

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

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

APPLICATION OF THE NEW MEXICO OIL)
CONSERVATION FOR A COMPLIANCE ORDER)

CASE NO. 14,008

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID K. BROOKS, Jr., Hearing Examiner

November 29th, 2007

Santa Fe, New Mexico

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This matter came on for hearing before the New Mexico Oil Conservation Division, DAVID K. BROOKS, Jr., Hearing Examiner, on Thursday, November 29th, 2007, at the New Mexico Energy, Minerals and Natural Resources Department, 1220 South Saint Francis Drive, Secretary's Conference Room, Santa Fe, New Mexico, Steven T. Brenner, Certified Court Reporter No. 7 for the State of New Mexico.

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 Examiner Hearing
 CASE NO. 14,008

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A P P E A R A N C E S

FOR THE APPLICANT:

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FOR YESO ENERGY, INC.:

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By: ERNEST L. PADILLA

* * *

1 WHEREUPON, the following proceedings were had at
2 8:55 a.m.:

3
4
5 EXAMINER BROOKS: Call Case Number 14,008, the
6 Application of the New Mexico Oil Conservation for a
7 compliance order.

8 Call for appearances.

9 MS. ALTOMARE: Mikal Altomare on behalf of the
10 Oil Conservation Division.

11 MR. PADILLA: Ernest L. Padilla on behalf of Yeso
12 Energy, Inc.

13 EXAMINER BROOKS: Very good. Do you -- How many
14 witnesses?

15 MS. ALTOMARE: I have one witness.

16 MR. PADILLA: Two witnesses.

17 EXAMINER BROOKS: Okay, would the witnesses state
18 your names please for the record?

19 MR. SANCHEZ: Daniel Sanchez, for the OCD.

20 MR. LEE: Gene Lee, Yeso Energy.

21 MR. QUINTANA: Richard Quintana.

22 EXAMINER BROOKS: Witnesses will be sworn.

23 (Thereupon, the witnesses were sworn.)

24 EXAMINER BROOKS: Very good. Do you wish to make
25 an opening statement, Ms. Altomare?

1 MS. ALTOMARE: I do.

2 EXAMINER BROOKS: Proceed.

3 MS. ALTOMARE: Mr. Hearing Examiner, this is a
4 compliance case that is a good example of why the rules are
5 in place and why we need to have procedures in place to --
6 for enforcement. It's a good example of an operator who
7 has taken it upon himself to decide that the rules don't
8 apply.

9 This is a compliance case involving an operator
10 who decided that he did not want to file production reports
11 under Rule 1115. He was repeatedly informed of these
12 deficiencies, repeatedly assured the Division that he was
13 going to come into compliance.

14 He was notified that if he did not come into
15 compliance his authority to transport and produce was going
16 to be canceled. That did come to fruition, that authority
17 was canceled. He confirmed that he was aware that that
18 authority was canceled.

19 It has recently come to the knowledge of the
20 Division that despite the fact that he was canceled and he
21 knew he was canceled, he was producing a number of wells
22 during this period of time. This only came to our
23 knowledge because those wells were subsequently
24 transferred, and the new operator brought the records up to
25 date.

1 Twenty-four wells were transferred by operator
2 Yeso to operator Kerns Petroleum, and 19 of those wells
3 were found to be producing during the period of
4 cancellation between November of 2006 and the date of
5 transfer, which occurred June 1st, 2007.

6 Yeso's period of cancellation has not been
7 reinstated, his authority to produce has not been
8 reinstated at this point.

9 It has recently come to my attention -- Although
10 I would like to establish for the record that I did not get
11 the prehearing statement. I suspect, as I'm reading
12 through the record, that it is because it was faxed to my
13 telephone instead of my fax number until about three
14 o'clock yesterday afternoon, so I did not know the full
15 extent of opposing party's position until about three
16 o'clock yesterday afternoon.

17 It is my understanding that it is his position
18 that he was not the operator of these wells and therefore
19 was not operating them in violation of this order of
20 cancellation.

21 However, under the rules operators have a duty to
22 keep the OCD informed of transfers of wells, of their
23 operatorship of those wells.

24 These wells were under his -- under Yeso's
25 operatorship during this period of time, he was aware that

1 they were under the operatorship of Yeso, the wells were
2 transferred to Yeso and signed by Mr. Lee. The signatures
3 match multiple other documents that I don't he will dispute
4 that he actually did sign. He is the only authorized
5 person to log onto the system and confirm these documents
6 and confirm the well transfers.

7 Simply, there is no argument that regardless who
8 was actually out there pumping the wells, he was the
9 operator of record and he was operating them in violation
10 of this order of cancellation.

11 Because of this, this is a clear example of
12 somebody who is operating and thinking that the rules don't
13 apply, and we feel that it justifies penalties.

14 And we think that in order to bring our records
15 current, it would be appropriate for us to have access to
16 all the records of wells that he was operating during that
17 period of time, so that we can make sure that all of the C-
18 115s for that period of time were actually being reported
19 properly and that our records are proper and complete.

20 EXAMINER BROOKS: Very good.

21 Mr. Padilla, did you want to make an opening
22 statement at this time?

23 MR. PADILLA: Yes, I do.

24 EXAMINER BROOKS: Go ahead.

25 MR. PADILLA: First of all, I want to clarify the

1 record.

2 We did inadvertently -- well, we did not
3 inadvertently, we filed on November 26th, Monday, our
4 prehearing statement. We filed two, one with the Division,
5 the original, and we also served another copy so that it
6 would be served on counsel for the Division. Why it never
7 got to her I don't know.

8 In terms of the entry of appearance I suppose we
9 may have made a mistake, but nonetheless I have been in
10 touch with counsel and knew that I was representing Yeso
11 Energy.

12 Now, in terms of the facts of this case, Mr. Lee
13 will testify that he as president of Yeso Energy never
14 operated this well, he's never been in the business of
15 operating oil wells. He does have a consulting firm called
16 Lee consulting, and he was contacted to perform work on
17 three of these wells.

18 The chain of title for the oil and gas leases and
19 the wells in this case, on the relevant period, goes from
20 Whiting Oil and Gas to a company named Aleanna Resources,
21 LLC, then to Kern Petroleum Corporation -- or Kerns
22 Petroleum Corporation.

23 At no time did Mr. Lee either individually or
24 through Yeso or through Lee Consulting operate these wells.
25 In fact, there will be testimony here that the signs were

1 never changed, the Whiting Oil and Gas signs were changed.

2 The testimony here from Mr. Quintana will be that
3 he actually performed mechanical work on three of the
4 wells, and that work was referred by Mr. Lee as under Lee
5 Consulting. The type of work that was done was not
6 operating-type, but mechanical work on three of the wells,
7 all of which are the subject of this case.

8 Now Mr. Lee will testify that he had no contact
9 and had no contractual relations with Whiting Oil and Gas
10 Corporation, he had no contact with them, contractual or
11 otherwise, that he never had any relationship other than
12 with the three wells that he was asked to perform
13 mechanical work, and that he referred to Mr. Quintana.

14 The billing was done through Lee Consulting for
15 the three wells, and he has had no contractual relationship
16 with Kerns Petroleum Corporation, therefore -- He will also
17 testify that he has had usurpation of his OGRID number by
18 someone in Roswell who has used his OGRID number and used
19 his operating bond for purposes of performing or operating
20 wells.

21 But in terms of being the actual operator of
22 these wells, he has simply not been the operator as -- in
23 terms of being the designated operator.

24 Now, he's fully aware that there is a change of
25 operator form on file with the OCD records showing what

1 appears to be his signature on the operatorship from
2 Whiting Oil and Gas to Yeso Energy.

3 He will testify that with regard t the change of
4 operator from Yeso to Kerns Petroleum, that he did sign
5 that on the advice of the Oil Conservation Division, the
6 Artesia office, and I think dealing through Mr. Sanchez,
7 that in order to get him out of this OGRID and in order to
8 transfer the operatorship so that he would have some
9 correction of the records, he did that only for that
10 purpose. Not because he was the operator, but it was some
11 way to get the monkey off his back in order to be able to
12 change operator and get those well records, and so that
13 Kerns could then operate the wells, because they did
14 receive title from Aleanna Resources.

15 That will be our case. Thank you.

16 EXAMINER BROOKS: Thank you.

17 You may call your witness.

18 MS. ALTOMARE: Thank you, Mr. Hearing Examiner.

19 Before I begin, a couple of logistical matters.
20 The exhibits that the OCD plans to present at this point
21 are basically those that were initially attached to our
22 application with one minor change to that.

23 There was an error -- there was an omission to
24 Exhibit B that has been remedied in this packet, so I'd
25 like to hand you -- This is the packet that was initially

1 attached to the Application, with the addition of what
2 should have been included in Exhibit B and which was
3 actually referenced as part of -- actually I think I handed
4 you the wrong -- I think I handed you my stack, sorry.

5 It is actually referenced in the Application, so
6 the document should have been included in the Application
7 to begin with, and --

8 EXAMINER BROOKS: And what you've handed me is a
9 complete set of your exhibits?

10 MS. ALTOMARE: It's a complete set of the
11 exhibits that was attached to the Application. We will
12 also be presenting through our witness an additional
13 exhibit, which we have labeled Exhibit E. Would you like
14 me to hand that to you at this pint, or go ahead and do it
15 in the course of the --

16 EXAMINER BROOKS: If you have a copy. The
17 original needs to be handed to the court reporter at the
18 time they're admitted into evidence.

19 MS. ALTOMARE: And then depending on the course
20 that Mr. -- Yeso's examination takes, we may have one
21 additional exhibit.

22 Okay, at this time the Oil Conservation Division
23 calls Daniel Sanchez.

24 EXAMINER BROOKS: You may proceed with
25 examination of Mr. Sanchez.

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DANIEL SANCHEZ,

the witness herein, after having been first duly sworn upon
his oath, was examined and testified as follows:

DIRECT EXAMINATION

BY MS. ALTOMARE:

Q. Please state your name for the record.

A. Daniel Sanchez.

Q. And by whom are you employed?

A. The New Mexico Oil Conservation Division.

Q. And what is your title?

A. Compliance and enforcement manager.

Q. And what are your duties as compliance and
enforcement manager?

A. I supervise the OCD's four district offices, the
Environmental Bureau and the UIC program director, and I
oversee compliance and enforcement cases.

Q. And have you reviewed the well files for the
wells at issue in this hearing?

A. Yes, I have.

Q. And are you familiar with the history of the
operatorship of those 19 wells?

A. Yes, I am.

Q. Who was the operator of record for the 9 wells in
this matter between November 20th, 2006, and June 1st,
2007?

1 A. Yeso Energy.

2 Q. And how do you know that?

3 A. From the information I obtained from our well
4 files.

5 Q. How do you go about determining the operator of
6 record when you review a well file?

7 A. I look through the actual well file. If there's
8 a change of operatorship, it will be in the well file that
9 indicates that there was a change and who that change was
10 made from and who it was made to.

11 Q. Under the Oil Conservation Division rules, what
12 are the duties of an operator in terms of keeping the Oil
13 Conservation Division informed of the change of
14 operatorship of wells?

15 A. Under Rule 19.15.3.100, operator registration and
16 change of operator, change of operator occurs when the
17 entity responsible for a well or a group of wells changes.
18 Change of operator may result from a sale, assignment by a
19 court, a change in operating agreement or other
20 transaction.

21 Under a change of operator, wells are moved from
22 the OGRID number of the operator of record with the
23 Division to the new operator's OGRID number. And the
24 operator of record with the Division and the new operator
25 shall apply for a change of authority to jointly file for a

1 C-145 in order to make the change of operator official with
2 the OCD.

3 Q. So the transfer in the application for the change
4 of operatorship is jointly filed between the two operators?

5 A. It's supposed to be.

6 Q. Are you familiar with that process?

7 A. Not entirely, I don't really deal with that.

8 Q. Just to make it a little bit easier as we go
9 through your testimony, let's go ahead and identify the
10 exhibits that are included in the packet at this time.

11 A. Okay. Exhibit A is the notice of cancellation of
12 authority letter, dated November 20th, 2006.

13 Q. Okay, and Exhibit B?

14 A. Exhibit B is going to be the e-mail from Mr. Lee
15 in response to the November 20th letter, dated November
16 27th, 2006.

17 Q. Okay, and also included in Exhibit B --

18 A. -- are the original e-mail from David Bradshaw in
19 our office, informing Yeso that they were short on the
20 C-115 filings, and a response to that e-mail from Mr. Lee
21 to David Bradshaw, explaining why they would -- or what
22 they would be doing.

23 Q. Okay.

24 A. Exhibit C is a follow-up letter from OCD to Yeso
25 dated January 8th, 2007.

1 Exhibit D is the operator transfer documentation,
2 Yeso to Kerns, which was effective on June 1st of 2007.

3 And finally Exhibit E is a production report
4 summary for Yeso Energy.

5 Q. Okay. And also included beneath the production
6 report summary, what are the other documents in that packet
7 of Exhibit D -- or E rather?

8 A. They are from our well master files, and they're
9 the production reports for each of the wells in question.

10 Q. As the compliance and enforcement manager, are
11 you familiar with Rule 1115 and production reporting
12 requirements?

13 A. Yes.

14 Q. Okay, and what are an operator's obligations
15 under that rule?

16 A. The operator under Rule 115 must file a monthly
17 report for each nonplugged well completion for which the
18 Division has an approved C-104, authorization of transport,
19 on a Form C-115. The operator has -- or shall follow the
20 reports using the Division's web-based on-line application
21 on or before the 15th day of the second month following the
22 month of production.

23 If an operator fails to form a C-115 that the
24 Division accepts, the Division shall within 60 days of
25 appropriate filing date, notify and -- notify the operator

1 by electronic mail or letter of its intent to revoke the
2 operator's authorization to transport or inject, if the
3 operator does not submit an acceptable and complete Form C-
4 115.

5 If the operator does not submit an acceptable C-
6 115 or request a hearing within 120 days of the original
7 due date of the C-115, the Division may cancel the
8 operator's authority to transport from or inject into all
9 of the wells that it operates.

10 Q. So the C-115 reporting is done, at least in part,
11 on line?

12 A. Yes.

13 Q. Are you familiar with the efforts of the Division
14 in this particular case to obtain compliance with Yeso
15 Energy with Rule 115 in 2006?

16 A. Yes, I am.

17 Q. And can you discuss a little bit what the
18 beginning of those efforts were back in -- I think it was
19 September of 2006?

20 A. Yeah, under Exhibit B we have the original
21 electronic e-mail that was sent from David Bradshaw to Yeso
22 Energy. That was on --

23 Q. I'm sorry to interrupt. What was David
24 Bradshaw's position at the time with the Department?

25 A. I can't remember his exact position, but he

1 tracked the C-115 filings, and he had other duties as well,
2 but one of them was tracking the C-115s.

3 Q. But it was done on behalf of the Oil Conservation
4 Division?

5 A. Yes.

6 Q. Okay.

7 A. The e-mail was sent on September 7th of 2006, and
8 it was notifying Yeso that they had not received
9 electronically submitted C-115s for the following period --
10 at that time it was just May of 2006 -- and it laid out the
11 Rule 1115, the 120-day deadline to turn in the missing
12 reports or requesting hearing.

13 Also in that --

14 EXAMINER BROOKS: Excuse me, the copy of Exhibit
15 B that I have submitted has two e-mail, one from LeeCon to
16 David Bradshaw on September the 8th, and then a response on
17 September the 8th from Bradshaw to LeeCon, and then there
18 is -- attached are two e-mails dated November 27th.

19 But I don't have an e-mail dated September 7th in
20 this package.

21 MS. ALTOMARE: Yeah, I apologize.

22 EXAMINER BROOKS: Okay, you're going to be
23 tendering this into evidence?

24 MS. ALTOMARE: Yes, and it may also -- it may
25 actually already be attached to the Application.

1 EXAMINER BROOKS: Okay, you may continue.

2 MS. ALTOMARE: There was some confusion --

3 EXAMINER BROOKS: You can clarify it at the time
4 you offer the exhibits into evidence.

5 MS. ALTOMARE: Yes.

6 THE WITNESS: Yeah, I see that.

7 MS. ALTOMARE: I think it was originally -- I
8 will clarify that, I apologize.

9 EXAMINER BROOKS: Continue.

10 THE WITNESS: Okay, on September 8th of 2006, the
11 day after that initial e-mail was sent, there was a
12 response by Yeso and it said, I will get them submitted by
13 Monday a.m. I thought it showed up that they were sent.
14 Is there any certain way I can confirm that they were
15 received for sure? I am out of town until Sunday a.m., but
16 will have them in to you and follow up with an e-mail or
17 phone call to ensure you did receive them. Gene.

18 And Mr. Bradshaw responded to that, that same
19 day, letting him know that he got the e-mail.

20 Q. (By Ms. Altomare) And what was Mr. Bradshaw -- I
21 apologize -- What if any response did Mr. Lee have beyond
22 that? Did he ever turn in any additional C-115
23 information?

24 A. No.

25 Q. Are you familiar with any further action taken by

1 the Division after that point in time?

2 A. Yeah, when the 120-day period came and went, the
3 November 20th, 2000, letter in Exhibit A was issued, and
4 that's the cancellation of authority to transport from or
5 inject into wells operated by Yeso Energy.

6 Q. And what if any response was received from Mr.
7 Lee in response to that cancellation of authority letter?

8 A. Again, Exhibit B has the e-mail response by Mr.
9 Lee and it says, I received a letter Gail MacQuesten about
10 delinquent C-115s and revoking my authorization to
11 transport. I have been out of commission for several
12 months due to health problems. I thought that the lady in
13 Midland, Texas, was filing all the C-115s and just found
14 out that she was filing only on the Whiting Pet wells
15 transferred to Yeso for Aleanna Resources, Incorporated. I
16 will get the info back today from Midland, Texas and will
17 get the C-115s filed by Wednesday in the p.m.

18 Q. And just for -- just to clarify, is it -- it
19 specifies in that e-mail that there were Whiting wells that
20 were transferred to Yeso?

21 A. Yes.

22 Q. Did Mr. Lee ever submit the missing reports as
23 promised on the 29th?

24 A. No, he didn't.

25 Q. Did he ever submit them after the 29th, to your

1 knowledge?

2 A. No, not to my knowledge.

3 Q. Was there any further communication between Mr.
4 Lee and the Division?

5 A. Another letter was sent to Mr. Lee on January
6 8th, 2007. This was in regard to a request by Mr. Lee for
7 an extension on an agreed compliance order for inactive
8 wells and a waiver of penalties.

9 It was a separate issue, but in that letter Mr.
10 Lee was once again notified that the authority -- the OCD
11 canceled the authority of Yeso to transport from or inject
12 into any of the wells it operates, and based on its failure
13 to file production reports from May of 2006. Yeso has
14 still not filed its production reports for May, 2006, and
15 is still subject to the cancellation of authority to
16 transport or inject.

17 So he was warned again through that letter that
18 the authorization to transport was still in effect, the
19 cancellation.

20 Q. Okay, and for the record you're referring to
21 Exhibit C?

22 A. Yes, I'm sorry, Exhibit C.

23 Q. To your knowledge, who's the current operator of
24 record for the 19 wells at issue in this matter?

25 A. Kerns Oil and Gas.

1 Q. Okay, and how do you know that Kerns is now the
2 current operator?

3 A. From a review of the well files. We show a
4 transfer that occurred on June 1st of 2007 from Yeso to
5 Kerns.

6 Q. Okay, and is Exhibit D the exhibit that -- the
7 document that you would be looking at to establish that?

8 A. Yes, it is.

9 Q. To your knowledge, has Yeso's authority ever been
10 reinstated to transport or inject?

11 A. No, it hasn't.

12 Q. I'd like to draw your attention to Exhibit D -- I
13 mean Exhibit E, I apologize.

14 A. Okay.

15 Q. What is the top page of this document, this stack
16 of documents?

17 A. This is a C-115 balancing summary report -- it's
18 a summary of the balancing report, for Yeso Energy. And it
19 goes -- it's actually showing the production of gas and oil
20 by Yeso from 2004 through -- January 1st of 2004 through
21 May of 2007.

22 Q. Okay. Now I'd like to direct your attention to
23 the period of time starting in November of 2006 when the
24 cancellation started, so for -- since the cancellation
25 started November 20th, for ease let's start with December

1 of 2006.

2 What do the numbers for production of Yeso
3 reflect, beginning in December of 2006 and running through
4 the present time?

5 A. Okay, for December of 2006 it shows gas produced
6 and gas transported in the amount of 1516 units produced
7 and transported, and oil produced for that month was 855
8 barrels, and transport of 1432.

9 And then it goes on to show from January of 2007
10 through May of 2007 for a total of gas produced 2062,
11 transported 2062, oil produced was 2857, and oil
12 transported was 2886.

13 Q. And to your knowledge was -- once again, was Yeso
14 -- was Yeso's authority to transport or inject ever
15 reinstated during any of these months?

16 A. No, it wasn't.

17 Q. I'd like to direct your attention to the
18 remaining documents in Exhibit E.

19 A. Okay.

20 Q. And without belaboring the point, what do these
21 documents represent?

22 A. These show the production -- these show in Kerns
23 Petroleum, actually, for the months after the transfer of
24 the wells, but it shows the production for each one of the
25 individual wells in question, going back some time.

1 Q. And why does the printout reflect Kerns Petroleum
2 at the top of the documents?

3 A. Kerns is the current operator of record, and
4 these were pulled after the fact so they'll show up as
5 Kerns.

6 Q. And the dates reflected on these reports are
7 what?

8 A. December 1st of 2006 through the current --
9 September 1st of 2007.

10 Q. And are these records kept in the ordinary course
11 of business --

12 A. Yes, they are.

13 Q. -- of the Oil Conservation Division?

14 MS. ALTOMARE: Does the Hearing Examiner wish
15 that the witness go through the specific details of the
16 data contained therein, or is the submission of the exhibit
17 itself sufficient?

18 EXAMINER BROOKS: I think the submission of the
19 exhibit will be sufficient for our purposes.

20 Q. (By Ms. Altomare) As you know, this was filed as
21 a compliance case.

22 What recommendations would you make for obtaining
23 compliance in this particular matter?

24 A. Oh, we have several recommendations to the
25 Hearing Examiner which we would like to see, and one of

1 them being a date certain for Yeso to submit the C-115s
2 that are late, basically update the OCD with all their
3 C-115s on any production that they've had.

4 We would also request that the OCD be allowed to
5 audit Yeso's production records on its wells that were in
6 operation during the time of the cancellation, to verify if
7 any other ones were being produced and transported at that
8 time.

9 And we're also requesting a penalty be imposed on
10 Yeso. The penalty amount would be \$88,000, \$1000 for
11 each -- that each well in question violated the
12 cancellation of authority, which was dated 11-20 of '07.

13 Q. Just to address the anticipated testimony of Mr.
14 Lee, are you aware of any allegations that anybody else has
15 been using Mr. Lee's OGRID number?

16 A. Just today.

17 Q. Okay, and did you ever recommend that Mr. Lee
18 execute a document that you -- that he represented he did
19 not own the wells or operate the wells for?

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

21 MS. ALTOMARE: Okay. I don't have any further
22 questions at this time for this witness.

23 EXAMINER BROOKS: Mr. Padilla?

24 MR. PADILLA: I have some questions.

25 EXAMINER BROOKS: I thought you might.

CROSS-EXAMINATION

BY MR. PADILLA:

Q. Mr. Sanchez, first of all on this Exhibit E that you submitted, you show some of the Kerns production after the first two pages. And I see there a bunch of Langlie Mattix wells and Allison-Upper Penn wells, and I'm curious why those wells were chosen, in light of the fact that there are 24 wells that are the subject of this case, and those wells do not appear as having -- as showing -- as being on this Exhibit E.

A. The 24 wells on Exhibit --

Q. Yes. In other words, this case, as I understand it, involves four Cortland Myers Unit wells, a Jamison -- two Jamison wells, some Knight wells, Las Cruces and State wells, as listed on the advertisement for this case.

A. Uh-huh.

Q. I'm just trying to find out --

A. These are the individual wells you'll see up on top.

Q. All right.

A. And it's not going to cover all 24 of the wells. We're only interested in the 19 wells that were actually producing during that time.

Q. Okay. Let me ask you now, Why was the change of operator accepted if Yeso Energy was in noncompliance? In

1 other words, the change of operator from Yeso to Kerns
2 Petroleum.

3 A. That they were -- I am not sure, to be honest. I
4 do not know.

5 Q. Was there some cure in the noncompliance in order
6 to allow the transfer of ownership?

7 A. Not that I'm aware of.

8 MS. ALTOMARE: I think that's beyond the scope of
9 his duties.

10 MR. PADILLA: If he knows. I'm just trying to
11 find out why the change of operator was accepted by the Oil
12 Conservation Division.

13 EXAMINER BROOKS: I will overrule the objection.
14 If the witness doesn't know the answer -- and I believe he
15 said that, but he can re-say so.

16 THE WITNESS: Yeah, I do not know why that
17 would...

18 Q. (By Mr. Padilla) What is the normal procedure if
19 a well is in noncompliance in terms of transferring
20 operatorship of that well? Do you know?

21 A. An individual well?

22 Q. An individual well or a number of wells?

23 A. It depends on what type of noncompliance the well
24 or wells are subject to. If an operator is trying to
25 obtain wells and he's in violation of Rule 40, in which he

1 may have more inactive wells than he's allowed, that a
2 transfer wouldn't occur unless the operator gets into an
3 agreed compliance order taking care of those wells and
4 getting out of Rule 40.

5 Q. Now Mr. Lee and Yeso Energy had entered into a
6 compliance order in this -- with respect to some of these
7 wells and other wells; is that right?

8 A. They were -- entered into an agreed compliance
9 order on inactive wells. I'm not sure how many of these
10 wells were a part of that order, or if any of them were a
11 part of the order.

12 Q. Do you know whether any of the wells involved in
13 this case were involved in that compliance order?

14 A. Like I said, I'm not sure which wells were part
15 of that agreed compliance order, I'd have to go through the
16 agreed compliance order and then verify them against this
17 list here.

18 Q. In these e-mails that you testified about that
19 are attached as Exhibit B, I believe you had another one
20 there that was not part of this packet. Do those e-mails
21 identify the wells that were the subject of this hearing
22 today?

23 A. It did not specifically, as far as I can see,
24 identify each of the wells that was in violation. It did
25 state that they had not submitted any C-115s.

1 Q. Do you know whether the issues involved in the
2 compliance order that was actually signed by Yeso Energy
3 are part of the discussion in those e-mails?

4 A. I'm not aware of that.

5 Q. You don't know?

6 A. No, sir.

7 Q. Did you ever track or try to find out if in fact
8 someone else was operating the wells, such as Aleanna
9 Resources?

10 A. My review of the well file showed the transfer
11 from Whiting to Yeso and then being transferred from Yeso
12 to Kerns, and I had no reason to believe that there were
13 other entities involved at that point, if they weren't in
14 the well files or on our records.

15 Q. Did you go out to the well locations or send
16 somebody from the Oil Conservation Division and find out
17 whether the signage on the wells was Yeso Energy or Whiting
18 Oil and Gas?

19 A. Personally, no, I did not.

20 Q. Did you send anyone out there to find out?

21 A. I did not.

22 Q. Do the regulations of the Division require
23 signage to be in the name of the operator on the well?

24 A. Yes, they do require it, but in many cases out
25 there it's not the case.

1 Q. If the wells were in noncompliance, why wasn't
2 this done in this case?

3 A. I can't answer that question.

4 Q. The only thing you looked at was the files of the
5 OCD, right?

6 A. That's correct.

7 Q. You -- did you know that -- did you ever ask
8 Whiting Oil and Gas, or do any investigation with regard to
9 whether Whiting Oil and Gas was still the operator?

10 A. Whiting Oil and Gas wasn't the operator when I
11 did the review. The review showed that Yeso was the
12 operator of record. I had no reason to go back and
13 question Whiting as to why they transferred the wells to
14 Chaparral -- I mean to -- yeah, to Chaparral.

15 Q. Is David Bradshaw still working for the Division?

16 A. No, he's not.

17 Q. Where is Mr. Bradshaw today? Do you know?

18 A. No, I don't know where he transferred to.

19 Q. Does the OGRID number or the OGRID information
20 shown on the OGRID system show who owns the wells?

21 A. I believe that's the case, yes.

22 Q. During the relevant period you're trying to get
23 the C-115s, did the ownership of the wells -- was that
24 shown as Aleanna Resources?

25 A. Not in the -- not in --

1 MS. ALTOMARE: I'm going to object. Ownership
2 isn't at issue, the operatorship is.

3 MR. PADILLA: If he knows, I'm just asking.

4 EXAMINER BROOKS: Well --

5 MR. PADILLA: He testified that ownership is
6 shown on the OGRID. I'm just asking him if he knows.

7 EXAMINER BROOKS: Well, I think, Mr. Padilla, you
8 are well aware that it is not, and that he is using -- that
9 he has misspoken, so I will sustain the objection. If you
10 want to offer evidence of ownership, you're free to do so.

11 Continue.

12 Q. (By Mr. Padilla) On Exhibit C, the cancellation
13 of authority -- or -- Wait a minute.

14 A. Cancellation of authority is Exhibit A.

15 Q. Exhibit A. Is that a blanket cancellation?

16 A. All of its wells?

17 Q. Of all wells?

18 A. Yes, sir.

19 Q. And that applies to OGRID 221710?

20 A. Yes, sir.

21 Q. And that cancellation was based on noncompliance
22 for what?

23 A. Rule 1115.

24 Q. For the wells that are the subject of this -- of
25 this hearing?

1 A. All of the wells that would be under Yeso's
2 ownership.

3 Q. But the cancellation was based, as I understand
4 your testimony, for noncompliance, right?

5 A. Yes, sir.

6 Q. And the noncompliance was failure to file C-115s
7 for 19 wells?

8 A. For more than 19 wells.

9 Q. Twenty-four wells?

10 A. I don't believe any of the wells in question had
11 filed --

12 MS. ALTOMARE: I'm going to object. I think
13 you're misstating the previous testimony.

14 EXAMINER BROOKS: Overrule the objection, the
15 witness can clarify it.

16 THE WITNESS: From what I understand, it was
17 under -- any of the wells -- actually, it is a blanket, it
18 covers all their wells but it was based on them not filing
19 the
20 C-115s for any of the wells that I'm aware of.

21 Q. (By Mr. Padilla) I'm trying to find out for what
22 wells there was noncompliance.

23 A. The specific wells?

24 Q. Yes.

25 A. That I couldn't answer. At this point, none of

1 the wells on this list have had C-115s submitted, so they
2 are all out of compliance.

3 Q. The 24 wells that are listed on the advertisement
4 for this case?

5 A. They're all part of the -- they're all under the
6 order of cancellation of authority, yes.

7 Q. And is there any other reason, aside from the 24
8 wells that we're talking about for failure to file the
9 C-115s, that this cancellation of authority was made?

10 A. Not that I'm aware of.

11 Q. Did Yeso Energy comply with the compliance order
12 that they actually signed?

13 A. No.

14 Q. In what respect did they fail to comply with
15 that?

16 A. Are you talking about Exhibit C?

17 Q. No, I'm talking about the compliance order
18 involving the other wells, the compliance order that they
19 actually signed.

20 A. I'm --

21 MS. ALTOMARE: Objection --

22 THE WITNESS: -- a little confused. I'm not sure
23 what you're talking about.

24 MS. ALTOMARE: Are you referring to the agreed
25 compliance order for inactive wells?

1 MR. PADILLA: Yes.

2 MS. ALTOMARE: I'm going to object, it's not
3 relevant --

4 THE WITNESS: It's not relevant.

5 MS. ALTOMARE: -- to this proceeding.

6 Q. (By Mr. Padilla) Well, you've introduced --

7 EXAMINER BROOKS: Excuse me, we need to talk one
8 at a time, please. The objection -- and the witness should
9 remain silent until the court rules on the objection.

10 I'm going to overrule the objection.

11 But Mr. Padilla, if you're going to ask the
12 witness questions about a document, you need to be able to
13 show him the document.

14 MR. PADILLA: Well, let me rephrase the question.

15 EXAMINER BROOKS: Okay.

16 Q. (By Mr. Padilla) Are you aware that Yeso Energy
17 signed an agreed compliance order?

18 A. I'm aware that they signed an agreed compliance
19 order on inactive wells, which gave them a two-year period
20 to deal with inactive wells on a six-month basis.

21 Other than that, I'm not aware of any other
22 compliance order that they may have signed, that you may be
23 speaking of.

24 Q. Did three of those wells involved in that
25 compliance order -- are those -- are three of those wells

1 also included in this case?

2 A. I believe I already answered that, I said I do
3 not know specifically which wells were on the inactive list
4 and which were on this one here.

5 Q. Did Yeso Energy comply with the agreed compliance
6 order?

7 A. No, as a matter of fact, the letter of January
8 8th was to let Yeso know that we would not be continuing
9 the agreed compliance order because they did not meet the
10 requirements of that order.

11 EXAMINER BROOKS: Mr. Sanchez, when you said the
12 letter of January 8th, are you referring to OCD Exhibit C?

13 THE WITNESS: Yes, sir.

14 EXAMINER BROOKS: Continue.

15 Q. (By Mr. Padilla) Third paragraph of that letter,
16 Exhibit C, The OCD is not willing to waive penalties or
17 enter into a new agreed compliance order at this time.

18 Are we dealing with the old compliance order, the
19 compliance order that was actually signed? Is that what
20 we're talking about in that --

21 A. We're talking about Agreed Compliance Order 137,
22 which dealt entirely with inactive wells.

23 Q. Well then why is this Exhibit C even involved in
24 this case?

25 A. The Exhibit C was involved in this case because,

1 if you look at the very bottom of the page, Yeso was once
2 again reminded that they were not in compliance, and that
3 the authority to transport, or cancellation of authority,
4 had been lifted.

5 It was a reminder, it was a courtesy reminder to
6 Yeso that they needed to file the C-115s again.

7 Q. Let me refer you to Exhibit D, second page of
8 Exhibit D.

9 A. Okay.

10 Q. Is this what you're basing your information on,
11 or is this a basis of why you're saying that Yeso Energy
12 was the operator?

13 A. Yes, sir, this is one of the documents that was
14 in the well files under Yeso. I'm showing the transfer
15 from Yeso on June 1st of 2007 to Kerns Petroleum.

16 Q. Did you deal with Mr. Lee at all about issues
17 involving OGRID?

18 A. Not that I remember, no, sir.

19 Q. You don't remember?

20 A. I don't remember ever talking to him about him
21 having issues with his OGRID.

22 Q. Did you have issues with anyone in the Artesia
23 office over Yeso's OGRID issues?

24 A. Not that I remember, no.

25 Q. Let me be clear. You're asking for C-115s for

1 what period?

2 A. For the period going back as far as, I think, May
3 of 2006, and bringing them up current.

4 Q. To when?

5 A. Up to any production that they have going on at
6 this time. As far as I know --

7 Q. As far as these wells that are concerned in this
8 hearing, you're asking for C-115s from May, 2006 --

9 A. -- to --

10 Q. -- to the time that Kerns Petroleum assumed
11 operation?

12 A. Yes.

13 Q. And when would that have been?

14 A. Up to May 30th of 2007.

15 Q. So essentially you're saying approximately a
16 year, is what you're asking for C-115s?

17 A. Yes.

18 MR. PADILLA: I have no further questions.

19 EXAMINER BROOKS: Very good.

20 EXAMINATION

21 BY EXAMINER BROOKS:

22 Q. I take it, Mr. Sanchez, that you were not at all
23 involved in the transfer of these properties, either the
24 transfer to Yeso or the transfer from -- the transfer of
25 operatorship to Yeso or the transfer from Yeso to Kerns?

1 A. No, sir, that's not part of my responsibilities.

2 Q. And did I understand that you have had no
3 conversations with Mr. Lee or anyone else from Yeso?

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

5 Q. So the only communications that you believe are
6 relevant to this proceeding are those that are shown in the
7 exhibits that have been tendered?

8 A. Yes, sir.

9 Q. Now I notice, to clarify the concern in the
10 exhibit -- about the exhibits -- I'm handing you from my
11 exhibit package that Ms. Altomare provided me, the second
12 page of the exhibit package, which is unmarked but appears
13 behind the exhibit marked Exhibit A. Is this a copy of the
14 e-mail that you showed me during your testimony that was
15 not marked as an exhibit?

16 A. Yes, sir, it is.

17 EXAMINER BROOKS: Okay. I believe what may have
18 happened here is that this e-mail which you intended to
19 attach to Exhibit B was actually attached to Exhibit A, so
20 when you tender the exhibits into evidence we'll need to be
21 sure that they're in the correct order.

22 MS. ALTOMARE: I apologize for the confusion.

23 EXAMINER BROOKS: I believe that's all I have.
24 Anything further, Ms. Altomare?

25 MS. ALTOMARE: I just wanted to clarify a couple

1 of things.

2 REDIRECT EXAMINATION

3 BY MS. ALTOMARE:

4 Q. Mr. Sanchez, were you ever given any reason by
5 Mr. Yeso or anybody from -- or by Mr. Lee or anybody from
6 Yeso, to believe that the transfers from Whiting to Yeso
7 Energy were not legitimate?

8 A. No.

9 Q. Okay. And just to confirm, generally when a
10 cancellation is issued for C-115 delinquencies, do they
11 necessarily relate directly to the wells for which those
12 reports have been delinquent only, or are they a blanket?

13 A. It's a blanket.

14 Q. Okay, so it's a blanket cancellation for all
15 wells --

16 A. For all wells.

17 Q. -- operated by that particular operator?

18 A. Yes.

19 Q. Okay. And regarding limitations on operators
20 that are in noncompliance, isn't it usually the case that
21 the limitations imposed are usually -- they usually go to
22 operators obtaining new wells, rather than transferring
23 away new wells?

24 A. That's correct.

25 MS. ALTOMARE: Okay. I think that is all that I

1 have.

2 I'd like to move Exhibits A through E into
3 evidence at this time, with the clarification that that
4 particular e-mail dated September 7th is actually the
5 second page of Exhibit A, rather than being part of Exhibit
6 B.

7 EXAMINER BROOKS: Okay. May I see the documents
8 you're actually going to tender into evidence, to be sure
9 that we are --

10 MS. ALTOMARE: You actually -- I actually gave
11 the original to the court reporter.

12 So the original packet would be -- that's A
13 through D --

14 EXAMINER BROOKS: Okay, the original of Exhibit A
15 is put together in the same way as my package, so we need
16 to get that reorganized before --

17 MS. ALTOMARE: Would you like that moved over --
18 you'd like it moved into B, or would you like to
19 redesignate it as part of A?

20 EXAMINER BROOKS: However you want to designate
21 it is fine with me, but just so long as we make clear what
22 document has been referred to.

23 MS. ALTOMARE: Okay, why don't we go ahead and
24 just redesignate that as part of Exhibit A, rather than
25 reorganizing all the exhibits?

1 EXAMINER BROOKS: Very good, then the record will
2 reflect that -- I've got it here.

3 The record will reflect that e-mail from David
4 Bradshaw to LeeConInc, dated -- it doesn't have a date on
5 it.

6 MS. ALTOMARE: It's referenced within the body of
7 the e-mail, Mr. Hearing Examiner.

8 EXAMINER BROOKS: Anyway, it's an e-mail from
9 David Bradshaw to LeeConInc, which does not have a printed-
10 out date on it.

11 It has a date at the bottom of 9-7-2006. It is
12 page 2 of Exhibit A. That was the e-mail that was referred
13 to during the testimony.

14 With that understanding, are there any
15 objections, Mr. Padilla, to Exhibits A through E?

16 MR. PADILLA: I don't have -- Exhibit A refers --
17 a copy of the OCD's September 7th, 2006, e-mail is
18 attached. Is that --

19 So it would be an attachment to this Exhibit A, I
20 guess. Is that what we're saying here?

21 EXAMINER BROOKS: That's the way it's been
22 tendered, yes.

23 MR. PADILLA: All right. I have no objection.

24 EXAMINER BROOKS: Okay, and so that is perhaps
25 correct.

1 I guess the confusion was mine because I
2 understood Ms. Altomare at the beginning to say that it had
3 been attached to Exhibit B.

4 But anyway, Exhibits A through E are admitted.

5 MS. ALTOMARE: Thank you.

6 EXAMINER BROOKS: Anything further from this
7 witness?

8 MS. ALTOMARE: I don't believe so.

9 MR. PADILLA: Oh, I have one question.

10 RECROSS-EXAMINATION

11 BY MR. PADILLA:

12 Q. Mr. Sanchez, are the original change of
13 operators, the originally signed -- not copies of the
14 change of operator forms, either C-145s or the C-104As, are
15 they -- are the original signature -- signatures on those
16 change of operators in the files of the OCD?

17 A. I believe they would be in the District office.
18 I'm not sure how long they keep them, because they do get
19 scanned, but they were filed in there.

20 EXAMINER BROOKS: Anything further from this
21 witness?

22 MS. ALTOMARE: I don't believe so.

23 EXAMINER BROOKS: Very good, the witness may
24 stand down.

25 We'll take a 10-minute recess.

1 (Thereupon, a recess was taken at 9:51 a.m.)

2 (The following proceedings had at 10:05 a.m.)

3 EXAMINER BROOKS: Okay, we're back on the record,
4 then, in Case Number 14,008, the Application of the New
5 Mexico Oil Conservation for a compliance order.

6 Ms. Altomare, does the Division rest at this
7 point?

8 MS. ALTOMARE: Yes, Mr. Hearing Examiner.

9 EXAMINER BROOKS: Very good. Mr. Padilla, you
10 may call your first witness.

11 MR. PADILLA: We'll call Gene Lee at this time.

12 EXAMINER BROOKS: Okay --

13 MR. PADILLA: He's been sworn.

14 EXAMINER BROOKS: -- you may proceed.

15 EUGENE LEE,

16 the witness herein, after having been first duly sworn upon
17 his oath, was examined and testified as follows:

18 DIRECT EXAMINATION

19 BY MR. PADILLA:

20 Q. Mr. Lee, would you state your full name?

21 A. Eugene Lee.

22 Q. Are you also known as H.E. Gene Lee?

23 A. That's correct.

24 Q. Mr. Lee, are you president of Yeso Energy, Inc.?

25 A. Yes, I am.

1 Q. Mr. Lee, can you tell us briefly how you got in
2 this mess?

3 A. I'm not real sure on some of it. This makes the
4 second time that wells have been placed under my OGRID, and
5 this makes the second time that I've been noncompliant and
6 in trouble for wells that were not mine either as operator
7 or as owner, that have come before me and the OCD.

8 And the previous times I was able -- through the
9 assistance of the OCD office in Artesia with Carmen and Tim
10 Gum and David Bradshaw and Dorothy Phillips up here, able
11 to get it all straightened out and rectified. And in fact,
12 we got the gentleman that did it and threatened some civil
13 action and possible criminal action and got everything
14 straightened out to everybody's satisfaction, and it all
15 went away.

16 But this time, when you don't know what's going
17 on until you start getting certified mail and e-mails and
18 things of that nature coming at you, it's pretty difficult
19 to try to figure out exactly what's going on.

20 Q. Let me stop you there and ask you what Yeso
21 Energy does.

22 A. Yeso Energy holds some mineral interest in a few
23 wells that were -- that I picked up, quite often as the
24 result of an operator owing me some money, or maybe as a
25 well that someone's fixing to plug, that I see potential

1 uphole behind pipe, and at that time I will a lot of times
2 take wells for the plugging value, evaluate what needs to
3 be done, and then I will turn them to another operator to
4 do the work and be the operator, and then I do technical
5 work on the wells and the mechanical work, and we get the
6 wells back into producing status and making money.

7 But --

8 Q. Mr. Lee, you also own another consulting firm.
9 What's that called?

10 A. Lee Consulting, Incorporated.

11 Q. And what does Lee Consulting do?

12 A. Lee Consulting does several things. Lee
13 Consulting has real estate interests, Lee Consulting has
14 working interest, overriding royalties, and more
15 specifically does technical engineering and wellsite
16 consulting work on wells for a number of operators in the
17 State of New Mexico such as Chesapeake and Devon and
18 Plantation, the Yates companies -- you know, I have several
19 clients that are very active in the State of New Mexico and
20 provide services for them.

21 Q. Let's refine our questioning or become more
22 specific with regard to the 24 wells that are in
23 consideration here.

24 How did you come in contact with those wells?

25 A. A gentleman, Mickey McGee, contacted me, needed

1 some work done on some wells that he was in the process of
2 purchasing from Whiting Petroleum, and he asked me, since I
3 had done some work for another company that he was a
4 geologist for, if I would be interested in doing the
5 technical wellsite work on these wells.

6 And I told him, Yes, I would be glad to.

7 Q. Who is Mickey McGee?

8 A. He is the -- he told me he was the owner of
9 Aleanna Resources.

10 Q. And where are they located?

11 A. I believe they're out of Houston.

12 Q. And did you do any work for Mr. McGee or Aleanna?

13 A. Yes. I personally did not, I was busy, but I
14 used Mr. Quintana and sent him to actually do the actual
15 work on those wells.

16 Q. How many wells were involved?

17 A. I believe there were three wells that we worked
18 on.

19 Q. What kind of work did you do?

20 A. Just wellsite supervision. Richard was there to
21 see what was pulled out of the holes, run things -- you
22 know, repair tubing and rod and -- breaks or stuck pumps or
23 just whatever was wrong with the well, to try to take care
24 of the mechanical aspect of the wells and get them back
25 producing.

1 Q. Did you do anything more on those three wells?

2 A. No, sir, we worked on the -- I say "we". Richard
3 worked through my firm for Aleanna, and at the end of the
4 work we invoiced Aleanna just like any other vendor that
5 was working -- that did work for Aleanna on the wells did.

6 Q. Did you ever do any work for Whiting Oil and Gas
7 Corporation?

8 A. No, I have not, and never have.

9 Q. Do you know who Whiting Oil and Gas Corporation
10 is?

11 A. No, I have no idea.

12 Q. Did you ever get involved with Kerns Petroleum
13 Corporation?

14 A. I never had any working relationship with Kerns
15 Petroleum. The only dealing that I had at all was when I
16 found out that they had purchased the wells from Aleanna
17 Resources.

18 And the way I found was, they contacted me. And
19 they had a lady in their land department -- I think her
20 name was Ceci Wallen -- that sent me a C-104 or -145 or
21 whatever the form is, to transfer operator from Yeso to
22 Kerns Petroleum.

23 Q. Before then, had you had any problems with OGRID
24 issues with regard to the 24 wells that are involved in
25 this hearing?

1 A. Well, I had received -- I received correspondence
2 from David Bradshaw over C-115s, and so I contacted Mr.
3 Bradshaw several times, and I think another lady, Cecilia
4 or something like that, that also worked in the C-115
5 section --

6 Q. Here in Santa Fe?

7 A. In Santa Fe.

8 Q. Okay.

9 A. Yeso was operating, I think, seven or eight wells
10 or something of that nature, through '06.

11 And then I get a letter that says --

12 Q. Were those Yeso wells or third-party -- or wells
13 for somebody else?

14 A. Those were Yeso wells. I've never done any
15 third-party work for anyone.

16 Q. As far as operations are --

17 A. Correct.

18 Q. Why?

19 A. Because of situations like this. You don't want
20 to expose yourself to a liability for someone else's stuff.

21 Q. Okay, did you ever do any pumping on those 24
22 wells?

23 A. No.

24 Q. Go back to the OGRID issues. What issues
25 specifically were you involved with, with the Santa Fe

1 office of the Oil Conservation Division?

2 A. On the -- for the C-115s?

3 Q. Yes.

4 A. They kept telling me that I had not --

5 Q. Who -- Let's stop there. Who was telling you?

6 A. David Bradshaw.

7 Q. Okay, what was Mr. Bradshaw telling you?

8 A. He was telling me that I was past due on C-115s
9 from, I believe, May of 2006.

10 Q. For which wells?

11 A. For the Yeso-operated wells, that Yeso owned
12 previously to this 24-well thing here.

13 Q. Okay.

14 A. Okay, I kept in contact with Mr. Bradshaw. I
15 told him, I said, I can send you the printed form. But
16 every time I go to do the electronic transfer it continues
17 to reject everything.

18 And so with Mr. Bradshaw and -- I can't remember
19 the lady in the C-115s area -- and with Jane -- Prouty?
20 But anyway, through the three of us, we -- I e-mailed them
21 my data and let them attempt to run it through the system.
22 And when I did that, they kept getting a rejection.

23 Mr. Bradshaw said, Let us look into what's going
24 on, and we'll let you know what's -- you know, there's
25 something wrong.

1 So I said okay.

2 And I don't remember how much longer it was, just
3 a few days after that, he contacted me and -- by phone.
4 And he said, I think the reason that you're being rejected
5 is because not all of the C-115s on all of your wells under
6 your OGRID are being filed.

7 And I said, Well, I've only got these wells.

8 And he said, Well, pull up your well list, look
9 -- and he told me how to pull up my well list.

10 Well, under my well list was my wells that Yeso
11 owned, but then there was 24 other wells, and those were
12 the wells that Aleanna Resources owned.

13 And I told him, I said, Those are not my wells.

14 And he said, Well, that is the problem, is, you
15 cannot file C-115s yourself on part of the wells and
16 someone else file C-115s for someone else. It all has to
17 be submitted under one OGRID number or everything will be
18 rejected.

19 Q. What did you do about trying to resolve that
20 problem?

21 A. At that point, once I had pulled up that list and
22 saw these other wells, I contacted Aleanna Resources and
23 said, What's going on? Because about the same time I
24 received a noncompliant letter for inactive wells, and they
25 showed three of the wells that Yeso owned. And then they

1 also showed three additional wells that were wells that
2 were transferred from Whiting that belonged to Aleanna
3 Resources. And they wanted everything brought back into
4 compliance by a certain time, or else face penalties.

5 I contacted Gail MacQuesten at that time, and I
6 asked her, I said, How do we -- how do we correct this? I
7 said, these -- there's three wells on here that are not
8 mine.

9 And she said, Well, they are listed under your
10 OGRID, so this compliance order will have to include those
11 wells until you can get that corrected.

12 Q. Were you talking about a compliance order at that
13 point or -- for plugging or --

14 A. For -- well, for plugging primarily.

15 And as I was trying to explain, it's somewhat
16 difficult to set up a specific date for a plugging job
17 anymore, because with the rig activity, the priority is
18 drilling rigs first, frac and squeeze work next, and
19 plugging is the last priority that the cement companies
20 will do. And I've seen -- for Devon and Chesapeake, I've
21 seen us wait months and months to be able to plug wells
22 because we couldn't get the cement company or the plugging
23 company to go and do it.

24 So I was trying to explain that I can't give a
25 certain date on which I can bring these wells into

1 compliance.

2 And she said, Well, what we can do is put you on
3 an agreed compliance order. And she said, You'll have to
4 sign it. And she said, We can do it for -- I think she
5 said three months or six months, with a renewal. If by
6 that time you can't get it done, then we have to be
7 notified, because if you allow it to go past that, then you
8 will be assessed civil penalties.

9 Q. All right.

10 A. So we go along there, and I couldn't get the
11 wells plugged, and I still was trying to figure out how the
12 Aleanna wells got under my OGRID.

13 I was in contact and had numerous heated
14 discussions with Mr. McGee at Aleanna about this, and he
15 denied everything and said that he had nothing to do with
16 it, and that --

17 And I told him, I said, Well, I'm fixing to be
18 penalized because I'm going to be out of compliance with my
19 agreed compliance order. And I said, I got a letter from
20 the legal counsel that says that they're not going to
21 extend this because we haven't submitted -- been able to
22 submit, you know, a step-by-step plan on how we can bring
23 them in order.

24 I said, Those are not my wells, I don't have any
25 information on them, I don't have a well file, I don't have

1 a log, I don't have any information on your wells or how
2 you propose to do it. But you're causing me a lot of
3 grief.

4 And then the subsequent happening on that was, I
5 was fined \$6000, which I paid, because my three wells I
6 couldn't get into compliance, because they said all the
7 wells had to be in compliance. And by "they", I'm saying
8 Gail MacQuesten.

9 Q. All the wells under the agreed compliance order
10 involving the six wells, or --

11 A. Yes, the six wells listed on there, three of
12 which belonged to Yeso, three of which did not, that were
13 Aleanna wells.

14 Q. What efforts did you do -- did Aleanna ever ask
15 you to be the operator of the wells?

16 A. When he first approached me, he said, Do you do
17 any contract operating?

18 And I said, No, I do not, and I will not. I
19 said, I've been in -- I've had things happen before where
20 wells got transferred under my bonds and my OGRID, and I
21 said, It took me a long time, took me over a year to get
22 that straightened out. And I said, I will not do that.

23 And he said, Well, what do I need to do to be
24 able to get bonded?

25 And I set out the steps. I said, Contact Ms.

1 Dorothy Phillips, she'll give you all the information. I
2 said, You can put up a cash bond, you can get an insurance
3 company or somebody like that to write your bonds. I said
4 there's a number of ways you can do it. But I said, No, I
5 am not going to contract-operate anything for you. I said,
6 I'll work on your wells for you, on a technical basis, but
7 to operate, I will not do.

8 Q. Let me show you what has been submitted as the
9 OCD's Exhibit B in there, the -- or the e-mails that are in
10 there, and it appears as though you're trying to submit
11 C-115s. Can you explain to the Examiner what you were
12 trying to accomplish by those e-mails?

13 A. Okay, this is where David Bradshaw was telling me
14 I was out of date on the C-115s and that I had to get those
15 submitted, and that's when we went through the process I've
16 described on finding out why they were not being properly
17 accepted.

18 And that's when we found that I was trying to
19 report the few wells that Yeso actually owned and operated,
20 and there were a number of wells that belonged to Aleanna
21 Resources that were under my OGRID that were being -- that
22 paperwork was being submitted by someone else, and it
23 cannot -- it won't -- the system will not work that way.

24 Q. The e-mail from you, dated September 8th says
25 that you were -- I'll do it as soon as I get back in, or I

1 think something to that effect --

2 A. Right.

3 Q. -- that you're out of town until Sunday --

4 A. Uh-huh.

5 Q. -- but you will follow up thereafter. What were
6 you talking about there?

7 A. I was talking about the C-115s for the actually
8 owned Yeso and operated wells, not any of the 24 wells that
9 are showing up on this Application.

10 Q. Let me show you the e-mail that's attached to
11 Exhibit A, and tell us what's your understanding of that
12 e-mail? It's an e-mail from Mr. Bradshaw to you, as I
13 understand it.

14 A. Right, and this was still -- I contacted him
15 after I received this and called him.

16 And he's telling me, he said, You still have more
17 than one person trying to submit wells from -- you're
18 trying to submit wells on -- C-115s on your wells. Someone
19 else is submitting C-115s under your OGRID from another
20 company, and it's rejecting your C-115s, and we still need
21 them.

22 And I said, Well, can I send you the --

23 Q. Excuse me, but was someone actually submitting
24 C-115s on those 24 wells?

25 A. Apparently, this lady, this Kathy or Carol or

1 whatever her name was that Aleanna Resources hired to do
2 her C-115s was filing reports for the 24 wells that show up
3 that were Aleanna wells, that were showing up under my
4 OGRID that were not my wells.

5 Q. And those C-115s, as far as you know, were
6 rejected?

7 A. As far as I know, those were rejected, as well as
8 my wells rejected. And when I'm saying "my wells", there
9 should be a list -- I don't have it, but there's a list of
10 wells that were operated by Yeso Energy prior to all this
11 nightmare that is correct, that was, you know, back in May
12 of '06, the wells that were being filed on, was a -- is a
13 correct list.

14 There should have been a Connie 1, 2, 3 and 4, a
15 Connie 17, there should be a Dalton Federal 1, Tracy
16 Federal 1, Morgan Federal 1, Laguna 1, and then a Lambchop.

17 So I guess there were like 10 wells that were
18 actually owned and operated by Yeso that I was filing
19 C-115s on until all this stuff happened, and then that's
20 when nothing would be accepted. Because we had information
21 going from two different places, and it didn't -- it didn't
22 -- the system will not allow that.

23 And that's what they found. David Bradshaw told
24 me that's why they found the rejection -- when I could
25 e-mail the information to them and they try to put it in,

1 they were being rejected as well, because we had
2 information coming from different people on different
3 wells, and they all have to come together at the -- you
4 know, under one submittal to the OCD.

5 Q. Were you dealing with the Artesia office of the
6 Oil Conservation Division, trying to reconcile -- or
7 resolve this problem?

8 A. Yes, I contacted Carmen and I talked to Brian
9 Arrant. I didn't talk to Tim, he was out a lot as well,
10 but -- but I talked to them and -- about the C-115s.

11 And they said, You've got some inactive wells
12 that you're going to have to bring back into compliance,
13 but the biggest thing is, you need to make sure you get all
14 this stuff straightened out so you can get your C-115s
15 filed properly. Otherwise, they're going to cancel your
16 authority to transport.

17 Q. Since -- Now at some point your authority to
18 transport was canceled, right?

19 A. Yes, sir, it was.

20 Q. Have you operated any -- well, have you produced
21 any wells and sold -- transported production --

22 A. No, when -- when I received the notification that
23 -- from Gail MacQuesten saying that my authority to
24 transport had been revoked, all my wells were shut in.
25 They were shut down.

1 I contacted the pumper, the contract pumpers that
2 I had, that were going by daily and pumping those wells,
3 and told them to shut everything in, shut all the valves,
4 if you find any valves leaking, let me know so we don't
5 have anything still going through any of the meters or
6 anything like that. But I said, do not let another well
7 pump, don't let it go up and down, just shut everything
8 down until I can get this whole mess rectified.

9 Okay, that was November of '06. Here it is
10 November of '07, and I have not produced any of my wells.

11 And the wells that they say -- the 24 wells that
12 were transferred from Whiting, I had no information on. I
13 didn't know whether they were pumping, I didn't know
14 whether they were producing, I didn't know if they were
15 injecting. They were not my wells, I was no operating
16 those wells.

17 Q. Do you know who the pumper was on those wells?

18 A. Sam --

19 Q. Mr. Quintana told me it's a gentleman by Sam
20 Norville.

21 A. Sam Norville, that's correct. He did not report
22 to me. I mean, he had no reason to.

23 Q. What's the procedure for reporting production
24 from a pumper to an operator, do you know?

25 A. Normally the pumper submits weekly production

1 reports. If you've got a new well that you just put on
2 line, quite often you will require the pumper to submit
3 daily reports so you can see -- gauge how well -- the
4 performance, or so you can adjust the producing rates or
5 things like that. And they come directly from the pumper
6 to the operator.

7 If anyone else does it differently, I'm not aware
8 of it. That's -- All the companies -- big companies that I
9 work for, all handle it that way.

10 Q. Were you getting -- Who do you use as a pumper on
11 the Yeso wells, the ones that are actually owned by Yeso?

12 A. I used a gentleman named Jimmy Davis, Davis Lease
13 Service, I used Ken Goodjohn in the Carlsbad area, and then
14 I used Tomahawk Pumping Service. I had three contract
15 pumpers to handle my 10 wells.

16 Q. Did you -- C-115s -- who prepared your C-115s on
17 the 10 wells?

18 A. For a while I had a lady that used to work for
19 Read and Stephens do it, and she did them for, I think, a
20 year and a half. I would send the pumpers' reports to her,
21 and then I had to just start sending everything direct to
22 her because I was so busy and hard to get ahold of and in
23 the field, you know, you know, quite often for a week or
24 two weeks at a time, and -- with no contact. So I had the
25 pumper send the reports and stuff to her.

1 Well, she became ill and passed away, and her
2 family came and got all the stuff and moved all the stuff
3 out of her house and sold her house, so it took me six
4 months to get all my data back that she had, you know, from
5 her family. And they finally got that.

6 So that put me late filing my reports up till May
7 of 2006.

8 Q. For the 10 wells?

9 A. For my 10 wells.

10 Q. And then what happened after that --

11 A. Okay, after that, when --

12 Q. -- as far as the 10 wells are concerned?

13 A. As far as the 10 wells are concerned, then all
14 the production reports came to me.

15 And Mr. McGee with Aleanna said that this Kathy
16 or Carol, whatever her name is, in Midland, is -- was
17 taking care of all of his paperwork. She did -- she took
18 care of all of his invoicing and billing and C-115s and all
19 that.

20 And I said, Well, you know, the lady that used to
21 take care of my stuff passed away, and is she doing you a
22 good job?

23 And he said, Well, sure. And so he said, Well,
24 just -- Here's her phone number and e-mail. Contact her.

25 So I contacted Kathy and asked her if she would

1 be interested in filing my C-115s as well.

2 And she said, Yes, but you'll have to get me set
3 up through the OCD on line to be able to access things for
4 your company.

5 So I signed on as administrator through the OCD
6 and set her up as someone that was a valid user through
7 Yeso Energy to file any necessary paperwork that needed to
8 be taken care of for Yeso.

9 Q. As to the 10 wells?

10 A. For my 10 wells.

11 Q. How about the other wells, the 24 wells?

12 A. I had no idea that anything was wrong until we
13 started getting all of the rejections and I'd pull up the
14 list and find out all this other stuff.

15 And I had no correspondence with Aleanna. We did
16 some work on the initial three wells that we worked on. I
17 sent him an invoice for Richard's consulting work. Took
18 him 60 days, he paid the invoice to Lee Consulting.

19 Yeso Energy had never entered into any kind of a
20 contractual agreement to contract operate any wells for
21 Aleanna Resources. Yeso Energy never received one penny of
22 compensation or interest in kind or anything from Aleanna
23 for doing any kind of contract operations. And I don't
24 know how it got into such a mess.

25 Q. Now there's a C-104A change-of-operator form from

1 Whiting Oil and Gas Corporation to Yeso Energy. Have you
2 seen that?

3 A. Yes, I have.

4 Q. That appears like it has your signature on it.

5 A. That looks just like my signature.

6 Q. Did you sign that form?

7 A. I did not sign that form.

8 Q. Did you sign the form transferring operatorship
9 from Yeso Energy to Kerns Petroleum?

10 A. I did do that under the advice of the OCD to tell
11 me that that is the only way that these wells can be
12 transferred to Kerns Petroleum, even though my big
13 complaint -- to the Artesia office primarily, and to -- I
14 believe I -- I think I called Mr. Sanchez one time about
15 this. I talked to Gail MacQuesten about this. I told
16 them, you know, How do we rectify this? I said, I don't
17 know how they got here, but I said, This is the second time
18 that this has occurred to me, and how do we get it fixed?

19 And they said, The only way we can correct this
20 of record is, you will have to sign the paperwork that's
21 required by the OCD to legally change operator from Yeso to
22 Kerns Petroleum.

23 Q. In retrospect, was that the right thing to do?

24 A. Big mistake, big mistake.

25 Q. Why?

1 A. Well, it -- it -- it's -- basically, on all
2 appearances, it says that you're admitting that you are the
3 operator, because you're having to sign as operator that
4 you're transferring to another operator. And like I said,
5 that was a big mistake. I should never have done that.

6 And the other big mistake I made is when they
7 fined me the \$6000 for three wells that were not mine. I
8 should have fought that to the end.

9 Q. Do you have anything further to add to your
10 testimony?

11 A. The only -- and this is a question that I cannot
12 seem to get answered, no matter who I ask.

13 Number one, I thought when we went to the
14 computerized system there would be enough security stuff
15 implemented to where this kind of thing could never happen
16 to me again.

17 Number two, I was -- I purchased two wells and a
18 lease called the Yates State Number 1 and Number 2, down by
19 Carlsbad. This lease was tied up in litigation with Unit
20 Petroleum for over a year. I wound up as the successor in
21 the litigation. The two wells were nonproductive, sitting
22 there on an idle state lease.

23 I took and won the case, got those, and I had to
24 show the OCD all the legal documentation, I had to have my
25 attorney talk to the OCD attorneys, and I basically had to

1 beg to get these wells that I had just won in this case to
2 be able to be transferred from Unit Petroleum to Yeso
3 Energy, because I was out of compliance.

4 And we had to show everything on why this lease
5 -- and show the steps that I was going to take to get them
6 back. And they told me that they would do it if I could do
7 something to get them back in production within a certain
8 period of time, I think it was six months.

9 And so we went through a lot of trouble and a lot
10 of effort to get those two wells that were legitimately
11 transferred to Yeso Energy from Unit Petroleum, because I
12 was out of compliance.

13 So how is it that 24 wells that got transferred
14 to Yeso Petroleum -- I mean from Whiting to Yeso Energy,
15 that was out of compliance, and especially that number of
16 wells and wells on that list that were also out of
17 compliance, and somewhere on one of those lists shows that
18 there's additional bonding required before that that
19 transfer could take place, and I want to know who put up
20 the additional bonding?

21 Right there is going to tell your whole story.
22 Just follow the money.

23 MR. PADILLA: I have nothing further.

24 EXAMINER BROOKS: Cross-examination Ms. Altomare?

25 MS. ALTOMARE: Thank you.

CROSS-EXAMINATION

BY MS. ALTOMARE:

Q. It's interesting that you should ask that question, Mr. Lee. I'm handing you a packet of materials that we've labeled OCD Exhibit F. There are a number of documents that we'll be going through in this packet, but do you recognize the document on top?

A. It's the first I've ever seen.

Q. Okay. For the record, the first document is a letter dated October 20th, 2006, that is addressed to New Mexico Energy, Minerals and Natural Resource Department, and it is an amendment to a letter of credit basically replacing -- putting in Yeso Energy in place of Aleanna Resources for a well known as -- I believe it is Knight Number 5. Behind that first document is the original letter of credit that was originally issued for Aleanna Resources.

Are you -- you're testifying today that you have not ever --

A. I have never --

Q. -- seen this document before?

A. -- seen any of this stuff.

Q. Okay. Beyond that original letter of credit, if you'll turn behind that document, flip a couple pages beyond that. There should be a letter with the letterhead

1 of New Mexico Energy, Minerals and Natural Resources
2 Department at the top. Do you recognize this document, Mr.
3 Lee?

4 A. No, ma'am, I've never seen it.

5 Q. Do you see the carbon copy address at the bottom
6 of the document, addressed to Yeso Energy, Inc., P.O. Box
7 2248?

8 A. Yes, I do.

9 Q. Is that your address?

10 A. That's Yeso Energy's address.

11 Q. Okay, you do not recall getting this document?

12 A. I never have received or seen any of this
13 information before.

14 Q. Okay. And for the record, this is a letter
15 drafted by Gail MacQuesten, basically confirming the
16 amendment to the letter of credit, confirming that the
17 letter of credit was basically going to be now in the name
18 of Yeso Energy, rather than Aleanna Resources, for this
19 particular well?

20 A. (No response)

21 Q. Do you recognize well number -- the particular
22 well at issue -- Let's see where it's most easily
23 referenced. I think this is the one -- the single well
24 that you had referenced was the one that needed the
25 additional bonding, and if memory serves it was Knight

1 number 5. That is the well -- one of the 24 wells that was
2 -- that you are now alleging Aleanna was operating --

3 A. Yes.

4 Q. -- that was conveyed ultimately to Kerns,
5 correct?

6 A. Yes.

7 Q. So it is your contention that despite the fact
8 that there is apparently a letter of credit in the name of
9 Yeso Energy for this well, that you were not aware of it?

10 A. I was not aware of that. I mean, why was I not
11 -- why was Yeso not required to sign off on anything on a
12 bond? I mean, every bonding company I've ever dealt with,
13 if anything was put under you, you had to sign off on it.

14 Q. Well, I can't answer that for you, Mr. Lee, but
15 it does appear that you were provided notice by the Oil
16 Conservation Division, and my question to you is, Did you
17 ever take any action to follow up with either the Oil
18 Conservation Division or Frost Bank regarding this letter
19 of credit and --

20 A. No, I --

21 Q. -- the well?

22 A. -- I did not, because this is the first time I'd
23 ever seen it.

24 Q. Okay. The next couple documents in the packet
25 are documents that you've already referenced, but just to

1 confirm, these are the change-of-operator forms, the first
2 one being the form changing the operatorship from Whiting
3 Oil to Yeso Energy, the second one being the change of
4 operatorship from Yeso Energy to Kerns.

5 And you have acknowledged that you signed the one
6 changing the -- transferring the wells from Yeso Energy to
7 Kerns --

8 A. Yes.

9 Q. -- but you're denying that the signature on the
10 form, which is the first of the two forms designating
11 transfer of wells of Whiting -- from Whiting Oil and Gas to
12 Yeso Energy, you're denying that that is your signature?

13 A. I am denying that.

14 Q. Okay. Do you acknowledge that those signatures
15 look pretty significantly alike?

16 A. Well, they look fairly similar. I mean, my G's
17 always have a loop in them, and this one comes to a point,
18 but they look very similar, they do.

19 Q. Okay. Are you familiar with the electronic
20 system through the OCD and what is required of operators
21 when they transfer wells?

22 A. Yes.

23 Q. Okay. Who is authorized for Yeso Energy to log
24 on as the administrator for Yeso Energy?

25 A. Now, strictly myself.

1 Q. Okay.

2 A. See, before when all this was going on, I had
3 signed up that lady, Kathy -- Kathy or Carol -- Kathy
4 Reinhardt, I think, is the name, to be able to do -- so she
5 could do my C-115s on my wells. I had no idea that 24
6 other wells were going to be transferred and put under my
7 OGRID.

8 Q. Okay. But you acknowledge that you gave her
9 authority --

10 A. Yes.

11 Q. -- to make transactions on the OCD system on your
12 behalf?

13 A. Yes.

14 Q. Okay, and it's your contention that at the time
15 that these transactions took place, or at least the one
16 from Whiting to Yeso, that it was this Kathy woman in
17 Midland who had the authority for Yeso?

18 A. That is the only other person that I know that
19 could have done it. There was no one else as far as I'm
20 aware that was ever given administrative -- well, she
21 wasn't given administrative privilege, she was given
22 whatever the next step is, to be able to do the filings.

23 Q. Okay. My understanding is that only the operator
24 administrator can actually go in and approve transfer of
25 wells, and that actually once a C-145 is signed by both

1 parties, you have to personally go in there and click a
2 button to confirm that transfer?

3 A. Right, that's my understanding also.

4 Q. Okay. And you are the operator/administrator for
5 Yeso Energy --

6 A. Yes.

7 Q. -- correct?

8 A. That's correct.

9 Q. Okay. Do you dispute the fact that for either of
10 these transfers to occur, you as the operator/administrator
11 had to have at some point gone in and clicked the button to
12 confirm the transfers?

13 A. Someone did, yes. And like I say, I don't know
14 that I gave her full administrative rights or partial or --
15 I don't know, I'm not sure. But I thought it was one step
16 under administrative rights.

17 And then whenever the one -- this Ceci Wallen --
18 when the -- from Yeso to Kerns was done, she had to help
19 me, and we both had to get someone up here in the Santa Fe
20 office -- I don't know who she had on a conference call --
21 to walk us through, both of us sign on, because I had never
22 done that.

23 Q. Okay. Now you advised that you only signed that
24 second C-145 because you were advised to do so by
25 particular individuals at the Santa Fe office of the OCD.

1 A. Yes.

2 Q. Who --

3 A. Well, not only -- not only the Santa Fe office
4 but also the Artesia office.

5 Q. Okay, who specifically advised you to sign that
6 document?

7 A. I talked to Carmen Reno, I talked to Paul Arrant
8 [sic], and I talked to Gail MacQuesten.

9 Q. And those -- those --

10 A. No, it wasn't Gail MacQuesten, it was -- Gail's
11 in the legal. It was somebody in the administrative part
12 that tells you how to do all these things.

13 Q. Okay.

14 A. That that's the only way that wells can be
15 transferred from one OGRID to another, is through this
16 form.

17 Q. Okay, so what they told you was that the only way
18 wells could be transferred from one OGRID to another was if
19 you signed the form?

20 A. Yes, ma'am. You had to do a signature -- When
21 both of you -- if I remember right, they told me that once
22 both operators had confirmed or ratified or whatever their
23 -- whatever they call it, then you each have to print out
24 one on your computer and sign it. Okay?

25 The way it was handled, Ceci Wallen -- I

1 confirmed, she -- and whoever with the OCD was on -- we had
2 a -- through a conference call. When this was done, they
3 walked us through on how to do it, and we both confirmed
4 it. Then Ceci Wallen printed out and signed the original
5 as land manager for Kerns Petroleum.

6 At that time she sent that to me in an envelope
7 for me to sign, and I signed that one.

8 Q. Okay, but what I want to clarify is what they
9 told you, is that in order to transfer wells from one OGRID
10 to another, this is the form --

11 A. It has to be done, yes.

12 Q. Okay, to whom did you speak about your suspicions
13 that somebody was using your OGRID?

14 A. The same people, same ones that I talked to. I
15 talked to David Bradshaw, I talked to Carmen, I talked to
16 Bryan Arrant, I talked -- and I'm pretty sure that I had
17 talked to Mr. Sanchez about -- at one time.

18 Q. Okay. Can you show me where in either of the two
19 e-mails that we have in the record you've referenced any
20 kind of issue with your OGRID or concern over somebody else
21 using your OGRID?

22 A. No, not in this information, I don't.

23 Q. Okay, have you brought any exhibit or documents
24 of your own to show us where you have done that?

25 A. No, I haven't. You know, most of the time -- in

1 my line of work I go out on a well, and I'm usually sitting
2 on location for at least two weeks at a time. And so it
3 makes it very difficult for me to handle a lot of these
4 things. And since I don't have a staff of any kind, nearly
5 all of my stuff is handled primarily by the phone unless I
6 am in. And then I usually am in for three or four days and
7 then back out for two weeks.

8 Q. All right, but I believe you testified that you
9 had e-mailed Mr. Bradshaw on several occasions --

10 A. Yes.

11 Q. -- and in fact had e-mailed them information on
12 your C-115s --

13 A. Yes.

14 Q. -- and then they took that information and tried
15 to submit it, and that it was rejected, and that there was
16 significant correspondence going on over e-mail --

17 A. Yes.

18 Q. -- about your C-115s?

19 A. Uh-huh.

20 Q. Did you bring copies of any of those --

21 A. No --

22 Q. -- for us today?

23 A. -- I did not. You know, I can -- I can go back
24 through all of my e-mails and stuff that I've saved and
25 possibly come up with it.

1 Q. Okay. You had talked about coming up with a deal
2 with Aleanna whereby you would be performing certain work
3 on their wells --

4 A. Yes.

5 Q. -- what you contend are their wells.

6 Have you brought for us a contract to show us
7 what the terms of that agreement were?

8 A. No.

9 Q. Okay, was there a contract?

10 A. No.

11 Q. Okay. Did you receive paychecks or payment from
12 them on checks that had Aleanna letterhead in some form?

13 A. Yes, I did.

14 Q. Okay, and was that with some degree of frequency
15 that was established by some kind of agreement?

16 A. No, we received -- I sent one invoice covering
17 those three wells -- I'm sorry, three invoices, but it came
18 up to one total amount.

19 And after about 45 days he paid half of the
20 invoice, and then 30 days later he paid the other half of
21 the invoice. And that's the compensation that I was paid
22 to pay Richard for him doing the actual work on location.

23 Q. Okay, so you paid Richard directly?

24 A. Yes, yes.

25 Q. Okay, and did you pay him through Yeso, or did

1 you pay him through Lee Consulting?

2 A. Lee Consulting.

3 Q. Okay. And was it Lee Consulting that had the
4 agreement with Aleanna, or was it Yeso?

5 A. It was Lee Consulting to provide consulting
6 services on the three wells.

7 Q. Okay, and which three wells were those?

8 A. It was the Knight -- I think it was the one that
9 you referenced in here, the Knight 5, there was a Cortland
10 Myers Number 1, I believe, and a Jamison, I believe.
11 Richard may have a little better information on that.

12 Q. Okay. So when you make general allegations that
13 somebody was using your OGRID, what you're really saying
14 today here is that it was Aleanna that had used your OGRID?

15 A. That's my highest suspicion, yes, ma'am.

16 Q. Okay.

17 A. I did confront Mr. McGee about this and about
18 what was going on here and about the possibility of fines,
19 and that I felt that if something was done, that I would
20 have to be forced to pursue it further, which could result
21 in civil and criminal at that time. I've never heard
22 another word from him.

23 Q. And when you confronted Mr. McGee, did you do it
24 in writing?

25 A. No, I called him. I was out at the well when my

1 wife received the information.

2 Q. Okay. And did you at any point document your
3 concerns to Mr. McGee in any form of writing?

4 A. I e-mailed him.

5 Q. Okay, and did you bring copies of those e-mails t
6 us today?

7 A. No.

8 Q. Okay. Are you aware that Aleanna Resources is
9 not a registered operator in New Mexico?

10 A. No. I didn't -- the last time -- I tried to
11 contact him for a long period of time with no response, and
12 I kept on to Kathy Reinhardt, and she finally sent me back
13 an e-mail, that I might be able to also come up with, that
14 says that Mr. McGee is in Italy, and he purchased-- he sold
15 the wells to Kerns Petroleum for a significant amount. He
16 also sold part of his company to someone else, and he took
17 his money, and he is operating in the country of Italy.

18 Q. Okay. I'd like to direct your attention to the
19 last document that is attached to OCD Exhibit F. That is
20 entitled the Agreed Compliance Order Number -- for inactive
21 wells, ACOI Number 137.

22 A. Yes.

23 Q. Do you recognize this document?

24 A. Yes.

25 Q. Okay, is this the ACOI that you were referencing

1 earlier?

2 A. Yes, ma'am.

3 Q. Okay. What are the wells that are referenced
4 within this document as being covered by this ACOI?

5 A. The Connie C Number 3, the Connie C State Number
6 4, the Tracy 29 Number 1 and the Yates State Number 1.

7 Q. And isn't it true that none of these four wells
8 are amongst the 24 wells that were transferred to Kerns?

9 A. That's correct.

10 Q. Okay, so in fact when you violated this ACOI and
11 were penalized and had to pay a penalty, you were not
12 paying a penalty for any of the wells that you now contend
13 were transferred to Kerns?

14 A. No, ma'am, that's not what I was penalized on.

15 Q. Okay. Well, you said earlier that you had to pay
16 a penalty --

17 A. Yes, but I believe --

18 Q. -- for this --

19 A. -- it was in the original application on this
20 thing, a copy of that.

21 Q. Okay.

22 A. There were three wells, the Connie C 3, 4, the
23 Tracy, and then there were three of the 24 wells that -- of
24 the 24 that were -- in which I was penalized on.

25 Q. Okay, but -- so that -- this is not what you were

1 referring to earlier when you said that you paid a penalty?

2 A. No.

3 Q. Okay. So these wells are all wells that you --

4 A. And these --

5 Q. -- that are Yeso wells?

6 A. Yes, they are.

7 Q. Okay. So what ACOI involving what you contend
8 are non-Yeso wells are you referring to? Because as I read
9 the previous exhibit, which I think might -- I think it's
10 Exhibit B that has the letter referencing the ACOI, it is
11 ACOI 137.

12 A. This is not what I was penalized on.

13 Q. Okay. If you'll turn to the very last page of
14 the ACOI, I'd like you to look at your signature and the
15 date on that document. What is the date that you signed
16 this document?

17 A. July 7th of '06.

18 Q. Okay. And I'd like you to compare that signature
19 to the signatures on the other documents within this packet
20 that you were looking at. You acknowledge that you did
21 indeed sign this document on July 7th, 2006 --

22 A. Yes.

23 Q. -- ACOI, and that is, in fact, your signature?

24 A. The one on the AC -- yes --

25 Q. The ACOI.

1 A. -- it is.

2 Q. And you still contend that the signature on the
3 Whiting to Yeso document transfer --

4 A. Yes, I --

5 Q. -- is not your signature?

6 A. -- I do contend that this is not my signature.

7 Q. Okay. One moment.

8 You had testified that you were basically made
9 aware sometime in November or so that you had, in your
10 understanding, a series of wells that you believe were not
11 yours under your OGRID?

12 A. No, ma'am, it was during the -- it was during my
13 attempts to file C-115s, and -- through my correspondence
14 with David Bradshaw, and once they found out why I kept
15 getting rejected, that's when I found out -- when he told
16 me to look -- pull my well list up, under -- and showed me
17 how to do that, and I pulled it up, and I see all these
18 wells.

19 Well, I recognized some of these wells --

20 Q. Right.

21 A. -- as wells that --

22 Q. Right, so what I'm wondering is, when,
23 approximately, was that, that you -- because the
24 cancellation --

25 A. I believe it was in -- I believe that was in

1 September.

2 Q. Okay, so in September you became aware that there
3 was an issue of these extra wells --

4 A. Yes.

5 Q. -- that you did not believe should be under your
6 OGRID?

7 A. That's correct.

8 Q. And your authority to cancel -- your authority to
9 operate was in jeopardy --

10 A. Yes.

11 Q. -- and about to be canceled?

12 Knowing that those wells were under your OGRID
13 and that you had not remedied that situation yet, and also
14 knowing that they were likely producing, and that that
15 would constitute a violation of that order of cancellation,
16 did you take any steps to bring this to the attention of
17 the OCD or the district office to try and, I guess, pre-
18 emptively avoid any --

19 A. At that time I had not -- my -- my authority to
20 transport had not been revoked.

21 We had -- David Bradshaw and Carmen Reno and the
22 Artesia office and I had all gone over this thing
23 continuously, that if we couldn't get the C-115
24 straightened out, that at some point in time, yes, my
25 authority to transport would be revoked.

1 But we knew that was going to happen, and I agree
2 that -- I knew that this stuff was going on, but I didn't
3 realize that after all this happened, that wells would
4 continue to be going -- I didn't know what was going on
5 with the wells. I didn't go over there and I didn't look
6 at the wells, I didn't have pumpers hired, I didn't have
7 any production data coming to me either through contract
8 pumpers or from the transporters.

9 It became very obvious that it was going to be
10 difficult to get this rectified, and that's why I was
11 concerned. And that's why I still couldn't understand why,
12 if -- going back to this first -- this first compliance
13 order and then the one that I was fined on, why anything
14 would ever be allowed to be transferred to Yeso when I was
15 in compliance. I mean, that's against the OCD regulations.
16 It should apply to both of us equally.

17 MS. ALTOMARE: But you agree that -- I'm sorry,
18 strike that. I'm -- I think I'm done with this witness.

19 EXAMINER BROOKS: Anything further, Mr. --

20 MR. PADILLA: I don't have anything further.

21 EXAMINER BROOKS: -- Padilla?

22 EXAMINATION

23 BY EXAMINER BROOKS:

24 Q. Mr. Lee, I'm a little confused on dates here, so
25 maybe you can straighten me out.

1 When was it that you first learned that OCD
2 records showed Yeso Energy, Inc., as operator of any of
3 these 24 wells that are in controversy?

4 A. I believe it was towards the end of September.

5 Q. That -- Was that '06 or '07?

6 A. '06, '06.

7 Q. Okay. And did you ever write any letters to
8 anyone at the Oil Conservation Division stating or advising
9 the Oil Conservation Division that Yeso Energy contended
10 that it was not the operator of these wells?

11 A. I don't recall. I know I had a lot of verbal
12 conversation, but I -- and there are some e-mails, and I'll
13 try to locate those e-mails, but primarily -- no, I did not
14 send any by mail.

15 Q. Did any of the e-mails that you mentioned state
16 that Yeso Energy, Inc., contended that it was not the
17 operator of any of these 24 wells?

18 A. Yes, sir, some of the e-mails that I sent also
19 back to David Bradshaw, I conveyed that, that I cannot
20 provide C-115s on 24 wells that are showing under my OGRID
21 when they are not my wells and when I'm not privy to
22 information from the contract pumpers or the transporters
23 and purchasers, how am I supposed to provide information to
24 do complete and accurate C-115s?

25 Q. Did you advise anyone other than David Bradshaw

1 in writing of this situation -- that you contended that you
2 -- that Yeso was not the operator of any of these --

3 A. No, sir, he was the one that was in charge of the
4 C-115s that I was dealing with, and that's who I -- who I
5 dealt with.

6 Q. Did you ever -- so you never advised Ms.
7 MacQuesten in writing that you contended that Yeso Energy
8 was not the operator of any of these wells?

9 A. I think I -- I think I sent her an e-mail, but
10 not in writing.

11 Q. Did you advise her in that e-mail that you
12 contended that -- I'm speaking of Ms. MacQuesten. Did you
13 advise Ms. MacQuesten by e-mail that you contended that
14 Yeso Energy, Inc., was not the operator of any of these 24
15 wells?

16 A. Yes, and I think -- I think it was reiterated
17 again when the -- when the -- somewhere there is the deal
18 that comes back that shows my penalty, and when that
19 penalty was assessed for \$6000 three of those wells were
20 not my wells. They -- those were wells of -- three of the
21 24 wells that are in dispute here that were in there.

22 And I said, Why -- you know, that's not fair.
23 Why are you penalizing me for wells that are not mine and
24 that I'm not the operator of?

25 Q. And did you do this in a written communication?

1 A. No, it was in e-mail and telephone conversation.

2 EXAMINER BROOKS: I think that's all I have.

3 Anybody have anything further for this witness?

4 MR. PADILLA: No.

5 MS. ALTOMARE: I don't think so.

6 EXAMINER BROOKS: Witness may stand down. You
7 may call your next witness.

8 MR. PADILLA: We'll call Richard Quintana at this
9 point.

10 RICHARD QUINTANA,

11 the witness herein, after having been first duly sworn upon
12 his oath, was examined and testified as follows:

13 DIRECT EXAMINATION

14 BY MR. PADILLA:

15 Q. Mr. Quintana, please state your full name.

16 A. Richard Quintana.

17 Q. Where are you from?

18 A. Lovington, New Mexico.

19 Q. And what do you do for a living?

20 A. I work on oil wells, do consultant work.

21 Q. Do you sometimes work -- What's your -- what's
22 your relationship to Lee Consulting, Inc.?

23 A. I just do work for him, just -- long-time friend.

24 Q. Did you do work on some of the wells that are in
25 contention here?

1 A. Yes, sir.

2 Q. Can you tell us how you got to do work on those
3 wells?

4 A. I guess they contacted Gene, and he was busy, and
5 I went out for him and did the work.

6 Q. What did you work?

7 A. I worked on the Cortland Myers, one of the
8 Jamisons and the Knight 5.

9 Q. Can you be more specific as to what you did to
10 the Cortland well?

11 A. That one I did a -- hauling the tubing and
12 changed the pump.

13 Q. And you mentioned the Jamison well. What did you
14 do to that well?

15 A. Just the pump change.

16 Q. And the Knight well?

17 A. The Knight well, that one I did a little workover
18 on it. I cut some casing and respliced it, and attempt to
19 fish some stuff out to do a plugback.

20 Q. And --

21 A. Couldn't get far down enough, so that's when Mr.
22 Mickey McGee called me and told me that that's all he was
23 going to do to it, just to go ahead and rig down and get
24 off of it.

25 Q. With who did you communicate while you were doing

1 that well?

2 A. Mickey.

3 Q. With whom did you communicate on the Jamison
4 well?

5 A. Mickey McGee.

6 Q. And on the Cortland well?

7 A. Also Mickey.

8 Q. How did you invoice -- did you file an invoice
9 for your work on those wells?

10 A. Yeah, I invoiced Lee Consulting, and then I guess
11 he invoiced Aleanna.

12 Q. And ultimately you got paid for your work?

13 A. Yes, I did. And you know, like setting up a acid
14 job, cement or tubing, whatever, I had to call Mickey, and
15 he had to go write out a check, because he didn't have
16 enough credit.

17 Q. Mickey didn't?

18 A. Yes.

19 Q. Can you be more specific about --

20 A. Yeah, you know --

21 Q. He didn't have credit where?

22 A. Like Weatherford, to do the fishing and stuff
23 like that.

24 I told them it was for Aleanna Resources.

25 They said, Well, we don't know him too good. Can

1 he come out here and write us out a check?

2 So I called Mickey, and he said, Yeah, I'll be
3 right down. So he had to write out a check to them,
4 Petrolplex, and some other companies.

5 Q. That was for supplies and equipment that you were
6 working on --

7 A. Yes.

8 Q. -- on the wells?

9 A. Correct.

10 Q. And it was not Lee Consulting who was financing
11 any of the work there?

12 A. No, no.

13 Q. How long have you been -- Have you ever done any
14 work for Yeso Energy?

15 A. No.

16 Q. How long have you known Gene Lee?

17 A. Twenty-some years.

18 Q. Did you work for Gene Lee at some time?

19 A. Oh, when I used to roughneck or -- you know, his
20 tool-pusher for us, just like that, but not --

21 Q. Did you ever Gene Lee to be an operator of wells?

22 A. Not other wells, just his.

23 Q. Now, what's -- As far as you know, can you tell
24 us what's the deal with operators putting sign on wells --
25 a sign on wells? What signage goes on wells?

1 A. I guess a sign with the owner's name on it, and
2 that there was just Whiting Oil on all of them.

3 Q. Was there any sign Yeso Energy had --

4 A. No, sir.

5 Q. Have you worked on those wells since that time,
6 since they changed from -- Well, let me ask you this.
7 Since Kerns Petroleum took over the wells, have you done
8 any work on those wells?

9 A. No, sir, no, I haven't.

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

11 EXAMINER BROOKS: Cross-examination, Ms.
12 Altomare?

13 CROSS-EXAMINATION

14 BY MS. ALTOMARE:

15 Q. Mr. Quintana, in the work that you do in the oil
16 and gas industry, are you involved at all in the
17 administrative portions, filing paperwork, that kind of
18 thing?

19 A. No, I just make reports and send them out to --

20 Q. Okay, so do you deal with the OCD at all, as far
21 as the rules and regulations for what forms need to be
22 filed when, that kind of thing?

23 A. No, ma'am.

24 Q. Okay, are you familiar with the rules as they are
25 for who needs to report when wells are transferred, when

1 the operatorship changes hands, that kind of thing?

2 A. No, ma'am.

3 MS. ALTOMARE: I think that's all I have.

4 EXAMINATION

5 BY EXAMINER BROOKS:

6 Q. Did you ever make any reports on production
7 volumes on any of these wells that you -- Aleanna wells?

8 A. No, sir, I didn't.

9 Q. To anyone?

10 A. No.

11 Q. Okay, you weren't responsible for that?

12 A. No, that's Sam Norville, that pumper.

13 Q. Okay.

14 A. Yes, sir.

15 EXAMINER BROOKS: Anybody else -- That's all I
16 have. Either of the counsel have anything further?

17 MR. PADILLA: I was going to ask him about the
18 pumper, and you just took my question. So that's all I
19 have. We rest.

20 EXAMINER BROOKS: Very good. Witness may stand
21 down.

22 Do you have any rebuttal, Ms. Altomare?

23 MS. ALTOMARE: No rebuttal.

24 EXAMINER BROOKS: Very good. Do you want to make
25 a closing statement?

1 MS. ALTOMARE: Just very briefly, just to
2 summarize what we're requesting.

3 As I had initially stated, we feel like this is a
4 situation where an operator has decided that the rules
5 don't apply.

6 And our entire system depends on honesty in
7 reporting, and if operators aren't properly reporting,
8 everything else falls apart.

9 And if we don't enforce -- you know, if we
10 enforce anything it needs to be reporting requirements.

11 And this is a situation that was pretty
12 egregious. He was aware, he had many opportunities to come
13 forward and work with us, and he did not.

14 We are not asking for a fine on a daily basis as
15 the statute permits, we're asking on a monthly basis. As
16 such, we are asking for a penalty in the amount of \$88,000,
17 as was calculated according to what was testified to by Mr.
18 Sanchez, and we are asking to have a peek at Yeso Energy's
19 records to make sure that there are no other delinquent
20 records that need to be updated, because it is important
21 the OCD records are full and complete.

22 I think the rest of the evidence stands on its
23 own.

24 EXAMINER BROOKS: Very good. Any summation, Mr.
25 Padilla?

1 MR. PADILLA: Well, I think the evidence speaks
2 for itself. I don't think that on a clear and convincing
3 standard or a preponderance of the evidence that there's
4 any kind of showing that the -- Yeso Energy operated the
5 wells.

6 Yeah, there's -- there's considerable problems
7 here. But in terms of any standard that's being applied
8 knowingly and willfully and that kind of thing that is in
9 some of these letters, I think that the transport --
10 authority to transport is entirely punitive.

11 My position on the penalties, as far as the OCD
12 is authorized to do and to assess penalties
13 administratively, you know my position clearly on that.

14 EXAMINER BROOKS: I'm aware of your position, Mr.
15 Padilla. And you may or may not be aware that as of
16 yesterday we were informed that the Supreme Court of New
17 Mexico is granting certiorari on a case involving that
18 issue, so I guess we're going to get an authoritative
19 resolution of that in the not-too-distant future.

20 MR. PADILLA: Well, I'm sort of aware of that,
21 and I hope that some ruling comes on from that.

22 EXAMINER BROOKS: Well, given the time frames
23 that the Supreme Court of New Mexico has followed in some
24 other cases I have followed, it may be a while.

25 MR. PADILLA: At any rate, I don't think that

1 there's a showing here, that there's a lot of confusion
2 here in terms of whether Yeso Energy even came close to
3 operating the wells in terms -- Yeah, you have a piece of
4 paper that says that -- it says that he was the operator.
5 He explained to you why he signed the change from Yeso to
6 Kerns Petroleum, and that was to get the monkey off his
7 back.

8 And the monkey is not off his back, and I think
9 probably, as he testified, that was a mistake. It should
10 have been resolved. Hopefully, it will get resolved as we
11 go along with this case.

12 EXAMINER BROOKS: Thank you. If there is nothing
13 further, then Case Number 14,008 will be taken under
14 advisement.

15 (Thereupon, these proceedings were concluded at
16 11:15 a.m.)

17 * * *

18
19
20 I do hereby certify that the foregoing is
21 a complete record of the proceedings in
22 the Examiner hearing of Case No. 14008
23 heard by me on Jan 29 2007
24 *David W. Brooks*
25 Oil Conservation Division

CERTIFICATE OF REPORTER

STATE OF NEW MEXICO)
) ss.
COUNTY OF SANTA FE)

I, Steven T. Brenner, Certified Court Reporter and Notary Public, HEREBY CERTIFY that the foregoing transcript of proceedings before the Oil Conservation Division was reported by me; that I transcribed my notes; and that the foregoing is a true and accurate record of the proceedings.

I FURTHER CERTIFY that I am not a relative or employee of any of the parties or attorneys involved in this matter and that I have no personal interest in the final disposition of this matter.

WITNESS MY HAND AND SEAL February 26th, 2008.



STEVEN T. BRENNER
CCR No. 7

My commission expires: October 16th, 2010