

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:

ORIGINAL

CASE 15379

APPLICATION OF THE NEW MEXICO OIL CONSERVATION  
DIVISION ("OCD") COMPLIANCE and ENFORCEMENT  
MANAGER FOR A COMPLIANCE ORDER AGAINST DOMINION  
PRODUCTION OPERATING, LLC.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

OCTOBER 29, 2015

Santa Fe, New Mexico

BEFORE: PHILLIP GOETZE, CHIEF EXAMINER  
GABRIEL WADE, LEGAL EXAMINER

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This matter came on for hearing before the  
New Mexico Oil Conservation Division, Phillip Goetze,  
Chief Examiner, and Gabriel Wade, Legal Examiner, on  
October 29, 2015, 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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## I N D E X

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 New Mexico Oil Conservation Division  
 CASE-IN-CHIEF:

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WITNESS BRANDON POWELL

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1 (Time Noted 8:25 a.m.)

2 EXAMINER GOETZE: All right. Let's get back  
3 to the two remaining cases, and we will start in the  
4 order of the docket, case No. 15379, Application of the  
5 New Mexico Oil Conservation Division ("OCD") Compliance  
6 and Enforcement Manager For a Compliance Order Against  
7 Dominion Production Operating, LLC.

8 Call for appearances.

9 MR. HERRMANN: Mr. Examiner, Keith Herrmann,  
10 representing the OCD and applicant.

11 MR. HALL: Mr. Examiner, Scott Hall,  
12 Montgomery and Andrews, all from Santa Fe, appearing on  
13 behalf of the Dominion Production Company, LLC.

14 EXAMINER GOETZE: And do we have witnesses?

15 MR. HERRMANN: Yes. I have two witnesses,  
16 Mr. Brandon Powell and Mr. Daniel Sanchez.

17 MR. HALL: And I have two as well.

18 EXAMINER GOETZE: Would your witnesses  
19 please stand, identify yourself to the court reporter,  
20 and be sworn in, please.

21 (WHEREUPON, the presenting witnesses  
22 were administered the oath.)

23 MR. HERRMANN: Should I begin?

24 EXAMINER GOETZE: Yes. We are going to let  
25 you folks do some opening statements, if you so wish.

1 MR. HERRMANN: Yes. This is regarding two  
2 compliance issues regarding Dominion Production Company,  
3 LLC. The first is ACO-285, which we would like to  
4 present evidence that they're out of compliance with.  
5 And Mr. Powell will be testifying specifically on that  
6 matter. And he also possesses specific knowledge of the  
7 condition of the sites.

8 And Mr. Sanchez will be testifying on the  
9 status of the Dominion's inactive wells and financial  
10 assurance on file with the Division.

11 EXAMINER GOETZE: Mr. Hall.

12 MR. HALL: I have no statement.

13 EXAMINER GOETZE: Very good. Proceed.

14 MR. HERRMANN: I would like to call Brandon  
15 Powell. Here are copies of our exhibits.

16 EXAMINER GOETZE: Thank you.

17 MR. HERRMANN: I have also given Mr. Hall  
18 three copies of our exhibit packet for him and his  
19 witnesses.

20 BRANDON POWELL  
21 having been first duly sworn, was examined and testified  
22 as follows:

23 DIRECT EXAMINATION

24 BY MR. HERRMANN:

25 Q. Mr. Powell, will you please state your name,

1 title, and place of employment for the record.

2 A. My name is Brandon Powell. I work for the New  
3 Mexico Oil Conservation Division, District 3. My title  
4 is I'm the inspection and enforcement supervisor.

5 Q. Could you briefly describe the duties you perform  
6 for the OCD.

7 A. I do well reviews, compliance reviews, I oversee  
8 the inspection staff, I do downhole reviews.

9 Q. Have you previously testified in an expert  
10 capacity before this Division?

11 A. I have.

12 MR. HERRMANN: At this point, I would like  
13 to move to admit Brandon as an expert and a fact witness  
14 in OCD rules and procedures.

15 EXAMINER GOETZE: Mr. Hall.

16 MR. HALL: I've never heard of his expertise  
17 before. Lay a foundation for it.

18 Q. How long have you been reviewing compliance  
19 matters for the OCD?

20 A. I have been with the OCD for over nine years. I  
21 spent five years as the environmental specialist. And  
22 I've spent the last four and a half years, roughly, as  
23 the inspection enforcement supervisor. So I've overseen  
24 most of the OCD rules from environmental to well work.

25 Q. And, approximately, how many enforcement cases

1 have you worked on?

2 A. I haven't quantified them. I would say well over  
3 a 100. I have testified previously as an expert witness  
4 in rule hearings. I have testified as an expert witness  
5 in, I believe, three other enforcement compliance cases.

6 MR. HERRMANN: If I may clarify, this is to  
7 admit him as an expert in OCD rules and compliance  
8 matters, and he also possesses factual knowledge.

9 MR. HALL: If he's being called on to opine  
10 on the interpretation -- excuse me -- and the  
11 application of the Division's rules, I would have no  
12 objection to that.

13 EXAMINER GOETZE: Very good. You are so  
14 qualified.

15 Q. All right. Mr. Powell, could you please identify  
16 Exhibit 1.

17 A. Exhibit 1 is the ACO issued to the Dominion  
18 Production Company. It's ACO-285.

19 Q. Okay. Can you describe the events that led to  
20 the formulation of this Agreed Compliance Order?

21 A. The formulation, we had discovered violations in  
22 the field. And as part of those violations, we did a  
23 review of all of Dominion's injection wells and issued a  
24 notice of violation for those violations.

25 On August 3rd, we had an administrative

1 conference and the ACO is the result of the  
2 administrative conference.

3 Q. Who are the attendees of this administrative  
4 conference?

5 A. Myself, Daniel Sanchez, Charlie Perrin and  
6 personnel from Dominion, including Mr. Burns.

7 Q. And what was the purpose of that meeting?

8 A. It was to resolve the current notice of  
9 violations for the injection wells.

10 Q. Referring to paragraphs five through nineteen in  
11 Agreed Compliance Order 285, Exhibit 1, could you please  
12 briefly summarize the violations that you were  
13 discussing?

14 A. Paragraph five is the rule for defective casing  
15 or cementing, requiring the operator to take action if  
16 they suspect active casing.

17 Paragraph six details violations of that rule,  
18 which is 19.15.16.11, for the South Hospah Unit 39 and  
19 South Hospah Unit No. 17, because those failed MITs.

20 Paragraph seven is OCD rule 19.15.5.11,  
21 Enforceability of Permits and Administrative Orders,  
22 requiring an operator to comply with conditions of their  
23 permit.

24 And paragraph eight details violations of that  
25 rule.

1 Paragraph nine is OCD rule 19.15.26.11(A)(2),  
2 which is a rule going over the testing, monitoring,  
3 step-rate tests, pressure increases -- states in  
4 relevant part, requiring an MIT every five years.

5 Paragraph ten details violations of that rule for  
6 several wells and the last MIT performed on those wells.

7 Q. Approximately, how many wells?

8 A. Fourteen wells.

9 Q. Please continue.

10 A. Paragraph eleven is OCD Rule 19.15.7.14, which is  
11 sundry notices and reports on wells, requiring -- what  
12 actions require sundries, including change of plans and  
13 lift equipment.

14 Paragraph twelve details Dominion's violation of  
15 that rule.

16 Paragraph thirteen is OCD rule  
17 19.15.7.14(B)(2)(h), and the violation of that rule.

18 Paragraph fourteen is OCD rule 19.15.7.14G(4),  
19 requiring their report of pumping equipment or gas  
20 facilities.

21 And paragraph fifteen is detailing Dominion's  
22 violation of that rule.

23 Q. So, just briefly, there were a number of rules  
24 that this was intended to get Dominion to comply with?

25 A. Yes. Do you want me to continue going to twenty?

1 Q. No, that will be fine.

2 In the ordering paragraph or in the ordering  
3 section, did you establish a schedule and time frame to  
4 return to compliance with these violations?

5 A. Yes, we did.

6 Q. And how did you get the schedule and the proposed  
7 methods of complying with the rules?

8 A. The proposed methods to bring the wells back into  
9 compliance was proposed by Dominion. And the schedule  
10 was also proposed by Dominion.

11 MR. WADE: Are you referring to page six of  
12 ten under the order paragraph, and that would be  
13 paragraph two?

14 THE WITNESS: It would go over paragraph two  
15 through, I believe, paragraph six.

16 Q. Would you please identify Exhibit 2.

17 A. Exhibit 2 is a spreadsheet of current items that  
18 were in the ACO that are still not in compliance.

19 Q. And could you please identify what still needs to  
20 be done to comply with this ACO?

21 A. I will go down the list. Hospah Sand Unit  
22 No. 100 was required by the ACO to be plugged by  
23 March 15, 2015. As of our last inspection date of  
24 10/23/15, that has not been achieved.

25 The Santa Fe Railroad No. 87, which was required

1 to be plugged by March 15, 2015, on our inspection of  
2 10/23 of 2015, that has not been achieved.

3 Santa Fe Railroad No. 97 was required to be  
4 plugged by March 15, 2015. As of our inspection on  
5 10/23/15, that has not been achieved.

6 The South Hospah Unit No. 15 was required to be  
7 plugged by March 15, 2015. As of our inspection of  
8 10/23/15, that has not been achieved.

9 South Hospah Unit No. 60 was required to be  
10 plugged by March 15, 2015. As of 10/23 of 2015, that  
11 has not been achieved.

12 The South Hospah Unit No. 39 was required to have  
13 a liner run in the well by January 15, 2015. As of  
14 October 23, 2015, it has not been achieved.

15 The South Hospah Unit No. 51 is required to be  
16 MIT'd by January 31st, 2015. As of our inspection on  
17 October 26, 2015, that has not been achieved.

18 The Hospah Sand Unit No. 58 was required to have  
19 an MIT performed on it by January 31, 2015. As of our  
20 inspection on October 26, 2015, that has not been  
21 achieved.

22 The Lone Pine Dakota D Unit No. 14 was required  
23 to have an MIT performed by January 31st, 2015. As of  
24 our inspection on October 23rd, 2015, that has not been  
25 achieved.

1 Q. Were these exhibits prepared by you or under your  
2 direction?

3 A. Yes, they were.

4 MR. HERRMANN: At this point, I would like  
5 to move to admit OCD Exhibits 1 and 2.

6 MR. HALL: No objection.

7 EXAMINER GOETZE: No objections, very well,  
8 then Exhibits 1 and 2 are so entered.

9 (Oil Conservation Division ("OCD") Exhibits  
10 1 and 2 were offered and entered.)

11 MR. HERRMANN: At this point, I have no  
12 further questions for Mr. Powell, though I would reserve  
13 the right to recall him for rebuttal testimony.

14 EXAMINER GOETZE: Very good. Mr. Hall.

15 CROSS-EXAMINATION

16 BY MR. HALL:

17 Q. Mr. Powell, I wonder if you could help us  
18 understand the scope of the hearing this morning.

19 Do you have a copy of the Division's docket  
20 before you?

21 (Pause.)

22 Q. If we look at the Division's docket for today,  
23 the Docket No. 32-15, Case No. 1, and if you refer to  
24 that docket entry, it refers only to the compliance  
25 order 285; is that correct?

1       A. It reads, Finding that the operator is in  
2 violation of compliance order 285 in the Oil and Gas  
3 Act -- and it goes through the rules -- and then it  
4 goes, Requiring the operator return to compliance with  
5 Division rules by date certain and in the event of  
6 noncompliance, request for additional sanctions.

7       Q. By the way, could you identify the county we're  
8 in?

9       A. The county? Is it Santa Fe County? I don't know  
10 the county here.

11       Q. The lands that are the subject of the compliance  
12 order.

13       A. I believe it is McKinley County.

14       Q. If I refer to these properties generally as the  
15 "Hospah leases" and the "Hospah well," will that embrace  
16 all of the wells that are the subject of the compliance  
17 order?

18       A. That would, yes.

19       Q. That is a good way to identify them?

20       A. Yes.

21       Q. All right.

22               And then if you could look at Exhibit 1 before  
23 you -- again the Division's application in this case --  
24 if you could look at it, at paragraph one it refers  
25 to 165 wells in McKinley County; do you see that there?

1 MR. WADE: Which exhibit are you referring  
2 to?

3 MR. HALL: I'm sorry. I do have copies. It  
4 is already in the record, and I don't think there's a  
5 need to introduce the application itself as an exhibit.  
6 But I would like the witness to be able to refer to it.  
7 (BY MR. HALL cont'd:)

8 Q. Let's refer to a copy of the Division's  
9 application in this case. And if you would look at  
10 paragraph one, it refers to 165 total wells; do you see  
11 that?

12 A. Yes.

13 Q. And then at paragraph eleven on page two, it  
14 refers to 72 wells out of a total of 165 wells out of  
15 compliance; do you see that?

16 A. Yes. With the inactive well list, that's  
17 correct.

18 Q. And then at paragraph thirteen on that page two,  
19 it refers to 38 wells that require additional financial  
20 assurance; do you see that?

21 A. Yes.

22 Q. And then if we turn back to your Exhibit 1, the  
23 agreed compliance order, at page six of compliance  
24 order, in the ordering portion, paragraph two, there are  
25 identified nine wells there to be plugged and abandoned;

1 is that right?

2 A. That is correct.

3 Q. And paragraph three identifies an additional well  
4 there is to have a sign placed on it; is that right?

5 A. That is correct.

6 Q. And paragraphs four and five identify two wells  
7 which are to have MITs run on them; is that correct?

8 A. That is correct.

9 Q. So we are talking about a total of --

10 A. I should say paragraph four is the MITs and  
11 paragraph five is for well work to be performed and have  
12 MITs run.

13 Q. All right.

14 If we refer to paragraph ten(f) of the compliance  
15 order, Exhibit 1, it indicates that this order may be  
16 enforced after noticing hearing through the Division's  
17 hearing process; is that a fair statement?

18 A. Yes.

19 Q. Referring back to Exhibit 1, again on page four,  
20 paragraph A, the application refers to the violating  
21 wells. Do you see that?

22 A. Page four at (A) at the top?

23 Q. Yes.

24 MR. HERRMANN: That's the application for  
25 compliance order.

1 A. That is page four of our Exhibit 1; is that  
2 correct?

3 Q. Correct.

4 A. So (A) is the Santa Fe Railroad No. 23?

5 MR. WADE: I believe that the paragraph  
6 starts on page three of ten, at 17, and then lists A  
7 through 80; is that what you're --

8 MR. HALL: Let's refer back to the  
9 application itself.

10 MR. WADE: The application on which page?

11 MR. HALL: It is page four, paragraph A.

12 A. Okay. "Determining that operator wells are not  
13 in compliance with Division Rule 19.15.25.8."

14 Q. And then you are asking the Hearing Examiner to  
15 enter an order requiring the operator to plug and  
16 abandon the violating wells by a date certain; is that  
17 fair to say?

18 A. That is correct.

19 Q. That's --

20 A. Yeah, that's what --

21 Q. And then if you refer to the exhibit to the  
22 application, there are two exhibits attached to it, in  
23 fact, there's an inactive well list and then the second  
24 exhibit is styled, Inactive Well/Additional Financial  
25 Assurance Report.

1 A. Correct.

2 Q. Do you agree with me?

3 A. Yes, those are here.

4 Q. Do you see a definition anywhere in the  
5 application of the, quote, violating wells?

6 A. I do not.

7 Q. Let me ask you this so we can be sure about the  
8 scope of relief that is being asked for by the  
9 enforcement manager here today. Are you asking the  
10 Examiner to enter an order requiring that all of the  
11 wells on the two exhibits to the application be plugged  
12 and abandoned by a date certain?

13 A. We are asking for the wells out of compliance  
14 under 285 --

15 Q. All right.

16 A. -- for the plug.

17 MR. HERRMANN: Let me clarify. Brandon is  
18 specifically testifying on the violations of ACO-285 and  
19 Mr. Sanchez will expand the scope to the wells that are  
20 in violation of OCD Rules 25.8 and 8.9.

21 MR. HALL: It is important for the Examiner  
22 to know the scope of the relief that the Division is  
23 asking of the Examiner here today, is the reason for my  
24 questions.

25 (By Mr. Hall (cont'd:))

1 Q. Let's turn back to the agreed compliance order  
2 again.

3 A. Okay.

4 Q. And again back on page seven, paragraph 10(F), is  
5 part of the prayer that the Division seeks is  
6 enforcement of the order; do you see that?

7 A. Yes.

8 Q. And if we turn to page nine of the compliance  
9 order, paragraph eleven, what is the Division requesting  
10 there?

11 A. Paragraph eleven, The OCD reserves the right to  
12 file an application for hearing to obtain authority to  
13 plug any well identified in Exhibit A and forfeit the  
14 applicable financial assurance if the well poses an  
15 immediate environmental threat.

16 Q. And Exhibit A starts at the bottom of that page,  
17 No. 9; is that right?

18 A. Yes, it does.

19 Q. So those are the wells that we are talking about,  
20 those 16 wells, for purposes of the enforcement of the  
21 compliance order?

22 A. 285 --

23 MR. HERRMANN: I object to that. This is  
24 outside the scope of Brandon's testimony, I mean,  
25 specifically the extent of this application for

1 compliance order, not the agreed compliance order.

2 EXAMINER GOETZE: Would your second witness  
3 provide more clarification on this?

4 MR. HERRMANN: Yes.

5 EXAMINER GOETZE: Would you rather I would  
6 have you address these with the next witness?

7 MR. HALL: Let me ask one more question of  
8 this witness --

9 Q. (By Mr. Hall) -- because I understand you were  
10 actually the inspector on the ground at the Hospah  
11 field; is that right?

12 A. Yes. I've been an inspector, and my inspection  
13 staff has been there as well.

14 Q. In the prayer in paragraph eleven of the  
15 compliance order, can you identify any of the wells in  
16 Exhibit A that pose an immediate environmental threat  
17 that only plugging can prevent?

18 A. I would say that's a broad statement. Inactive  
19 wells, if left out there for a period of time, become  
20 environmental threats. And I believe these all have  
21 been active for an extended period of time, so we don't  
22 know the integrity of those wells at this time.

23 Q. So the answer is, no, you cannot identify any  
24 specific well that poses an environmental threat that  
25 only plugging can resolve?

1 A. I can't identify the condition of those wellbores  
2 downhole, no.

3 Q. You mentioned inactive wells. Do you know the  
4 definition under the Division's rules of an inactive  
5 well?

6 A. I think you had me read the inactive well part.

7 Q. Do you know the definition?

8 A. Not offhand, no, I do not. I did not prepare for  
9 the inactive well.

10 Q. Let me read it to you.

11 "'Inactive well' means a well that is not being  
12 used for beneficial purposes such as production,  
13 injection, or monitoring, and that is not being drilled,  
14 completed, repaired, or worked over."

15 Did I read that rule correctly?

16 A. I don't have it in front of me.

17 MR. WADE: I'm sorry. Could you refer to  
18 the rule number again as well?

19 MR. HALL: It is in the definitions,  
20 19.15.2.7(i)(4).

21 A. That's what it says. And I believe there is an  
22 additional to the (inaudible) that's in the plugging  
23 rule as well.

24 Q. Has the Division consistently interpreted and  
25 adhered to this definition of "inactive well"?

1 A. I am usually not the enforcement person for  
2 inactive wells, so I couldn't speak to how the Division  
3 has acted for those.

4 Q. Is there a witness being presented today who will  
5 address that?

6 A. Yes, sir.

7 MR. HERRMANN: Yes.

8 Q. Turn back to your Exhibit 1, paragraph ten there.  
9 Do you see that there?

10 A. Yes.

11 Q. Is it a list of wells and dates that MITs were  
12 last performed on them?

13 A. Correct.

14 Q. Could you indicate to the Examiner -- let's take,  
15 for example, the very last well on page two, the South  
16 Hobbs Unit 36, when was the last MIT performed on it?

17 ~~Hobbs Unit 36~~  
A. 9/14/2000.

18 Q. It appears there were several wells where the  
19 last MITs occurred in the year 2000; is that right?

20 A. That is correct.

21 Q. And who were the operators of each of those wells  
22 at the time of those MITs?

23 A. I -- I don't know the operator of record at that  
24 time.

25 Q. Do you know why MITs were not required of those

1 operators at the time?

2 A. I didn't come when the other enforcement action  
3 was taken for the other operators. But I do know that  
4 there was enforcement action from our other operators at  
5 that time.

6 Q. Was the requirement that an MIT be performed  
7 within two years of the previous test?

8 A. The rule requires MITs within five years. So the  
9 ones ran in 2000 would have been in violation since  
10 2005.

11 Q. All right. Do you know why the previous operator  
12 was not compelled to perform MITs on those wells?

13 A. I wasn't in this position at that time, so I do  
14 not.

15 Q. What is the date the ACO was signed by the  
16 Division and Dominion?

17 A. It was signed by Dominion on January 17, 2015,  
18 and it was signed by the Division on the 21st of January  
19 of 2015.

20 Q. And do you know how long Dominion has been  
21 operator of record of the Hospah wells?

22 A. I believe since October of 2012.

23 Q. All right.

24 A. And that would be a guess on the date of  
25 operator. I know Dominion was doing work out in the

1 Hospah prior to taking acquisition of the field.

2 MR. HALL: I have no further questions of  
3 this witness.

4 EXAMINER GOETZE: Very good. Redirect?

5 MR. HERRMANN: Yes.

6 REDIRECT EXAMINATION

7 BY MR. HERRMANN:

8 Q. Regarding your current inspection -- I am sorry  
9 and I withdraw that question. Do previous instances of  
10 noncompliance by a prior operator absolve a current  
11 operator from compliance with our rules?

12 A. No, they do not.

13 MR. HERRMANN: No further questions.

14 MR. WADE: Do you want to start?

15 EXAMINER GOETZE: I will let you start. Mr.  
16 Wade, go ahead.

17 EXAMINATION BY EXAMINER WADE

18 MR. WADE: Regarding Exhibit 1 -- and I got  
19 to find the page again -- page seven of ten, paragraph  
20 ten(c), could you read that?

21 THE WITNESS: "Agrees to meet compliance  
22 deadlines established in this order."

23 MR. WADE: And the beginning of ten says,  
24 "By signing this order, operator expressly agrees to  
25 meet compliance deadlines; is that right?

1 THE WITNESS: Correct.

2 MR. WADE: What does that mean to you?

3 THE WITNESS: It means that Dominion  
4 would agree to meet the deadlines that are in this  
5 order.

6 MR. WADE: That were laid out?

7 THE WITNESS: Yes.

8 MR. WADE: And, specifically, just to make  
9 it clear for the record, where are those deadlines laid  
10 out?

11 THE WITNESS: Those deadlines are starting  
12 on page six under the order, paragraph two, going to  
13 page seven, paragraph six.

14 MR. WADE: Okay. And Exhibit 2 specifically  
15 lays out dates where there were requirements referring  
16 back to the order, to the agreed compliance order and  
17 dates of last inspection; is that right?

18 THE WITNESS: That is correct.

19 MR. WADE: And according to Exhibit 2, you  
20 have nine wells that have not met the timeline  
21 requirement?

22 THE WITNESS: That is correct.

23 MR. WADE: I don't have any other questions.

24 EXAMINER GOETZE: Okay.

25 EXAMINATION BY EXAMINER GOETZE

1 EXAMINER GOETZE: Then I will follow up on  
2 this Exhibit 2. You have nine wells located or listed  
3 here. Have you had a chance to look at all nine wells?

4 THE WITNESS: Yes, we have.

5 MR. HALL: At this current status, all these  
6 wells are shut in or what status are they?

7 THE WITNESS: They are all inactive.

8 EXAMINER GOETZE: Inactive. So there is no  
9 pressure monitoring or no shut-in that's been performed  
10 on any of these wells?

11 THE WITNESS: No.

12 Some of them have some rods in the holes and  
13 some of them have nothing attached, but none of them are  
14 active.

15 EXAMINER GOETZE: A majority of these I note  
16 are injection wells which have failed MITs. Have they  
17 been active since or within the last 12 months that you  
18 are aware?

19 THE WITNESS: I apologize. A majority  
20 haven't failed an MIT. The majority have not had a  
21 current MIT.

22 EXAMINER GOETZE: Okay. So they are out of  
23 compliance with regard to testing, not necessarily --

24 THE WITNESS: With regard to testing,  
25 correct.

1 EXAMINER GOETZE: So they have been  
2 operational even though they have not had the  
3 five-year?

4 THE WITNESS: They have not been  
5 operational, no.

6 EXAMINER GOETZE: Fair enough. No further  
7 questions. Your next witness.

8 MR. HERRMANN: I call Mr. Daniel Sanchez.

9 EXAMINER GOETZE: Thank you.

10 THE WITNESS: Uh-huh.

11 DANIEL SANCHEZ

12 having been first duly sworn, was examined and testified  
13 as follows:

14 DIRECT EXAMINATION

15 BY MR. HERRMANN:

16 Q. Will you please state your name, title, and place  
17 of employment for the record.

18 A. My name is Daniel Sanchez, and I am the  
19 compliance and enforcement manager for the Oil  
20 Conservation Division in the Santa Fe Office.

21 Q. Could you briefly describe the duties you perform  
22 for the Oil Conservation Division?

23 A. I oversee all compliance and enforcement matters  
24 for the district offices and for the Division here in  
25 Santa Fe. I oversee the underground injection control

1 program and any work with operators on inactive wells.

2 Q. And have you previously testified in an expert  
3 capacity before the OCD?

4 A. Yes, I have.

5 MR. HERRMANN: I move to admit Daniel  
6 Sanchez as an expert in OCD compliance and enforcement  
7 procedures.

8 EXAMINER GOETZE: Mr. Hall.

9 MR. HALL: No objection.

10 EXAMINER GOETZE: He is so qualified.  
11 Proceed.

12 Q. Have you researched the alleged violations  
13 against Dominion Production Company?

14 A. Yes, I have.

15 Q. Referring to the docket -- do you have a copy of  
16 that?

17 A. Yes.

18 Q. In the title, would you agree that it is resolved  
19 regarding violations of Agreed Compliance Order 285,  
20 violations of the Oil and Gas Act and violations of OCD  
21 rules?

22 A. Yes.

23 Q. So it is not inclusive specifically to just  
24 ACO-285?

25 A. Not the way I read it, no.

1 Q. If we included a list of all Dominion's current  
2 violations, would that title be quite lengthy?

3 A. Yes, it would.

4 Q. Can you please identify OCD -- excuse me. I  
5 withdraw that question.

6 Let's jump ahead to what is identified as OCD  
7 Exhibit 6.

8 A. Okay.

9 Q. Can you, please, identify that.

10 A. This is a copy of the Office of the Secretary of  
11 State's business site. And this indicates that Dominion  
12 Production Company as a foreign limited liability  
13 company.

14 Q. Could you identify the officers?

15 A. Yes. David Burns and W. Andrew Krusen, Jr.

16 Q. And is this the company that we are seeking  
17 compliance action against today?

18 A. Yes, it is.

19 Q. Do you have a copy of the application for  
20 compliance order?

21 A. Yes.

22 Q. Could you identify the Oil and Gas registration  
23 I.D. that this operator is operating under in the state  
24 of New Mexico?

25 A. That will be 291567.

1 Q. And just to be clear, that is the operator that  
2 we are talking about today?

3 A. Yes, that is correct. That is Dominion  
4 Production Company, LLC.

5 Q. Could you please identify OCD Exhibit 3.

6 A. Exhibit 3 is a current inactive well list. This  
7 was printed out yesterday, October 28th. This is  
8 indicating that Dominion has a total well count of 165  
9 wells with 74 currently inactive.

10 Q. And how do wells propagate that list?

11 A. Any well that has been inactive for 15 months, as  
12 stated in the rule, it is one year plus three months, so  
13 15 months. It's been inactive for that time frame, not  
14 producing, not injecting, and so then it does fall in  
15 that list.

16 Q. And how many wells are currently on this list?

17 A. Seventy-four.

18 Q. Would you agree that inactive wells are required  
19 to comply with OCD Rule 19.15.25.8 NMAC with regards to  
20 properly claiming and abandoning a well?

21 A. Yes, I would.

22 Q. And what are the ways that an operator could come  
23 into compliance with what I will refer to in shorthand  
24 as OCD Rule 25.8?

25 A. An inactive well can come back into compliance by

1 either being produced, injected into that well, request  
2 of a temporary abandonment status, approved temporary  
3 abandonment status, or plugging and abandoning the well.

4 Q. So would it be correct to say that -- would it  
5 also be acceptable to the Division to not just require  
6 these wells to be plugged and abandoned but, also, there  
7 are other ways that they could be brought into  
8 compliance with this rule?

9 A. Yes.

10 Q. An operator with 165 wells, such as Dominion, how  
11 many wells are they permitted to have on the inactive  
12 well list?

13 A. They can carry five wells on the inactive well  
14 list without them being in violation of 5.9.

15 Q. Would you please identify OCD Exhibit 4.

16 A. Exhibit 4 is a list of Dominion's wells that  
17 currently require additional financial assurance.

18 Q. And could you explain what this exhibit is  
19 showing?

20 A. Okay. OCD requires that any well that has been  
21 inactive for more than two years, even though that well  
22 may also be on approved temporary abandonment status,  
23 requires a single financial assurance. And that is what  
24 this is indicating here and it gives the actual amount,  
25 which is \$5,000 plus \$1 per foot of total depth.

1           And there are currently, as of this morning, 40  
2 wells that require that additional financial assurance,  
3 and that is in the amount of \$278,038.

4           Q. And the purpose of that financial assurance is to  
5 secure the operator's obligation to plug and abandon the  
6 well?

7           A. That is correct.

8           Q. And just to be clear, you identified the total  
9 amount was \$278,038?

10          A. Yes.

11          Q. Can you please identify OCD Exhibit 5?

12          A. This is a copy of Inactive Agreed Compliance  
13 Order 266.

14          Q. ACOI?

15          A. Agreed Compliance Order for Inactive Wells.

16          Q. And how many wells did that cover?

17          A. I believe this one covered 79. I am pretty sure  
18 it was 79 wells.

19          Q. And comparing it with OCD Exhibit 3, how many  
20 inactive wells?

21          A. OCD Exhibit 3 shows 74, so five wells have come  
22 into compliance.

23          Q. And what was the date on that order, ACOI 266?

24          A. October 4, 2012.

25          Q. And, finally, could you please identify OCD

1 Exhibit 7.

2 A. This is the notice for OCD case No. 15379. And  
3 this is dated August 19th, 2015.

4 Q. And it was sent to David Burns, Frost Bank and  
5 West Texas National Bank who are the holders  
6 of Dominion's financial assurance?

7 A. Yes.

8 MR. HERRMANN: No further questions,  
9 although I would reserve the right to request my  
10 witness for purposes of rebuttal -- excuse me. I have  
11 one more question.

12 Q. What corrective action is the Division  
13 requesting?

14 A. Currently we are requesting, through an order  
15 from the Division, that the operator be found out of  
16 compliance with ACO-285. The operator complied with the  
17 terms of ACO-285 by date certain. Considering that  
18 they're already six to nine months out of compliance  
19 with this ACO, it should be a relatively short time  
20 frame, 30 to 60 days or whatever the hearing Examiner  
21 finds adequate.

22 The operator come into compliance with OCD Rule  
23 8.9 for financial assurance --

24 Q. Regarding all of their wells?

25 A. Regarding the 40 that are under the conditional

1 financial assurance report.

2 Q. And potentially any others that should go --

3 A. Any others that may fall off within that time  
4 frame.

5 That the operator come into compliance with OCD  
6 Rule 5.9 and 25.8 for inactive wells by date certain.

7 That should the operator miss any of the  
8 deadlines in this order, a finding that the operator is  
9 out of compliance with this Division order and the  
10 Division declare the violating wells abandoned and  
11 authorizing the OCD to plug and abandon the subject  
12 wells and recover costs from Dominion in accordance with  
13 the Division Rule 9.15.8.13.

14 And, finally, should Dominion's financial  
15 assurance be forfeited, that all subject wells be shut  
16 in until the costs are recovered and acceptable  
17 financial assurance is replaced on file with the  
18 Division.

19 Q. And in your opinion is it in the best interests  
20 of protecting the environment and correlative rights to  
21 have the Division issue this order?

22 A. Yes, it is.

23 Q. And some other follow-up to some other testimony.  
24 Does a well that has not had an MIT run in the last five  
25 years present a potential risk to correlative rights and

1 the environment?

2 A. Yes, it may.

3 MR. HERRMANN: No further questions.

4 EXAMINER GOETZE: And what would you like to  
5 do with your exhibits?

6 MR. HERRMANN: I would like to move to admit  
7 OCD Exhibits 3 through 7.

8 EXAMINER GOETZE: And who prepared them?

9 Q. (By Mr. Herrmann:) Were these exhibits prepared  
10 by you or under your direction?

11 A. Yes, they were.

12 EXAMINER GOETZE: Mr. Hall.

13 MR. HALL: I have no objection.

14 EXAMINER GOETZE: Exhibits 3 through 7 are  
15 so entered.

16 (Oil Conservation Division ("OCD") Exhibits  
17 3 through 7 were offered and entered.)

18 EXAMINER GOETZE: Mr. Hall, your witness.

19 CROSS-EXAMINATION

20 BY MR. HALL:

21 Q. Good morning, Mr. Sanchez.

22 A. Good morning.

23 Q. I have some questions to help us understand again  
24 the scope of what the Division is seeking by this ,  
25 application.

1           You referred in your testimony to, quote,  
2 violating well; do you remember saying that?

3           A. Yes.

4           Q. Sorry?

5           A. Yes, sir.

6           Q. And is that the 74 wells on the inactive well  
7 list --

8           A. The 74 wells on the inactive well list and the 40  
9 that are currently out of compliance with the financial  
10 assurance.

11          Q. All right. Again, let's be clear here. You are  
12 not seeking to have the Examiner enter an order  
13 requiring that all 74 wells be plugged; is that  
14 correct?

15          A. That is correct.

16          Q. If you would look at the advertisement for the  
17 case, does it identify the geographical location of any  
18 of the wells?

19          A. No, not that I see.

20          Q. Does it identify the common source of supply for  
21 any of the wells?

22          A. No, not that I see.

23          Q. Does it identify the common source of supply for  
24 any of the wells?

25          A. No, not that I see.

1 Q. Does it identify the geography?

2 A. No.

3 Q. You heard Mr. Powell testify about the  
4 definition, the Division's definition of "inactive  
5 well"?

6 A. Yes.

7 Q. What is your understanding of that definition?  
8 Can you recite it to us?

9 A. Not word for word, but a well becomes inactive if  
10 it is no longer used within a one-year-plus-three-month  
11 time frame.

12 Q. Okay. And has the Division consistently adhered  
13 to that definition?

14 A. Yes.

15 Q. If at Hospah no pump jack is observed on a well,  
16 is it automatically classified as inactive?

17 A. For no pump jack being on that particular well?

18 Q. Yes.

19 A. Most likely it would be, yes.

20 Q. If an operator proposes a means of producing an  
21 oil well that does not utilize a pump jack, would that  
22 be taken into consideration?

23 A. Yes.

24 Q. And was that done at Hospah?

25 A. I do not recall. I don't know if there were any

1 alternatives.

2 Q. If a well is placed on the inactive well list, is  
3 a single well fine then required for that well?

4 A. Only if it has been inactive for more than two  
5 years.

6 Q. Has the bureau been -- the enforcement bureau,  
7 has the bureau been successful in obtaining regulatory  
8 compliance by past operators out at Hospah?

9 A. Minimal.

10 Q. Why is that?

11 A. Probably because we are getting the same type of  
12 action from the previous operators than we are with the  
13 current one, where we did offer an agreed compliance  
14 order for the inactive wells when Nacogdoches was in  
15 control of those wells or owned them, and they failed to  
16 meet the terms of that agreement as well.

17 Q. So for the wells you have identified on Exhibits  
18 3 and 4, can you identify for the Examiner the current  
19 items of noncompliance that are attributable to the acts  
20 or omissions of previous operators?

21 A. I'm not sure that I could do that with each and  
22 every well, other than the fact that most of them have  
23 been inactive or a good portion of them have been  
24 inactive since Dominion took over and that financial  
25 assurance may have kicked in sometime during that time

1 frame.

2 Q. And when did Dominion take over operations?

3 A. In October of 2012.

4 Q. Is it accurate to say that the wells listed on  
5 Exhibits 3 and 4 were out of compliance before Dominion  
6 took over?

7 A. Some of them have been, yes -- many of them have  
8 been, yes.

9 Q. Most of them?

10 A. Most of them.

11 Q. Let me ask you this. Dominion takes over  
12 October 2012. In your opinion is the Hospah field in  
13 better shape now than it was on October 2012?

14 A. I personally cannot testify to that. I have not  
15 been out there to see the field since they took over.

16 Are there more wells plugged, five more wells  
17 from the time they took over -- or brought back into  
18 compliance, I should say. I don't know if all five of  
19 them were plugged, but they were brought back into  
20 compliance.

21 Q. Can you identify the items of noncompliance that  
22 have been corrected by Dominion?

23 A. I would have to see the five wells that were  
24 brought back in. And at this time, I don't have that in  
25 front of me, so no.

1 Q. So the answer is no?

2 A. "No."

3 Q. Would you agree that the Division has an interest  
4 in maintaining an operator out at Hospah that is capable  
5 of performing corrective actions to bring the wells back  
6 into compliance?

7 A. Yes, absolutely.

8 Q. Part of your job as enforcement bureau manager is  
9 to help form, help compose compliance orders; is that  
10 correct?

11 A. Yes.

12 Q. You were involved in the creation of the  
13 compliance order in this case?

14 A. Yes.

15 Q. Is there anything that prevents the Division from  
16 taking market conditions into consideration when it  
17 crafts a compliance order?

18 A. We do that now.

19 Q. How did you do it in this case?

20 A. In this case it was never requested as far as I  
21 recall. It's usually in the case where an operator may  
22 come in and have a specific reason, especially now  
23 during the drop in prices, for having to put wells on TA  
24 status or to temporarily abandon them for whatever  
25 reason. But, yes, it is taken into account.

1 Q. Do you recognize that an operator's ability to  
2 perform its compliance obligations is affected by market  
3 conditions?

4 A. Yes.

5 Q. And would you agree that the pricing environment  
6 for oil at the time the compliance order was entered  
7 into is substantially different than it is now?

8 A. Yes.

9 Q. And would you agree in this case that it is  
10 affecting the operator's ability to come into  
11 compliance?

12 MR. HERRMANN: Objection. That is outside  
13 the scope of his testimony.

14 MR. HALL: He has already testified about  
15 market conditions.

16 EXAMINER GOETZE: But not on an individual  
17 scale.

18 MR. WADE: I believe that is speculation on  
19 his behalf.

20 Q. (By Mr. Hall:) Let's look at the compliance  
21 order at page ten.

22 MR. WADE: Which compliance order are we  
23 referring to?

24 MR. HALL: This is 285.

25 Q. Do you see paragraph nine there on page ten?

1 EXAMINER GOETZE: Not on my copy.

2 THE WITNESS: Page eight maybe.

3 MR. HALL: I need glasses, Mr. Examiner.

4 Q. Page seven, paragraph nine.

5 A. Okay.

6 Q. You read that paragraph?

7 A. Yes.

8 Q. Does it provide that time for performing  
9 corrective action may be extended in the event force  
10 majeure events arrive?

11 A. Yes.

12 Q. Are market conditions a force majeure event?

13 A. I don't consider market forces to be force  
14 majeure, no.

15 Q. Is there anything preventing the Division from  
16 considering market conditions as a force majeure event?

17 A. I really couldn't testify to that right now.

18 Q. Earlier you did testify that you do take market  
19 conditions into consideration when you craft a  
20 compliance order.

21 A. I have done that recently within the last couple  
22 of months with a couple of other requests.

23 Q. Would you be willing to do that in this case?

24 A. Depending on how willing Dominion is to meet the  
25 terms of the agreed compliance order like they laid out

1 on those six points for an order from the Hearing  
2 Examiner.

3 Q. Look back at paragraph nine, the last sentence  
4 says, "OCD may extend the time for completion of the  
5 work for good cause shown."

6 Did I read that correctly?

7 A. Yes, you did.

8 Q. Is showing a decline in market conditions, a  
9 decline in productive oil, in your opinion, good cause?

10 A. In certain cases, yes, it is.

11 Q. Okay. You acknowledged that the Division and the  
12 bureau have statutory duties to prevent economic waste?

13 A. Yes.

14 Q. And what steps has the bureau taken to assure  
15 that its compliance and enforcement actions at Hospah  
16 will not result in the reduction of recoverable reserves  
17 out of the field?

18 A. I couldn't answer that right now. I don't know  
19 that.

20 Q. So the answer is none?

21 A. At this point, no, no.

22 Q. Did the bureau make an estimate of the reserves,  
23 otherwise recoverable reserves that would be lost if the  
24 violation wells were to be plugged?

25 A. No, I think in that case we would rely on the

1 operator's knowledge of their own field to determine  
2 whether or not there are reserves there that would be  
3 effective one way or the other. We wouldn't do our own  
4 study of that.

5 MR. HALL: May I approach the witness,  
6 Mr. Examiner?

7 EXAMINER GOETZE: Please.

8 MR. WADE: Do you have additional copies of  
9 what you are going to present?

10 MR. HALL: I don't. I will have to  
11 supplement the record.

12 MR. WADE: Can we let counsel take a look at  
13 it first, and I think I might want to take a look at it  
14 as well.

15 MR. HALL: I'll tender this through my  
16 witness.

17 MR. WADE: I did see that you marked it in  
18 some way.

19 MR. HALL: Yes.

20 (By Mr. Hall (cont'd:))

21 Q. Mr. Sanchez, let me hand you what we have marked  
22 as Dominion Exhibit A. Could you identify that for the  
23 record, please.

24 A. This is a letter written by Dominion to myself,  
25 Gabrielle Gerholt, who was our attorney at the time, and

1 Charlie Perrin, the District 3 supervisor, and it is  
2 concerning the recompliance order 266.

3 Q. If you would take a minute just to review that  
4 letter, and then I would ask you to briefly summarize  
5 its contents to the Examiner.

6 A. This is the letter. It is pretty much a status  
7 report that they had for ACOI-266, showing that they had  
8 brought 12 wells back into compliance through  
9 production -- well, 11 of them and one through injection  
10 and the possibility of having another one taken care of  
11 when conditions got better.

12 Q. All right. Does the letter -- who is it from  
13 again?

14 A. This is from Dominion. Let's see who signed it.  
15 Mr. Burns signed it.

16 Q. And does Mr. Burns ask for the Division's  
17 guidance on any additional steps that need to be taken  
18 to come back into compliance on any other matter?

19 A. Yes.

20 Q. And was a response made to this letter?

21 A. Off the top of my head, I would think that we  
22 did, because -- an operator who enters into an agreed  
23 compliance order for inactive wells is required to  
24 provide us a status report. And we do respond to that  
25 status report, indicating that we have reviewed the

1 wells that they are reporting and that they have,  
2 indeed, been brought back into compliance.

3 Q. So you are not certain whether a response was  
4 made or not?

5 A. I am not. I would think there was one.

6 Q. But you don't know for sure?

7 A. Right now I don't know off the top of my head.  
8 But yes.

9 MR. HALL: Thank you, Mr. Sanchez. No  
10 further questions. And I will get this exhibit in  
11 through my witness.

12 EXAMINER GOETZE: Very good. Redirect?

13 MR. HERRMANN: Yes.

14 REDIRECT EXAMINATION

15 BY MR. HERRMANN:

16 Q. Referring to Exhibit 3, OCD Exhibit 3, the  
17 inactive well list.

18 A. Okay.

19 Q. Is this list propagated by wells that have failed  
20 to report any production and injection?

21 A. Yes.

22 Q. So if a well had no pump jack, that wouldn't  
23 necessarily be shown on this list; it would specifically  
24 be limited to one that is showing some sort of  
25 beneficial use?

1 A. That is correct.

2 Q. Referring to ACO-285, Exhibit 1, what party  
3 proposed the deadlines?

4 A. Dominion.

5 Q. So you took them at their word that this was what  
6 they could do and that they could perform the tasks that  
7 they proposed?

8 A. Yes.

9 Q. Regarding economic concerns, is one of the  
10 concerns that you would consider protecting the state  
11 itself from economic loss if this liability should fall  
12 to us?

13 A. Yes.

14 Q. And that would be -- one way of protecting that  
15 would be ensuring that financial insurance is in place?

16 A. That's correct.

17 Q. And referring to the exhibit presented by  
18 Mr. Hall, the letter from Mr. Burns to yourself and  
19 Counsel, would the absence of an ACOI absolve an  
20 operator of compliance with Division rules?

21 A. No.

22 Q. And operators still ensure that they are familiar  
23 with Division rules and that they will comply with them?

24 A. Yes, they do.

25 Q. And that is contained on both the well transfer

1 form and the operator registration form --

2 A. That's correct.

3 Q. -- when an operator seeks to become an operator  
4 in the state of New Mexico?

5 A. Yes.

6 Q. Referring back to paragraph nine in ACO-285 on  
7 page seven, would you read the second to the last  
8 sentence.

9 A. Yes. "Operator will promptly provide OCD with  
10 e-mail notification of the occurrence of such events  
11 before the respective deadline has expired."

12 Q. And prior to the filing of this hearing, have  
13 there been attempts to work out the outstanding issues  
14 in this ACO?

15 A. Not that I am aware of.

16 Q. Was there not a meeting in July with counsel and  
17 the operator appearing by phone?

18 A. That is correct, yes, at that time.

19 Q. And did we lay out certain factors that we would  
20 consider before bringing this case to hearing?

21 A. Yes, we did.

22 Q. And, to your knowledge, has there been any  
23 activity that would have prevented us from bringing this  
24 to hearing?

25 A. No, not to my knowledge.

1 MR. HERRMANN: Thank you. No further  
2 questions.

3 MR. HALL: Brief redirect, Mr. Examiner,  
4 very brief.

5 EXAMINER GOETZE: Go ahead.

6 RE-CROSS EXAMINATION

7 BY MR. HALL:

8 Q. The previous operator preceding Dominion was  
9 Nacogdoches?

10 A. Nacogdoches.

11 Q. Referring to the wells in Exhibit 3, the inactive  
12 well -- those wells were operated by Nacogdoches. Did  
13 the Division allow Nacogdoches to swab any of those  
14 wells and then report that as C-115 oil production?

15 A. I don't recall that we allowed them to. I  
16 believe it started to be put in the agreed compliance  
17 orders. I am not sure if it was in this one in  
18 particular, but that swabbing would not be a method  
19 allowed to show production.

20 Q. Where is it prohibited in the rules?

21 A. It is in the agreement itself.

22 Q. The question is where is that in the rules?

23 A. It may not be in the rule. But when the  
24 agreement is written and an operator signs off on it,  
25 they agree that they are going to abide by that

1 agreement or I would assume that they agree to abide by  
2 the agreement. And if it is in that agreement, then my  
3 feeling is that it should be held to.

4 Q. Is there any such provision in ACO-285?

5 A. ACO-285 isn't an agreed compliance order for  
6 inactive wells. It is just an agreed compliance order  
7 trying to resolve the issues that we had here.

8 I would have to look at agreed compliance order  
9 for inactive wells 266 to see if it was actually in  
10 this. It was something that had come up and the  
11 language is included. But I don't recall whether it was  
12 included before or after that agreement.

13 Q. If an operator is not allowed to utilize  
14 alternative methods of production, such as swabbing, the  
15 use of Oil Hounds, do you know what that is?

16 A. No.

17 Q. If an operator is not allowed to use alternative  
18 means of production, does that necessarily mean that  
19 those wells will be placed on the inactive well list,  
20 whether they can produce or not?

21 A. I am not sure I understand your question.

22 Q. The Division doesn't allow alternative means of  
23 production to pump jacks for oil wells; is that what you  
24 are telling us?

25 A. I am saying for the requirement of that

1 particular agreement, we do not.

2 MR. HALL: Okay. No further questions.

3 Thank you, Mr. Examiner.

4 EXAMINER GOETZE: Thank you. Counselor.

5 EXAMINATION BY MR. WADE

6 MR. WADE: Regarding the last series of  
7 questions by Mr. Hall, was there discussion between  
8 Dominion and the Division as to alternative means of  
9 reporting production?

10 THE WITNESS: Not that I remember, no.

11 MR. WADE: And going back to OCD Exhibit 5,  
12 and that would be the ACOI 266. I am just trying to  
13 clarify that at one point there were 79 wells out of  
14 compliance under this agreement; is that correct?

15 THE WITNESS: Yes, that's correct.

16 MR. WADE: And five of those wells have been  
17 brought into compliance at some point?

18 THE WITNESS: Yes.

19 MR. WADE: Okay. Earlier in your testimony,  
20 you listed off the relief that you are seeking in  
21 particular, and I don't think that I heard in particular  
22 that you are asking that ACOI-266 be enforced -- or am I  
23 incorrect?

24 THE WITNESS: It is a little late to try to  
25 enforce 266. The terms of that agreement have come and

1 gone. What we are asking for is that the wells  
2 currently on the inactive well list or on the financial  
3 assurance list be included in the order.

4 MR. WADE: Okay. And the majority of those  
5 would already have been listed under ACOI-266?

6 THE WITNESS: Yes.

7 MR. WADE: Okay. I believe you were asked a  
8 question as to whether the OCD would consider,  
9 essentially, what is a waste of reserves that would  
10 occur when wells are plugged and abandoned; is that  
11 correct?

12 THE WITNESS: Yes, something like that.

13 MR. WADE: Okay. And is that something the  
14 OCD would consider?

15 THE WITNESS: If it was a viable method and  
16 it was more than trying to pull a barrel of oil out of a  
17 well to maintain its activity for the next 15 months.

18 MR. WADE: Well, I might not have asked very  
19 clearly, but I think what Mr. Hall's line of questioning  
20 was getting to is if you request that 70-something wells  
21 be plugged and abandoned, there is potential that  
22 reserve oil will be left in the ground; is that correct?

23 THE WITNESS: Yes.

24 MR. WADE: And is that something that was  
25 discussed with Dominion?

1 THE WITNESS: Not that I remember, no.

2 MR. WADE: Do you recall if that was  
3 something that Dominion raised with the OCD?

4 THE WITNESS: I don't remember if they did  
5 or not.

6 MR. WADE: Okay. I don't have any further  
7 questions.

8 EXAMINER GOETZE: No further questions.  
9 I've got two quick questions.

10 EXAMINATION BY EXAMINER GOETZE

11 EXAMINER GOETZE: In this July phone  
12 conference, who was on Dominion's side answering?

13 THE WITNESS: I believe it was Mr. Burns.

14 EXAMINER GOETZE: Very good.

15 And I noticed in the well list, inactive  
16 well list, that we have a certain quantity of injectors  
17 and producers. Are these field-enhanced recovery  
18 projects, are they water floods? Are you aware of it?

19 THE WITNESS: I am not aware of it at this  
20 time.

21 EXAMINER GOETZE: So these are disposal  
22 wells to the best of your knowledge?

23 THE WITNESS: To the best of my knowledge,  
24 yes, they were meant to be disposal.

25 EXAMINER GOETZE: I have no further

1 questions. We are done with this witness.

2 At this point, we'll let you continue, once  
3 we come back, but let's take a break and get back here  
4 at ten till.

5 MR. WADE: Let's say five till.

6 EXAMINER GOETZE: Let's come back here at  
7 five of.

8 (Brief recess.)

9 EXAMINER GOETZE: Folks, we are back on  
10 record. And, Mr. Hall, please proceed.

11 MR. HALL: Thank you, Mr. Examiner.

12 At this time, we would call David Burns to  
13 the stand.

14 DAVID BURNS

15 having been first duly sworn, was examined and testified  
16 as follows:

17 DIRECT EXAMINATION

18 BY MR. HALL:

19 Q. For the record, state your name.

20 A. David Burns, no middle name.

21 Q. Mr. Burns, where do you live and by whom are you  
22 employed?

23 A. I live in Lafayette, Louisiana, and I am  
24 president of Dominion Production Company.

25 Q. And you have never previously testified before

1 the Division and had your credentials accepted as a  
2 matter of record?

3 A. No.

4 Q. Would you provide the Hearing Examiner with a  
5 summary of your educational background and work  
6 experience.

7 A. Sure. I have a high national certificate in  
8 electrical engineering. I have forty years experience  
9 in oil and gas from seismic activity worldwide to  
10 drilling oil and gas wells onshore and offshore, U.S.

11 MR. HALL: At this time, Mr. Examiner, we  
12 would offer Mr. Burns as an expert in oil and gas  
13 operations by virtue of experience.

14 EXAMINER GOETZE: Objection?

15 MR. HERRMANN: No objections.

16 EXAMINER GOETZE: No objections. The expert  
17 is so qualified.

18 Q. (By Mr. Herrmann:) Mr. Burns, are you familiar  
19 with the lands in the wells that are the subject of the  
20 OCD's application in this case?

21 A. Yes, I am.

22 Q. And you are familiar with the Agreed Compliance  
23 Order 285?

24 A. Yes, I am.

25 Q. Did the terms of Agreed Compliance Order 285

1 oblige Dominion to provide regular progress reports of  
2 its efforts to bring wells back into compliance?

3 A. No. It required us to notify as and when wells  
4 were brought back into compliance, not to provide  
5 regular but to provide as and when the wells were  
6 brought into compliance.

7 Q. All right. Let's look at Exhibit No. 1. And you  
8 have that before you. Can you identify Exhibit 1 for  
9 us, please.

10 A. Exhibit 1 is what? Here we are. I have it.

11 Q. What is Exhibit 1?

12 A. Exhibit 1 is -- the first part of it is a letter  
13 that I wrote to Mr. Sanchez, Mr. Herrmann, and Charlie  
14 Perrin, and yourself, which is the reports as and when  
15 we put wells online and brought wells into compliance.

16 Q. Fine. Let me ask it this way. Is Exhibit 1 a  
17 compilation of all of the reports that you provided to  
18 OCD in conjunction with ACO-285?

19 A. Yes, it is.

20 Q. And let's run through those briefly. Is the  
21 first report dated February 13, 2015?

22 A. Yes.

23 Q. And the second one, what is the date of that?

24 A. The second one is February the 25th, 2015.

25 Q. And it reflects items completed as of that date?

1 A. That is correct.

2 Q. And, then, let's look at the report for  
3 February 27, 2015. What is that?

4 A. This is an e-mail that I sent to Brandon Powell  
5 and Charlie Perrin and Mr. Herrmann here, advising them  
6 that it was the subsequent report for the fifth well  
7 that we plugged out there, which was the Hanson 38.

8 Q. And the next report, what is that date?

9 A. March 20th, 2015.

10 Q. And does it reflect work completed as well?

11 A. Yes, it does.

12 Q. And the next report, what is the date of that?

13 A. August 20th, 2015.

14 Q. And does it reflect work completed as of that  
15 date?

16 A. Basically, it reflects the amount of work that's  
17 completed overall and the compliance order. And in the  
18 summary, it references the organizational plans that we  
19 provided in the confidence.

20 Q. All right. And the next report, what is the date  
21 of that one?

22 A. I don't have a next report. August 20th seems to  
23 be my last one on this list.

24 Q. All right. Is that report No. 5?

25 A. Yes.

1 Q. Does that reflect work completed as well?

2 A. No. 5 reflects the status of well-wrap to date  
3 with compliance order and also outlines in the summary  
4 what information we had given them with reference to our  
5 reorganization plans.

6 Q. The Hearing Examiner referred to the compilation  
7 of reports comprising Exhibit 1 and identified each of  
8 the compliance items completed by Dominion at the Hospah  
9 field.

10 A. Correct.

11 Q. You need to answer "yes" or "no" just for the  
12 record.

13 A. Yes.

14 Q. In any of the compliance reports that you filed,  
15 did you make reference to economic conditions or the  
16 marketplace for oil prices?

17 A. Yes.

18 Q. Did you request that the Division take those  
19 conditions into consideration?

20 A. I made a reference to the market conditions are  
21 making our compliance very difficult.

22 Q. All right.

23 Do the terms of ACO-285 exclude performance  
24 against the deadlines in the event of occurrence of  
25 force majeure events?

1 A. It does, it excludes it.

2 Q. All right. And during the term of the compliance  
3 order 285, did force majeure events occur?

4 A. We always view acts of weather as a force majeure  
5 event. We had pretty severe weather during the course  
6 of the winter, which delayed us.

7 I think anybody that knows how to squeeze a well  
8 will know how cement freezing conditions is not a great  
9 idea. We also had other issues, financial conditions,  
10 that I consider a force majeure event, other people  
11 might not.

12 Q. What are you referring to?

13 A. I am referring to the collapse of the oil price.

14 Q. Let's refer to Exhibit 1-A. If you could  
15 identify that and tell us what that represents.

16 A. This is a graph of part of the West Texas and  
17 (inaudible) crude oil price since July 2011 through  
18 July 2015.

19 MR. WADE: I'm sorry --

20 MR. HALL: Here you go.

21 MR. WADE: Thank you. Mr. Herrmann, do you  
22 have 1-A as well?

23 MR. HERRMANN: Yes.

24 Q. Do you know the source of the data shown on  
25 Exhibit 1-A?

1       A. I think it is a U.S. Government source energy  
2 information, I believe.

3       Q. Energy Information Administration?

4       A. Yes, EIA.

5       Q. All right. And at the time the agreed compliance  
6 order was signed in January of 2015, approximately what  
7 were prevailing prices for oil at that time?

8       A. I think the industry at that time knew the prices  
9 were on a downward trend; but, at the same time, there  
10 was a reluctance, I feel, to accept the fact that it was  
11 going to be long term.

12               So everybody kind of expected a kind of rebound  
13 in the oil price. And if you look at the graph there,  
14 you see a little blip. But I think the overall trend  
15 proved to be down against everybody's common belief.

16       Q. What was the approximate price at January 2015?

17       A. Without being able to read the tick marks in the  
18 graph, I would say probably in the order of around 45 to  
19 55, somewhere in that region, I would guess.

20       Q. And at the time that agreed compliance order was  
21 signed in January, what were you receiving for  
22 production at the Hospah field?

23       A. When we receive production at the Hospah field,  
24 there are certain deductions that have to be applied.  
25 There's the 20 percent royalty that we pay and the

1 twelve, forty deduction for transportation.

2 So from, say, a \$50 oil price, then we would be  
3 looking at somewhere in the region of \$28, would be our  
4 net price.

5 Q. Today?

6 A. Yes, today.

7 Q. Do you consider the decline in market prices for  
8 oil to be a force majeure event?

9 A. In my opinion, yes.

10 MR. HERRMANN: Objection. That is a legal  
11 conclusion. He is not a legal witness.

12 MR. HALL: The question has been asked and  
13 answered already. I believe we've established him as an  
14 expert. And he is entitled to opine on such matters --

15 EXAMINER GOETZE: There are entire oil  
16 companies with experts (inaudible). I will take it as  
17 an opinion and we will leave it at that.

18 BY MR. HALL (cont'd):

19 Q. Mr. Burns, if we refer to the well lists that are  
20 attached to the OCD's application, the inactive well  
21 list, and then the wells requiring additional financial  
22 assurance, do any of those wells pose an immediate  
23 environmental threat that only plugging can prevent?

24 A. Are you talking about the wells in the compliance  
25 order 285 or are we talking about the 75 wells?

1 Q. The 75 wells.

2 A. No, I don't believe they comprise an immediate  
3 environmental threat.

4 Q. Let's talk about Dominion's efforts to come into  
5 compliance. If you would refer to Exhibit No. 2,  
6 please. Tell us what Exhibit No. 2 shows.

7 A. Exhibit 2 is reference to bonds that we were  
8 required to place to the BLM for the federal lands that  
9 we also lease in the Hospah area.

10 And this states the amount of bonds that each  
11 party were paying prior to Dominion coming along. And  
12 on there you will see that BC and D were at 1.25  
13 million; amount states 1.25 million. Energy was 600,000  
14 and the amount requested from Dominion was 350,000.

15 Q. And how did you succeed in getting the amounts of  
16 bonds reduced for BLM lands?

17 A. We took the BLM around the lease, and they were  
18 very impressed with the amount of effort that we had  
19 taken to actually improve the lease and they reduced the  
20 bond accordingly.

21 Q. All right. And let's carry on. Let's look at  
22 Exhibits 3 and 4, starting with Exhibit 3.

23 Could you explain to the Hearing Examiner what  
24 this exhibit shows.

25 A. Exhibit 3, basically, is the list of injection

1 wells that we could find -- some injection and some  
2 production wells that went back as far as the year 2000.

3 It identified them by their location, by their  
4 API number, by their well type, whether they're  
5 injection or whether they were oil producers.

6 And we do actually have two types of injection  
7 wells. We have disposal wells and we have injection  
8 wells, because we are an enhanced recovery project.

9 And then it details which sand that these wells,  
10 particularly the injection wells, were disposing into,  
11 the current status.

12 It then identifies the last MIT and whether or  
13 not the well was plugged and the status of the wells as  
14 of today.

15 Q. If you could look at the last three entries  
16 there, they have red dates; what is the significance of  
17 that?

18 A. The significance of that is that we don't plan at  
19 this stage on plugging those wells. They're wells that  
20 we feel are useful and they are wells that we would like  
21 to put back online as and when conditions permit.

22 Q. That's why it's under evaluation?

23 A. They're under evaluation, that's correct.

24 Q. Let's look at Exhibit 4. If you would walk the  
25 Hearing Examiner through that, please.

1           A. Exhibit 4 is, basically, just a graphical  
2 representation of the last 15 years of Hospah, which  
3 wells would be out of compliance since 2000, and which  
4 wells are out of compliance now.

5           The reason for the yellow -- instead of just red  
6 and green -- on South Hospah 63 -- South Hospah 63 I  
7 believe, according to the OCD, was a former injector  
8 which we turned into a producer. So I have left it --  
9 instead of gray, I put it yellow.

10           But the green represents the ones that are now in  
11 compliance or plugged and the red represents the ones  
12 that are left to do.

13           Q. You have a yellow vertical line and then a blue  
14 vertical line. What do those indicate?

15           A. The blue vertical line indicates October, 2012,  
16 when we became operator. The yellow vertical line  
17 indicates when Dominion through its partner Nordic Oil  
18 started injecting cash into Nacogdoches Oil and Gas to  
19 complete the transaction, which occurred in 2012.

20           So any activity really from 2010 NOG performed as  
21 operator, we would have given them cash to do that.

22           We would not direct the operation, but we would  
23 give them the cash to do that.

24           Q. All right. And so is Exhibit 4 a graphic  
25 depiction of the progress that has been made in bringing

1 wells back into compliance by the reduction in the red  
2 barred items?

3 A. Correct.

4 I would like it all to be green, but the reality  
5 is it is not. We still have some left, but we have  
6 significantly less to do than at any time in the last 15  
7 years.

8 Q. How would you characterize your relationships  
9 with OCD in the field?

10 A. You want me to start with Aztec or with Santa Fe?

11 Q. With Aztec.

12 A. With Aztec, okay.

13 From the very first day that I was informed by I  
14 think her name was Dorothy -- a wonderful woman who used  
15 to work here -- and she informed me that my application  
16 for transfer of operatorship was approved and I needed  
17 to contact the Aztec Office to set up a telephone  
18 conference.

19 So I called the Aztec Office and I spoke to a  
20 Mr. Charles Perrin. And he told me, in no uncertain  
21 terms, that my application to become operator is not  
22 valid unless he signs it.

23 And I said. Okay, Charlie, so are you going to  
24 sign it?

25 And he told me he had a lot to do and he may just

1 get around to it.

2 The following day he hadn't signed it. And I  
3 think eventually it was signed, perhaps a day and a  
4 half, two days after it was actually submitted. And  
5 that kind of set a tone to me, because we've never had a  
6 great relationship with the Aztec Office.

7 My feeling with the Aztec Office has always been  
8 that they hide behind a statement, You should have done  
9 your due diligence. I hear this time and time again,  
10 You should have done your due diligence.

11 And I can point to -- and I will -- countless  
12 episodes where I have done my due diligence only to find  
13 out that the information provided is completely  
14 inadequate. And we have suffered the consequences and  
15 the costs as a result.

16 So, no, my relationship with the Aztec Office is  
17 not great. I don't think my field personnel's  
18 relationship with the Aztec Office is wonderful. They  
19 have an inspector out there. I think her name is  
20 Monica. And I think that's probably the one that they  
21 get on best with. But I don't think we have a great  
22 relationship with them.

23 Q. In your opinion, has the relationship impeded  
24 Dominion's efforts to bring the wells back into  
25 compliance?

1       A. I think it totally has. And that is why I would  
2 like -- if it is okay with you, I would like to go back  
3 to the Santa Fe Office, because in Santa Fe I met  
4 with -- I think the counsel at the time was Sonny Swazo,  
5 I think it was, and Mr. Sanchez there. And I met with  
6 them and we discussed Nacogdoches having an application  
7 to acquire a permit to drill South Hospah 33, I think  
8 the well was, which was a deepening to the Entrada, to  
9 allow injection into the Entrada so we could put more  
10 wells on line.

11               And the application was worded such that  
12 Nacogdoches had brought 29 wells on line. The reality  
13 is the 29 wells, as Mr. Sanchez knows, was funded by  
14 Dominion. So we put a lot of money to make sure those  
15 wells were on line.

16               And then the permit was issued and we went ahead  
17 and met again -- and I think it was maybe September or  
18 October in 2012, just before the transfer and we started  
19 work on ACO-266.

20               And we crafted 266 on the basis that we had a  
21 phase-three plan. And our phase-three plan really was  
22 very simple. Phase 1 was to establish basic production.  
23 And we were going to try and bring wells on line. It is  
24 as simple as that. Not because we bought this field  
25 because we want to produce 175 wells at a barrel a day.

1 That's not our objective. Our objective was to bring  
2 wells on line to preserve wellbores to ensure that we  
3 could use those wellbores for what our real plan is for  
4 this field.

5 And so we agree to 266, and, at that stage, I  
6 felt our relationship was pretty good. I had some very  
7 nice e-mails about, Looking forward to working with you.  
8 And I wrote an e-mail, which I am sure you have there,  
9 that basically states, Look, we have never operated in  
10 New Mexico before, so if you see us doing anything  
11 that's not in compliance or any documentation that's not  
12 right, please let me know. And I never received  
13 notification from anybody.

14 And so when we put the 12 wells -- which was  
15 actually 14 wells on line -- by putting them on line, we  
16 spent close to \$40,000 a well to put them on line, so it  
17 was not an insignificant amount of money that we spent  
18 to put those 12 wells on line.

19 One of them included running a brand new liner in  
20 an injection well, which everybody knows if you run a  
21 four-and-a-half-inch liner, cement to surface, it's not  
22 a cheap operation. So we spent a lot of money on it.

23 And we got to April, and I was pretty happy  
24 because I felt we complied. So, basically, I wrote the  
25 letter on April 11, 2013. And Mr. Sanchez doesn't

1 recall whether I got a response or not, but I can tell  
2 you that I didn't. There was no response. There was  
3 nothing in writing from the OCD that said, Hey, Dave,  
4 you have missed on this or have you thought about that  
5 or, no, you are not in compliance. I received nothing.  
6 Nothing at all.

7 So I wrote a reminder. And I received nothing  
8 apart from, I would like to get with my Aztec Office.

9 And then I heard something from Charles Perrin  
10 that suggested we meet. Mr. Sanchez decided it was a  
11 good idea to meet in Aztec.

12 So I wrote Mr. Perrin a letter saying, I believe  
13 we are in compliance. And we had the meeting.

14 And when we got to the meeting, it was attended  
15 by two of my field personnel. I believe it was my  
16 production manager, Ricky Mahan, and the engineer at the  
17 time, which was Mike Allen. And I think from this side  
18 over here that Mr. Sanchez was there and I am pretty  
19 sure that Brandon was there and I'm certain that Mr.  
20 Perrin was there.

21 So we had the meeting. The first thing that  
22 happened was I was told I was not in compliance with  
23 266, and they laid out a list of reasons why I wasn't in  
24 compliance with 266.

25 And the reasons were administrative, we didn't

1 file a particular piece of paper, we didn't do something  
2 right, which were the same things that I referred back  
3 to, We're kind of rookies in New Mexico; Guys, help us  
4 out.

5 And we didn't file it. And then we went on to a  
6 whole list of other things that came up. At that point  
7 Mr. Perrin suggested to me -- he didn't suggest to me.  
8 Mr. Perrin looked me in the eye and he said, Mr. Burns,  
9 were you the president of Dominion Production Company in  
10 February 2013?

11 And I said, Yes, I was.

12 And he said, Mr. Burns, is your office address  
13 1414 West Swann Avenue, Suite 100, Tampa, Florida,  
14 33606?

15 And I said, Charlie, what is this?

16 And he said -- he put a letter on the table and  
17 it was bradenheads -- I'm sure you remember this. It  
18 was bradenhead tests. And he said that we are not in  
19 compliance under bradenhead tests.

20 And so I asked him, Did you send this letter  
21 certified mail because I've never seen this letter?

22 And he said, No. I just mailed it.

23 So we didn't even see the letter, but we looked  
24 at it and we agreed, there and then, that, yes, we would  
25 go ahead and do the bradenhead tests. Bradenhead tests

1 are not cheap, because I'm sure anybody who has been to  
2 Hospah would know that over the period of time you've  
3 had so much wind out there and sand that the bradenheads  
4 are now completely covered.

5 So there it's another case of going with a shovel  
6 and doing a bradenhead test, you run backhoes, you've  
7 got personnel involved, you are digging holes, and  
8 moving dirt, and you've got 174 wells at the time that  
9 you've got to do. So we started doing bradenheads  
10 tests.

11 I pulled down the records from the OCD website of  
12 all the wells that had previous bradenhead tests -- bear  
13 in mind, this, apparently, is a requirement every two  
14 years. In the last 15 years, it was only ever done  
15 once, in 2007. And it was done by a company I think  
16 called BC and D.

17 So I got all the records and looked at them, and  
18 we started doing bradenhead tests. It was totally  
19 obvious after the first ten bradenhead tests that this  
20 company had never done a bradenhead test, because they  
21 made reference to the fact, Open bradenhead, slight  
22 blow, and then nothing. But when you look at the well  
23 bore, it's cemented to surface and there's no bradenhead  
24 on it.

25 So somebody just took a piece of paper, filled it

1 in, logged into the Aztec Office, they shove it on the  
2 website, and when I do my due diligence and I think this  
3 has been done, it's not being done.

4 So we incur additional costs, we've got to make  
5 valves, we've got to get all of this done. And it takes  
6 a long time. I think it took probably six to eight  
7 months.

8 It probably cost us well in excess of \$100,000,  
9 well in excess. But, more importantly, it's taken time  
10 of my people. It's taken time of everything.

11 So while this is going on -- and you can stop me  
12 anytime you want. I've just got a vivid memory of all  
13 of this. While this is going on, we then go into  
14 injection wells, compliance of injection wells. And  
15 when I point out that these injection wells have been  
16 inactive for 15 or 16 years, then the only comment I get  
17 back is, Well, you should have done your due diligence.

18 I didn't get any, Well, let's work together.  
19 Let's do this.

20 I got pretty much a fait accompli. That's what I  
21 got.

22 Q. Let me ask you, in front of you you have what's  
23 been marked as Dominion's Exhibit A. Could you identify  
24 that, please.

25 A. Yes.

1 Q. Please identify that for the record.

2 A. Yes, this is it. It is the letter that I wrote  
3 to Mr. Sanchez, Gabrielle Gerholt, and Charlie Perrin.

4 Q. And the date?

5 A. The date was April 11th, 2013.

6 Q. And is this the letter you referenced in your  
7 testimony just --

8 A. Yes, it is.

9 MR. WADE: Mr. Hall, is this the letter that  
10 was presented earlier?

11 MR. HALL: I only have a single copy --

12 MR. WADE: A single copy. Are you going to  
13 be asking him many questions regarding that letter?

14 MR. HALL: Not immediately, no.

15 MR. WADE: Is it something we should get a  
16 copy of at some point?

17 MR. HALL: I will get that to you today.

18 MR. WADE: We could make copies at a short  
19 break if needed.

20 MR. HALL: Okay. Thank you.

21 (By Mr. Hall (cont'd):)

22 Q. Mr. Burns, has Dominion established the cost for  
23 full regulatory compliance?

24 A. Are we talking regulatory compliance under the  
25 ACO or the entire field?

1 Q. Let's talk about under the ACO.

2 A. Yes, we have.

3 Q. And do you have another witness today who will  
4 testify as to those --

5 A. Yes. We have Mr. Sytsma who is the CFO of the  
6 company.

7 Q. Has Dominion downgraded its revenue estimates  
8 from this field?

9 A. We have downgraded our revenue estimates based on  
10 the current oil price. We haven't downgraded the  
11 recoverable reserves that we see.

12 Q. All right. Have you delayed or abandoned any  
13 drilling or development projects at Hospah?

14 A. Yes. With the amount of money we've had to  
15 expend on remediation and on plugging and all the other  
16 activities out there -- we have vendor debt that we have  
17 to take care of. We owe vendors money that we have to  
18 pay that we're working to a resolution now.

19 We have other issues out there that require  
20 Hospah to be brought into a larger organization to make  
21 it -- have access to capital markets to make sure we can  
22 do this.

23 Q. And a certain portion of those delays are  
24 attributable to the pricing environment?

25 A. I'm sorry. Is available to what?

1 Q. Attributable to the pricing environment?

2 A. Yes, absolutely. When you are getting \$28 net,  
3 that's not exactly a great deal.

4 Q. And other parts of the delay are attributable to  
5 the front loading of compliance costs?

6 A. Yes. We are having to absorb a lot of costs both  
7 to the BLM and from the OCD. The BLM has been, I would  
8 say, a lot more reasonable. The OCD has been, in my  
9 opinion, not as reasonable as the BLM.

10 But, yeah, it's front-end loading costs. We've  
11 had fairly close to -- and Don Sytsma will testify to  
12 this, I believe. From my memory I think we have had in  
13 excess of \$900,000 in 2014 expended on that field out  
14 with production.

15 Q. Did Dominion incur the costs of remediating a  
16 land farm at Hospah?

17 A. Yes. The remediation is still ongoing. But,  
18 yes, we incurred the cost of that also.

19 Q. Have you ever seen a permit for that land farm?

20 A. I've asked for that, but I've never seen it.

21 Q. Is the land farm an asset or a liability that  
22 Dominion acquired from Nacogdoches?

23 A. No. I checked the PSA that we had with  
24 Nacogdoches, and we acquired the wells from them, but we  
25 certainly didn't acquire any land farm under the terms

1 of the agreement with them.

2 Q. All right. Has the costs of maintaining your  
3 plugging bonds with the state been affected by any  
4 recent actions taken by the (inaudible)?

5 A. Yes, we had a teleconference in July, I believe  
6 it was. And at that point we agreed that we would try  
7 and get the bonds in place sooner rather than later.

8 But when I had my last conversation with Chris  
9 Whigham at West Texas National Bank, he advised me he  
10 had received notification of intent from the state that  
11 there was a possibility they would pull our plugging  
12 bonds. And his reaction to me was, based on the  
13 uncertainty and the hearing, then they could not afford  
14 the credit to us to put the bonds in place. So we now  
15 have to establish new banking relationships as a result.

16 Q. Will that result in an additional cost to  
17 Dominion?

18 A. Yes, it will. It will mean basically that any  
19 plugging bonds going forward will be backed by cash CDs;  
20 that's what it basically means.

21 Q. All right. And those are revenues that are  
22 diverted from complying?

23 A. They are revenues that could have plugged the  
24 wells.

25 Q. Yes. Has the OCD released any of the single well

1 bonds that Dominion has been required to post?

2 A. I haven't seen any back, but I noticed they  
3 dropped off the list, some of them. 63 and 70 HSU  
4 dropped off the list.

5 They still have Santa Fe Railroad 44 as inactive,  
6 even though that well has been producing for in excess  
7 of a year. And they have the sundry for that. I'm not  
8 sure why they haven't.

9 I did see a message from Mr. Perrin about, It's  
10 only been producing three days in the last report, so I  
11 am keeping the bond -- but I am not sure why they still  
12 have that bond.

13 Q. So what is the process if the wells come off --  
14 sorry -- if the bonds come off the single well bond,  
15 what is covered?

16 A. If they come off the bond, then, basically, if  
17 that well is brought back into compliance or production  
18 or in status, then a person in my office will contact  
19 the OCD here in Santa Fe and request release of that  
20 bond.

21 Q. Would that decrease Dominion's regulatory cost  
22 then?

23 A. Will it increase it?

24 Q. Decrease it.

25 A. Decrease it, yes.

1 Q. Mr. Burns, have you considered and established a  
2 reasonable timetable for scheduling expenditures for  
3 regulatory compliance?

4 A. Yeah. I think -- that's kind of a large question  
5 in some ways, because if I take Dominion as a standalone  
6 company as it stands right now, then with the income  
7 from the leases, I don't see sufficient revenue  
8 generated from oil at the current price range that would  
9 allow us to fulfill the terms of that agreement in any  
10 short space of time. But if you look at Dominion in the  
11 sense of -- I am sure Mr. Sytsma will go into more  
12 detail on this -- but in the sense of what we are doing  
13 right now, basically, we have a whole series of closed  
14 end funds out of Germany that have different assets.

15 Those assets are offshore Texas. They're the  
16 Eagle Ford Shale. They are assets in the Austin Chalk  
17 in the Buda. Assets in the Helium play in Arizona, and  
18 also Hospah. Did I mention Moss and Holiday 818  
19 Offshore, because we also have that one as well?

20 And they are being amalgamated into a combined  
21 company. Some of those assets are cash positive. And  
22 once we get the assets combined, then, basically, that  
23 produces a healthier company that has more access to  
24 capital markets and allows us not only to have a chance  
25 of being in compliance but to develop the Hospah field

1 as the intent, how we first bought it.

2 Because like I testified earlier, I didn't buy  
3 this to produce 172 wells at a barrel a day each and  
4 dump 20,000 barrels on the ground. That's of no  
5 importance to me whatsoever.

6 The whole concept of this lease was completely  
7 different. So with access to capital markets, we can do  
8 that. And I'll leave Mr. Sytsma to give you an update  
9 later on on where we are at with that, but we are well  
10 down the road with that process.

11 Q. Tell the Hearing Examiner what timetable you are  
12 proposing for compliance.

13 A. My proposal would be based on success with our  
14 capital raise, and our capital raise -- the most  
15 important thing for me in my capital raise is not  
16 plugging, I hate to say it.

17 The most important thing in my capital raise is  
18 vendor debt. We have to make sure that any companies  
19 that have performed work for us are taken care of.

20 That is the first thing we have to do. Then we  
21 have to make sure that we get, I believe, our plugging  
22 bonds in place, the increase in plugging bonds. I had a  
23 number of 244, I think because I'm allowing for some  
24 that I think should be returned.

25 And, thereafter, I think the plugging at the five

1 remaining injection wells out of the 20, whatever it was  
2 we had there -- 28 -- the last five of those -- I mean  
3 the last three items I would do would be the MITs on  
4 wells that right now really pose no threat.

5 So I am looking at March for the bonds. I am  
6 looking at the end of July for the plugging of the five  
7 wells, and I am looking at December for the remaining  
8 three MITs on the three wells.

9 MR. HERRMANN: What was the time frame on  
10 the MITs?

11 THE WITNESS: It was December 2016.

12 MR. WADE: Just to clarify, I think you said  
13 vendor debt would be March of 2016?

14 THE WITNESS: No. Vendor debt would be as  
15 soon as I get funds in the door.

16 MR. WADE: So then March would be plugging  
17 bonds?

18 THE WITNESS: Yeah, we are selling stock in  
19 a new company now, actively in Germany. And we have  
20 already sold some. We already have contracts in place.  
21 So we will start to see the first funds coming through.  
22 But it is imperative that people who have performed  
23 services for us, that we look after them.

24 I have seen a lot of companies in this area  
25 that have debt and then suddenly the price collapses and

1 they go back and before you know it, they are  
2 negotiating 50 cents on the dollar.

3 And all the vendors we've paid so far, we've  
4 kept whole. And I intend to continue that.

5 Q. Is Dominion committed to bringing the Hospah  
6 field into full regulatory compliance?

7 A. We have to. And by full regulatory compliance,  
8 I'm not, as I said, going to put 165 wells on line.  
9 By -- full regulatory compliance to me will be that we  
10 will finish the evaluation of our pilot study that we  
11 have outlined here. And once that is finished, we will  
12 know which wellbores we need to keep. Because right  
13 now, we don't know which wellbores we need to keep and  
14 which ones we need to let go.

15 The ones that we need to let go then will have to  
16 go into a plugging plan. Because we have no intention  
17 of keeping a 165 wells out there.

18 Right now we have good well spacing for a pilot  
19 study. And providing some of the wells that we've  
20 looked at have integrity, which some of those we've  
21 looked at do, then as far as I am concerned, we'll  
22 identify which ones will be injectors, which ones will  
23 be producers, and then we can dispense with the rest.

24 Q. In your opinion, is the Hospah field in better  
25 condition now than when you acquired it three years ago?

1       A. I think there is absolutely no doubt it's in  
2 better condition now. If you look at the field today,  
3 we have spent close to I think 160,000 on electrical  
4 compliance alone. We have put out there probably  
5 \$120,000 of belt guards that didn't exist when we got  
6 there. We've remediated things that happened well  
7 before we arrived.

8               We've probably remediated now wellbores in South  
9 Hospah that we never operated, never set foot on. We  
10 kept them for the same reason, but we remediated them.

11              The amount of trash that's on the lease when we  
12 arrived there was ridiculous. When you drove into that  
13 lease, it was like a trash site. All the way down the  
14 side of the road, as far as the eye could see, was  
15 trash. That is gone, everything is gone.

16              And right now -- that all cost money. And we  
17 spent it. We spent a lot of money at Hospah.

18       Q. Let's refer back to the exhibits. If you would  
19 look at Exhibit No. 5, a two-page exhibit. Identify  
20 that for us, please.

21       A. Exhibit 5 is a Google Earth snap of the entrance  
22 to Hospah lease. And this would be on the left-hand  
23 side of the road as you come in. And the first page  
24 would be September -- maybe September or June 2014 -- I  
25 can't read it. And the one prior to that, would have

1 been September, 2012.

2 Q. This is a before and after condition of the site?

3 A. Yes, it is.

4 Q. And let's look at Exhibit No. 6. What is that?

5 A. No. 6 is the land farm. That's a picture of the  
6 land farm in September, 2012. And the one after it is  
7 how it looks now after we spent \$60,000 on initial  
8 remediation. And that would be June, 2014.

9 MR. HERRMANN: I'm sorry. If you may  
10 clarify which one is the before and which one is the  
11 after on both those exhibits.

12 THE WITNESS: The first page is the after  
13 and the second page is the before.

14 MR. HERRMANN: Okay.

15 Q. (By Mr. Hall:) Mr. Burns, I would like for you  
16 to discuss Dominion's plans for further development of  
17 Hospah. If you would refer to Exhibit No. 7 and  
18 identify that for the record and explain to us what that  
19 is.

20 A. Exhibit 7 is a reserve report that we had  
21 commissioned by Ralph E. Davis out of Houston, Texas,  
22 who is an SEC rated reserve engineer company. I think  
23 they have been in business for well in excess of  
24 95 years, thereabouts.

25 And, basically, this gives evaluations based on

1 recoverable reserves that they see at Hospah. They give  
2 three different categories, prudent reserves; prudent  
3 and probable; and prudent, probable and possible.

4 Q. Is Exhibit 7 an excerpt of the entire document?

5 A. Yes.

6 Q. If you turn to the last page we attached to the  
7 exhibit.

8 A. Yes, it is. This is the front part of the whole  
9 report. This is the front section of the entire report,  
10 Mr. Hall.

11 Q. And we've omitted the supporting data in the  
12 interests of saving paper and burdening the record; is  
13 that correct?

14 A. That is correct.

15 Q. And is that supporting data available to the  
16 Examiner should he request it?

17 A. Yes. The supporting data is basically just pages  
18 and pages of economic analysis with price structures.  
19 That's available.

20 Q. Could you summarize the recoverable reserves that  
21 are out there at Hospah shown by Exhibit 7?

22 A. Sure. On the 1P category -- and the 1P category  
23 is just attributable to, basically, wells that are  
24 producing now. So it is prudent, developed, and  
25 producing. About 1.24 million barrels.

1 Q. Is that seen on page four?

2 A. That's on page two of the actual report.

3 Q. And let's look at Exhibit No. 8 -- anything  
4 further with respect to Exhibit 7?

5 A. No. I can leave that one. That's fine.

6 Q. Identify Exhibit 8, please.

7 A. Exhibit 8 is a design of a field wide polymer  
8 flood application in the South Hospah oil field. It  
9 refers specifically to South Hospah at this stage,  
10 although it does refer in the report to HSU also.

11 But, basically, what we did was we hired one of  
12 the world's leading consultants on polymer floods, a guy  
13 called Dr. Littmann. And he works for the Zella  
14 University in Germany.

15 And he has been responsible, pretty much, for  
16 every polymer flood for Winter Shore Resources over in  
17 Germany. And has a very high success with those polymer  
18 floods.

19 And we felt looking at the Upper Hospah Sand, the  
20 Upper Hospah Sand initial recovery on primary and  
21 secondary recovery has been a very low percentage  
22 compared to the oil in place. And we felt one of the  
23 reasons was there was the high water content. And the  
24 high water content basically allows the water to burst  
25 through ahead of the oil.

1           And so we asked Dr. Littmann to commission a  
2 study, which took about five or six months to do, and to  
3 look at the Upper Hospah Sand and to look at the  
4 suitability for polymer flood.

5           And so he did reservoir studies in the  
6 laboratory. He had pore sample analysis that we sent  
7 him. He looked at the data from initial polymer work  
8 that we did in the field when we were trying to plug off  
9 some of the water. And he devised a pilot study that he  
10 believes would prove our concept.

11           And the pilot study is basically just one area of  
12 the lease where we would have four to six injectors and  
13 one to two producers and we would inject polymer into  
14 the ground, and the polymer would then be recovered  
15 through the cruzing zone for the oil ahead of it. So,  
16 basically, you are flushing the entire oil column.  
17 There's free oil left. And water would come up, and  
18 everything would come ahead of the polymer.

19           And one of the things Eden also did was -- you  
20 know, Germany is a very green environment over there.  
21 They banned nuclear power, they banned just about  
22 everything. So all his studies are based on harm to the  
23 environment.

24           And one of the things he did with his polymer  
25 study was that he completely removed the use of chrome

1 cross-linkers, which is allowed in the U.S., but is also  
2 a proven cause of cancer.

3 So none of this design includes any chrome  
4 cross-linkers. This is all natural, biodegradable. He  
5 designed it in such a way that when the polymer went to  
6 the ground, it remained movable. It never sat up. And  
7 so it will be all recovered through the injectors.

8 And this is why we bought the field. We didn't  
9 buy the field for the one barrel a day from 165 or 175  
10 wells. We bought the field for this type of activity.

11 Q. What is Dr. Littmann's testament of additional  
12 recoveries if the polymer flood project is implemented?

13 A. Just in the Upper Hospah Sand alone from the  
14 pilot study, the estimate is 2.25 million barrels  
15 recoverable.

16 Q. And is Dominion committed to implement the  
17 polymer flood project at Hospah?

18 A. Dominion has implemented the polymer flood study  
19 based on again our capital raise through the new  
20 organization that we put together. It is the primary  
21 plan -- we only really have two plans for the Hospah  
22 right now. One is the polymer flood, and the second is  
23 the development of the natural gas, liquids from natural  
24 gas.

25 Q. Let me ask you, if Dominion is ordered to plug

1 and abandon the wells at Hospah, would Exhibits 7 and 8  
2 show the volumes of otherwise recoverable reserves that  
3 would be lost?

4 A. Without going back and drilling a significant  
5 amount of wells for a new operator, it will be lost,  
6 yes.

7 Q. And where are those volumes? *AS*

8 A. If you look at the ~~fuel~~<sup>Field-</sup> wide study, just on the  
9 South Hospah alone, Dr. Littmann predicts nine million  
10 barrels. So if you then go to HSU -- and HSU is  
11 slightly smaller acreage -- and he also said one side of  
12 the fault would be beneficial, so he's probably looking  
13 in the region of four million barrels recoverable.

14 Q. Would the loss of those volumes constitute waste?

15 A. The lack of those volumes constitute waste of our  
16 investment.

17 Q. And waste of the resource as well?

18 A. Absolutely, yes.

19 Q. In your opinion, Mr. Burns, does the decline in  
20 oil prices constitute good cause under the compliance  
21 order for extending the time for completion of the  
22 compliance work at Hospah?

23 A. I believe it does.

24 Q. And is Dominion requesting that any order that  
25 results from this hearing incorporate the timetable

1 which you recommended of March, July, and December?

2 A. That is my proposal, is to institute those  
3 timelines in that order.

4 Q. Were Exhibits 1 through 8, Exhibit A, and Exhibit  
5 A-1 prepared by you or at your direction?

6 A. They weren't prepared by me. The report was  
7 written by Ralph Davis and the field-wide concept for  
8 the polymer flood was Dr. Littmann. But they were  
9 assembled by me.

10 EXAMINER GOETZE: May I make a correction,  
11 mine is marked 1-A.

12 MR. HALL: Thank you, Mr. Examiner.

13 EXAMINER GOETZE: Thank you. And that would  
14 be the crude oil price graph?

15 MR. HALL: Correct. And we would move the  
16 admission of all those exhibits at this time.

17 MR. HERRMANN: No objection, Mr. Examiner.

18 EXAMINER GOETZE: Mr. Herrmann, very good.

19 Then Exhibits A, 1-A, Exhibits 1, 2, 3, 4,  
20 5, 6, 7, and 8 are so entered.

21 (Dominion Production Company, LLC, Exhibits  
22 A, 1-A, and Exhibits 1 through 8 were so entered.)

23 MR. HALL: And that concludes our direct  
24 examination of Mr. Burns.

25 EXAMINER GOETZE: Thank you. Your witness,

1 Mr. Herrmann.

2 MR. HERRMANN: Give me one moment to  
3 organize myself. That was a lot of testimony covering a  
4 lot of different topics.

5 (Pause.)

6 CROSS-EXAMINATION

7 BY MR. HERRMANN:

8 Q. You mentioned you had four years of production  
9 experience at the beginning of this testimony for your  
10 qualification as an expert?

11 A. Forty.

12 Q. Oh, pardon me.

13 A. Not four; I am a little older than that. I just  
14 turned 60 last week.

15 Q. Happy birthday.

16 When is the last time you were at the Hospah  
17 unit?

18 A. The last time I was at the Hospah lease would  
19 have been March or April of this year.

20 Q. And when is the last time you had the staff on  
21 the site?

22 A. Every day.

23 Q. When the OCD was conducting inspections at the  
24 site last week through the 23rd and the 26th --

25 MR. HALL: I am going to object to counsel

1     testifying.

2                   MR. HERRMANN:   That was previously testified  
3     to by my witness and documented in Exhibit 2.

4                   EXAMINER GOETZE:   I think he prefaced with  
5     "when."

6                   MR. HALL:   Withdrawn.

7           Q.   (By Mr. Herrmann:)   When they were present and  
8     conducting their inspections, did they encounter any of  
9     your staff there?

10          A.   My staff reported to me that you're on location  
11     and they tried to speak to you but they blew on by.  I  
12     have an e-mail to that effect, and we'll admit that  
13     later.

14          Q.   Now, you had mentioned that you had \$300,000 in  
15     bonding with BLM?

16          A.   350,000.

17          Q.   350,000.

18          A.   We actually have 450,000 because we have another  
19     100 for the Hanson leases.

20          Q.   Do you know how much you currently have on file  
21     with the OCD?

22          A.   I believe our bonding total is somewhere in the  
23     order of 800,000, so whatever 450 from 800 would be  
24     would be a fair number.

25                   I think the blanket bond is 50.  And I don't have

1 the records in front of me. I know it is a lot.

2 Q. Could you repeat that?

3 A. I know we have a \$50,000 blanket bond.

4 Q. I meant your total amount.

5 A. I don't know the exact total.

6 Q. The total with both BLM and --

7 A. 800-and-something thousand.

8 Q. So minus the 450 --

9 A. Yes.

10 Q. Approximately --

11 A. Yes.

12 Q. -- 350,000?

13 A. Thereabouts.

14 Q. How many wells of the leases are federal versus  
15 state?

16 A. Wow.

17 Q. And if you have a copy of OCD Exhibit 3 -- which  
18 I provided Scott with a few copies prior to this -- that  
19 can give you an idea.

20 A. Let me see.

21 THE WITNESS: Do you have a copy of the  
22 order?

23 MR. HALL: One moment.

24 THE WITNESS: I am looking for the inactive  
25 well listing.

1 MR. HERRMANN: I have a copy. If I may  
2 approach the witness.

3 EXAMINER GOETZE: You may.

4 A. Basically, on this list anything that's under HSU  
5 or anything that is under Santa Fe Railroad A or Santa  
6 Fe Railroad, or Santa Fe Railroad B would be state. And  
7 anything that would be under Hanson, Whigham or South  
8 Hospah would be under federal.

9 Q. If you look at the column labeled "Lease type,"  
10 does that identify the type of lease?

11 A. Yes. I think this is -- the lease type is paying  
12 state, paying state. So some of the private lands, I  
13 would guess, and some state lands.

14 Q. So you would agree that it is "P" for private and  
15 "S" for state --

16 A. I always say "P" for paying and "S" for state.  
17 We are saying the same thing, just different  
18 terminology.

19 Q. And then "F" for federal?

20 A. On this particular list, I haven't seen --

21 Q. If you go to the last page.

22 A. Federal, here we are. For federal, we have South  
23 Hospah 5, 36, 39, 51, 52, 60. And the Whigham, 3.

24 Q. I'm sorry. I have to clarify this. This isn't a  
25 complete well list --

1           A. This is a partial list. I know we have about 46  
2 federal wells.

3           Q. So I will stop questioning that at the time. Do  
4 you know a percentage of federal wells versus state  
5 wells?

6           A. I don't know a percentage. I could hazard a  
7 guess. I would say it is probably around one-third,  
8 two-thirds. Two-thirds, state, and one-third, federal.  
9 That would be fairly accurate.

10          Q. So you have more bonding on file with the federal  
11 BLM than you do with the state for a fewer number of  
12 wells?

13          A. The federal bonding is different -- is a  
14 different requirement. We are not bonding a well. With  
15 the federal, we are bonding the lands. Here we are  
16 bonding wells.

17          Q. Referring to Dominion's Exhibit 3 --

18          A. Yes.

19          Q. -- what is the time frame that this review was  
20 done on?

21          A. The last 15 years.

22          Q. And, specifically, on Exhibit 3 you had mentioned  
23 the red wells. How did you identify them again?

24          A. Which wells? Sorry.

25          Q. The ones that are red.

1 A. The ones at the bottom in red?

2 Q. Yes.

3 A. Basically, there is just a notice that I put on  
4 there that they're the three wells that we don't want to  
5 plug. You'll notice everything else is either active or  
6 plugged or about to be plugged.

7 Q. You mean the red highlighting or --

8 A. Where it says last MIT in red -- not so much --  
9 the pink, the pink are the ones that have to be plugged.

10 Q. Okay.

11 A. It is the last five on the ACO.

12 Q. Were those included in the ACO-285?

13 A. Yes. That's the last five from ACO-285. You  
14 already plugged the first five, I think it was or four  
15 plus Hanson 38. And Hanson 38 wasn't an injection well,  
16 so it is not on here.

17 Q. And referring to Exhibit 4, you identified two  
18 lines -- one where Dominion was funding the Nacogdoches?

19 A. Correct.

20 Q. And one where Dominion was the operator?

21 A. Right.

22 Q. What was your role with Dominion between 2010 and  
23 2012?

24 A. I was president of Dominion.

25 Q. And did that involve instructing or providing

1 guidance with Nacogdoches?

2 A. No. It provided outlining what our plans are.  
3 Provided, basically, look, we want to put these wells on  
4 line. We need to get additional disposal capacity.

5 We agreed with Nacogdoches that we couldn't pay a  
6 one-off lump sum payment in 2010 for the leases. So  
7 there was an extended period of closing. But closing  
8 was only on final payment, which is in September 2012.

9 Q. Were you providing any guidance as to the  
10 operation of the field?

11 A. In terms of what?

12 Q. In terms of daily operations, long term plans?

13 A. No. We received copies of the production  
14 reports. We received copies of the compliance order  
15 reports that they were submitting to the OCD.

16 They asked our opinion on those compliance  
17 reports based on what our plans were for the field. We  
18 helped them plug wells, because they had a big  
19 commitment to plug the Hanson leases out. So a lot of  
20 the capital we provided was provided specifically for  
21 those Hanson leases.

22 Q. How old is the Hospah field?

23 A. You know, I read somewhere, 1936, but I don't  
24 believe it. Somewhere it said 1936 in some news of  
25 drilling for a water well and found some shallow oil or

1 something. I would say the real production started  
2 probably with Tenneco and Soro in the seventies, maybe  
3 the sixties. The seventies, I would guess.

4 Q. And when did you become familiar with the field?

5 A. I became familiar in 2009, I think it was.

6 Q. So prior to the transfer from Nacogdoches to  
7 Dominion, you were familiar with the field?

8 A. I knew of it because it was for sale.

9 Q. And you knew of the liabilities from ACOs --

10 A. No, not at that time.

11 Q. You had mentioned prior that you were getting  
12 reports from Nacogdoches --

13 A. That's a year later, in 2010. We asked for  
14 documentation from them, a disclosure it's called. But  
15 we asked for documentation that shows any and all  
16 outstanding orders, and they showed us.

17 Q. You had mentioned that Aztec or the staff in the  
18 Aztec Office had kept repeating the phrase, You need to  
19 do your due diligence?

20 A. Right.

21 Q. What sort of due diligence did you do prior to  
22 acquiring this field?

23 A. We reviewed all the well files that we could get  
24 our hands on and we looked at production history on the  
25 OCD site and we looked at a variety of different

1 compliance orders that were issued to Nacogdoches. We  
2 looked at core samples from the field. We looked at a  
3 variety of different things to ascertain productivity  
4 and possible liability.

5 Q. Did you do any research into the state  
6 regulations?

7 A. No, I didn't. I am not saying "we" didn't; I am  
8 saying I didn't.

9 Q. Did Dominion as a whole do research?

10 A. I don't know. It didn't come up in a  
11 conversation with me.

12 Q. But you were aware that there were potential  
13 liabilities and compliance issues from the compliance  
14 reports that you were being delivered by Nacogdoches?

15 A. Correct. We viewed that Nacogdoches was in  
16 compliance because there was no violation of the agreed  
17 compliance order at that time.

18 We felt they were in compliance. And I was given  
19 a reasonable satisfactory feeling from my first meetings  
20 with Mr. Sanchez and Mr. Swazo that the OCD would be  
21 cooperative.

22 Q. Were you aware that Nacogdoches was subject to a  
23 compliance proceeding prior to -- subject to a  
24 hearing -- to an OCD hearing order?

25 A. Yes, I am. In a disclosure, they provided that

1 to me. That's why I know clearly, because it's in that  
2 compliance hearing that Mr. Sanchez is well aware of the  
3 fact that they submitted C-115s for swab production.  
4 It's in that hearing. I read it very clearly.

5 Q. Regarding your communication with the OCD, how  
6 many formal compliance actions have been taken by the  
7 OCD against Dominion?

8 A. We have had two compliance orders, agreed  
9 compliance orders in the -- that was between -- let's  
10 see. The first one was 2012 and the second one was  
11 signed January 2015, but negotiations I think started  
12 sometime around August.

13 Q. And were you ever notified of other compliance  
14 issues in an informal setting?

15 A. No, and that's really my beef, is that when I  
16 wrote the letter in April, 2013, I fully believed I was  
17 in compliance. And then I found out much later that I  
18 wasn't in compliance.

19 And that's my first exposure to -- I have a  
20 sundry approved by the BLM and we go ahead and do it.  
21 And at that time I was unaware of the fact that I would  
22 have to get a second approval from the OCD for the  
23 federal well.

24 Q. So aside from the formal compliance actions,  
25 there were, according to you, no informal attempts to

1 obtain compliance --

2 A. I don't think there were any informal attempts.  
3 I went through my entire correspondence base with the  
4 OCD. And the response I have back from them are very,  
5 very minimal. I don't think I have seen Mr. Perrin out  
6 there in all the time I have been involved with that  
7 field.

8 Q. Were you involved in the drafting of ACO-285?

9 A. I was involved in the discussion of it, not the  
10 drafting.

11 Q. Were you aware that in drafting -- or during the  
12 process of drafting there was discussion of including  
13 financial encumbrances in the force majeure clause?

14 MR. HALL: I am going to object to the  
15 question. It calls for information that violates,  
16 frankly, Rule 11.40.8. It's evidence of compromise in  
17 settlement discussions leading up to an agreed  
18 compliance order. I think it is an improper line of  
19 questioning.

20 EXAMINER GOETZE: Let's move onto another  
21 question.

22 Q. In ACO-285 is there any specific mention of  
23 financial concerns?

24 A. No.

25 Q. Regarding Exhibit 1-A, what is the time period on

1 this?

2 A. Let me check. This basically goes from 2011  
3 through 2015.

4 Q. Prior to 2011, have oil prices always been this  
5 amount?

6 A. No.

7 Q. So there has been fluctuation over time?

8 A. They're commodities; that's what happens.

9 Q. And you consider that fluctuation force majeure?

10 A. I consider it a deep fine of almost 60 percent in  
11 a relatively short space of time, yes. We only had one  
12 other time like that, which I think was 2006,  
13 thereabouts. And the recovery in that was very, very  
14 quick. It was quicker than the fall.

15 Q. How many times in your 40 years of experience has  
16 there been a significant price drop?

17 A. I have employed a lot of people in my career. I  
18 have had seismic companies that I owned that we've taken  
19 public on NASDAQ and raised \$160,000,000. I had 120  
20 employees. They're directly related to the oil price.

21 I have had oil companies I've started that  
22 drilled successful wells offshore. So we're very, very  
23 aware of hedging. We are very aware of pricing, and we  
24 are very aware of the fact that the cycle in commodities  
25 is not straightforward.

1           However, we've had I think three cycles that have  
2    been particularly bad. We've had the one with the Suez  
3    -- the Olympic crisis was the first one. I don't think  
4    you'd remember that, but I certainly do.

5           And the second one I think was in the mid 80s.  
6    That one was particularly savage. A lot of people in  
7    Texas lost everything. And the last one I think was  
8    really 2006, but that was short lived.

9           This is the worst. This is the most sustained  
10   that we've seen.

11         Q. But it is precedented?

12         A. It's unprecedented in the layoffs and the  
13    redundancies and the cut-backs and the shrinking  
14    economy.

15         Q. But there have been price drops before?

16         A. Yes, there have, correct.

17         Q. Regarding the EOR project that you presented in  
18    your later exhibits, 7 and 8, I believe --

19         A. Yes.

20         Q. -- is there a price point where that project  
21    becomes uneconomical?

22         A. Yes.

23         Q. What is that?

24         A. The cost of the entire project -- I mean, I hope  
25    I don't make competitors out of you because I'm giving a

1 lot of information here. The cost price for that pilot  
2 study would have been about \$6.5 million to recover  
3 2.5 million barrels.

4 Q. I'm sorry. I was hoping for just a simple price  
5 per barrel of oil.

6 A. I don't have my calculator here, but that's the  
7 numbers we work on, is 6.65 million, costs, and 2.25,  
8 recoverable. That cost includes operating costs.

9 Q. Sorry. One more time?

10 A. 6.65 million for 2.25 million barrels  
11 recoverable.

12 Q. So 2.25 divided by 6.65?

13 A. It is going to be about three bucks a barrel.  
14 That's why when you do enhanced oil recovery, you are  
15 basically taking the recovery reserve past the primary  
16 and the secondary.

17 When you look at an oil well when it produces, it  
18 has a decline which comes down on a parabolic curve  
19 unless it's (inaudible) till it flattens out. And when  
20 it starts to flatten out, it takes years and years  
21 before it goes to zero.

22 But when you do an enhanced oil recovery project,  
23 you are basically shoving those reserves back up to the  
24 primary level and sustaining it while the polymer is  
25 pushing the product.

1 Q. Yes. But there is added cost for the enhanced  
2 oil --

3 A. Correct. There was the \$6.5 million.

4 Q. And are you stating that at current prices that  
5 job would not be economical?

6 A. No, I am not. I'm stating in the report -- it  
7 states very clearly. If you read the report, it says  
8 \$40 oil is sustainable for this project. In fact, I  
9 think that report is based on net 40 barrels -- \$40 a  
10 barrel.

11 Q. When was this report commissioned?

12 A. Let me see. It was early in our involvement with  
13 the field. Here we are. The 20th of June 2013, which  
14 is consistent with the six months I told you it takes to  
15 prepare these things, which is about two months after we  
16 became operator.

17 Q. Would the current market conditions affect the  
18 status of that report?

19 A. No, it doesn't affect the status of it. What it  
20 affects is our ability to raise capital, because we are  
21 not producing as much as we were, which is why we have  
22 to take our company, recapitalize, pay our vendors, get  
23 our wells in compliance, and then raise or have access  
24 to capital markets to do these projects. And that's  
25 Mr. Sytsma's testimony, not mine.

1 Q. Now, you had mentioned that you were still doing  
2 a study on trying to figure out which wellbores to keep?

3 A. Yes.

4 Q. How do you determine which wellbores you wanted  
5 to keep?

6 A. The first thing I looked for is any well bore  
7 that has a 7-inch casing, is my first criteria, because  
8 if I have a 7-inch casing in there, then it is a lot  
9 easier for me to run a four-and-a-half-inch casing  
10 inside it with a packer to inject the polymer through.

11 So if I can find as many wells with 7-inch  
12 casing, they will be the first ones that I'd like to  
13 keep. And then I'd work on five and a halves and then  
14 four and a halves. The last thing I want is three and a  
15 halves, so they'd be the ones I'd dispose of first.

16 Q. Does any of this investigation involve running  
17 MITs or bradenhead tests?

18 A. No. It involves meticulous research on records  
19 that I hope are accurate.

20 Q. So no on field investigation?

21 A. No. We look at structure diagrams and we look at  
22 basically when the wells were drilled, how they were  
23 drilled, and what casing size was used. But, most  
24 importantly, is where they sit structurally.

25 Q. But no on-site investigation of the status and

1 the condition of those wells?

2 A. No, not at this stage. That will come -- we'll  
3 do an evaluation on that. That's why I tell you that I  
4 wanted to get wells into compliance and why I want to  
5 keep those three particular wells. I want to keep the  
6 14 for the gas project. And I want to keep the others,  
7 because I am pretty sure that that is going to be the  
8 first area that we'll be looking at.

9 Q. Have you considered placing these wells in TA  
10 status?

11 A. No, I haven't considered that.

12 Q. Why not?

13 A. Primarily because the wells that -- I will tell  
14 you what, the producing wells out there, the oil wells  
15 are ones that previously had not fallen off the inactive  
16 well list or onto the inactive well list.

17 The only reason we have more wells now on the  
18 inactive well list is because the OCD now does not allow  
19 the fact that alternative methods of production are  
20 deemed to be viable.

21 They want to try to avoid an operator going in  
22 there and swabbing a well once every 13 months or 15  
23 months, whatever it might be, and keeping it on the  
24 producer's list.

25 But the point is that if we are trying to

1 maintain wellbores, the last thing I want to end up  
2 doing is put in bridge plugs inside the cement. What I  
3 want to be doing is I want to be producing all I can  
4 from these in the most cost effective manner.

5 There's products out there called Oil Hound that  
6 Mr. Hall referred to that basically is almost like a  
7 mobile swabbing unit. It goes around. It sucks the oil  
8 off the top of the well bore. It goes to the next one  
9 and does the same thing. It comes back two weeks later  
10 and does exactly the same thing.

11 These wellbores have static fluid levels of  
12 around 800 feet. That 800 feet, easily you are going to  
13 sit two to three barrels of oil in that well bore.

14 So we could go around and pick that up, but that  
15 is not allowed. We have to go and spend \$50,000,  
16 \$40,000 for pump jacks, PC pumps, produce tens of  
17 thousands of barrels of water, that we then have to  
18 inject underground into injection wells that we have to  
19 the bring into compliance.

20 Q. Did you say that was Oil Hound?

21 A. Yes. There is a website about it. There's quite  
22 a few people that do it.

23 Q. Like a dog hound?

24 A. Like a dog hound. We actually had one out on the  
25 lease on trial.

1 Q. Have you presented that to the OCD?

2 A. When I talked to the OCD in Aztec, I was told in  
3 no uncertain terms by Mr. Perrin that pump jacks, PC  
4 pumps or hardware constitute a producing well, not a  
5 swabbing unit. Made that very clear. There's a reason  
6 why they put it in their compliance orders. Now, it  
7 came from somewhere.

8 Q. Will this EOR project still produce a substantial  
9 amount of water?

10 A. It will. Nothing like the amount we are  
11 producing now, because it's the upper sand. The lower  
12 sand produces the vast majority of the water plasma.

13 Q. And are you aware of the regulatory framework for  
14 injection wells in the state of New Mexico?

15 A. Yes, I am.

16 Q. Are you aware of the primacy agreement that OCD  
17 has with the EPA?

18 A. I am aware of the increasing impact of the EPA in  
19 every negotiation.

20 Q. So regarding the injection wells, you understand  
21 that that is not just OCD rules, but --

22 A. I understand totally. That is why I made  
23 reference to the fact that our studies do not include  
24 chrome cross-linkers, because we know the EPA would  
25 probably by that time say no.

1 EXAMINER GOETZE: May I interrupt you for a  
2 moment. The folks on the other case, go around and have  
3 lunch and come back a little bit after one if you'd be  
4 so kind.

5 THE WITNESS: Sorry.

6 EXAMINER GOETZE: No, no. No reason for  
7 them to have to participate. Come back around 1:30,  
8 please. Please go ahead and continue with your  
9 questions.

10 MR. HERRMANN: Okay.

11 BY MR. HERRMANN (cont'd):

12 Q. So in that schedule you had presented, is it my  
13 understanding that compliance with OCD rules is the last  
14 of your priorities?

15 A. No. I didn't say that.

16 What I said in my schedule was the first priority  
17 is my vendors. As and when money comes in, I am going  
18 to make sure I pay my vendors. If I have no vendors, I  
19 can't do anything.

20 So my first cash that frees up after my vendors  
21 or at the same time as my vendors will be the bonds. I  
22 want to get the financial assurance in place. It has  
23 always been thrown at me the last few months, so I want  
24 to get it in place.

25 I tried to do it earlier. I was circumvented

1 with West Texas National Bank and Frost Bank. Now I  
2 will need to put a CD in place.

3 So that is my first priority for the OCD. I  
4 think my second priority is the remaining five wells of  
5 which three have been like this since 2000. That's my  
6 second priority. And my third priority is to fix the  
7 three wells that I want to keep.

8 Q. Are you aware that it's standard practice or  
9 required by OCD rules, whenever a compliance proceeding  
10 is brought, that we have to notify the surety companies?

11 A. I read in the order that you have to notify the  
12 surety companies. I think the way it was written  
13 suggested that there was a strong possibility those  
14 bonds would be pulled. And as a result, the manager of  
15 the energy sector advised me that he could not take the  
16 risk. And the worst thing is his name is Chris  
17 Whigham, and it's the same family that has the leases on  
18 Hospah.

19 Q. In your opinion, you stated earlier that there's  
20 no environmental hazard from leaving wells inactive for  
21 long periods of time?

22 A. I said these wells.

23 Q. These wells.

24 A. If I had a 5,000-pound gas well with a casing  
25 leak, I'd think I had a bit of a problem, but I don't.

1 Q. What is the difference?

2 A. The difference is that a 5,000-pound pressure  
3 with a casing leak is an environmental risk. These  
4 wells have a static fluid level that is well below any  
5 fresh water sands.

6 And I don't believe there's any fresh water sands  
7 there anyway. I could get told there are. But I have  
8 to drill 3,200 feet to find fresh water. So there is no  
9 immediate environmental effect whatsoever. If there  
10 would have been, it would have been done before 2000.

11 Q. Would running MITs be a way of confirming that?

12 A. Running MITs?

13 Q. Performing MITs?

14 A. On these five wells?

15 Q. On any well in general.

16 A. It would show whether or not you had casing  
17 integrity or it would show maybe your packer was leaking  
18 or it would show maybe you had a hole in the tube, then  
19 it wouldn't show anything unless you mitigated all the  
20 risks and all the uncertainties.

21 Q. So not performing MITs, you wouldn't necessarily  
22 be able to testify as to the --

23 A. Oh, I can. We have a fluid-level gun out there  
24 that we can shoot fluid levels on any of those wells.  
25 We know what the static fluid level is. We know the

1 bottom hole pressure of both reservoirs breaking a leak.

2 Q. And how often do you run those?

3 A. We have that guy over there most days. These  
4 particular wells, I would have to go back and check when  
5 we last checked them. But every well that we check on  
6 the static fluid level basis, we're looking at a static  
7 fluid level in the order of 800 feet on the Lower Hospah  
8 Sand probably about 900 to 1,000 on the Upper Hospah  
9 Sand.

10 Q. Regarding the land farm, has Dominion been using  
11 that land farm actively?

12 A. My understanding is -- I didn't know we had a  
13 land farm, initially. But Dominion, I would guess,  
14 would have been using that land farm up  
15 until January 2014 -- 2014? Yes, 2014.

16 Q. But you are unaware of any permit or any  
17 operating conditions?

18 A. I've asked for the permit and I've looked at a  
19 whole train of internal OCD correspondence in reference  
20 to the land farm. I provided evidence that shows that  
21 this land farm really has been a pain in everyone's side  
22 for a long time and has needed to be cleaned up.

23 As soon as Mr. Powell notified me of what he saw  
24 out there, I closed it that day. And I brought in  
25 bulldozers, rotated the earth there, took all the fluids

1 off. Spent sixty to eighty thousand dollars doing it.

2 And we had a remediation plan which is also  
3 impacted by the current cash environment. But,  
4 basically, remediation is primarily now natural. We are  
5 using sunlight, other remediation techniques such as  
6 that.

7 Q. And regarding your correspondence with OCD on the  
8 release of financial assurance, did you file a request  
9 with our bond administrator to release those?

10 A. Me personally?

11 Q. Or one of your staff?

12 A. I don't know. I would have to go back and check  
13 that. I would assume -- they are pretty good when it  
14 comes to finance so I would assume they have, but I  
15 don't have personal knowledge of that.

16 Q. But you do understand it's not the OCD's  
17 responsibility to release that as soon as it is  
18 available; we need to wait for a request?

19 A. I understand that. But I also know that a  
20 request was made, because if it hadn't been made, I  
21 wouldn't have gotten the message from Mr. Perrin telling  
22 me he was retaining it. And so I think that's an unfair  
23 comment.

24 Q. And that was on one well?

25 A. That was on Santa Fe Railroad 44. We spent I

1 don't know how much. We put an ESP pump down there.  
2 Ran wire. Ran everything down there. And the bond was  
3 still retained.

4 Q. And that is a well that you would return to  
5 production?

6 A. Correct.

7 Q. How much did it produce?

8 A. Initially it came at about 380 barrels of fluid a  
9 day.

10 Q. And of that 380, how much was oil?

11 A. It is difficult to say, because we don't have  
12 separation facilities at each well head. I mean it's  
13 pulled into lease pools, so it goes to its separator.

14 If the question is did it produce oil, yes, it  
15 did.

16 Q. If I recall, you stated it only produced three  
17 barrels of oil?

18 A. I don't recall me saying three barrels of oil.  
19 What I said was we don't know exactly what it produces.

20 Q. I meant earlier in your testimony regarding  
21 your --

22 A. I would guess it would be around that sort of  
23 number, that's for sure. It is probably a  
24 three-barrel-of-oil-a-day well.

25 When you are producing into one pool, it is tough

1 to say, because on a daily basis, it might go up a  
2 little bit. And you say, Oh, in that case, it's making  
3 five barrels. But that might be a little flush for the  
4 first day, and then the next day is three and the next  
5 day it goes down and you think, has it stopped? But,  
6 no, another well has gone off. So you've got to weigh  
7 up which ones are producing at the time.

8 Q. And what other wells did you state have financial  
9 assurance that would be released?

10 A. The ones I haven't seen -- 63 and 70, I know for  
11 sure, and the five wells that we plugged early in  
12 2014 -- was it '14 or '15? I think '14. Time passes  
13 by.

14 Q. And are you aware of a request made to the  
15 Division to set early financial assurance?

16 A. No. I said I wasn't aware of that. I said not  
17 to my knowledge, I will check up on it.

18 MR. HERRMANN: I have no further questions.

19 EXAMINER GOETZE: Mr. Hall.

20 MR. HALL: Nothing here.

21 MR. WADE: Want me to start?

22 EXAMINER GOETZE: Sure.

23 EXAMINATION BY MR. WADE

24 MR. WADE: I think a lot of questions I was  
25 going to ask were touched on but not completely

1 answered, but it would be good to make clear for the  
2 record or for me.

3 In previous cross-examination and some of  
4 your testimony, some alternatives to P and A'ing came  
5 up. And it sounds like the biggest one that's being --  
6 that has been maybe not proposed but is being considered  
7 by Dominion is this Oil Hound?

8 THE WITNESS: Correct.

9 MR. WADE: Are there other alternatives?

10 THE WITNESS: What I am trying to avoid --  
11 and I'm sure anybody with production background would  
12 understand what I am trying to avoid. I am trying to  
13 avoid bringing on so many wells of water management in  
14 the field is so great that I have to buy another half a  
15 million dollars worth of injection pumps.

16 I already have out there now three -- sorry  
17 four different types of injection pumps. I have 10,000  
18 barrel a day capability and another one that goes up to  
19 about 15,000 barrels a day.

20 So I've got a lot of capability there, but I  
21 don't want to keep producing water. So what I would  
22 like to do while I'm evaluating these wellbores is to  
23 take the oil off the top. It can be done by swabbing  
24 our own rig. We operate our own rigs out there. We can  
25 do it that way.

1           We can use the Oil Hound, which is basically  
2 just like using the rig, but it is smaller. And it is  
3 mobile. It has its own device on its own drivetrain.  
4 And it can drive around the lease to these particular  
5 wells.

6           I don't think I can think of any other type.  
7 We don't have gas for lifting or anything like that. So  
8 I can't think of any other type apart from basically  
9 skimming -- skimming rather than swabbing.

10           MR. WADE: Can you envision any other  
11 regulatory means of avoiding a plugging and abandoning.

12           THE WITNESS: I am assuming if I put the  
13 bond up in the entire field, that would probably do it,  
14 wouldn't it?

15           MR. WADE: And going back to the swabbing, I  
16 believe you mentioned a hearing pursuant to a compliance  
17 order with Nacogdoches.

18           THE WITNESS: Correct.

19           MR. WADE: And you must have read a  
20 transcript.

21           THE WITNESS: I did.

22           MR. WADE: Do you happen to know if there is  
23 a hearing order and what that is?

24           THE WITNESS: I don't. I don't know what  
25 happened, the end result. I didn't get as far as the

1 end result. I just wanted confirmation.

2 I was looking to see whether or not the OCD  
3 had accepted skimming, as I call it, rather than  
4 swabbing, and filing a C-115 as an acceptable form of  
5 production.

6 MR. WADE: So it is your belief, based off  
7 the transcript that you read in this particular order,  
8 that skimming at one point was allowed?

9 THE WITNESS: Absolutely. In fact, I can't  
10 remember the name of the lady that was the attorney at  
11 the time. It is like Mikal or something like that. I  
12 think the last name was Altomare.

13 MR. WADE: Mikal Altomare.

14 THE WITNESS: That's the one, yes. She made  
15 reference in there to the fact that Nacogdoches will  
16 have to file those C-115s, which they did.

17 MR. WADE: Okay. You refer to what you are  
18 calling a pilot study. And I want to make sure I  
19 understand the parameters of this pilot study.

20 THE WITNESS: Okay.

21 MR. WADE: What is the pilot study as you  
22 see it?

23 THE WITNESS: Basically, it's a six or eight  
24 well project and will involve four or six injectors and  
25 one or two producers. If we have one producer, it will

1 be four injectors. If we have two producers, it will be  
2 the six injectors. We will set it up such that the  
3 producer's in the middle and the injector's on the  
4 outside.

5 And when we inject the combination of the  
6 polymer, the volume of polymer as recommended by  
7 Dr. Littmann and the water that's produced from the  
8 field will be injected behind it to push the polymer.

9 So it is almost like a cycle that goes  
10 along. And it basically pushes the polymer towards the  
11 producers. And once the producers take polymer and no  
12 more oil, then it is over. There is nothing else you  
13 can do with those wells. All the reserves are gone and  
14 you've got to plug them because there's no remaining  
15 reserves.

16 MR. WADE: Do you have a timeline for that  
17 project?

18 THE WITNESS: The pilot project is about a  
19 two-year project from concept to actually recovering the  
20 oil. It's the setup and the funding that is going to be  
21 critical. I think Mr. Sytsma could probably touch on  
22 that a little bit more than me, because he's more in  
23 tune with capital markets than I am.

24 MR. WADE: Okay. And maybe this question  
25 would be better for him. But is taking care of the

1 compliance issues the OCD has reliant on the results of  
2 your pilot project?

3 THE WITNESS: No, no. Taking care of these  
4 issues here are reliant on one circumstance, a rebound  
5 in the oil price that allows Dominion to be profitable  
6 and can do it again; or, two, the finalization of our  
7 capital raise that's underway in Germany right now, and  
8 the restructuring.

9 MR. WADE: Okay. Let's get to timelines  
10 then.

11 THE WITNESS: Yes.

12 MR. WADE: Obviously, the OCD doesn't want  
13 to see an open-ended timeline because we don't know  
14 when --

15 THE WITNESS: Sure.

16 MR. WADE: What do you see as a realistic  
17 timeline for either recovery or -- I don't know how you  
18 just referred to it, but being able to get the capital,  
19 the reorganization --

20 THE WITNESS: I think in terms of the oil  
21 price, it's going to take something fairly dramatic  
22 before we see any improvement. That's just my opinion.

23 I am sure if Israel decided to have a  
24 nuclear attack tomorrow on Iran, I'm sure we'd see a  
25 whopping rate increase in the oil price. But whether

1 that will happen or not, who knows.

2 MR. WADE: So we can kind of agree that you  
3 can't rely on that?

4 THE WITNESS: We can't rely on the oil  
5 price. That's why we've taken our separate action. It  
6 has been now a year in the making that we've got to this  
7 point. I think we are in Germany in January of this  
8 year for a vote of the shareholders of the Nordic Funds  
9 I, II, and III. And I don't have the exact approval,  
10 but I know it was in the 90s -- a shareholder approval  
11 to contribute the assets in kind to a new company called  
12 NasCo Energy and Resource or NasCo Energy and Lostoff as  
13 it's called.

14 And included in that contribution in kind  
15 was my ownership of Dominion. So, basically, Dominion  
16 also is still the operating company, but it will all be  
17 under one roof. So, basically, all the assets now -- we  
18 have the Helium Plazas in Arizona, which is cash  
19 positive. We have the Offshore 818 Well. We have a rig  
20 out there now that is putting that well on line, which  
21 should generate close to about 120,000 positive a month.

22 So we have taken a lot of steps to get  
23 there, but the critical part is the capital raise that's  
24 underway. We have 1.1 million shares on offer. And  
25 those shares are priced currently at three Euros, fifty

1 a share, which would be about \$3.80 roughly.

2 So we would raise in the order of 3.8,  
3 3.9 -- \$4,000,000 is roughly what we are looking to  
4 raise.

5 When you take away Dominion's operating fees  
6 that are outstanding from the Nordic Funds, as they  
7 won't need to be paid, we have probably at Hospah in the  
8 region of around 550,000 net debt we will pay down from  
9 that. And then we will put the bonds in place, like I  
10 said, in the March time period.

11 MR. WADE: So, really, the time lines you  
12 gave earlier, which is paying down the debt, starting to  
13 look at the bonds --

14 THE WITNESS: Correct.

15 MR. WADE: And in July, then you will start  
16 talking about plugging the five remaining injection  
17 wells --

18 THE WITNESS: Yes.

19 MR. WADE: That really depends on raising  
20 the capital?

21 THE WITNESS: Absolutely. It does.

22 MR. WADE: But that's a moving target in  
23 itself?

24 THE WITNESS: It is a moving target, but  
25 it's underway.

1 MR. WADE: And even if you were able to  
2 comply with your timelines that you've laid out, I  
3 believe the fourth timeline -- maybe not timeline -- but  
4 the fourth goal was to MITs?

5 THE WITNESS: Yes.

6 MR. WADE: December?

7 THE WITNESS: Yes.

8 MR. WADE: When would that process end?

9 THE WITNESS: I am good at timelines based  
10 on, I don't to end up in a situation where I'd be overly  
11 aggressive on those timelines.

12 I am sure Mr. Sytsma will testify that any  
13 banker in today's environment knows that doing a  
14 capital raise when you have in excess of 55 million  
15 assets and you're looking for four is not that tough a  
16 sell. It's a tough sell, but it's not that tough a  
17 sell.

18 And we have already started seeing contracts  
19 come in for that. We already have the first shares. We  
20 were notified by Germany the first shares have been  
21 sold. And we have a bank. They also have a website.  
22 It is called Acon Bank, Germany, A-c-o-n.

23 And they are taking it on themselves also to  
24 do the capital raise. And the second part of the plan,  
25 once we do the capital raise, which basically tightens

1 up the balance sheet to the point where it's a whole lot  
2 more presentable, allows us to do the public offering on  
3 the Frankfort Exchange. The second quarter of 2016 is  
4 the current schedule for that.

5 MR. WADE: So I think you can understand why  
6 I am asking regarding --

7 THE WITNESS: I understand totally.

8 MR. WADE: But in reality, you can't make  
9 any guaranty that you can stick to any particular  
10 timeline?

11 THE WITNESS: I don't think any company out  
12 there right now can make any guaranties. The way  
13 companies out there are with their debt to reserve  
14 ratios, they are out of whack with most banks.

15 If banks come right now and pull those loans  
16 from them, there's going to be carnage out there,  
17 absolute carnage. We are in a lot better state than  
18 most people because we have very little debt. We have  
19 \$500,000, after removing the Hospah operating fees.

20 MR. WADE: I don't have any further  
21 questions.

22 EXAMINATION BY EXAMINER GOETZE

23 EXAMINER GOETZE: Mr. Burns, your conceptual  
24 design for the polymer flooding, was this ever presented  
25 in discussion when the second order, the ACO-285 was

1 being negotiated?

2 THE WITNESS: We didn't present it. I am  
3 pretty sure we'd mentioned it in the past, but I don't  
4 think we presented it, no.

5 EXAMINER GOETZE: Then when the wells were  
6 selected for the agreement, was there any justification  
7 on your side as to why you retained some and permitted  
8 some to be plugged?

9 THE WITNESS: Well, these are just injection  
10 wells only. Normally, the injection wells you have in  
11 the field are pretty low down the structure, so we don't  
12 really see the need for any of these wells.

13 EXAMINER GOETZE: Very good. I have no  
14 further questions for this witness. We are at 11:30.  
15 Do you have an idea of your second witness's testimony?

16 MR. HALL: I do, and I can be concise.

17 (Interruption.)

18 EXAMINER GOETZE: Back on the record. Let's  
19 proceed.

20 DONALD L. SYTSMA  
21 having been first duly sworn, was examined and testified  
22 as follows:

23 DIRECT EXAMINATION

24 BY MR. HALL:

25 Q. For the record, please state your name.

1 A. Donald Sytsma, S-y-t-s-m-a.

2 Q. And Mr. Sytsma, where do you live and by whom are  
3 you employed?

4 A. I live south of Houston, Texas. And I am  
5 employed by the Nordic Oil U.S.A. entities, the funds,  
6 and the general partner. And I am the CFO of the new  
7 company that we're putting together in the  
8 recapitalization.

9 Q. Can you give the Hearing Examiner a very brief  
10 summary of your educational background and experience.

11 A. Sure. My education is a B.S. in accounting from  
12 Indiana University. My formal education is accounting.  
13 My experience is finance accounting, commercial side of  
14 the business, and asset management, risk management.

15 I've got 35 years experience in oil and gas.  
16 About half and half between the midstream and upstream,  
17 and about 50 percent on oil and 50 percent on natural  
18 gas.

19 Q. Are you familiar with Dominion's Hospah property?

20 A. Yes.

21 MR. HALL: At this point, Mr. Examiner, we  
22 offer Mr. Sytsma as an expert in oil and gas accounting  
23 and financial matters.

24 EXAMINER GOETZE: Mr. Herrmann.

25 MR. HERRMANN: No objection.

1 EXAMINER GOETZE: He's so qualified.

2 Continue.

3 Q. (By Mr. Hall:) Has Dominion Production Company  
4 recently repositioned itself so its more able to meet  
5 its compliance objectives?

6 A. Yes. Through the consolidation of the -- let me  
7 talk a little bit about the funds that are in place and  
8 the consolidation of those funds and those assets. The  
9 funds started in about 2008 and invested \$60 million in  
10 oil and gas projects in the U.S., including the Hospah  
11 project. There's a Helium project in Arizona, the Eagle  
12 Ford Shale play in Texas, the offshore Texas with  
13 Mustang Island.

14 With that each fund was a closed and limited life  
15 fund such that in total there were 2,200 investors for  
16 that \$60 million. What the investors agreed to do was  
17 to take these portfolios of assets and put them into a  
18 single entity, including an operating company, to have  
19 an integrated oil and gas company of the size and  
20 economies of scale to be competitive and to raise  
21 capital at much lower prices and, particularly, the  
22 micro-caps in the U.S.

23 And so as part of that, in January, investors  
24 approved the consolidation and were working through the  
25 final execution and the issuance of shares; at the same

1 time, we've got capital raise going for private  
2 placement and then follow with a public offering in the  
3 second quarter of 2016.

4 Q. What is the name of the new entity resulting  
5 from --

6 A. NasCo Energy and Lostoff AG.

7 Q. Could you describe for us how the restructured  
8 organization is being recapitalized?

9 A. It's going to be recapitalized through the  
10 initial raise through private placement to the  
11 existing -- to some sophisticated investors. And as  
12 David had mentioned raising about ten percent on a  
13 \$55 million asset base isn't rocket science, but they  
14 are tough capital markets right now.

15 And we are looking at doing the raise to build  
16 and shore up the assets and position for going forward  
17 to develop those assets. But as David mentioned, the  
18 environmental -- starting first with the vendors because  
19 those are jobs to local communities, vendors, safety,  
20 environmental remediation, the plugging, and then into  
21 more development activities.

22 Q. Do you have a schedule for recapitalization and  
23 are you on schedule?

24 A. Frankly, it hasn't moved as quickly as we'd like.  
25 But that's as much a reflection of the downturn in price

1 that many investors in North America -- and it is less  
2 in Europe -- are still waiting to figure out where the  
3 bottom is and how long is it going to last before they  
4 move back in.

5 So we have had some delays with that. But we  
6 have consciously slowed things up to be able to get  
7 repositioned to do that toward the bottom and be able to  
8 bring the capital in.

9 The existing private placement is going to happen  
10 sooner or later. And it is going to happen because it  
11 has to happen. Part of the strategy is to retain the  
12 assets and continue to grow them.

13 Q. Let's look at what have been marked as Exhibits 9  
14 and 10 in the exhibit packet.

15 A. Okay.

16 Q. Would you identify those and explain those to the  
17 Hearing Examiner; what do those show?

18 A. Exhibit 9 is an estimate of remediation costs,  
19 environmental compliance remediation cost that's been  
20 incurred by Dominion on behalf of its partners for 2014  
21 and part of 2015.

22 We have subsequently gone through this list and  
23 the number is actually closer to 900,000, rather than  
24 the 675 David has here. We sat down, we went through  
25 the invoices, we went through the expenditures to make

1 sure we were getting classifications correct.

2 Q. All right. And what does Exhibit 10 show us?

3 A. Exhibit 10 is just a summary of -- since  
4 Nordic -- the Hospah project is in the second fund,  
5 which is -- the name of it is Nordic Hall, U.S.A., II.  
6 There's I, II, and III.

7 The second Exhibit 10 is the capital investment  
8 that has been made in the Hospah project since Nordic  
9 entered into the project. And Nordic holds an  
10 85 percent interest. And then on top of that, I grossed  
11 up to 100 percent. And so since entering into the  
12 project there has been close to 6.9 million expended in  
13 capital.

14 Q. And the heading, halfway down in Exhibit 10,  
15 says, Additions Other Than Acquisition Cost; do you see  
16 that?

17 A. Correct.

18 Q. And above that -- has confidential proprietary  
19 information been redacted from this exhibit?

20 A. What has been excluded is the initial acquisition  
21 cost, because although it is relevant to us, our  
22 investors and returns, we didn't see that as  
23 particularly being relevant to the OCD, what the  
24 acquisition cost was.

25 Q. Let me ask you one question about the amount of

1 bonding you show on the balance sheet, Exhibit 10.

2 A. Right.

3 Q. \$620,202. That deviates a little bit from the  
4 earlier testimony. Can you explain that?

5 A. Sure.

6 What David is describing as operator -- and  
7 Dominion serves as operator to all the asset investments  
8 that Nordic has made in the U.S. And the 620,000 is the  
9 cash that Nordic has had to put for its readable share,  
10 its interest in projects to secure P and A bonds, both  
11 for the feds and for the OCD.

12 The gross up to that, to get closer to the 800  
13 that Dominion -- that David referenced is grossing out  
14 for the additional 15 percent and...

15 Q. Taking into consideration the cost you've  
16 established to come into your regulatory compliance with  
17 Hospah --

18 A. Correct.

19 Q. -- and also considering NasCo's financial  
20 position now, have you worked with Mr. Burns to  
21 establish a reasonable timetable for performing the  
22 compliance --

23 A. Yes.

24 Q. And, again, let me ask you. Do you agree that it  
25 will be March for posting of bonds and July to perform

1 the plugging and abandonment and December to start the  
2 MIT?

3 A. Yes. I actually, based on priorities, think it  
4 will be before then, but we want to establish deadlines  
5 that we feel are achievable.

6 Q. And I misspoke. December for finishing  
7 completion of the MITs?

8 A. Okay. Yes.

9 Q. And in your opinion as an expert industry  
10 accountant, financial expert, is this a reasonable time  
11 frame for coming into compliance in the Hospah field?

12 A. Yes, looking at it from perspective of capital  
13 raise and the raising process. I can't speak to the  
14 technicalities of each task and about that remediation  
15 task and the consequences or lack of consequences of  
16 those tasks being performed.

17 Q. Since you relied on Mr. Burns --

18 A. Sure.

19 Q. -- you established this time frame?

20 A. That's correct.

21 Q. In your opinion, does the declining pricing  
22 environment for oil constitute a good cause for  
23 revision of the compliance schedule under the previous  
24 order?

25 A. Yes. The collapse -- and I don't call it

1 "decline"; I call it the "collapse," in going from a  
2 year ago -- a little bit over a year ago, a little bit  
3 over a year ago, we were netting revenues of 150,000.  
4 And at current prices we are doing about 50,000 a month.  
5 That is not even sufficient to continue to carry the  
6 payroll.

7 At the same time, our objective is a much longer  
8 term, and the effect of the pricing has hammered  
9 everyone. And I think we are much better off than most  
10 of the companies because we don't have much debt. We  
11 don't have banks that can call debt.

12 And the one debt -- and now I'm talking about the  
13 global basis, the one existing debt we do have that is a  
14 reserve base, the lender just increased our line to go  
15 into development of that project. So we were actually  
16 able to secure some additional credit.

17 Q. Are Exhibits 9 and 10 compiled from records  
18 maintained in the ordinary course of business by  
19 Dominion and NasCo?

20 A. Yes.

21 MR. HALL: That concludes my direct  
22 examination of this witness. We move the admission of  
23 Exhibits 9 and 10.

24 MR. HERRMANN: No objections.

25 EXAMINER GOETZE: Exhibits 9 and 10 are so

1 entered.

2 (Dominion Production Company, LLC, Exhibits  
3 9 and 10 were so entered.)

4 EXAMINER GOETZE: Mr. Herrmann.

5 CROSS-EXAMINATION

6 BY MR. HERRMANN:

7 Q. Specifically regarding the March deadline for  
8 bonding, the July deadline for P and A and the December  
9 deadline for the MITs, could you -- if you have the  
10 numbers, that would be great; but, otherwise, of the  
11 three, could you rank them in order of what's the most  
12 expensive towards the least expensive?

13 A. The least expensive, I believe, would be the  
14 MITs. The most expensive is we got the land on what was  
15 bonding, because our estimate was lower than the  
16 estimate I heard a little bit earlier. And then the P  
17 and A is about 250 or so. That is what you've got in  
18 the schedules.

19 Q. Then why are you prioritizing the MITs last?

20 A. Those to me are probably the most impacted by  
21 weather. Not being a technical expert in operations or  
22 MITs, but that they are most at risk for negative  
23 weather implications.

24 Q. Then why is a deadline of December being  
25 proposed? I am assuming we are planning for winter?

1           A. We want to get these behind us and continue to  
2 develop and have a program in place so that we're not  
3 here again. But we are also just trying to be  
4 realistic.

5           And I'd have to talk with David about the  
6 execution of the MITs and the equipment required and the  
7 people, to know the timeline on that.

8           MR. HERRMANN: No further questions.

9           EXAMINER GOETZE: Redirect?

10          MR. HALL: Nothing more.

11          MR. WADE: I don't think I have any  
12 questions.

13          EXAMINER GOETZE: And I don't have a  
14 question for this witness.

15          Thank you very much.

16          THE WITNESS: Okay.

17          EXAMINER GOETZE: Do you have a rebuttal  
18 witness that you wish to present?

19          MR. HERRMANN: Yes. We could either power  
20 through lunch or I would definitely like to recall  
21 Brandon Powell and Daniel Sanchez, briefly. But I might  
22 need a moment to confer with them.

23          EXAMINER GOETZE: Off the record.

24          (Brief recess.)

25          EXAMINER GOETZE: Back on the record.

1 Mr. Herrmann.

2 MR. HERRMANN: I would like to recall  
3 Brandon Powell.

4 EXAMINER GOETZE: And do we have an  
5 estimate?

6 MR. HERRMANN: This will be brief.

7 MR. WADE: Will he be your only witness  
8 you're going to call?

9 MR. HERRMANN: I will also recall Daniel  
10 Sanchez briefly.

11 MR. WADE: And by brief, do you have an idea  
12 of time?

13 MR. HERRMANN: I think I can get us out of  
14 here a little after noon. Maybe 15 minutes tops.

15 MR. WADE: For both witnesses?

16 MR. HERRMANN: Yes.

17 EXAMINER GOETZE: Proceed.

18 BRANDON POWELL  
19 having been previously sworn, resumed the stand and was  
20 further examined and further testified as follows:

21 FURTHER EXAMINATION

22 BY MR. HERRMANN:

23 Q. Mr. Powell, when did this compliance proceeding  
24 with the injection well start?

25 A. We started an informal process. During the

1 conference, we alerted Mr. Burns of actions that  
2 needed specifically MITs, starting in October of  
3 2013. And we worked through an informal process all the  
4 way up until August of 2014. And that includes a  
5 schedule that Mr. Burns gave us in January of 2014 given  
6 a deadline of August 2014 to have the injection wells in  
7 compliance.

8 Q. And were you personally aware of any other  
9 nonformal compliance -- or attempts by the OCD to get  
10 nonformal compliance?

11 A. We have been in continuous contact with  
12 Mr. Burns, specifically from the October 2013 meeting on  
13 various outside and compliance issues. ACO-285 is  
14 specific to the injection well only, but there was other  
15 compliance actions that we have been working with,  
16 Dominion as well.

17 Q. And from your personal experience, what is the  
18 general condition of this oil field?

19 A. The field, after Dominion took over in 2012,  
20 there was a lot of activity that Dominion was taking  
21 care of in 2012 and in 2013, which included  
22 consolidating contaminated soil into the land farm and  
23 also into piles throughout the field.

24 I am not aware of any contaminated soil leaving  
25 the field, but there was a consolidation of it. That

1 progress has continued to decline, I believe, since  
2 2013.

3 We have numerous spills that haven't been closed,  
4 including one in a waterway, that's been in the waterway  
5 for several months. I personally viewed that release on  
6 Tuesday of this week, and there was standing oil in  
7 water from recent rains in that waterway.

8 Q. Anything else you would like to mention?

9 A. As far as outstanding compliance, like I said, we  
10 have been trying to work with Dominion, including on the  
11 land farm, other things, as we've gone through. The  
12 only formal compliance action we have taken is the  
13 ACOI-266, I believe, and the ACO-285. Everything we've  
14 tried to resolve without formal action.

15 MR. HERRMANN: No further questions.

16 EXAMINER GOETZE: Mr. Hall.

17 FURTHER EXAMINATION

18 BY MR. HALL:

19 Q. So, Mr. Powell, you said since the meeting in  
20 October 2013, you have been in continuous communication  
21 with Mr. Burns; in fact, that involved only two  
22 conversations since then; is that correct?

23 A. Actually, there have been various e-mails sent  
24 back and forth between Mr. Burns and myself, going  
25 anywhere from trying to just get paperwork filed for --

1 putting new pump jacks on. It's a simple sundry that's  
2 supposed to come in to land farm compliance, to  
3 injection well compliance, and then injection well  
4 schedules.

5 Q. You haven't provided the Examiner with any  
6 documentation of those contacts?

7 A. That wasn't part of our presentation. It was  
8 part of a rebuttal to Mr. Burns's comments.

9 Q. The most recent -- back up a minute.

10 You understood that we had requested documents  
11 from the Division in preparation for this hearing  
12 concerning the Hospah field. Were any additional  
13 documents generated in connection with your most recent  
14 visit to the site?

15 A. The most recent visit to the site, the well  
16 inspections would have been updated, and we took some  
17 photos of the releases on Tuesday. But other than that,  
18 we haven't generated any other documents.

19 Q. And you don't have those photographs to provide  
20 to the Hearing Examiner?

21 A. I can see if I can get them here for after lunch.  
22 I can get ahold of our office and try to provide them.  
23 We do have photographs from that inspection.

24 MR. HALL: No more questions.

25 EXAMINER GOETZE: Redirect?

1 MR. HERRMANN: I would like to briefly call  
2 Daniel Sanchez.

3 EXAMINER GOETZE: Thank you very much,  
4 Mr. Powell.

5 DANIEL SANCHEZ

6 having been previously sworn, resumed the stand  
7 and was further examined and further testified as  
8 follows:

9 FURTHER EXAMINATION

10 BY MR. HERRMANN:

11 Q. Regarding OCD Exhibit 5, Daniel, do you still  
12 have that?

13 A. Yes.

14 Q. Could you read Order paragraph 2.

15 MR. WADE: Could you identify that  
16 quickly --

17 MR. HERRMANN: That is ACOI-266 with  
18 Dominion.

19 A. Order paragraph No. 2, "Oil and gas produced  
20 during swabbing does not count as production for  
21 purposes of this order specific to this order" --  
22 specific to this order.

23 Q. And if you could generally just touch on why  
24 swabbing production wasn't counted as payable  
25 quantities.

1       A. In our experience, with -- under previous  
2 agreements, we saw that some operators were reporting  
3 production and there would be one or two barrels that  
4 they swabbed. And even though the rules allow for that,  
5 it does not show what -- I'll use a BLM standard --  
6 payable quantities for production of a well.

7               And that is why it was included in these specific  
8 orders. These orders have certain conditions in them  
9 that may not reflect a specific rule. And that is one  
10 of them.

11               MR. HERRMANN: No further questions.

12               EXAMINER GOETZE: Mr. Hall.

13                               FURTHER EXAMINATION

14 BY MR. HALL:

15       Q. Briefly, Mr. Sanchez, would skimming be an  
16 acceptable practice to produce a well?

17       A. Like I said, to me it would depend on how often a  
18 well was skimmed or even the hound -- the hound would be  
19 used. I could see that being an acceptable method if it  
20 were used on a frequent basis. And the amounts that  
21 were actually being pulled out during that process were  
22 at least ten barrels or more, you know, to show some  
23 sort of ability to show it as marketable.

24       Q. You would agree there's no requirement under the  
25 Division rules that a producer show production-paying

1 quantities in order to have a producing well?

2 A. That's correct.

3 MR. HALL: No further questions.

4 EXAMINER GOETZE: Redirect.

5 MR. HERRMANN: No, sir.

6 EXAMINER GOETZE: Thank you, Mr. Sanchez.

7 THE WITNESS: Eleven minutes.

8 EXAMINER GOETZE: Closing, gentlemen do you  
9 wish to present?

10 MR. HERRMANN: Yes. Give me a minute to  
11 organize my myself.

12 (Pause.)

13 MR. HERRMANN: Mr. Examiner, we feel that we  
14 presented on a number of compliance issues with this  
15 operator and that we hereby petition the Division for a  
16 definitive schedule that lays out compliance with both  
17 the administrative compliance Order 285 and our  
18 financial assurance of inactive well rules, and should  
19 the operator not meet these deadlines, that we be  
20 authorized to take matters into our own hands, plug and  
21 abandon the wells, and recover costs from the operator  
22 in accordance with Division rules. And should that  
23 happen, that remaining wells be shut in until acceptable  
24 financial assurances are placed on file with the  
25 Division and our costs recouped.

1 EXAMINER GOETZE: Mr. Hall.

2 MR. HALL: Very briefly, Mr. Examiner.

3 So the bureau's application to you,  
4 requesting action by you, necessarily requires you to  
5 balance two competing interests, reconcile two competing  
6 statutory interests; one is protection of the  
7 environment and the other, not mentioned in the  
8 application, is the prevention of waste. And, as we  
9 know from case law precedent, the prevention of waste is  
10 the paramount concern.

11 In order to balance, reconcile both of those  
12 statutory mandates to the Division, the evidence has  
13 established and the Division witnesses agree that you  
14 must have an operator who is capable of performing  
15 remediation tasks put on it.

16 And in order to do that, you now have before  
17 you a recommendation, an evidence-based recommendation  
18 for a compliance timetable. We are asking that any  
19 order that issues from this hearing adopt the timetable  
20 recommended by Dominion.

21 Thank you.

22 EXAMINER GOETZE: Thank you. And with that,  
23 gentlemen, congratulations, you made it. It's just five  
24 minutes past noon.

25 And case No. 15379 is under advisement.

1 Thank you very much for your time and testimony.

2 (Time noted 12:07 p.m.)

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I do hereby certify that the foregoing is  
a complete record of the proceedings in  
the Examiner hearing of Case No. 15379  
heard by me on October 29, 2015

15

Phillip V. Jones, Examiner  
Oil Conservation Division

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1 STATE OF NEW MEXICO )  
 2 ) ss.  
 3 COUNTY OF BERNALILLO )  
 4  
 5  
 6

7 REPORTER'S CERTIFICATE

8  
 9 I, ELLEN H. ALLANIC, New Mexico Reporter CCR  
 10 No. 100, DO HEREBY CERTIFY that on Thursday, October 29,  
 11 2015, the proceedings in the above-captioned matter were  
 12 taken before me, that I did report in stenographic  
 13 shorthand the proceedings set forth herein, and the  
 14 foregoing pages are a true and correct transcription to  
 15 the best of my ability and control.

16  
 17 I FURTHER CERTIFY that I am neither employed by  
 18 nor related to nor contracted with (unless excepted by  
 19 the rules) any of the parties or attorneys in this case,  
 20 and that I have no interest whatsoever in the final  
 21 disposition of this case in any court.

22  
 23  
 24  
 25  


ELLEN H. ALLANIC, CSR  
 NM Certified Court Reporter No. 100  
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