

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

ORIGINAL

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

Case No: 14657

APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION FOR A  
COMPLIANCE ORDER AGAINST McDONNOLD OPERATING, INC., REVOKING  
INJECTION PERMITS R-3269 AND WFX-510 FOR THE LANGLIE JACK  
UNIT, LEA COUNTY, NEW MEXICO.

REPORTER'S TRANSCRIPT OF PROCEEDINGS  
EXAMINER HEARING

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BEFORE: WILLIAM V. JONES, Technical Examiner  
DAVID K. BROOKS, Legal Examiner

July 7, 2011

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, WILLIAM V. JONES, Technical Examiner, and DAVID K. BROOKS, Legal Examiner, on July 7, 2011, at the New Mexico Energy, Minerals and Natural Resources Department, 1220 South St. Francis, Drive, Room 102, Santa Fe, New Mexico.

REPORTED BY: Irene Delgado, NM CCR 253.  
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A P P E A R A N C E S

FOR THE APPLICANT:

ENERGY MINERALS AND NATURAL RESOURCES DEPARTMENT  
 OF THE STATE OF NEW MEXICO  
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I N D E X

OPENING BY MR. SWAZO	05
CLOSING BY MR. SWAZO	46
DANIEL SANCHEZ	
Direct by Mr. Swazo	09
Cross by Mr. McDonnold	32
CRAIG McDONNOLD	
Direct Testimony by Mr. McDonnold	36
Cross by Mr. Swazo	38
EXHIBITS	
EXHIBITS 1, 4, 5, 7 and 9 - 15 ADMITTED	31
EXHIBITS A and 1 - 5 MARKED	36

1 EXAMINER BROOKS: Okay. At this time we will call  
2 Case Number 14657, application of the New Mexico Oil  
3 Conservation Division for a compliance order against  
4 McDonnold Operating Inc., revoking Injection Permits R-3269  
5 and WFX-510 for the Langlie Jack Unit. The county is not  
6 specified in the title, but it's apparently Lea County, New  
7 Mexico.

8 Call for appearances.

9 MR. SWAZO: Sonny Swazo on behalf the Oil  
10 Conservation Division, and I believe Mr. McDonnold is here  
11 pro se.

12 MR. McDONNOLD: I'm right here. What do I need to  
13 do?

14 EXAMINER BROOKS: Okay. Are you with McDonnold?

15 MR. McDONNOLD: I am Craig McDonnold. I'm not an  
16 attorney, so I don't know what I need to do here. Do I need  
17 to come up there and sit down?

18 EXAMINER BROOKS: You may come up and sit at the  
19 table off to my right. House left, stage right.

20 MR. SWAZO: Mr. Hearing Examiner, I would like to  
21 have E.L. Gonzales -- I did list him as a potential witness,  
22 and I wanted to call him on the phone and just have him  
23 available. I don't anticipate calling him, unless as a  
24 rebuttal witness.

25 EXAMINER BROOKS: Okay. And Mr. Sanchez is going to

1 be a witness?

2 MR. SWAZO: That's correct. That's my only other  
3 witness.

4 EXAMINER BROOKS: I guess we should get Mr. Gonzales  
5 on the telephone before we swear the witnesses so he can be  
6 sworn, also.

7 (Telephonic connection made with Mr. Gonzales.)

8 MR. GONZALES: Good morning, OCD.

9 EXAMINER JONES: Good morning, E.L. We have Case  
10 14657 called today, and you are a potential witness, I  
11 understand. I will turn you over to your attorney, Sonny  
12 Swazo.

13 MR. SWAZO: Hi, E.L. We are about to proceed with  
14 the hearing in application for a compliance order against  
15 McDonnold Operating Incorporated. We are going to have --  
16 I'm going to have you listen in on the hearing.

17 EXAMINER BROOKS: Excuse me. E.L., can you hear  
18 Sonny?

19 MR. GONZALES: Barely.

20 EXAMINER BROOKS: You may approach the telephone  
21 when you are addressing Mr. Gonzales to make sure that he can  
22 hear you. Come on forward.

23 MR. SWAZO: Hi, E.L. This is Sonny. We are about  
24 to begin the hearing for the McDonnold Operating Incorporated  
25 case. You are going to go ahead and listen to the testimony.

1 I don't anticipate calling you as a witness unless it's as a  
2 rebuttal witness. If you have any questions, or if you can't  
3 hear the proceedings, let us know so we can stop and make  
4 sure that you are listening to the proceedings. Okay?

5 MR. GONZALES: I understand.

6 MR. SWAZO: At this time I'm going to turn it over  
7 to the Hearing Examiners.

8 EXAMINER BROOKS: Okay. The court reporter will  
9 need to swear the witnesses. Mr. Gonzales, you may have  
10 trouble hearing the court reporter, but if you can speak  
11 loudly so as to try to make yourself heard.

12 EXAMINER BROOKS: Mr. Sanchez.

13 MR. SANCHEZ: Daniel Sanchez.

14 EXAMINER BROOKS: And the witness on the phone is  
15 E.L. Gonzales.

16 (Oath administered.)

17 MR. GONZALES: Yes.

18 MR. SANCHEZ: Yes.

19 EXAMINER BROOKS: Very good. You may proceed,  
20 Mr. Swazo.

21 MR. SWAZO: Mr. Hearing Examiner, may I approach and  
22 hand out my exhibits?

23 EXAMINER BROOKS: You may.

24 MR. SWAZO: What we are asking for in this case is  
25 we are asking for an order finding the operator in violation

1 of 5.9, the operator in violation of its injection permits,  
2 requiring operator to correct the compliance issues  
3 identified today by date certain, requiring operator to  
4 promise -- I'm sorry -- requiring operator to provide Daniel  
5 Sanchez with proof of its compliance with the order by a date  
6 certain, and setting this up for a follow-up hearing for the  
7 next hearing immediately following the date set to see if  
8 operator's authority to inject in the Langlie Jack should be  
9 revoked.

10 We believe that the operator's injection permits are  
11 revokable for -- are revokable under two theories, one is 5.9  
12 and the other is due to his non-compliance with his injection  
13 permits. Under the injection rules, an operator's injection  
14 authority may be revoked if an operator is out of compliance  
15 with 5.9, and, in this case, operator is out of compliance  
16 with 5.9 due to inactive wells. They are over the tolerated  
17 limit allowed by 5.9.

18 The alternative or additional theory that we believe  
19 that operator -- that operator's injection permits are  
20 subject to revocation under is the fact that operator is in  
21 violation of injection -- in violation of the terms of its  
22 injection permits. The operator has failed MITs, and has had  
23 failed MITs. Operator has been injecting into failed MIT  
24 wells despite shut-in orders by the OCD. Also the operator  
25 has been maybe falsely reporting injection. Operator also

1 has not been reporting injection, and also operator is not  
2 managing its wells and facilities to prevent spills and  
3 pollution or reporting or taking corrective action with  
4 regard to the spills at its sites.

5 Now, although we believe that operator permits can  
6 be revoked under these two theories, we are not seeking  
7 revocation at this time. We want operator to correct the  
8 compliance issues identified today and provide proof of its  
9 compliance to the OCD Compliance and Enforcement manager by a  
10 date certain.

11 If operator takes the corrective actions that are --  
12 that are identified in today's hearing prior to -- let me  
13 back up. If operator takes the corrective actions identified  
14 in today's hearing, the OCD will not seek revocation of its  
15 injection permits. However, if operator does not comply with  
16 the order, then we would be seeking revocation at that  
17 follow-up hearing.

18 We have tried to get operator to correct its  
19 compliance issues without having to go to hearing, but we  
20 have been unsuccessful in getting operator to correct its  
21 compliance issues or follow OCD rules. Operator did not  
22 repair its injection wells until we filed this hearing  
23 application, even though we sent operator a letter of  
24 violation on March 10, 2010, and a notice of violation on  
25 April 23, 2011. We got no response to either.

1 Operator ignored OCD's directives not to inject into  
2 MIT failed wells that had demonstrated leaks until those  
3 wells were actually repaired. And this was after we had sent  
4 operator a letter of violation on March 10, 2010, and a  
5 notice of violation on April 23, 2011. The district office  
6 even had to call the operator on one occasion after OCD  
7 inspectors caught one of the wells actively injecting.

8 The OCD has had issues with operator timely filing  
9 injection reports. Originally this application was --  
10 originally when we filed this application, operator had not  
11 filed its injection reports for January or February of this  
12 year. Operator has since filed those reports, but now is  
13 late for April, 2011. In addition, we have actually had to  
14 send out compliance -- we have actually had to send out a  
15 couple of letters threatening to cancel operator's authority  
16 to transport because operator has not filed its -- had not  
17 filed its injection reports.

18 Also operator is not properly -- is not properly  
19 handling its spills at its facilities or wells. We have a  
20 spill in this case where the operator did not report the  
21 spill of produced water because, in operator's opinion, it  
22 was only two barrels. You are going to hear testimony from  
23 Daniel Sanchez that it was -- that it was more than two  
24 barrels, that it wasn't just two barrels.

25 However, the spill of produced water that occurred

1 in this case was spread out on occasion and covered with dirt  
2 instead of being properly remediated, and it was still very  
3 wet when the OCD visited the site a few days after the spill  
4 allegedly happened.

5 And, with that said, I would like to go ahead and  
6 start my case.

7 EXAMINER BROOKS: Very good. You may proceed.

8 DANIEL SANCHEZ

9 (Having been sworn, testified as follows:)

10 DIRECT EXAMINATION

11 BY MR. SWAZO:

12 Q. Could you please identify your name for the record?

13 A. Daniel Sanchez.

14 Q. And, Mr. Sanchez, what is your title?

15 A. I'm the compliance and enforcement manager.

16 Q. What are your duties as compliance and enforcement  
17 manager?

18 A. I supervise the four district offices, the  
19 Environmental Bureau here in Santa Fe, I am the program  
20 director for the UIC Program. I'm the liaison between the  
21 BLM and OCD on enforcement and compliance issues, and I deal  
22 with any compliance and enforcement issues that come up on  
23 application.

24 Q. What is the OCD asking for in this case?

25 A. As you stated in the opening statement, we are

1 asking for a Hearing Examiner's order stating that McDonnold  
2 is in violation of 5.9, that it's in violation of its  
3 injection permits, and those rules be part of those permits.  
4 We are asking that McDonnold issues a report to -- to myself  
5 stating when the compliance issues have been met, that the  
6 Hearing Examiner set a date certain. What I'm looking at is  
7 probably about 90 days from the issuance of the order. If  
8 Mr. McDonnold feels he needs more time, I don't have any  
9 objections to that. And also to set a hearing date from that  
10 deadline to have McDonnold come back in and prove that all  
11 these issues have been taken care of.

12 Q. And under what theories are you seeking revocation  
13 of operator's injection permits?

14 A. McDonnold's violation of 5.9 and of its injection  
15 permits.

16 Q. Now, is there a rule that allows for revocation of a  
17 permit based on operators non-compliance of 5.9?

18 A. Yes. That's Rule 19.15.26.8.

19 Q. Is that identified -- is that OCD Exhibit  
20 Number 2?

21 A. Yes, it is.

22 Q. Would you read the relevant part of the rule that  
23 pertains to this case?

24 A. "The Division may revoke a permit for injection  
25 issued under 19.15.26.8 after notice and hearing if the

1 operator is not in compliance with Subsection A of  
2 19.15.5.9."

3 Q. And is operator in violation of 5.9?

4 A. Yes, they are.

5 Q. Would you explain how?

6 A. 5.9, one of the relevant parts of 5.9 is concerning  
7 inactive wells. An operator can only have so many inactive  
8 wells and still be in compliance. At this time, McDonnold is  
9 out of compliance with their inactive wells.

10 Q. The provision that you are talking about, is that  
11 identified in OCD Exhibit Number 2, the 5.9 Section?

12 A. Yes.

13 Q. Would you read that?

14 A. That's 5.9, Part 4. "An operator is in compliance  
15 with Subsection A if the operator has no more than the  
16 following number of wells out of compliance with 15.25.8 that  
17 are not subject to an agreed compliance order setting a  
18 schedule for bringing the wells into compliance with 15.25.8  
19 and imposing sanctions if the schedule is not met.

20 "Two wells or 50 percent of the wells the operator  
21 operates, whichever is less, if the operator operates 100  
22 wells or less," will keep an operator in compliance.

23 Q. And how many wells does -- does the OCD record show  
24 operator operating?

25 A. 36.

1 Q. And so under this provision, at most, operator may  
2 only have two wells out of compliance with the inactive well  
3 rule?

4 A. Yes.

5 Q. And how many wells does operator have on the  
6 inactive well list?

7 A. Seven.

8 Q. And is OCD Exhibit Number 3 the inactive well list  
9 as of Tuesday, July 5?

10 A. Yes, it is. I also looked it up this morning as  
11 well, and it hasn't changed. There is still seven on the  
12 list.

13 Q. Are the seven wells subject to an agreed compliance  
14 order at this time?

15 A. No.

16 Q. Now, the second theory that you are proceeding for  
17 revocation is operator is in violation of injection permits  
18 under rules referenced therein. Which permits are you  
19 referring to?

20 A. There is two of the original permits which was Order  
21 R-3269, and the second one, WFX-510.

22 Q. And these permits are for an injection -- I'm  
23 sorry -- for waterflood projects?

24 A. Yes, they are.

25 Q. And the Langlie Jack Unit Numbers 4, 12, 14, and 17

1 are under these permits?

2 A. Yes. Originally under R-3269, it was the 12, 14,  
3 and 17. Under WXF-510, the Langlie Jack Unit Number 4 was  
4 added to that permit.

5 Q. And the date of the original permit R-3269 -- I  
6 mean -- yes, R-3269?

7 A. July 10, 1967.

8 Q. That's when it was issued?

9 A. Yes.

10 Q. And you said that the -- that that permit --  
11 actually, let me back up a little bit. Is that permit  
12 identified as OCD Exhibit Number 4?

13 A. Yes, it is.

14 Q. And was that taken from the Division's files?

15 A. Yes.

16 Q. And you said that the Langlie Jack Unit 12, 14, and  
17 17 are actually under this permit?

18 A. Yes.

19 Q. Although, I see different names. Have the names  
20 been changed?

21 A. Yeah. The names were changed, but they are the same  
22 wells.

23 Q. And there was a subsequent permit, WFX-510?

24 A. Yes.

25 Q. When was that issued?

1 A. April 19, 1983.

2 Q. And I believe you testified that that actually  
3 extended the waterflood to include the language in  
4 Number 4?

5 A. Yes.

6 Q. Okay. Would you explain to the Hearing Examiners  
7 how operator is in violation of -- of these injection  
8 permits?

9 A. There is several ways. The first is that they  
10 failed -- all four of these wells failed their MITs which are  
11 scheduled every five years. They were injecting despite  
12 those failures and notice from the OCD to shut in those  
13 wells. They are not reporting injection, and they are not  
14 managing their wells to prevent surface damage, and failure  
15 to report releases that occurred due to some of those  
16 failures.

17 Q. I want to back up because I want to address  
18 something that you said. You said wells are required to  
19 undergo MIT every five years. Can a well be tested every  
20 year or under certain conditions if necessary?

21 A. Yes.

22 Q. So it's not just one, it's the two wells have to be  
23 tested every five years?

24 A. No. As a matter of fact, our UCS program actually  
25 does tests on a annual basis and they perform an MIT every

1 five years.

2 Q. So there is annual tests, five-year tests, and  
3 special circumstances tests --

4 A. Yes.

5 Q. -- if necessary? Let's talk about the first way the  
6 operator is in violation of its injection permits, which I  
7 believe you said is failed MITs. Would you explain the  
8 factual basis for the failed MITs?

9 A. Yes, all four of those wells were tested on March 9  
10 of 2010. All four of them failed. On the Number 12 there  
11 was communication between the tubing and the casing. On the  
12 Number 14 there was a bad wellhead leak while performing a  
13 pressure test, and on the Number 17 there was a surface leak  
14 while pressure testing that well.

15 Q. Okay. And what did the failures indicate?

16 A. That there were serious repairs needed on those  
17 wells, and that they were -- they were actually operating in  
18 violation of the terms of the permit at that time.

19 Q. And that they actually had leaks?

20 A. Yes.

21 Q. And was operator given a deadline to repair the  
22 wells?

23 A. Yes, that was June 12 of 2010.

24 Q. Okay. Would you turn to OCD Exhibit Number 7. Is  
25 that the letter of violation that you are speaking about?

1 A. Yes, it is.

2 Q. And this was taken from the Division's records?

3 A. Yes.

4 Q. Did OCD have to -- I don't know if I asked this  
5 question, but were the wells repaired by the June 12  
6 deadline?

7 A. No, they weren't.

8 Q. And did OCD have to take additional action to get  
9 operator to repair the wells?

10 A. Yes, we did.

11 Q. And what was that action?

12 A. We issued a notice of violation in March, on March  
13 23, 2011, to the operator.

14 Q. Is that notice of violation OCD Exhibit Number 13?

15 A. Yes, it is.

16 Q. And this notice of violation is -- you actually  
17 wrote this document?

18 A. Yes.

19 Q. And you signed it and sent it out?

20 A. Yes, I did.

21 Q. Did operator respond to the notice of violation?

22 A. No. They were given March 30 or March 31 deadline  
23 to do so, and my notes indicate that on April 13 we checked  
24 and we had not yet received a response from McDonnold, so no,  
25 they did not respond to that.

1 Q. And this notice of violation was actually sent by  
2 certified mail?

3 A. Yes.

4 Q. Was it signed for by operator?

5 A. Yes, it was.

6 Q. And does the signature on the receipt appear to be  
7 the same signature that -- does it appear to be the same  
8 signature for the hearing notice in today's case?

9 A. Yes.

10 Q. And did operator repair -- did operator repair the  
11 wells at that time?

12 A. No.

13 Q. Did the OCD have to take additional action to get  
14 operator to repair the wells?

15 A. Yes, the OCD did.

16 Q. And what was that action?

17 A. On May 10 of this year we filed this case.

18 Q. And did operator begin repairing the wells after OCD  
19 filed the application for today's hearing?

20 A. Yes, they did.

21 Q. I want to go back to the NOV. Does the NOV indicate  
22 that the OCD tried to resolve these compliance issues without  
23 going to -- actually going to hearing?

24 A. Yes, it did.

25 Q. Now, you talked -- you testified that operator began

1 repairing the wells after the application in this case was  
2 filed. Which wells have been repaired?

3 A. The 12, the 14, and the 17 have all been repaired.  
4 The Number 4 Well, we have indications that it's going to be  
5 plugged. I haven't seen anything in the well file submitted  
6 yet, the C-103 intent to plug the well, but apparently the  
7 operator has informed the district office that they do have  
8 that well on the list to be plugged.

9 Q. Now, Number 12, 14, and 17, have those wells since  
10 passed MITs?

11 A. Yes, they have.

12 Q. And when did the wells pass MITs?

13 A. The Number 12 and Number 14 both passed on June 9 of  
14 this year, and the 17 passed on June 20.

15 Q. Now, would you explain how the failed MITs are a  
16 violation of the terms of the permits?

17 A. Language within the permits indicates that the  
18 operator is to take all steps necessary to ensure the  
19 injected water enters only the proposed injection interval.  
20 It is not permitted to escape to other formations or onto the  
21 surface. It also dictates to the operator to immediately  
22 notify the supervisor of the Hobbs Division of the failure of  
23 the tubing casing or packer in said well or the leakage of  
24 water from or around said well and shall take such steps as  
25 may be timely or necessary to correct such failure or

1 leakage, and they failed to do either one of those.

2 Q. Did the permit also require the operator -- or does  
3 the permit also require the waterflood project to operate in  
4 accordance with the injection rules?

5 A. Yes, it does.

6 Q. And which injection rules are we talking about?

7 A. WFX-510 references Rules 702 through 706. Those  
8 rules have been renumbered, and they are now -- 702 is  
9 15.26.9, 703 is 15.26.10, 704 so is 26.11, 20 -- or 705 is  
10 26.12 and 706 is 26.13.

11 Q. And what is the -- what does Order R-3269 say with  
12 regard to compliance with injection rules?

13 A. It also lists those rules -- actually, Rule 701  
14 through 704. 701 has since been renamed or renumbered to  
15 26.8.

16 Q. But the substance of the rules stayed the same?

17 A. Yes.

18 Q. And so would you explain how the operator is in  
19 violation of the permit terms under the -- how the operator  
20 is in violation of the terms of the permit?

21 A. By the wells failing their MITs, there is a good  
22 indication that they are not keeping those up, keeping the  
23 fluids injected in the zones that were permitted, therefore  
24 it fails to meet the terms of the permit.

25 Q. And what about assuring mechanical integrity?

1           A.    That, too.  They were injecting into the wells after  
2 they were told those wells failed the MITs and were told to  
3 shut them.

4           Q.    Operator has taken corrective actions -- apparently  
5 took corrective actions with some of the issues after we  
6 filed this application for the hearing, so what I want to try  
7 to -- what I want to know is, where exactly do we stand on  
8 the issue of a failed MIT at this point?

9           A.    At this point we are okay on the MITs except for the  
10 Number 4, which, like I said before, they intend to plug.  
11 The other three wells, I believe, are injecting.

12          Q.    So the operator has taken corrective action with the  
13 Number 4?

14          A.    Yes.

15          Q.    Whether it's plugging or repairing the well?

16          A.    Yes, that's right.

17          Q.    The second way -- you indicated that the second --  
18 the second way that the operator is in violation of its  
19 injection permits is that it's injecting into wells that have  
20 not passed OCD approved MITs or is false reporting.  When you  
21 say that operator is injecting or false reporting, what do  
22 you mean?

23          A.    Well, if the operator were to claim today that they  
24 actually weren't injecting into those wells during that time  
25 we told them to shut them in, then their records would

1 indicate that they were, and that would be a case of false  
2 reporting.

3 Q. And would you explain the factual basis for this  
4 violation?

5 A. Either the operator didn't -- the operator is  
6 injecting into those wells, or they are reporting those on  
7 the C-115 as being actively injecting, which would be wrong.  
8 If they are accurate in their C-115s, then that would  
9 indicate that they are injecting when they were told not  
10 to.

11 Q. Okay. Was operator told not to inject into the  
12 wells?

13 A. Yes, absolutely.

14 Q. And was that in the -- was that the violation issued  
15 on March 10 -- 3-10?

16 A. Yes.

17 Q. Was operator -- excuse me -- when else was operator  
18 told not to inject into these wells?

19 A. The notice of violation that was issued on March 23.

20 Q. And why do you believe that operator injected into  
21 those wells?

22 A. That was based on their reporting and also on  
23 subsequent inspections by OCD compliance officers.

24 Q. Why don't you go ahead and explain the inspections.

25 A. Okay. On April 27 of 2010 there was an inspection

1 on the Number 12, and the operator indicated that they were  
2 injecting at that time, and this was after the original  
3 letter went out. And on April of 2011, the Number 14 was  
4 inspected, and once again they indicated that they were  
5 injecting into this unit.

6 Q. And when OCD inspectors saw injection occurring into  
7 the Langlie Jack Unit Number 12, what did the district office  
8 do?

9 A. They informed McDonnold that they needed to shut  
10 that well in again. And on the 14 there was a note in the  
11 well inspection history where the staff manager of the Hobbs  
12 office actually called McDonnold and informed them that they  
13 had to shut the well in.

14 Q. Okay. Now, you -- you testified that operators  
15 reports also show injections into the wells. Are those  
16 injection reports OCD Exhibits 9 through 12?

17 A. Yes, they are.

18 Q. And would you show us exactly where the production  
19 is being -- where it actually shows injection into the well  
20 after -- after March 9, 2010?

21 A. Yeah. It occurred on two wells. On the Number 12  
22 it shows injection volumes for May through December of 2010,  
23 which was after the initial letter of violation went out  
24 requiring them to shut in the well. And on the Number 14  
25 that actually shows production also from May through the end

1 of the year. And on the Number 17, not only was it May  
2 through the December, but it also shows injection in January,  
3 February, and March of this year.

4 Q. And are Exhibits 9 through 12, are they taken from  
5 the Division's records?

6 A. Yes, they are.

7 Q. And where did the production information come  
8 from?

9 A. Through the well search feature in our database.

10 Q. And I believe that the areas that you are  
11 referencing to as far as where it shows production, those are  
12 on the second page of each exhibit?

13 A. Yes.

14 Q. And operator hasn't filed the production reports for  
15 April at this point?

16 A. No, they have not.

17 Q. And the 17 shows injection up to -- shows injection  
18 up to and including the March reporting period?

19 A. Yes.

20 Q. So it appears that they are actively injecting?

21 A. Yes.

22 Q. And so would you explain to the Hearing Examiners  
23 how operator is in violation of the terms of the permits?

24 A. Once again, they failed the MITs. They continued to  
25 inject after they were ordered to shut in the wells. They

1 were injecting into wells which possibly could have been out  
2 of formation, and they were reporting this injection in  
3 violation of the terms of the permit and the rules that were  
4 part of the permits.

5 Q. And so where are -- what does operator need to do  
6 with this issue? I mean, what does operator need to -- what  
7 type of -- what corrective action does operator need to take  
8 with this issue as of right now?

9 A. If the operator indicates that the reporting was a  
10 mistake, then they will need to update those records. If  
11 there was injection into the -- into the Number 4 as well,  
12 then he would also have to update the C-115s to indicate  
13 that.

14 Q. And what about any future behavior -- any future  
15 injection into wells that failed MITs?

16 A. When an operator is given an order to shut in a well  
17 due to a failure of an MIT, I would hope that in the future  
18 they would go ahead and follow those orders and take care of  
19 the wells.

20 Q. Okay. Another way that operator is out compliance  
21 with the terms of its injection permits is not reporting  
22 injection. Would you explain the factual basis for this  
23 violation?

24 A. That was a little bit simpler. Even when an  
25 injection well does not inject in a certain month, the C-115

1 still needs to be submitted, and it has to show zeros.  
2 McDonnold had had a history of sending in these reports late,  
3 and currently they are late again on these reports, so we  
4 would state that they are in violation of the permit because  
5 the permit does require them to file the C-115s, as do the  
6 rules.

7 Q. And is there a deadline for filing the C-115s?

8 A. Yes, 45 days after the last day of that month of  
9 production.

10 Q. And so where are we at with this issue as of  
11 today?

12 A. We are still waiting for the April production report  
13 or injection reports.

14 Q. And how would you like operator to handle the  
15 injection reporting in the future?

16 A. We would like him to submit them in a timely  
17 basis.

18 Q. And I believe the final way that the operator is out  
19 of compliance with their -- with the terms of their injection  
20 permits is that they are not managing the wells with surface  
21 damage and not reporting or -- or correcting a spill?

22 A. That's correct.

23 Q. Would you explain the factual basis for this  
24 violation?

25 A. Yes. The Number 14 was inspected real recently, the

1 18th, I believe it was, or the 14th. On April 15 the OCD  
2 inspector observed that the operator was backflowing a well  
3 into a portable tank, and they were ordered to disconnect  
4 that tank. Three days later there was an inspection and the  
5 tank had overflowed and created quite a spill at that site.  
6 So that was on April 18.

7 Q. Was the tank -- had the tank been disconnected?

8 A. No, not at that time.

9 Q. And did you visit the site?

10 A. Yeah, I visited the site a couple of days later on  
11 the 20th.

12 Q. And what did you see when you visited the site?

13 A. The spill had not been addressed. What the company  
14 had done was gone in with fresh soil and basically sprinkled  
15 it on top of the spill.

16 Q. And I want to go back to that inspection, I believe,  
17 three days -- or on April 18. Had operator done anything  
18 with the spill at that time?

19 A. No.

20 Q. It wasn't bladed?

21 A. Not that I recall, no.

22 Q. If you look at OCD Exhibit Number 15, do you  
23 recognize these pictures?

24 A. Yeah. These were the pictures that were taken on  
25 the 20th during the inspection that I was party to.

1 Q. And do these pictures accurately represent the site?

2 A. Yes, they do. There's -- it's a little hard to tell  
3 on those ones, but what they do show is that, even though the  
4 spill had been covered, the liquid was still coming up  
5 through the soil that they had used to cover up the spill.  
6 Some of these pictures actually show the extent of the spill.  
7 It will show you the tank in the distance and the amount of  
8 fresh soil that was used to cover up the spill, which clearly  
9 indicates that the spill was more than two barrels. It was  
10 much more than that, in my opinion. And then the very last  
11 picture shows the tank itself and where the spill had  
12 occurred over the top of the tank.

13 Q. Had operator notified the OCD of the spill at that  
14 time?

15 A. No.

16 Q. And when did operator notify the OCD?

17 A. That was on May 18, 2011.

18 Q. Would you identify Exhibit Number 14, OCD Exhibit  
19 Number 14?

20 A. That is the C-141 that was submitted to the OCD  
21 Hobbs office.

22 Q. And was this submitted after the hearing application  
23 in this case was filed?

24 A. Yes.

25 Q. Does operator -- does the C-141 indicate whether

1 notice was required?

2 A. The operator indicated that it wasn't required since  
3 the volume of the release was only two barrels.

4 Q. And does that look like two barrels to you?

5 A. No, it did not.

6 Q. How is this a violation of the terms of the  
7 permit?

8 A. The terms of the permit require them to maintain the  
9 sites, the injection well sites and any additional equipment  
10 at the facilities and to avoid releases and report those  
11 releases when they do occur. They did not do that.

12 Q. And what's the status with this history of as of  
13 today?

14 A. It is currently being cleaned up. We do have some  
15 initial sampling done, and they -- McDonnold has until July  
16 19 to complete the cleanup on this site.

17 Q. And was that indicated on the bottom of this  
18 C-141 --

19 A. Yes, it is.

20 Q. -- where it states, "Hobbs" -- where it states,  
21 "Submit final C-141 by July 19, 2011"?

22 A. Yes.

23 Q. And that's after all the remediation has occurred?

24 A. Yes.

25 Q. So in sum, what does operator have to do in this

1 case?

2 A. For one, they need to come into compliance with 5.9  
3 so that they can continue injecting.

4 Q. And I'm sorry to interrupt, they will do that by  
5 bringing down their inactive well list?

6 A. They need to bring at least five wells into  
7 compliance to get down to two. They need to complete the  
8 cleanup on the Number 14 site by the July 19 deadline. They  
9 need to submit the proper paperwork and plug the Number 4  
10 Well. They need to do something with their bookkeeping or  
11 their internal policies that will help them understand that  
12 when the OCD issues a shut-in order, that they abide by the  
13 shut-in order. Basically just bringing into compliance all  
14 the issues that were brought up in this case.

15 Q. Okay. Do they need to correct any injection reports  
16 it has filed with the OCD?

17 A. Yes. That, too.

18 Q. Does it need to file the injection report for April  
19 2011?

20 A. Yes, it does.

21 Q. And you said they have to plug the -- the Langlie  
22 Jack Number 4, if they decide to plug it, make it a little  
23 bit bigger, they would either have to repair or plug it?

24 A. That's correct.

25 Q. And how long do you think operator should be given

1 to come into compliance with these issues?

2 A. I'm looking at 90 days from the issuance of this  
3 order, but like I said earlier, if McDonnold feels they need  
4 more time, I don't have anything against that.

5 Q. Just to summarize, OCD is asking the Division for an  
6 order finding operator in violation of 5.9?

7 A. Yes.

8 Q. Finding operator in violation of its injection  
9 permits?

10 A. Yes.

11 Q. Requiring operator to correct compliance issues  
12 identified at today's hearing?

13 A. Yes.

14 Q. Requiring operator to provide you with living proof  
15 of its compliance with the order by date certain?

16 A. Yes.

17 Q. And an order setting a follow-up hearing for the  
18 next hearing immediately following the date certain to  
19 determine whether operator's authority to inject into the  
20 Langlie Jack should be revoked?

21 A. That's correct.

22 MR. SWAZO: I don't have any more questions at this  
23 time, Mr. Hearing Examiner, but I would like to move for the  
24 admission of -- I forgot to do this at this beginning, but I  
25 would like to move for the admission of Exhibit Number 1,

1 which is my affidavit notice in this case.

2 EXAMINER BROOKS: Okay.

3 MR. SWAZO: I would also like to move for the  
4 admission of Exhibits 4, 5, 7, 9, 10, 11, 12, 13, 14, and 15.

5 EXAMINER BROOKS: Okay. Which was that? 4, 5, 7 --

6 MR. SWAZO: 9, 10, 11, 12, 13, 14 and 15.

7 EXAMINER BROOKS: Okay. Exhibits 1, 4, 5, 7 and 9  
8 through 15 will be admitted.

9 (Exhibits 1, 4, 5, 7, 9 through 15 admitted.)

10 MR. SWAZO: Thank you.

11 EXAMINER BROOKS: Mr. McDonnold, at this time you  
12 have the opportunity to ask questions of Mr. Sanchez. You  
13 will be given an opportunity to make a statement at a  
14 subsequent time after Mr. Sanchez's testimony is completed,  
15 but you may question Mr. Sanchez at this point in time if you  
16 wish to do so.

17 MR. McDONNOLD: First of all, I would like to  
18 apologize for the late reporting. The girl that works for me  
19 is overworked. It's not OCD's problem. I realize it's my  
20 problem. That will be resolved. As far as the injecting  
21 into the wells that the OCD claims had not passed the MIT,  
22 the statement here, this -- here is the charts.

23 (Documents distributed.)

24 MR. McDONNOLD: (To Mr. Sanchez.) First of all,  
25 read that, if you would.

1 MR. SWAZO: Mr. Hearing Examiner, can I ask the  
2 witness if he has a copy.

3 MR. McDONNOLD: Right here. Would you like some?

4 EXAMINER BROOKS: Please. Do you have -- go ahead.

5 MR. McDONNOLD: It just shows that the wells were  
6 tested. The OCD was notified 24 hours ahead of time by a man  
7 named Mr. Mark Whitaker. Apparently he said that the charts  
8 were fine. We were unaware that the OCD of Santa Fe refused  
9 to accept those charts for a long period of time. We were  
10 injecting into these wells. They were mechanically sound.

11 EXAMINER BROOKS: Okay. Mr. McDonnold, if -- going  
12 back to what I said --

13 MR. McDONNOLD: I'm sorry.

14 EXAMINER BROOKS: -- at the beginning, you may ask  
15 questions --

16 MR. McDONNOLD: I'm sorry.

17 EXAMINER BROOKS: -- of Mr. Sanchez. You will be  
18 given an opportunity to make a statement at the conclusion of  
19 Mr. Sanchez's testimony.

20 CROSS-EXAMINATION

21 BY MR. McDONNOLD:

22 Q. Mr. Sanchez, what does that appear that McDonnold  
23 Operating did there?

24 A. According to your record here, you -- you went ahead  
25 and tested these wells without the OCD being present. You

1 claim just now that Santa Fe did not accept the charts. Are  
2 you aware that Santa Fe does not review these charts? They  
3 go through the district office and only the district  
4 office --

5 Q. Well --

6 A. Are you aware of that, sir?

7 Q. No, I was not aware. I don't know exactly all what  
8 you all do.

9 A. Exactly. We do not review those charts up here.

10 Q. Okay.

11 A. If they were done properly, they would have been  
12 reviewed by the district office and would have been accepted.  
13 I have no records in the well files indicating that those --  
14 those MITs and those charts were being accepted by the OCD at  
15 that time. And that's out of the Hobbs issued office.

16 Q. They weren't accepted, but they were run, is that  
17 correct?

18 A. According to you they were run, yes, but we did not  
19 accept them because we were not a witness.

20 Q. And these were -- are these not a xerox of the  
21 charts right here?

22 A. I couldn't tell you that. It looks like a chart.  
23 I'm familiar with the chart, but I couldn't tell you if  
24 that's what it is.

25 Q. But that is it right there. All righty.

1 MR. McDONNOLD: Okay. I guess that's it for me.

2 EXAMINER BROOKS: Okay. Mr. Sanchez, exactly what  
3 is it you are asking the director to order?

4 THE WITNESS: What we are asking for here is an  
5 order showing that McDonnold operating is in violation -- is  
6 currently in violation of 5.9 and of the terms of its  
7 injection permit. We are not asking those permits be revoked  
8 at this time, but that McDonnold comes into compliance with  
9 these issues, the reporting issues as well, by a date  
10 certain.

11 We want to see proof that McDonnold has actually  
12 done the work and brought everything into compliance as we  
13 have asked, and we are asking that after whatever date the  
14 Hearing Examiner finds acceptable, that a follow-up hearing  
15 is held to determine whether or not McDonnold has actually  
16 done the work. At that time we will either ask that the case  
17 be dismissed or that the permits be revoked.

18 EXAMINER BROOKS: Okay. First of all, you are  
19 asking for a finding that there have been violations?

20 THE WITNESS: Yes, sir.

21 EXAMINER BROOKS: Then you are asking for an order  
22 directing that McDonnold come into compliance by a specified  
23 date and also file reports demonstrating that compliance?

24 THE WITNESS: That's correct.

25 EXAMINER BROOKS: And then fourth, you are asking to

1 set a follow-up hearing in this case to determine whether or  
2 not compliance has been achieved and whether or not the  
3 permit should be revoked?

4 THE WITNESS: That's correct.

5 EXAMINER BROOKS: Okay. Do you have any questions,  
6 Mr. Jones?

7 EXAMINER JONES: Well, if -- if they -- if they are  
8 given a hearing order declaring them in violation of 5.9, how  
9 would they get out of violation of 5.9?

10 THE WITNESS: They have several ways of doing that.  
11 Five of the wells on that inactive well list need to be  
12 addressed. They can either be plugged, they can be put on  
13 temporary abandonment status, or they can be brought back on  
14 to production.

15 EXAMINER JONES: Those inactive wells, have they  
16 been on there a long time.

17 THE WITNESS: Only one of them that I recall was on  
18 for a length of time, that was 2001. The other ones are  
19 fairly recent.

20 EXAMINER JONES: I don't have any more questions.

21 EXAMINER BROOKS: Okay. Anything further,  
22 Mr. Swazo?

23 MR. SWAZO: No, I don't have any more questions.

24 EXAMINER BROOKS: Okay. The witness may step down.  
25 Are you going to call Mr. Gonzales at this time?

1 MR. SWAZO: No, I'm not. The OCD rests.

2 EXAMINER BROOKS: Okay. Mr. McDonnold, I'm going to  
3 number -- mark the documents you have placed here as, the OCD  
4 hearing notes will be marked McDonnold Exhibit 1. The  
5 stapled -- well, I see you have put numbers on everything  
6 except the hearing notes, so I'm going to mark the hearing  
7 notes as Exhibit A.

8 And then the others will be marked with your numbers  
9 that you already have on them as McDonnold Exhibits Numbers  
10 1, 2, 3, 4, 5, and that will be it.

11 (Exhibits McDonnold A, 1, 2, 3, 4, 5 marked.)

12 EXAMINER BROOKS: Now, Mr. McDonnold, at this time I  
13 will give you the opportunity to make a statement. After the  
14 conclusion of your statement, Mr. Swazo will have an  
15 opportunity to ask you questions.

16 Would you please come over to the witness stand. I  
17 know that involves moving your stuff, but we will give you  
18 indulgence for a few minutes, that way the court reporter can  
19 hear you clearly.

20 MR. McDONNOLD: All righty.

21 CRAIG McDONNOLD

22 DIRECT TESTIMONY

23 MR. McDONNOLD: This is just a statement right here  
24 of what we are going to do to get into compliance.

25 EXAMINER BROOKS: That being Exhibit 1 that you

1 said --

2 MR. McDONNOLD: Yes.

3 EXAMINER BROOKS: When you refer to a document,  
4 please refer to it by number so that when we look at the  
5 court reporter's transcript, it will make sense and we can  
6 tell what you were talking about.

7 MR. McDONNOLD: This is Exhibit A.?

8 EXAMINER BROOKS: Yes. We call that Exhibit A  
9 because all the others were numbered, and we didn't want to  
10 start with zero.

11 MR. McDONNOLD: I apologize. I didn't realize this  
12 was going to be such a formal hearing.

13 EXAMINER BROOKS: You may proceed.

14 MR. McDONNOLD: Like I said, we did get the 12, 14,  
15 and 17 back into compliance. They were in compliance, in our  
16 opinion, prior to that, but I'm not going to kick that dead  
17 horse. I apologize for the two-barrel spill. That was  
18 reported to me by my field guy. I took his word for it. I  
19 agree by looking at those pictures it was more than two  
20 barrels. I agree. The late reporting, once again, my  
21 problem.

22 I have contracted a plugging company, Sterns P & A  
23 Service. They think they will get a rig available in late  
24 August, at which time they are going to start plugging these  
25 wells and we will be in compliance. And other than that, I

1 don't think there's anything else. I don't think there is --  
2 let's see. The April thing C-10 -- that C-115 is filed on  
3 the way. It is in your Hobbs office. There is a lag time  
4 there.

5 Let's see here. I guess that's it. The Langlie  
6 Jack Number 4 which did not pass the MIT is on that list to  
7 get plugged.

8 EXAMINER BROOKS: Okay.

9 MR. McDONNOLD: And that's it. I mean, I'm just  
10 basically -- I'm going to be in compliance hopefully by mid  
11 September, hopefully -- I mean, this is -- excuse me --  
12 middle of October. I'm at the mercy of the plugging company.  
13 I don't own a P and A company.

14 EXAMINER BROOKS: Okay. Is that all?

15 MR. McDONNOLD: Yes, sir.

16 EXAMINER BROOKS: Mr. Swazo, do you wish to ask  
17 Mr. McDonnold questions?

18 MR. SWAZO: Yes.

19 EXAMINER BROOKS: You may proceed.

20 CROSS-EXAMINATION

21 BY MR. SWAZO:

22 Q. Mr. McDonnold, you indicated that the April C-115 is  
23 filed and in the Hobbs office. Are you aware that C-115s are  
24 actually filed electronically?

25 A. I'm just telling you what the girl that does mine

1 told me. I say I don't know first-hand that it was filed.

2 Teresa Wright that works for me told me it had been filed.

3 Q. C-115s aren't filed with the district office. They  
4 are filed electronically, computer database system.

5 A. Okay.

6 Q. Now, you claim that you were in compliance prior to  
7 your recent -- recent return to compliance with regard to  
8 these injection wells?

9 A. Those three, right.

10 Q. When were you exactly in compliance, in your  
11 opinion?

12 A. Let me find those charts. This chart on the Langlie  
13 Jack 17 was from May 12, 2010. The chart on the Number 12  
14 was run May 7, 2010.

15 Q. I'm sorry. The chart for the -- first of all,  
16 what's the first?

17 A. Langlie Jack Unit Number 17.

18 Q. 17 was on May 12, 2010?

19 A. Right.

20 Q. And Number 12 was on May --

21 A. Seven.

22 Q. Okay.

23 A. And then the Number 14 was May 11.

24 Q. No MIT for the Number 4?

25 A. If I remember correctly, it did not pass and it was

1 disconnected at that time.

2 Q. When did you file these charts with the OCD?

3 A. Apparently very late. March 24, 2011 -- yeah.

4 Q. Are you familiar with the OCD rule concerning MIT  
5 tests or Mechanical Integrity Tests?

6 A. From a field standpoint, yes.

7 Q. Okay.

8 A. From an administrative standpoint, no.

9 Q. So you're not aware that the rule requires that  
10 copies of the chart are to be submitted to the appropriate  
11 division of the district office within three days following  
12 the test date?

13 A. Well, I mean, I didn't know that, but I realize this  
14 is ridiculously late.

15 Q. And are copies of these charts in your exhibits?

16 A. Yes.

17 Q. Which exhibit?

18 A. B.

19 Q. Would that be Exhibit Number 2?

20 A. It's the one that starts out with, "Mr. Gonzales."

21 Q. And how many pages in is it of these charts?

22 A. The fifth one. Fifth page down is Number 17.

23 Q. These charts don't appear to be witnessed by any OCD  
24 personnel.

25 A. No, they weren't. That was part of that letter that

1 Mr. Sanchez reviewed that was written by my field guy Ronnie  
2 Rogers stating he contacted OCD and notified them 24 hours  
3 prior and Mr. Mark Whitaker.

4 Q. OCD never received the originals -- the original  
5 charts, and we require the original charts to be filed.  
6 Could you explain that?

7 A. I cannot.

8 Q. Okay. Did you submit these charts with a sundry,  
9 with a C-103 Sundry Report?

10 A. Yes. That was the one that was so late, the March  
11 24. It's right there -- right in front of that chart.

12 Q. Okay. So you submitted these charts with a sundry  
13 on March 24, 2011?

14 A. I guess that's what -- I mean, I assume that's what  
15 happened, yes.

16 Q. So you didn't have an approved C-103 -- you didn't  
17 have an approved C-103 until -- well, when you submitted --  
18 when you submitted the C-103 on March 24, 2011, were those  
19 sundries approved?

20 A. (Nodding.)

21 Q. So you did not have -- could you go ahead and  
22 verbalize your answer because this is all being transcribed.

23 A. Yeah, I don't know from an administrative standpoint  
24 in my office what all happened. I will be perfectly honest  
25 with you. I was under the impression that everything was

1 good to go. Obviously it wasn't. It is now, though,  
2 correct?

3 Q. I can't answer your questions.

4 A. Okay.

5 Q. So you did not have an approved C-103 for the MITs  
6 prior to your submission of this -- prior to your March 24,  
7 submission of those MITs. Correct?

8 A. I guess not, no.

9 MR. SWAZO: I don't have any other questions at this  
10 time.

11 EXAMINER BROOKS: Okay. Mr. McDonnold, do you know  
12 at this time what Mr. Sanchez expects of you?

13 THE WITNESS: I believe I do, P and A 5 wells,  
14 Step 1.

15 EXAMINER BROOKS: Okay. Five wells. Okay.

16 THE WITNESS: Clean up the spill on the Number 14.  
17 I know I saw where we did the sampling on that. I don't know  
18 what remedial actions have been taken at this point, but I  
19 will when I walk out of this office.

20 EXAMINER BROOKS: Okay. And you know that you have  
21 to submit a plan for how you are going to clean it up and get  
22 OCD to approve that?

23 THE WITNESS: Yes. We hired -- in the past we have  
24 hired Environmental Plus, and some of those other companies  
25 that do that.

1 EXAMINER BROOKS: They will prepare your plan and  
2 then you have to get OCD's approval on this it you start  
3 work.

4 THE WITNESS: Am I going to be able to get that done  
5 prior to July 19? I mean --

6 EXAMINER BROOKS: Well, you know, I don't know.

7 THE WITNESS: From the standpoint --

8 EXAMINER BROOKS: Just -- that's up to Mr. Sanchez.  
9 I'm just telling you what the rules require of you. Okay.  
10 What else -- you said five wells P and A, clean up the spill  
11 at Number 14. Anything else?

12 THE WITNESS: I don't know if there is anything  
13 specific. Oh, the reporting will be addressed.

14 EXAMINER BROOKS: Reporting. That's the C-115s?

15 THE WITNESS: Yes, sir.

16 EXAMINER BROOKS: Correct? Now, do you know if the  
17 C-115s are current now, or if there are -- are there unfiled  
18 C-115s for --

19 THE WITNESS: Yeah. You know, I was told that --  
20 that we were current. Obviously Mr. Swazo says I'm not, so I  
21 would go with him.

22 EXAMINER BROOKS: Okay. And this is the 7th. A  
23 week from tomorrow will be July 15, and the reports for  
24 through May will be due at that time. You're aware of that?

25 THE WITNESS: Okay.

1 EXAMINER BROOKS: So whatever your situation may be  
2 now, you also have to get another month's report in within  
3 eight days from now to make it. Anything else that you're  
4 aware of that you need to do?

5 THE WITNESS: That's all my notes show.

6 EXAMINER BROOKS: Okay. About what time can you get  
7 up -- by what date can you get all of that done?

8 THE WITNESS: The P and A is the one that is out of  
9 my hands because I'm relying on a plugging company,  
10 obviously.

11 EXAMINER BROOKS: Right.

12 THE WITNESS: But Bobby Sterns, the owner of the  
13 company, tells me he can get to me in late August, and then  
14 we'll start. And we have submitted the P and A plans to the  
15 OCD. We have done that, the C-103s.

16 EXAMINER BROOKS: C-103s have been approved?

17 THE WITNESS: They have not been approved, no, we  
18 just submitted them.

19 EXAMINER BROOKS: When did you submit them?

20 THE WITNESS: Here recently, submitted one prior to  
21 Buddy Hill retiring, one or two because I talked to him on  
22 the phone.

23 EXAMINER BROOKS: Buddy Hill only retired last  
24 week.

25 THE WITNESS: Okay. Is that right? Okay. So it's

1     been recent.   Okay.

2                   EXAMINER BROOKS:   But you don't remember what time  
3     frame?

4                   THE WITNESS:   Well, it's in the deal, I believe.

5                   EXAMINER BROOKS:   Okay.   Okay.   Very good.   Well,  
6     have you been advised of any deficiencies in the C-103 and  
7     plugging plans that you filed?

8                   THE WITNESS:   No.   We're waiting for you all to, I  
9     guess --

10                  EXAMINER BROOKS:   Yeah.

11                  THE WITNESS:   -- mark up the P and A procedures.

12                  EXAMINER BROOKS:   There has been no response --

13                  THE WITNESS:   No, not yet.

14                  EXAMINER BROOKS:   -- that you received?   Okay.   You  
15     said they could get to you in late August, and you said  
16     something in your testimony about October.

17                  THE WITNESS:   Well, that's just going to give me a  
18     little leeway as far as him not being there in late August.  
19     He is plugging some wells for Endeavor, I forget, two other  
20     operators in front of me, and then he is going to get on  
21     mine.   But if he gets there in late August, it shouldn't take  
22     about more than four or five days apiece to plug.

23                  EXAMINER BROOKS:   Do you think you can get all of  
24     this accomplished by October 15?

25                  THE WITNESS:   If he can be there in late August,

1 yes.

2 EXAMINER BROOKS: Okay. Perhaps some extra time  
3 would be advisable. Suppose we said October 31.

4 THE WITNESS: All right.

5 EXAMINER BROOKS: Okay. Do you have any follow-up,  
6 Mr. Swazo?

7 MR. SWAZO: No, I don't.

8 EXAMINER BROOKS: Very good. You may stand down.  
9 Do you want to call Mr. Gonzales?

10 MR. SWAZO: No, I think that we've -- we have had  
11 sufficient evidence.

12 EXAMINER BROOKS: Very good. Mr. Gonzales?

13 MR. GONZALES: Yes, sir.

14 EXAMINER BROOKS: I believe we are not going to need  
15 you after all.

16 MR. GONZALES: Thank you, sir.

17 EXAMINER BROOKS: Have a good day. Did you wish to  
18 sum up -- to do a summation, Mr. Swazo?

19 MR. SWAZO: I believe that the Hearing Examiners  
20 understand what we are asking for in this case. I will -- I  
21 will toss this out, that Mr. McDonnold does not have to wait  
22 until an order is actually issued, to -- to complete these  
23 corrective actions. And if Mr. McDonnold completes the  
24 corrective actions and provides a written statement or  
25 confirmation to Daniel Sanchez of its completion of the

1 corrective actions identified in today's hearing, that we  
2 would not have any problem with -- I don't know if we will be  
3 dismissing the case so that no one would have to be burdened  
4 to come back.

5 EXAMINER BROOKS: Okay. I may have missed this in  
6 testimony, but I don't recall it. Has the spill clean-up  
7 plan been approved, or has there been one submitted or  
8 what -- what stage are we at today?

9 MR. SWAZO: Well, I believe it's been approved. If  
10 you look at OCD Number 13, it requires the -- the final --  
11 14, OCD 14.

12 EXAMINER BROOKS: Oh, okay. Yeah. Then is your  
13 notice of violation --

14 MR. SWAZO: Yeah, 14 at the bottom says, "Conditions  
15 of Approval: Delineate contamination horizontally and  
16 vertically to NMOCD standards. Remediate to same. Confer  
17 with NMOCD Hobbs on both, submit final C-141 by July 19,  
18 2011."

19 EXAMINER BROOKS: Okay. So you are -- you are  
20 satisfied with their plan, and you are ready for them to  
21 start work?

22 MR. SWAZO: Yes, and I believe that they have -- I'm  
23 not sure exactly where they are in terms of the clean up.  
24 They have sampled and delineated -- I'm pretty sure they have  
25 sampled and delineated, and they need to submit the plan and

1 get it approved. I think they are close to getting the site  
2 remediated, based on my conversations with district staff.

3 EXAMINER BROOKS: Okay. I'm still a little  
4 confused. Sampling and delineating issues are part of the  
5 first stage, right?

6 MR. SWAZO: Yes.

7 EXAMINER BROOKS: So you said they had -- they have  
8 done that, or they are doing that?

9 MR. SWAZO: They have done that. According to  
10 district staff, there were conversations with operator's  
11 consultants, and they have sampled and delineated, and so  
12 it's just a matter of reviewing the information as a result  
13 of the sampling and delineation as to exactly where we go.

14 EXAMINER BROOKS: But they haven't given -- the  
15 district has not given them the go-ahead yet?

16 MR. SWAZO: The district did give them the go-ahead.  
17 I mean, they sampled the site and they delineated it, so all  
18 that operator has to do is get that information to the  
19 district office to review, and it might be close to clean up,  
20 according to district staff.

21 EXAMINER BROOKS: Yeah. I'm not sure if the -- I'm  
22 still unsure of what I -- what I was asking, though, whether  
23 or not the district has approved everything -- whether  
24 McDonald and the district office are on the same page as to  
25 what exactly should be done.

1 MR. SWAZO: Let me see if I can clarify this. The  
2 district has given them the go-ahead to start clean-up.

3 EXAMINER BROOKS: Okay.

4 MR. SWAZO: So now the district, I believe, is just  
5 waiting to review the results.

6 EXAMINER BROOKS: Oh, the final clean up?

7 MR. SWAZO: Yes.

8 EXAMINER BROOKS: Very good. That's what I wanted  
9 to know.

10 MR. SWAZO: I just wanted to make one other comment.

11 EXAMINER BROOKS: Sure.

12 MR. SWAZO: Mr. McDonnold was talking about PA'ing  
13 the wells. We just want to make sure the wells come into  
14 compliance. It's his decision if he wants to PA those wells,  
15 if he wants to PA, there are alternatives.

16 EXAMINER BROOKS: His testimony was he was going to  
17 plug them. Five wells, is that all that's at issue?

18 MR. SWAZO: Yes.

19 EXAMINER BROOKS: Anything further that you would  
20 like to say, Mr. McDonnold?

21 MR. McDONNOLD: No, sir.

22 EXAMINER BROOKS: Very good. Case Number 14657 will  
23 be taken under advisement.

I do hereby certify that the foregoing is  
\* a complete record of the proceedings in  
the Examiner hearing of Case No. 14657,  
heard by me on July 7, 2011.

David K. Brooks Examiner  
Oil Conservation Division

## REPORTER'S CERTIFICATE

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I, IRENE DELGADO, New Mexico CCR 253, DO HEREBY CERTIFY THAT ON July 7, 2011, proceedings in the above-captioned case were taken before me and that I did report in stenographic shorthand the proceedings set forth herein, and the foregoing pages are a true and correct transcription to the best of my ability.

I FURTHER CERTIFY that I am neither employed by nor related to nor contracted with any of the parties or attorneys in this case and that I have no interest whatsoever in the final disposition of this case in any court.

WITNESS MY HAND this \_\_\_\_\_ day of July 2010.

  
Irene Delgado, CCR 253  
Expires: 12-31-2011