safety for Key
6 Energy, the fish and rental part. So he asked me if I
7 would do safety for him. And basically I did the same
8 as what I did for Key, which is travel around to
9 different fish and rental yards for three different
10 companies.

11 **Q. Mr. Ochoa, yesterday in the amended pre-hearing**
12 **statement, I labeled you as a pumper. Is it fair to**
13 **call you a pumper in terms of your experience?**

14 A. Probably.

15 **Q. Is it a better description to call you a field**
16 **operations guy?**

17 A. I can be -- you know, if it's compression or if
18 it's whatever in the oilfield, I can do it. So, you
19 know, I've been familiar with all of that.

20 MR. PADILLA: Mr. Examiner, we tender
21 Mr. Ochoa as an expert in field operations for oil and
22 gas.

23 EXAMINER JONES: Any objection?

24 MR. HERRMANN: No, Mr. Examiner.

25 MR. FRERICHS: No objections.

1 EXAMINER JONES: He's qualified as an
2 expert in field operations.

3 Q. (BY MR. PADILLA) Mr. Ochoa, when did you
4 start -- are you familiar with the Cano Petro
5 operations?

6 A. Yes.

7 Q. In New Mexico?

8 A. Yes.

9 Q. In the specific area we're talking about,
10 Roosevelt and Chaves Counties?

11 A. Yes.

12 Q. Okay. What do you do there for Cano Petro?

13 A. Well, it's just production pumping, handling
14 the everyday, you know, duties there of producing that
15 oil, the waterflood that we have there.

16 Q. And you run the waterflood?

17 A. Yes.

18 Q. Is there any condition that is a hazard with
19 production or to the environment as far as you know or
20 can detect from your work there?

21 A. Yes.

22 Q. There is a hazard?

23 A. Yes.

24 Q. What is the hazard?

25 A. The H2S.

1 **Q. And what do you do about that?**

2 A. Well, where we have the waterflood, we don't
3 have that much H2S because that water controls the H2S.
4 We don't get the gas flow there.

5 The other areas where we've shut down these
6 wells where we've lost that production 'cause there is
7 no waterflood there, so we've got all that gas -- we
8 lost our outlet for our gas through Targa. Targa used
9 to buy the gas, and then they stopped buying it. So we
10 can't vent --

11 **Q. What was the problem with that?**

12 A. Well, you have to vent all that gas. You can't
13 vent it because of the hazard of -- where you going to
14 vent it to? You can't flare it.

15 **Q. Okay. The Division has entered an exhibit here**
16 **showing that production has gone down to almost nothing.**
17 **When did you lose the contract with Targa?**

18 A. It was before I started there, which I've been
19 there a year and a half.

20 **Q. And when you started working there, what was**
21 **the condition of the equipment?**

22 A. It's good equipment. It's top-notch equipment.
23 Whoever -- when Cano did that or whoever had that before
24 this current company had it, they did an outstanding job
25 of, you know, installing all that stuff. It's top-notch

1 equipment I've ever seen. Working for Phillips and
2 other companies that I've been around, I've never seen
3 equipment like this, that it's that high quality and
4 pretty good engineered like I haven't seen it with other
5 companies.

6 **Q. Is it fair to say that it's not a patchwork**
7 **type of equipment?**

8 A. No.

9 **Q. While you have worked there, have you been**
10 **doing a lot of maintenance for patching up equipment?**

11 A. Well, actually, what I've been doing before --
12 just right before this, I was consulting, and I was
13 working for the solar field down there at Pecos as an
14 on-site safety guy. Anyway, when that ended, they had
15 my resume there and they called me from Tulsa and
16 offered me the job to come out there. And so I had --
17 you know, I had been doing some other safety work right
18 before that. So they looked at my resume. They said,
19 you know, We want you to come work for us.

20 **Q. In the waterflood, are there any conditions in**
21 **the operation that you have noticed that require any**
22 **type of remediation or fixing up or anything of that**
23 **nature?**

24 A. Well, anytime you've got H₂S, you're going to
25 have cost of repairs. But for the most part, everything

1 is intact. And basically where our weakness is is
2 probably in at the batteries, where you've got gas
3 venting out of the tanks.

4 **Q. Do you have -- now, do you take safety**
5 **precautions when you're dealing with H2S?**

6 A. Yes. Yes. We've got monitors. We've got air
7 packs.

8 **Q. So that's not out of compliance?**

9 A. No.

10 **Q. When you -- say you have a casing length or**
11 **production string -- a hole on a production string. How**
12 **can you detect that?**

13 A. Normally, all our wells are fitted with meters,
14 so we know from one day to the other how much fluid
15 we're passing. We've got an average that we can go to
16 each well and know how much the normal is on them.

17 But when you've got a hole in the casing,
18 you've got a vacuum. You're going to pull that meter
19 backwards. You're going to pull fluid back, because the
20 way that deal is set up out there is that they've got
21 big manifolds. Every so often, they've got manifolds.
22 So with that oil, the way -- as thick as it is,
23 sometimes those check -- those valves don't close. So
24 you'll get a vacuum, and you'll pull your fluid back.
25 And you'll notice it at the battery that you've lost

1 production. So then you start investigating, and you
2 find the well. You just go up there and open the
3 valves. And you've got that big vacuum. It will just
4 pull your head right to it. I mean, it just -- that's
5 what -- that's how you can tell you've got a hole.

6 **Q. Hole in the casing or hole in the production**
7 **string?**

8 A. Right.

9 **Q. Let me ask you: Do you have any of those**
10 **conditions?**

11 A. No.

12 **Q. What is the effect of not having the gas**
13 **marketed, as far as you know?**

14 A. Well, you can get in trouble real quick because
15 there are some wells out there that are pretty high
16 concentrate of H₂S. So -- I mean, when it's bad enough,
17 when it's 100 parts per million, you get a headache real
18 quick. You'll get high. You're get that high feeling
19 because of the gas and the H₂S, you know. And then
20 after that, you get away from there, and your brain
21 feels like it's getting numb. You get that numb feeling
22 in your --

23 **Q. What I'm getting at is the natural gas that was**
24 **being sold from the -- from the field, what effect has**
25 **that had on oil production and shutting in wells?**

1 A. Well, we shut so many wells down because we
2 can't -- we can't vent the gas. We can't sell the gas.
3 So we've had to shut those down. And like I say, on our
4 waterflood, they lost a big pump here two years ago.
5 That's why our water production -- our injection rates
6 have come way down, because we put smaller triplex pumps
7 in, and so our water injection has come way down.

8 **Q. Now, you don't deal with any of the financial**
9 **aspects of the operation?**

10 A. No. No.

11 **Q. Let me ask you finally: Do you see any**
12 **conditions out there that would merit shutting down the**
13 **entire field just because of, say, a water pollution**
14 **problem or another environmental hazard?**

15 A. No.

16 MR. PADILLA: We'll pass the witness.

17 EXAMINER JONES: Mr. Herrmann?

18 CROSS-EXAMINATION

19 BY MR. HERRMANN:

20 **Q. Mr. Ochoa, thank you for coming in today.**

21 **Have you been authorized to represent Cano**
22 **today at hearing?**

23 A. I was called to come in because I was the
24 closest available person that's, you know, familiar with
25 that.

1 Q. Who called you?

2 A. Orville.

3 Q. Orville Nichols?

4 A. Yes.

5 Q. Have you been authorized to commit any
6 resources to return the field to compliance?

7 A. No. As a contractor, I'm not authorized to do
8 that.

9 Q. So you operate the field for revenue for what
10 we'll call the Cano San Andres Unit?

11 A. Yes.

12 Q. How many -- how much staff is there on a daily
13 basis?

14 A. There's two.

15 Q. Two individuals for 323 wells?

16 A. Well, like I say, we're not producing all
17 those. We don't need more than what we've got.

18 Q. Are you aware of any plan of development of the
19 field?

20 A. No. We just run the daily operations there.
21 That's -- and we get our paychecks, so --

22 Q. Are you aware of any plan to return these wells
23 to production or plug and abandon them?

24 A. Just from previous, the guys that were there
25 before. You know, they -- they said they had plans, but

1 I don't know what they were.

2 Q. So no plans or none that you're aware of?

3 A. No.

4 Q. And has Cano instructed you to commence any
5 effort to temporarily abandon these wells?

6 A. No.

7 Q. Are you aware of any efforts to run mechanical
8 integrity tests on these wells?

9 A. No.

10 Q. You mentioned they lost a large pump on the
11 unit. Are you aware of any effort to replace that pump?

12 A. Just from the other guy that was there before.
13 He said they had talked about replacing -- getting
14 bigger -- big H pumps like they had before.

15 Q. Now, you had mentioned that there is an H2S
16 hazard, and that is why these wells are shut in?

17 A. Yes.

18 Q. And according to your testimony, that's why
19 Targa has stopped marketing the gas on the field or --

20 A. I don't know why they stopped buying the gas.
21 But we asked -- I guess he was supervisor over all our
22 production, and we asked him why Targa wasn't -- and
23 Targa said they could only handle 38,000 cubic foot a
24 day from us, and we're producing way more than that to
25 start our pumping unit. So --

1 Q. And who was the supervisor?

2 A. Robert McKenzie used to be there. He's over in
3 Texas.

4 Q. And did he work for Cano?

5 A. Yes.

6 Q. Do you know --

7 A. Well, I don't know if it's Cano or if it's --
8 NBI is the one who makes our checks. So --

9 Q. When was that?

10 A. Oh, it's been a year.

11 Q. So roughly 2017, sometime around there?

12 A. Yeah.

13 Q. Regarding the equipment you said was on-site,
14 you said it was high quality. If it is high quality,
15 why are they not producing these number of wells?

16 A. Because of the H2S.

17 Q. And they're not selling gas from those wells,
18 so they're just shut in?

19 A. Targa's actually taken their compressors out to
20 the south of us where they used to pull that gas to.
21 And I don't know why they did that. But --

22 Q. So would it be safe to say that there are
23 probably more wells shut in without compressors?

24 A. Well, they weren't buying gas. A year and a
25 half ago, they weren't buying gas. We had those wells

1 already shut in. So --

2 Q. So there is no gas being produced on-site?

3 A. No.

4 Q. So any gas that is produced from Cano's
5 production, is that being vented or flared?

6 A. Yes. And it's only there where we're flooding.
7 So it's a minimum amount of gas.

8 Q. Do you know if they've gotten approval from the
9 district for venting that gas or flaring?

10 A. I don't know.

11 Q. Do you know how many wells in this field are
12 clarified as oil versus injector versus gas?

13 A. No. There are so many injectors and there are
14 so many wells.

15 Q. Referring to the inactive well list that we had
16 submitted as Exhibit 2, there's a well type column.
17 Would you tell me if any wells in that well type column
18 are identified as gas wells?

19 A. There are no gas wells out there.

20 Q. So wells that are shut in for gas production
21 are not even classified as --

22 A. Right, because they're basically oil wells.

23 Q. Uh-huh. But they're not producing either?

24 A. No. That was the problem why we couldn't --
25 why they're shut down, is they make too much gas. And

1 it's just --

2 Actually, when the other operator was there
3 right before -- well, it's been almost a year and a
4 half -- I asked, Why we don't start those wells? And he
5 said, Well, we've got too much gas. I said, Why don't
6 we start those and see what it'll do? Well, we did it
7 for two days, and we vented into our -- we've got one --
8 there's like five batteries out there. And the one in
9 the middle, it's called the number one battery. That's
10 what we used to vent to. The stuff coming off the
11 waterflood is very low. You can just smell it, but
12 there is no -- you can't hear it. But when we turned
13 the two side on, which is 20-some wells, almost 30 wells
14 over there, it sounded like a jet plane the next day
15 there at that one battery, so we had to shut it down
16 because it just -- the hazards to the cattle. And even
17 though it's probably -- the closest ranch house is
18 probably three miles, it was a hazard to us or to
19 anybody that goes through there. So we shut it back
20 down.

21 **Q. Uh-huh. Do you expect more wells to be shut in**
22 **because of this issue?**

23 A. No. Like I said, we're just doing the
24 waterflood.

25 **Q. Which isn't producing H2S?**

1 A. Well, it produces some, but it's very minimal
2 because very little gas is coming in. It's like the 25
3 Mcf that you're talking about. It's probably that that
4 we vent.

5 **Q. So far as Cano's 323 wells go, they have -- we**
6 **presented testimony that 269 are inactive being that**
7 **they haven't produced for 15 months, and you're not**
8 **aware of any plan by Cano to temporarily abandon or**
9 **produce or plug those wells?**

10 A. No. I asked questions, but I never got a
11 satisfactory answer to any of them.

12 **Q. Thank you.**

13 MR. HERRMANN: I don't have any further
14 questions.

15 EXAMINER JONES: Mr. Frerichs?

16 MR. FRERICHS: No questions, sir.

17 MR. PADILLA: I have a follow-up question.

18 REDIRECT EXAMINATION

19 BY MR. PADILLA:

20 **Q. Mr. Ochoa, I take it that there's oil in the**
21 **underlying oil fields of those wells?**

22 A. Yes, there is.

23 **Q. If those wells are plugged and abandoned, that**
24 **oil will not be produced, right?**

25 A. That's correct.

1 MR. PADILLA: That's all I have.

2 EXAMINER JONES: Mr. Lowe?

3 CROSS-EXAMINATION

4 BY EXAMINER LOWE:

5 Q. Good morning.

6 A. Good morning.

7 Q. How you doing?

8 A. Good.

9 Q. I like your work history. It's very admirable,
10 in my opinion.

11 A. Thank you.

12 Q. What's your -- let me -- just for clarification
13 on my end, you're a contractor for Cano, or you work for
14 Cano?

15 A. A contractor.

16 Q. And in your contractor duties, what's your task
17 as a contractor, generally?

18 A. Well, like I said, when I started there, there
19 was another guy in charge. And they hired me, you know,
20 to kind of assist him. And then he went to work
21 somewhere else, so I just assumed the duties.

22 Q. Which entails everything, inspection and OSHA
23 stuff and --

24 A. Yeah. Yes, pretty much.

25 Q. And you stated that out of 320 wells, there are

1 two inspectors, two people that inspect all those wells?

2 A. Well, like I say, we're not running all the
3 wells. We're just running just the flood part. And
4 then there is probably 30 wells -- oil wells, and then
5 there are probably that many injectors. And then there
6 are some sub wells, which when you talk about sub wells,
7 they're actually reader pumps. They're just more water
8 wells for the injection system. So you're probably
9 talking a total of probably 40, 45.

10 Q. Okay. And when you come across a scenario to
11 any well that you come across, say if there is a release
12 of some sort, who do you call for that? Do you call
13 someone from Cano or do you call the OCD district
14 offices?

15 A. No. We call our office.

16 Q. You call your office?

17 A. And they notify whoever they need to notify.

18 Q. Okay. Are you aware of any -- where are the
19 majority of your wells, I guess, in your view, right
20 now? What county, approximately?

21 A. They're in Chaves County.

22 Q. Chaves County. Okay.

23 And of those wells, are you aware of any
24 like contamination -- major contamination in that area?

25 A. No. The only -- we had one injection line

1 rupture, but it was right on the lease road. We
2 probably didn't lose 25 barrels, because I just gotten
3 there at the time.

4 Q. But not your contamination, but historical
5 contamination of some sort anywhere?

6 A. Well, in the past, they had, you know, major
7 spills, you know, and they didn't clean them up.

8 Q. Yeah.

9 A. But, you know, grass and weeds have come up
10 through there. Like, you can't see it. But when you
11 get out in it, you can see that there was previous oil
12 spills or line ruptures or whatever.

13 Q. Okay. Well, in my duties through the OCD, I
14 used to go a lot to the areas, compressor stations and
15 well lines, down that way. And the majority of people
16 I've come across and talked to about a scenario at their
17 specific, whatever, facility that I went to go see, they
18 had to defend their spill or their contamination
19 compared to other contaminations in the area.

20 So I'm not too sure if your overall company
21 is aware -- I guess to be aware of things -- I've seen a
22 few wells that have not been tended in a way, I guess,
23 that I've come across statewide, that the people in
24 question had to defend themselves to say that this is
25 their contamination and not this other contamination.

1 So I'm not too sure if you-all are aware of that. And
2 if you do go down that route, it's -- I don't know.

3 So right now, from what I gather, these
4 current wells, the topic for right now, are in that
5 status because you have all this H2S that you have and
6 you're shutting in and you're using what H2S you get for
7 flooding, correct?

8 A. That's correct, yeah. It's minimal, the
9 flooding part.

10 Q. So was Targa the only place you would dispose
11 or get rid of your H2S before?

12 A. Yes. That's the only one they marketed to.
13 That's the only pipeline that comes in from the south to
14 us. I mean, if you've ever been -- have you ever been
15 out there?

16 Q. Yes.

17 A. It's, you know, forever to any town.

18 Q. Yes.

19 A. It's an hour's drive from Roswell. So yeah,
20 it's a pretty isolated area, and that's the only company
21 that bought the gas from that area.

22 Q. Do you know if there are H2S -- I know H2S is
23 prevalent down that way. Is Targa the only company that
24 other operators give their H2S to?

25 A. I think they're in the same condition we are

1 because they took those compressors out from there that
2 Targa had. So in that area, they're not buying gas
3 anymore for whatever reason.

4 **Q. Okay. And you've been working for Cano for**
5 **one-and-a-half years?**

6 A. Yes.

7 **Q. That's all the questions I've got. Thank you.**

8 EXAMINER JONES: Mr. Brooks?

9 EXAMINER BROOKS: No questions.

10 CROSS-EXAMINATION

11 BY EXAMINER JONES:

12 **Q. So one-and-a-half years meaning what? 2016?**

13 A. Yeah.

14 **Q. What month did you start?**

15 A. It's actually 14 or 15 months. In November of
16 2016.

17 **Q. Okay. So you said that Targa quit taking the**
18 **gas before you got there?**

19 A. Yeah. They weren't taking it when we got
20 there.

21 **Q. How far back?**

22 A. I don't know how far back they went from there.

23 **Q. But basically -- so you really don't know the**
24 **capability of the individual wells to produce if you**
25 **were able to have the gas all processed and gathered; is**

1 that right? In other words, if you had to pick which
2 wells should be plugged or which wells should still stay
3 on, you couldn't really tell until you get the gas back
4 on line; is that correct?

5 A. Yes, pretty much. But you could look at their
6 old records, and the wells that are there are fairly
7 good wells.

8 Q. So just look at one of those years --

9 A. Yeah.

10 Q. -- of all the wells?

11 Do the inspectors from the BLM or the OCD,
12 do they call you when they come out?

13 A. They might call Tulsa, but they don't call us.
14 Out where we're at, it's like pony express. It's hard.
15 You've got to find the right hill, and today it might
16 work -- your cell phone might work there. Tomorrow, you
17 just have to find another area. So it's -- the
18 communication part is terrible.

19 Q. So you need to call ahead, and Tulsa needs to
20 call you?

21 A. Yes.

22 Q. And then you coordinate so they'll be safe out
23 there?

24 A. (Indicating.)

25 And probably if Tulsa would have someone

1 specific that, you know, would contact us in the field,
2 it would be easier to communicate to know what we needed
3 to do or what.

4 Q. So are you aware of any treating --
5 gas-treating money that would have to be spent out there
6 to start gathering the gas again? Would they have to
7 put in some amine units or something? Are those already
8 out there, or did they take them away?

9 A. I think they were there, but I don't know if
10 they were Targa's or whose they were.

11 Q. Are they still there?

12 A. Yeah.

13 Q. Okay. Thanks.

14 EXAMINER JONES: Is that it for this case?

15 MR. PADILLA: I don't have anything else.

16 EXAMINER JONES: Okay. Any final
17 statements from the attorneys in this case?

18 CLOSING ARGUMENT

19 MR. HERRMANN: Mr. Examiner, I think the
20 Oil Conservation has presented its case, that Cano is
21 continuing to fail to meet regulations and requirements
22 by the State of New Mexico to produce.

23 I would also request that the Examiner take
24 administrative notice of Order R-9210, which was adopted
25 when they adopted the plugging rule that established

1 that -- required abandoning -- wells be plugged and
2 abandoned in the interest of protecting correlative
3 rights and eliminating waste.

4 We were presented testimony that Cano is
5 barely treading water. I anticipate more wells will
6 become inactive, and, therefore, the relief we requested
7 should be granted.

8 EXAMINER JONES: Mr. Padilla?

9 CLOSING ARGUMENT

10 MR. PADILLA: Well, Mr. Examiner, first of
11 all, I'd like to call your attention to the pre-hearing
12 statement that we initially filed in terms of the
13 financial aspects of this case. But this is a very
14 unusual case where the Division has -- is merely going
15 on the basis of the 15-month rule, saying you're an
16 inactive well, you have -- you have to plug the well.

17 The testimony from Mr. Ochoa has been that
18 those wells can be productive. If you plug those wells,
19 then you're going to create waste. That's the classic
20 definition of waste, is leaving oil production in the
21 ground. The big problem here, obviously, is getting rid
22 of the gas. And I think there is a market for the
23 natural gas. Short of that, this well -- this field
24 could be very productive and profitable. That's the
25 problem as I see it. It's a different compliance case

1 here that we have. Ordinarily, we'd say, Okay, the
2 inactive wells are there; plug them. But you have
3 reserves, obviously, and you have a big problem getting
4 rid of the gas. So it's a different kind of a problem.

5 I think that Cano Petro should be given
6 further opportunity, which I understand they're trying
7 to either get better financing to continue this project
8 or to sell to someone who does have the financial
9 ability to do it. But plugging the wells is just going
10 to be expensive to the Division or for the surety
11 company who is on the line here with the bonding. So I
12 don't know. It's just a very different case, and I
13 think we could probably, down the line, fashion some
14 remedy short of having to plug these wells.

15 EXAMINER JONES: Thank you.

16 Mr. Frerichs?

17 CLOSING ARGUMENT

18 MR. FRERICHS: Yes. Thank you, sir.

19 I'll echo Mr. Padilla's comments, that this
20 is an unusual situation and that blindly following the
21 rules without some exercise of discretion is probably
22 not in anyone's best interest here.

23 And as a final comment, I'll point out that
24 the Division's own witness, even in somewhat of a
25 worst-case scenario, suggested that any compliance order

1 would ask that Cano come up with a plan for doing
2 something within 45 days and not necessarily requiring
3 that all wells -- all inactive wells be plugged or even
4 begin to be plugged within that 45-day period.

5 So taking all those thoughts into
6 consideration, we would ask, on behalf of the surety,
7 that the Hearing Examiner carefully review these facts
8 and exercise some discretion in putting together any
9 type of order that really serves the best interest not
10 just of Cano but the State and the citizens.

11 Thank you, sir.

12 EXAMINER JONES: Thank you very much.

13 That being all in this case, this case is
14 taken under advisement, 16040.

15 Thank you, Mr. Frerichs. I'm going to hang
16 up now.

17 MR. FRERICHS: All right. Thank you for
18 letting me appear this way.

19 (Case Number 16040 concludes, 11:18 a.m.)

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1 STATE OF NEW MEXICO
2 COUNTY OF BERNALILLO

3

4 CERTIFICATE OF COURT REPORTER

5 I, MARY C. HANKINS, Certified Court
6 Reporter, New Mexico Certified Court Reporter No. 20,
7 and Registered Professional Reporter, do hereby certify
8 that I reported the foregoing proceedings in
9 stenographic shorthand and that the foregoing pages are
10 a true and correct transcript of those proceedings that
11 were reduced to printed form by me to the best of my
12 ability.

13 I FURTHER CERTIFY that the Reporter's
14 Record of the proceedings truly and accurately reflects
15 the exhibits, if any, offered by the respective parties.

16 I FURTHER CERTIFY that I am neither
17 employed by nor related to any of the parties or
18 attorneys in this case and that I have no interest in
19 the final disposition of this case.

20 DATED THIS 22nd day of April 2018.

21

22

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