

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

IN THE MATTER OF THE HEARING CALLED BY)
THE OIL CONSERVATION COMMISSION FOR THE)
PURPOSE OF CONSIDERING:)
)
APPLICATION OF THE NEW MEXICO OIL)
CONSERVATION DIVISION FOR A COMPLIANCE)
ORDER AGAINST NORTHSTAR OIL AND GAS)
)

CASE NO. 13,920
de novo

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

COMMISSION HEARING

BEFORE: MARK E. FESMIRE, CHAIRMAN
JAMI BAILEY, COMMISSIONER

October 11th, 2007

Santa Fe, New Mexico

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This matter came on for hearing before the Oil Conservation Commission, MARK E. FESMIRE, Chairman, on Thursday, October 11th, at the New Mexico Energy, Minerals and Natural Resources Department, 1220 South Saint Francis Drive, Room 102, Santa Fe, New Mexico, Steven T. Brenner, Certified Court Reporter No. 7 for the State of New Mexico.

* * *

STEVEN T. BRENNER, CCR
(505) 989-9317

*Before the OCC
Case 13920
Northstar Oil & Gas
OCD Ex. No. 2*

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October 11th, 2007
 Commission Hearing
 CASE NO. 13,920

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A P P E A R A N C E S

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* * *

1 WHEREUPON, the following proceedings were had at
2 9:21 a.m.:

3 CHAIRMAN FESMIRE: And the last case before the
4 Commission is Case Number 13,920, the Application of the
5 New Mexico Oil Conservation Division for a compliance order
6 against Northstar Oil and Gas.

7 Is Mr. Bruce still with his client outside?

8 MS. MacQUESTEN: I've seen him in the building,
9 but I haven't seen him outside the Commission hearing room.

10 CHAIRMAN FESMIRE: Well, just to be fair, we'll
11 go find him before we start the hearing.

12 COMMISSIONER BAILEY: Are we off the record?

13 CHAIRMAN FESMIRE: No, we're still on the record.

14 MS. MacQUESTEN: So you won't entertain a motion
15 for a default judgment then?

16 CHAIRMAN FESMIRE: While we're waiting for Mr.
17 Bruce, we'll go ahead and go off the record.

18 (Off the record)

19 CHAIRMAN FESMIRE: At this time we'll go back on
20 the record. The Commission has called Case Number 13,920,
21 the Application of the New Mexico Oil Conservation Division
22 for a compliance order against Northstar Oil and Gas.

23 At this time the Commission will hear the
24 appearance of the attorneys.

25 MS. MacQUESTEN: Mr. Chairman, Gail MacQuesten

1 appearing for the Oil Conservation Division. I have one
2 witness.

3 CHAIRMAN FESMIRE: Mr. Bruce?

4 MR. BRUCE: Mr. Chairman, Jim Bruce representing
5 Northstar Oil and Gas. I also have one witness.

6 CHAIRMAN FESMIRE: At this time will the
7 witnesses stand to be sworn?

8 (Thereupon, the witnesses were sworn.)

9 CHAIRMAN FESMIRE: Ms. MacQuesten, do you have an
10 opening statement?

11 MS. MacQUESTEN: Yes, I do.

12 This is a compliance case regarding two inactive
13 wells operated by Northstar Oil and Gas. The OCD filed the
14 Application in this case in April, 2007. At that time the
15 wells were in violation of the inactive well rule, Rule
16 201, because they had been inactive since 1991 and were
17 neither plugged and abandoned nor on approved temporary
18 abandonment status.

19 The Application sought an order requiring
20 Northstar to bring the wells into compliance by a date
21 certain. The Application also sought penalties.

22 The case was heard on June 21st, 2007, and the
23 order was issued July 5th, 2007. The order required
24 Northstar to return the wells to compliance by September
25 5th, 2007, and then post a \$10,000 penalty for the

1 violation of Rule 201.

2 Northstar has now plugged the wellbores of both
3 wells. It did not quite meet the September 5th deadline,
4 but the wellbores are plugged.

5 Northstar has asked for *de novo* review seeking
6 release from the penalties. The focus of the case today
7 will be on why the OCD believes that the \$10,000 penalty
8 assessed in the original order is appropriate and why we
9 are asking the Commission to assess the same penalty
10 amount.

11 CHAIRMAN FESMIRE: Mr. Bruce?

12 MR. BRUCE: I think I'll leave most of mine for a
13 brief closing and I would let my witness explain most of
14 it.

15 But yes, we are seeking relief from the \$10,000
16 penalty. We believe that the wells have been taken care of
17 as well as others that were once owned by Northstar Oil and
18 Gas, and there would be no deterrence effect for the
19 \$10,000 penalty, and we will -- I will let my witness
20 explain the reason for that.

21 Thank you.

22 CHAIRMAN FESMIRE: Ms. MacQuesten, are you ready
23 with your witness?

24 MR. BRUCE: Before we begin, Mr. Examiner, I was
25 never provided with a copy of the Division's exhibits.

1 MS. MacQUESTEN: I'm sorry, Mr. Bruce, they
2 should have come to you with the prehearing statement.

3 MR. BRUCE: I never received them, so... Thanks.
4 I received the prehearing statement, but that was
5 it.

6 MS. MacQUESTEN: And just for your information,
7 Mr. Bruce, it's the same packet of exhibits that we had at
8 the original hearing, with the addition of the transcript
9 from the hearing.

10 MR. BRUCE: Okay, and I was not representing Mr.
11 -- I mean Northstar at that time, so -- anyway...

12 CHAIRMAN FESMIRE: Are you making an objection
13 to --

14 MR. BRUCE: Seeing as they could probably
15 question Mr. Perrin about everything that's in the exhibit
16 package, or Mr. Corbett, my witness, I'm not going to make
17 that.

18 CHAIRMAN FESMIRE: Okay, we appreciate you doing
19 that. We'll find out why you didn't get a copy of the
20 exhibits.

21 MS. MacQUESTEN: Mr. Chairman, just to make a
22 point, if I had been told at any point in time that he had
23 not received the exhibits, I would have been happy to
24 provide them.

25 MR. BRUCE: I didn't even realize it until

1 yesterday.

2 CHAIRMAN FESMIRE: Mr. Bruce has been very busy
3 lately. I know because he's in my office.

4 Ms. MacQuesten, you can continue.

5 MS. MacQUESTEN: All right, there should be the
6 evidence packet in front of you.

7 The first exhibit is the affidavit of notice and
8 publication from the original case.

9 The second exhibit is the affidavit of Dorothy
10 Phillips showing the financial assurance information from
11 the original case.

12 And the third exhibit is a printout of the
13 corporation's inquiry screen from the PRC website. I'm
14 asking that you take administrative notice of this
15 printout. It shows the status of Northstar Oil and Gas as
16 inactive, and it shows John Corbett as the registered agent
17 and president and director of the corporation.

18 CHAIRMAN FESMIRE: Administrative notice of the
19 Division records will be taken.

20 MS. MacQUESTEN: With that, I would call Mr.
21 Charlie Perrin.

22 CHAIRMAN FESMIRE: Mr. Perrin, you realize that
23 you've been previously sworn in this case?

24 MR. PERRIN: Yes, I do.

25 CHAIRMAN FESMIRE: Proceed, Ms. MacQuesten.

1 CHARLIE T. PERRIN,

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

4 DIRECT EXAMINATION

5 BY MS. MacQUESTEN:

6 Q. Would you please state your name for the record?

7 A. Charlie Perrin.

8 Q. And by whom are you employed?

9 A. The New Mexico Oil Conservation Division.

10 Q. What is your title?

11 A. I'm a District Supervisor.

12 Q. Do your duties as District Supervisor include
13 managing enforcement of OCD's inactive well rules?

14 A. Yes, ma'am, they do.

15 Q. Are the wells at issue in this hearing, the
16 Barbara Number 1 and the Davie Number 1, located in the
17 Aztec District where you are the supervisor?

18 A. Yes, ma'am, they are.

19 Q. Have you reviewed the well files for the two
20 wells at issue in this hearing?

21 A. I have.

22 Q. And are you familiar with the efforts of the
23 Aztec District to obtain compliance from Northstar as to
24 inactive wells?

25 A. Yes, ma'am, I am.

1 Q. Would you please look at what has been marked as
2 OCD Exhibit Number 4? Is this the well list for Northstar?

3 A. Yes, ma'am, it is.

4 Q. And is this list kept by the OCD in the normal
5 course of business and available to the public on our
6 website?

7 A. Yes, ma'am.

8 Q. Are the two wells listed on this well list the
9 wells at issue in today's hearing?

10 A. Yes, ma'am.

11 Q. Are those the only two wells Northstar currently
12 operates in New Mexico?

13 A. Yes, ma'am.

14 Q. Does the well list identify the last date of
15 reported production or injection for those wells?

16 A. It does.

17 Q. And what date is that?

18 A. July, 1991, for both wells.

19 Q. At the time of the Division hearing in June of
20 2007, was either well plugged and abandoned?

21 A. No, ma'am.

22 Q. Was either well on approved temporary abandonment
23 status?

24 A. No, ma'am.

25 Q. What is the current status of these two wells?

1 A. They are currently plugged. The Davie 1
2 wellbore, plugging completion was September 6th, '07, and
3 the wellbore for the Barbara was finished 10-9-07.

4 Q. And 10-9-07 was Tuesday of this week?

5 A. Yes, ma'am.

6 Q. Are these wells considered plugged and released?

7 A. No, ma'am, they're not.

8 Q. What does Northstar still need to do to have the
9 wells plugged and released?

10 A. They have to clean up the locations. I received
11 a report yesterday, there's still power pole, pipeline
12 risers, some junk scattered, sucker rod, oil tank, fence,
13 some stained soil and anchors still on site.

14 Q. How much time do they have to clean up the site
15 under OCD Rules?

16 A. They have 12 months.

17 Q. So the wells currently are now in compliance with
18 Rule 201 until that 12-month period expires?

19 A. Yes, ma'am, they are.

20 Q. And as long as they clean up the sites by 12
21 months, they will have complied with 201?

22 A. Yes, ma'am.

23 Q. Are you familiar with the efforts of the District
24 Office to bring these two wells into compliance?

25 A. Yes, ma'am, I am.

1 Q. Now you say they've been inactive since 1991.

2 When did Northstar become operator of the wells?

3 A. January of -- December of 1997.

4 Q. At that time the wells had been inactive for six
5 years?

6 A. Yes, ma'am.

7 Q. Let's begin with the District's compliance
8 efforts after Northstar became operator. Please look at
9 what has been marked as Exhibit Number 5. Can you tell me
10 what this document is?

11 A. Yes, ma'am, this is a letter dated March 31st,
12 1999, from Inspector Bruce Martin to John Corbett,
13 Northstar, telling him that the Davie 1 is out of
14 compliance with Rule 201 and telling him to bring the well
15 into compliance in 30 days.

16 Q. And is Exhibit 6 a similar letter, also dated
17 March 31, 1999, regarding the Barbara 1 well?

18 A. Yes, ma'am, it is.

19 Q. Did you review the well files to determine if
20 Northstar took any action on the two wells in response to
21 the March 31, 1991, letters?

22 A. Yes, ma'am, I did.

23 Q. What did you find?

24 A. Sundry notices filed by Northstar on two wells
25 dated 14th, 1999, indicate an intent to perform remedial

1 work.

2 Q. Are Exhibits 7, 8 and 9 copies of those sundry
3 notices?

4 A. Yes, ma'am, they are.

5 Q. Do the sundries indicate when Northstar intended
6 to perform the remedial work?

7 A. Yes, ma'am, the May 14th, 1999, showed operations
8 are expected to begin within 90 days but depend on
9 negotiations with landowners.

10 Q. Okay. And when you're talking operations to
11 begin with 90 days, that's the statement on Exhibits 7 and
12 8?

13 A. Yes, ma'am, it is.

14 Q. What representations were made in Exhibit Number
15 9?

16 A. Exhibit Number 9 said landowner negotiations have
17 progressed to the point where operation may proceed, work
18 on this well will commence within 30 days.

19 Q. And what is the date on that sundry notice?

20 A. That was signed by Mr. Corbett on 5-14, 1999. It
21 was received in my office January 18th, 2000.

22 Q. According to these sundry notices, what was
23 Northstar's intent regarding the wells? Was it intending
24 to plug them, produce them or TA them?

25 A. Return them to production.

1 Q. Do the well files for the two wells contain any
2 subsequent reports showing that the intended remedial work
3 was ever performed?

4 A. No, ma'am.

5 Q. Did the OCD have further written correspondence
6 with Northstar regarding the need for compliance on these
7 two wells?

8 A. Yes, ma'am.

9 Q. Can you turn to Exhibit Number 10, please? Can
10 you identify this document?

11 A. This is a letter dated December 17th, 1999, from
12 myself requiring the operator to bring the Barbara 1 well
13 into compliance within 30 days.

14 Q. Could you turn to Exhibit 11, please? What is
15 this document?

16 A. This is a letter from Mr. Corbett at Northstar to
17 Frank Chavez with OCD regarding the work on the Barbara 1.
18 It's dated February 25th, 2000.

19 Q. Does Mr. Corbett say anything about the work
20 being done on the Barbara 1 well?

21 A. Yes, ma'am.

22 Q. And what does he say?

23 A. He says the fishing job and workover were being
24 scheduled at this time.

25 Q. And "at this time" would be -- ?

1 A. As per the -- It says in here, as per their
2 sundry approved January 20th.

3 Q. Of 2000?

4 A. Of 2000, yes, ma'am.

5 Q. From February of 2000 when Mr. Corbett sent this
6 letter until October of this year when Northstar finally
7 plugged the well, did Northstar do any fishing or workovers
8 on the Barbara 1?

9 A. We have no report to indicate so, no, ma'am.

10 Q. Do you have any report indicating any work on the
11 wellbore of the Barbara 1 after February 20th until the
12 plugging in 2007?

13 A. No, ma'am.

14 Q. Would you turn to Exhibit 12, please? Can you
15 identify this document?

16 A. Yes, ma'am, this is a letter from Northstar to
17 Frank Chavez.

18 Q. What is the date on the letter?

19 A. The letter is dated September 5th, 2000.

20 Q. And what is Mr. Corbett responding to in this
21 letter?

22 A. It says, It was recently brought to my attention
23 that the attached letter from your office to mine was never
24 acknowledged. Please accept my sincere apologies for not
25 having returned this promptly.

1 Q. What is he referring to when he talks about the
2 attached letter?

3 A. In May of 2000, letters went to all the operators
4 in the State of New Mexico about their inactive wells. We
5 asked for the operators to identify ownership of each of
6 their wells and the current status of those wells.

7 Q. By returning -- Is that letter the attachment to
8 Exhibit Number 12?

9 A. Yes, ma'am, it is.

10 Q. By returning the attachment, was Mr. Corbett
11 acknowledging that the two wells at issue in this hearing
12 were shut in at that time?

13 A. Yes, ma'am, the record indicates.

14 Q. If you could look at the very last page of
15 Exhibit 12, there's a list of wells. Is this the list of
16 inactive wells --

17 A. Yes, ma'am, it is.

18 Q. -- with Northstar's plans for each well?

19 A. Yes, ma'am.

20 Q. According to this list, what were Northstar's
21 plans for the Barbara 1 and the Davie 1, the wells at issue
22 today?

23 A. Return to production of both wells. It shows a
24 projected completion date of fourth quarter, 2000.

25 Q. Would you turn to what's been marked as Exhibit

1 13, please? Can you identify this document?

2 A. Yes, ma'am, this is a letter from Frank Chavez to
3 Northstar. It is in response to Mr. Corbett's letter. It
4 says, Please -- It says, The wells on the revised list
5 attached to this letter have not shown production for in
6 excess of one year. Based on the information in the
7 Division's files and databases, these wells are not in
8 compliance with the Division's rules and regulations and
9 the New Mexico Oil and Gas Act. Wells must be brought into
10 compliance. Please submit this information to the Aztec
11 District office 30 days of the date of the letter.

12 This letter is dated October 31st, 2000.

13 Q. All right. So Mr. Chavez as seeking additional
14 information on the schedule for compliance?

15 A. Yes, ma'am, he was.

16 Q. Was this letter sent certified mail?

17 A. Yes, ma'am.

18 Q. Did the OCD receive a return receipt from Mr.
19 Corbett?

20 A. Yes, ma'am, we did.

21 Q. And is that receipt attached to Exhibit 13?

22 A. Yes, ma'am, it is.

23 Q. Does Mr. Chavez's list of wells, which is on the
24 back of the first page, identify the wells that he's asking
25 for information on?

1 A. Yes, ma'am, it does.

2 Q. And does that list include the Barbara 1 and the
3 Davie 1?

4 A. Yes, ma'am, it does.

5 Q. Does the well file contain any response from
6 Northstar to Mr. Chavez's letter?

7 A. No, ma'am.

8 Q. Could you turn to what's been marked as Exhibit
9 14, please? Can you identify this document?

10 A. This is a letter from Mr. Corbett to Frank
11 Chavez, gives general plans for the wells.

12 Q. And what is the date of this letter?

13 A. The date is January 29th, 2002.

14 Q. So this was over a year after Mr. Chavez's
15 request for a schedule?

16 A. Yes, ma'am, it is.

17 Q. Does this letter provide specific information
18 about when the wells will be returned to compliance?

19 A. Yes, ma'am, it says that Northstar has planned to
20 abandon several inactive wells by March of this year.

21 Q. Could you turn Exhibit 15, please, and identify
22 this document?

23 A. This is a letter from myself to Northstar, April
24 11th, 2002, asking for the current status, indicating
25 enforcement action will be taken.

1 Q. Was this letter sent certified mail?

2 A. Yes, ma'am, it was.

3 Q. Did the OCD receive a return receipt from Mr.
4 Corbett?

5 A. Yes, ma'am, we did.

6 Q. And is that receipt attached to Exhibit 15?

7 A. Yes, ma'am, it is.

8 Q. Did the OCD receive a written response from Mr.
9 Corbett?

10 A. No, ma'am.

11 Q. Would you turn to what's been marked as Exhibit
12 16, please? What is this document?

13 A. This is a letter from myself to Northstar dated
14 May 13th, 2005, telling Northstar to bring both wells into
15 compliance by September 1st, 2005.

16 Q. Now the address on this letter is in
17 Pennsylvania. Do you recall where you got this address?

18 A. Yes, ma'am, I had to call around and check with
19 some local vendors to be able to locate an address for Mr.
20 Corbett.

21 Q. Did Mr. Corbett respond to this letter?

22 A. No, ma'am.

23 Q. And just to point out, is this a letter that we
24 used to provide notice of the hearing and did receive a
25 green return receipt card from Mr. Corbett on?

1 A. On this letter, no, ma'am, that's 17. Did I get
2 out of order?

3 Q. Well, let me just check, because we -- To your
4 knowledge, Mr. Corbett is now in Pennsylvania; is that
5 right?

6 A. Yes, ma'am.

7 MS. MACQUESTEN: Yes, if the Commission will
8 check Exhibit Number 1, our affidavit of notice and
9 publication uses that address and did receive a green
10 return receipt card from Mr. Corbett at that address.

11 Q. (By Ms. MacQuesten) Could you turn to what's
12 been marked as Exhibit 17, please, and tell us what this
13 document is?

14 A. This is a letter I sent to our attorney
15 requesting that Mr. Corbett be called to hearing.

16 Q. What is the date on this letter?

17 A. This is September 26th, 2006.

18 Q. Was a copy of this letter sent to Mr. Corbett?

19 A. Yes, ma'am.

20 Q. Why?

21 A. I was hoping that it would have him move forward
22 and bring his wells into compliance before we brought it to
23 hearing.

24 Q. Have you had telephone contact with Mr. Corbett
25 about the need for compliance?

1 A. Yes, ma'am, I have.

2 Q. Could you turn to what's been marked as Exhibit
3 18, please?

4 A. Yes, ma'am.

5 Q. What is this?

6 A. This is excerpts from a spreadsheet kept of phone
7 contacts with operators regarding the inactive well
8 program.

9 Q. Is the contact information regarding Northstar at
10 the center of the page?

11 A. Yes, ma'am, it is.

12 Q. Could you summarize for us your telephone contact
13 with Northstar regarding these wells?

14 A. Yes, ma'am, there's a letter to me before -- a
15 letter sent to him requesting a letter before 2-1-2002, on
16 1-24-2002, telling him to be in compliance in 90 days. He
17 wasn't happy and he requested to talk to Frank Chavez.
18 That's in regard to one of the letters.

19 9-16-2002, I visited with John Corbett about
20 compliance.

21 5-6-06, he said he has a buyer and will be
22 transferring soon. When I talked with him in January of
23 2007, said we'll be in auction early February. I advised
24 him to talk to the attorneys that requested the wells to be
25 called to hearing before that time.

1 Q. Looking at the correspondence that we've
2 introduced and the telephone log, OCD has been in contact
3 with Northstar regarding the need to bring these two wells
4 into compliance since March of 1999?

5 A. Yes, ma'am, we have.

6 Q. Now the OCD did file this case, this compliance
7 action, in -- on April 24th of 2007, and there is a copy of
8 the Application itself in Exhibit Number 1 for the
9 Commission.

10 When was it heard by the Division Hearing
11 Examiner?

12 A. June 21st, 2007.

13 Q. Did you participate in that hearing?

14 A. Yes, ma'am, I did.

15 Q. Did you testify and were you present for Mr.
16 Corbett's testimony?

17 A. Yes, ma'am.

18 Q. At the Division Hearing did Mr. Corbett make
19 representations regarding his plans for these two wells?

20 A. Yes, ma'am.

21 Q. Is Exhibit 19 a transcript of that hearing?

22 A. Yes, ma'am, it is.

23 Q. if you could turn to page 25 of the transcript,
24 could you tell us what Mr. Corbett's -- This is a page of
25 Mr. Corbett's testimony at the Division Hearing?

1 A. Yes, ma'am, it is.

2 Q. And what representations did Mr. Corbett make at
3 the hearing regarding the -- bringing the wells into
4 compliance?

5 A. That he had the financial capabilities of doing
6 it quickly, that he had sundries with him at that time and
7 that he was ready to move forward, that he had talked to a
8 plugging contractor and had them on standby.

9 Q. And if you look at line 18 on page 25, does he
10 make a representation as to when that plugging is going to
11 take place?

12 A. Yes, ma'am. He says, We can plug them in the
13 next few weeks.

14 Q. If you turn to the next page, page 26, does he
15 make a specific representation regarding the Barbara Number
16 1?

17 A. Yes, ma'am, he does.

18 Q. And what is that?

19 A. He says he's going to try to sell it. We go
20 forward and plug first the Davie, and then a company were
21 to say that they were interested in the Barbara and were
22 willing to accept the financial responsibility for that.
23 So he was talking about selling it.

24 Q. In your contacts with Mr. Corbett over the years,
25 was he aware that there was another option for bringing the

1 wells into compliance, that he could put them on approved
2 temporary abandonment status?

3 A. Yes, ma'am, he was.

4 Q. What's involved in putting a well on approved
5 temporary abandonment status?

6 A. Well, we set an isolating device within 50 foot
7 of the perforations and pressure test the casing to prove
8 it has integrity, so it's not a threat to fresh water or
9 crossflow formations -- crossflow or contamination of
10 formations.

11 Q. What is the policy of the Aztec District
12 regarding how long a well can be placed on approved
13 temporary abandonment status?

14 A. We require the wells be tested to 500 p.s.i. If
15 they hold that 500 p.s.i. for 30 minutes, we grant a five-
16 year temporary abandonment period.

17 Q. Can that period be renewed?

18 A. Yes, ma'am, it can.

19 Q. Do they need to have another mechanical integrity
20 test to renew it?

21 A. Yes, ma'am, they do.

22 Q. So it's possible to put a well on approved
23 temporary abandonment status if it passes a mechanical
24 integrity test every five years?

25 A. Yes, ma'am, it's one of the ways that the rules

1 allows for an operator to maintain a wellbore that they
2 think has potential future value. They temporary abandon
3 it, which assures that there's protection of life, health,
4 environment, the formations are protected, isolated and
5 segregated.

6 Q. Now these wells have been inactive since 1991?

7 A. Yes, ma'am, they have.

8 Q. Are you aware if any mechanical integrity tests
9 have ever been performed on these wells?

10 A. In reviewing the well file I have not seen any
11 indication they had been temporary abandoned at all.

12 Q. If they had been placed on temporary abandonment
13 status when they first reached one year and 90 days, which
14 under Rule 201 is the amount of time a well can be inactive
15 without being TA'd, how many TAs should these wells have
16 had -- I mean, how many MIT tests should they have had?

17 A. It should be on its fourth.

18 Q. And as far as you're aware, they have never been
19 tested?

20 A. Correct.

21 Q. I want to ask you about the penalty the OCD is
22 requesting in this case. When the Application was filed,
23 the written Application, did the Application itself state
24 what penalty was being sought?

25 A. Yes, ma'am, it asked for not less than \$2000.

1 Q. At the hearing before the Division Examiner, how
2 much did you ask for?

3 A. I asked for a penalty of \$10,000.

4 Q. And did the hearing order impose that \$10,000
5 penalty?

6 A. Yes, ma'am, it did.

7 Q. Why did you increase the request from not less
8 than \$2000 to \$10,000?

9 A. The Oil and Gas Act allows us to issue a \$1000-
10 per-day penalty. That would be \$3.65 million. We could
11 have issued a penalty of \$1000 a month and been \$120,000.
12 Mr. Corbett worked from 1997 to 2002, and he brought 12 of
13 the 14 wells to compliance, so we had two wells. Over the
14 next five years nothing was done for the wellbore
15 protection.

16 I asked that the \$10,000 penalty be there. It's
17 \$1000 per year, per well. So it's basically \$5000 per well
18 penalty. If we don't issue a penalty, some type of -- an
19 operator that works to be in compliance and spends their
20 time and effort to be in compliance, to work within the
21 Rules and Regulations see this as an advantage. If they
22 don't have to be in compliance, then they're not going to
23 spend their money to be in compliance; they're going to sit
24 back and hold their money. If we don't penalize them, all
25 we're doing is encouraging a stalling effect.

1 So I asked for the penalty, I asked for what I
2 thought was an extremely fair penalty. It's not even 10
3 percent of \$1000 a month for the period that it was out of
4 compliance.

5 Q. Now just so that I understand, the five years
6 that you're talking about are 2002 to 2007?

7 A. 2003, 2004, 2005, 2006, 2007.

8 Q. And why those years and not the years before?

9 A. There was work done on other wells. In the
10 effort to work with the operator, we allow them to do that.
11 But when an operator stops any type of wellbore work and
12 then it becomes an issue -- a threat to the environment,
13 and that's our concern.

14 Q. And during the five years at issue that you're
15 asking for penalties for, these were the only two wells
16 that Northstar had?

17 A. Yes, ma'am.

18 Q. And they didn't do any work on the wellbores?

19 A. No, ma'am.

20 Q. If you could turn to one of Northstar's exhibits,
21 please, and it is their Exhibit Number 2 --

22 A. Yes, ma'am.

23 Q. -- and it's actually more than half of the way
24 through the packet of exhibits, is this the one-page
25 exhibit titled Disposition of Northstar Wells?

1 A. Yes, ma'am, it is. It's fifth from the end.

2 Q. What does this chart show?

3 A. This chart indicates which well, the well number,
4 and the disposition of the Northstar wells and the dates.

5 Q. And there are 14 wells listed?

6 A. Yes, ma'am.

7 Q. And the disposition column shows how each well
8 was returned to compliance, if it was returned to
9 compliance?

10 A. Yes, ma'am.

11 Q. And the final column shows the date that that
12 compliance was achieved?

13 A. Yes, ma'am.

14 Q. Have you checked OCD records to see whether OCD
15 records agree with the representations made in this chart?

16 A. Yes, ma'am, I have.

17 Q. And do they agree?

18 A. Yes, ma'am.

19 Q. What does the chart tell us about Northstar's
20 activities on its wells from 1997 to 2002, the period
21 you're not asking for penalties on?

22 A. That they brought 12 of the 14 wells into
23 compliance.

24 Q. And what does it tell us about Northstar's
25 activity from 2002 until it plugged the wells under the

1 plugging order?

2 A. That there was no activity on this site on the
3 wellbore.

4 Q. And the penalty you're recommending would
5 represent \$1000 per well, per year, from the point in time
6 when Northstar stopped work on the well?

7 A. Yes, ma'am, that is correct.

8 Q. Have you reviewed the other exhibits that
9 Northstar provided with their prehearing statement?

10 A. Yes, ma'am, I have.

11 Q. Do some of those exhibits refer to Northstar's
12 efforts to sell or transfer their wells?

13 A. Yes, ma'am, they do.

14 Q. Should the Commission consider that activity in
15 determining what penalty to impose?

16 A. If the -- No, ma'am, they should not. If the
17 operator had been in compliance and the wells would have
18 been temporarily abandoned, he could have performed this
19 while being in compliance with the Rules and Regulations.

20 Q. Does attempting to transfer the wells protect the
21 environment the same way a temporary abandonment would have
22 protected the environment?

23 A. No, ma'am, it does not.

24 Q. Now the wellbores of these two wells have been
25 plugged now?

1 A. Yes, ma'am, they have.

2 Q. And the wells are in compliance now?

3 A. Yes, ma'am.

4 Q. Should the Commission reduce the \$10,000 penalty
5 to recognize that Northstar has now brought the wells into
6 compliance?

7 A. Absolutely not.

8 Q. Why not?

9 A. Five years that Northstar set back and didn't do
10 anything, they didn't respond to us, they didn't bring --
11 They had three choices: They could have chose to produce
12 it, chose to temporary abandon or chose to plug it. What
13 they chose to do was ignore the compliance with the Rules
14 and the Regulations.

15 No, I ask that you not reduce the penalty, I ask
16 that you, in effect, at least administer -- or require the
17 \$10,000 penalty.

18 Q. To your knowledge, has leaving these wells
19 inactive from 1991 to 2007 caused any harm to the
20 environment?

21 A. I have no way of knowing that until an issue
22 comes up, somebody drills a water well in that area and has
23 contamination. There's no way for us to know until that
24 instance comes up or that even takes place.

25 Q. If -- So we can't know for sure?

1 A. Yes, ma'am, that's correct.

2 Q. But if we assume -- assume for the moment that
3 Northstar could prove that there's no environmental damage
4 caused by leaving these wells inactive. Would you still be
5 asking for a penalty?

6 A. Yes, ma'am, I would.

7 Q. Why?

8 A. I think it's important that we reward the
9 operators that are doing good, hard work in keep- -- in
10 working within the compliance of Rules and Regulations
11 protecting the environment.

12 I think when we have an operator that sits back
13 and elects not to keep his wells in compliance, especially
14 when it has to do with the protection of the environment, I
15 think we're setting a very bad example. All we're doing is
16 encouraging operators to use the stall tactic: Well, let's
17 just stall and do nothing until they call us to hearing.
18 When they call us to hearing then we'll do something, but
19 until that time we can use that money -- we can save that
20 money, use that money someplace else.

21 Q. If the OCD only imposed penalties when actual
22 harm was proved, what effect would that have on the OCD's
23 ability to prevent harm from happening?

24 A. That would completely do away with our duties.
25 We wouldn't be able to do that. We would spending all our

1 time, spending our money, on remediation and not using
2 anything to protect for the future.

3 The purpose of temporary abandonment is to
4 protect for the future while the operator is allowed to
5 have time to move forward and do other things, be it try to
6 sell it, hold on for a different play, however they want to
7 maintain the wellbore. It protects the state, it protects
8 the citizens of the state, it protects the environment from
9 any causes.

10 Q. Now Mr. Perrin, how long have you been working on
11 trying to obtain compliance under the inactive well rule in
12 the Aztec District?

13 A. Since 2000.

14 Q. And that includes not only your time as District
15 Supervisor, but before you were District Supervisor; is
16 that right?

17 A. Yes, ma'am, it does.

18 Q. In your experience in trying to obtain compliance
19 from operators on the inactive well rule, if the Commission
20 imposes a lower penalty than the Division imposed, what
21 message would that send to the operators?

22 A. That would encourage the operators not to comply.
23 It would show that we don't enforce our own rules, and an
24 operator is allowed to -- actually encouraged to not comply
25 with the rules. They would sit back and say, Okay, but we

1 don't have to do anything because we can move forward, we
2 can go through the hearing process, and then we can spend
3 the money because it's not going to be -- there's not going
4 to be any effect.

5 I think that we should encourage the operators to
6 work within the Rules and Regulation. And to let them know
7 to do otherwise is not good. It's not what we're here for,
8 it's not what we represent. I think we need to show the
9 operators that protection of life, health and the
10 environment is important. I think we need to show them
11 that stalling or ignoring the rules is not going to be
12 rewarded by the State in discounted penalties if they wait
13 and go through an appeal process.

14 Q. If Northstar had brought the wells into
15 compliance at any point in time when the OCD was sending
16 letters to Northstar requesting compliance, before we filed
17 the Application for hearing, would we be talking about
18 penalties?

19 A. No, ma'am, we would not.

20 MS. MacQUESTEN: I move to admit OCD Exhibits 1
21 through 19.

22 CHAIRMAN FESMIRE: Any objection, Mr. Bruce?

23 MR. BRUCE: No objection.

24 CHAIRMAN FESMIRE: OCD Exhibits 1 through 19 will
25 be admitted to the record.

1 MS. MacQUESTEN: I have no more questions of Mr.
2 Perrin at this time.

3 CHAIRMAN FESMIRE: Mr. Bruce?

4 CROSS-EXAMINATION

5 BY MR. BRUCE:

6 Q. Mr. Perrin, have you determined -- have you
7 looked at water wells in the area of these two wells?

8 A. No, sir, I have not.

9 Q. You don't know how many freshwater wells there
10 are within a mile or two miles of these wells?

11 A. No, ma'am, we have -- no, sir, we have a very
12 large district. I have not done that.

13 CHAIRMAN FESMIRE: He's going to have to quit
14 wearing a skirt.

15 (Laughter)

16 MR. BRUCE: My hair's not long enough.

17 Q. (By Mr. Bruce) And so you couldn't tell me how
18 many other active, inactive or plugged and abandoned water
19 wells -- or, oil and gas wells there are within a mile or
20 two of any water wells in this area?

21 A. No, sir, I can't. I can tell you that we've had
22 complaints of water well issues, and we've gone out and
23 conducted operations where we have tested wells and where
24 we have identified that wells have contributed to issues.
25 But we don't know that until somebody contacts us and

1 brings up that issue.

2 Q. But are you talking in the immediate area of -- I
3 think these wells are both in --

4 A. -- in the Kirtland area.

5 Q. -- in -- Have you had any complaints in Section 2
6 of 29-15 or Section 12 of 29-15?

7 A. I -- not according to my memory.

8 MR. BRUCE: Okay, that's all I have, Mr.

9 Chairman.

10 CHAIRMAN FESMIRE: Redirect, Ms. MacQuesten?

11 MS. MacQUESTEN: No, thank you.

12 CHAIRMAN FESMIRE: Commissioner?

13 COMMISSIONER BAILEY: No questions.

14 CHAIRMAN FESMIRE: I've got a couple of quick
15 questions, Mr. Perrin.

16 EXAMINATION

17 BY CHAIRMAN FESMIRE:

18 Q. The plugging reports that are filed with the OCD,
19 did you get a chance to review those on these two wells?

20 A. In the notice of intent to plug?

21 Q. Yes.

22 A. Yes, I did.

23 Q. And then the sundry filed after that, did you --

24 A. No, sir, I have not.

25 Q. Okay. You said you asked for a fine of at least

1 \$10,000. Are there grounds for a fine greater than
2 \$10,000?

3 A. Well, yes, sir, but I didn't go into it.

4 I mean, sundries should have been filed
5 indicating the work that was done in 2001 on the fishing
6 job. There's some paperwork issues, but I chose not to go
7 into that.

8 Q. Okay. Was there anything in the records that
9 indicated that the Davie and the Barbara had had casing
10 problems in the past?

11 A. Not that I saw in a quick review.

12 CHAIRMAN FESMIRE: And -- I don't think I have
13 any further questions of this witness.

14 Anything that you need to address, Ms.
15 MacQuesten?

16 MS. MacQUESTEN: Nothing else, thank you.

17 CHAIRMAN FESMIRE: Mr. Bruce, anything else of
18 this witness?

19 MR. BRUCE: Nothing further of Mr. Perrin.

20 CHAIRMAN FESMIRE: Okay. Mr. Perrin, thank you
21 very much.

22 Mr. Bruce, did you want to go into an opening
23 statement at this time, or --

24 MR. BRUCE: I think I'd rather just question my
25 witness. I think it will become apparent when...

1 A. Northstar is a C corp., but I am the sole owner
2 of the company.

3 Q. And is it fair to say that at this point
4 Northstar has been inactive, more or less, for a few years?

5 A. That is fair.

6 Q. And you did attend the original hearing on this
7 matter regarding the plugging of the two wells?

8 A. Yes, I did.

9 Q. And at this point do you seek a reduction or an
10 elimination of the \$10,000 penalty?

11 A. I do seek a reduction or elimination, yes.

12 Q. And at this point have the two wells been plugged
13 and abandoned?

14 A. The two wells have been plugged, and there are
15 ongoing operations to restore the surface.

16 Q. Okay. And so you agree with Mr. Perrin's
17 statement?

18 A. I do.

19 Q. And there has been a lot of correspondence in
20 this matter, but have you always respected the
21 professionalism of the Division in handling these matters?

22 A. I have.

23 Q. Now with respect to the history -- Mr. Chairman,
24 I -- excuse me. As Mr. Perrin pointed out on the stand,
25 these exhibits, when I got them, I didn't have time to go

1 through them with my client, so we are probably going to go
2 through them out of order, and I apologize for that. I
3 didn't do a very good job of numbering them.

4 But let's go to your Exhibit 2 first, Mr.
5 Corbett, and maybe just tell me a little bit about -- you
6 formed Northstar for what purpose, and maybe a little bit
7 of the history of the acquisition and disposition of these
8 wells, except for the last two, and I'll get into that
9 later.

10 A. Northstar was formed by myself. Essentially I
11 acquired -- in 1996, the company that I was working for
12 announced the sale of our division, and so I formed my own
13 company then, and that is Northstar.

14 To build the company, I began to accumulate -- I
15 acquired other people's plugging liabilities, wells that
16 they had had shut in. It's a fairly common practice. A
17 well that a bigger company can't make money on, someone
18 like myself can by operating and doing all of the
19 regulatory, and fortunately I could do the geology as well.
20 So I did that.

21 This Exhibit 2, the disposition of the wells, is
22 also a bit of a history of the company then, as I picked up
23 wells from other operators and returned them to production.

24 There were wells, of course, that needed to be
25 plugged and abandoned, and as I was financially able to do

1 that I did that, at the same time reinvesting what money I
2 could into returning other wells to production.

3 Q. And were any of the wells that you bought
4 producing at the time you bought them, or were most of them
5 inactive?

6 A. I think in the history of the company I probably
7 acquired two wells that were selling the oil or gas at the
8 time that I bought them.

9 Q. Okay.

10 A. I might note, too, that I started -- this exhibit
11 reflects a list from the State's exhibits in the earlier
12 hearing. Had I gone back to the inception of Northstar --
13 and I took the liberty of tacking two wells onto the bottom
14 of this that aren't on their 12-well list from 2000. There
15 were other wells even prior to that, that I picked up that
16 were not producing and I returned to production.

17 Q. Or plugged and abandoned?

18 A. Right.

19 Q. Okay. Now you took care of a number of these
20 wells, and at the time you were residing in Farmington; is
21 that correct?

22 A. Yes, I was.

23 Q. And when the Division started writing -- and
24 there are a number of letters -- but you did put a number
25 of wells back into compliance?

1 A. Yes, I did, in response to their letters and as a
2 part of the normal course of business, I brought all of
3 these wells back into compliance.

4 Q. Okay. And then you said Northstar and you were
5 active in the business until what, approximately two
6 thousand --

7 A. 2004, I moved my family to Pennsylvania and began
8 -- effectively ended my career as a petroleum producer. I
9 returned to school --

10 Q. And --

11 A. -- and at that point, then, I didn't have any
12 business owning production, and so I negotiated the sale of
13 all of my wells.

14 Q. Other than the Davie and the Barbara?

15 A. In fact, the Davie and the Barbara were included
16 with the rest of the wells that were to be sold, and the
17 rest of these have been sold, were sold in 2004. Through a
18 quirk in the negotiations, a third party was involved, and
19 these wells were dropped out at the tag end of the
20 negotiations, in closing the deal.

21 Q. Okay. So these wells fell through the cracks on
22 the sale of Northstar's wells?

23 A. That's right, the Davie and the Barbara fell out.

24 Q. And you said -- and so in essence for the last
25 three years you have not been active in the oil and gas

1 business?

2 A. To say that I haven't been active is perhaps not
3 quite accurate. I can appreciate Mr. Perrin's view that
4 there has not been work done on this. I cannot refute
5 that. But I have been working, as Exhibit -- the
6 attachments to Exhibit 1 are there to demonstrate, taking
7 leases, I've negotiated with several people regarding the
8 sale.

9 I think that these wellbores had a value that
10 would have probably paid the maximum fine that Mr. Perrin
11 mentioned.

12 Q. Okay, and let's go into that in a minute. But at
13 this point, Northstar has no -- you have no intention to
14 reactive Northstar and become active in the oil and gas
15 business in the State of New Mexico?

16 A. Absolutely not, no.

17 Q. Okay. Well then, let's move on at this point to
18 Exhibit 1. And I don't think you need to -- I think you've
19 run through most of this, but is this just a general
20 outline of activity with respect to the two wells at issue
21 today?

22 A. Yes, it is.

23 Q. And then if you'd refer to Exhibit 1A, you did
24 mention that you were trying to sell these wells. Does
25 Exhibit 1A contain a package of various correspondence,

1 e-mails, et cetera, in your efforts to sell these wells?

2 A. Exhibit 1A is exactly that. These are records
3 that, as we were preparing for this hearing, I had
4 available to me. We'll get into this later, I'm sure, but
5 my well files were not in my possession at the time that I
6 put this together, and so there was more correspondence.

7 Q. Okay.

8 A. This is a sampling.

9 Q. So when I suggested you were inactive in the
10 business, you were active in trying to sell your assets --
11 the remaining assets you had?

12 A. I was.

13 Q. And what do Exhibits 1B and 1C reflect?

14 A. 1B and 1C are assignments. Mr. Perrin noted that
15 I had said in the earlier hearing that I still held out
16 hope that the Barbara might be traded or sold, and while
17 this particular individual was not in view at that time I
18 said that because I was trying to be forthcoming, that I
19 would enter into these negotiations if a buyer appeared.

20 If you -- to get the history of this, Exhibit 1D
21 is an invoice, and you need not concern yourself with it
22 except on the second page the work description of --
23 concludes with, They began to dig up lines, got stopped by
24 well owner. I assure you that was not me. Another
25 gentleman appeared and said, Well, these are my wells.

1 He'd been talking with the land and mineral owner and
2 wanted to work on the wells.

3 I said I am absolutely in favor of that, the
4 workover company contacted me and said there's this man
5 that wants your well. Great, I called him. We worked out
6 the terms, and then this assignment and bill of sale
7 conveys the wells to that man.

8 Q. Okay. So in other words, you continued your
9 efforts to sell the wells, and the Exhibit 1D is from the
10 service company -- they were out working on the site to --
11 in assistance of plugging and abandoning the well?

12 A. As Mr. Perrin noted, I had said earlier that I
13 thought September 5 was a reasonable time to have these
14 wells plugged. We were going forward under that
15 assumption. And as this company was preparing the location
16 for the rig that was to come out on the next day or within
17 that week, the man appeared and said that he wanted to buy
18 the wells.

19 Q. So the service company had to stop at that point?

20 A. That is correct.

21 Q. And so then you talked with that gentleman, and
22 was the result the assignments marked as 1B and 1C?

23 A. That is correct.

24 Q. Now -- And you informed Mr. Perrin of these
25 assignments, did you not?

1 A. Yes, I did.

2 Q. And Mr. Perrin, I think -- of course, Mr. Perrin
3 can speak for himself -- he didn't have any problem with
4 this as long as bonding was put in place and the wells were
5 brought back into compliance?

6 A. I think in our conversation Mr. Perrin said as
7 long as long as the wells were in compliance he was
8 satisfied.

9 Q. But to the best of your knowledge, could Mr.
10 Gustin, the assignee, ever obtain the bonding to satisfy
11 the Division?

12 A. To the best of my knowledge, he could not, or --
13 could not.

14 Q. Okay, so two things: You continued to be liable
15 for the plugging and abandonment of the wells?

16 A. That's correct.

17 Q. And you were slowed down somewhat, because during
18 -- you were hoping Mr. Gustin would take over liability for
19 at least some of these wells?

20 A. This cost us time, and it has cost me money, in
21 that the money to pay the vendors to plug the wells is on
22 loan to me at a price.

23 Q. And what is Exhibit 1E, Mr. Corbett?

24 A. This is an agreement between the New Mexico Oil
25 Conservation Division and Mr. Gustin. When he was assigned

1 the wells I believe that he was contacted by the OCD. I
2 know that he was in contact with the OCD, but he was given
3 this agreement that gives him a given amount of time to
4 bring the wells into compliance from the time that the
5 ownership and operatorship is effected into him.

6 Q. It gave him about three months' time to bring the
7 wells into compliance?

8 A. That's correct.

9 Q. And -- but he was unable to do so, so you
10 continued -- at that point then you resumed your activities
11 to plug and abandon the wells?

12 A. I did. As soon as I was informed that he wasn't
13 going to be able to assume the operatorship of the wells, I
14 called the plugging company. And they were, in fact, at
15 that point already aware that this deal had come apart and
16 had rescheduled the wells.

17 Q. You haven't taken a reassignment of the leases,
18 but you did continue to P-and-A the wells?

19 A. That's correct.

20 MR. BRUCE: Mr. Chairman, could I approach the
21 witness?

22 CHAIRMAN FESMIRE: You may, sir.

23 MR. BRUCE: Mr. Chairman, I apologize both to you
24 and Ms. MacQuesten. I just received these yesterday from
25 Mr. Corbett, and this concerns the Barber well, the final

1 -- well, not the final work, but the final plugging work.
2 Not the surface work on the Barber well.

3 Q. (By Mr. Bruce) But if I could just have Mr.
4 Corbett identify what this shows?

5 A. This is a tower report from A-Plus Well Service,
6 the company that was contracted and has plugged and
7 abandoned -- plugged both of the wells. And this is for
8 the Barbara Number 1. Our Exhibit Number 2 shows that the
9 well was waiting on a rig. That rig arrived, and the well
10 was plugged according to these reports.

11 Q. And as Mr. Perrin said, there does need to be
12 some surface work to be accomplished at this point?

13 A. That's correct. There is a small amount of oil
14 in the tanks on both wells. Those tanks have their
15 integrity, and I'm told that they can be sold, but I've
16 also been in contact with the crude purchaser in that area,
17 and they are simply strapped and cannot get a truck out to
18 pick up a small amount of oil from a couple of wells. But
19 that's -- we're waiting on that.

20 Q. And in relation to this, what has been the
21 approximate total cost to plug and abandon the Davie and
22 the Barbara wells, if you can just give a ballpark figure?

23 A. Well, I think this shows for the -- Well, are you
24 asking about the report, or simply what is it going to --

25 Q. Just a ballpark figure?

1 A. The Davie is going to be about \$26,000. The
2 Barbara will be comparable to that. There will be the
3 salvage of the tanks, some tubing, but then there's
4 additional surface work. They'll come out very, very close
5 to \$50,000 for both wells.

6 Q. And that's kind of what you estimated at the
7 original hearing in this matter?

8 A. That is what I estimated, yes.

9 Q. And even though Northstar is a corporation, did
10 you personally incur that liability to plug and abandon the
11 wells?

12 A. The loan was made to me as an individual, yes.

13 Q. And approximately when did you buy the Barbara
14 and Davie wells?

15 A. That was in 1997.

16 Q. Are you aware of any casing problems with these
17 wells?

18 A. I'm not. I would tell you regarding the
19 groundwater concern that the surface casing was set on
20 these to 300-and-some feet, and cemented to surface. The
21 long strings were both cemented back to surface, and of
22 course the wells have now been plugged to surface.

23 Q. Okay. And then just a couple of final matters.
24 If you would look at your Exhibits 3 and 4, what is Exhibit
25 3?

1 A. Well, let's see -- Oh, this is simply the price
2 of crude. And in reflecting on the history of these wells,
3 it has some bearing.

4 I acquired the wells in '97, and if I could
5 digress for just a moment, the wells were shut in in 1991,
6 is when they last produced, as the State has said. My
7 understanding is that in that -- for a period of time, that
8 these were orphan wells, that there was no operator of
9 record available for the two wellbores. I came to own them
10 and have not ever tried to make a secret of my whereabouts
11 from the state or my responsibility for the wellbores.

12 I was paying -- the choice of the -- had to call
13 some -- Mr. Perrin said that he needed to call some vendors
14 in 2005. I know that in 2004 when I sold the rest of my
15 properties, the operator's records were exchanged, and that
16 was done according to the State's Rules. And so the OCD
17 was, in the end of 2004, aware of my living in
18 Pennsylvania.

19 But then to get back to your question, I came to
20 own the wells in '97. You can see from Exhibit 2 that I
21 was working on other wells, as well as some wells right
22 around here. In 2002, when pressed by the State I said we
23 will return the Barbara to production, and so we went out
24 and did that. And it's a -- the operational aspect of it
25 could be involved, but it ended up with tubing stuck in the

1 wellbore.

2 What is significant about that is -- first of
3 all, that what was proposed to me as a fishing job was a
4 very expensive proposition. And so I rigged down, and so
5 that let me calculate on this and see if there's not a
6 better way to go about it.

7 The tubing that was stuck in the well extends --
8 did you say 50 feet with -- Mr. Perrin?

9 MR. PERRIN: Yes, for the --

10 THE WITNESS: For an MIT, a mechanical integrity
11 test. The tubing actually extended up above that, and so
12 to run the MIT was going to mean pulling tubing back and
13 doing that fishing job and getting the tubing out. It was
14 going to be more involved than a typical MIT.

15 Back to the exhibit. I operated these wells and
16 other wells, plugging some, returning some to production,
17 and then in 2004 negotiated the sale. And in the beginning
18 of 2005 found that I owned these two wellbores that had
19 slipped through the cracks of the sale.

20 I have included with our -- Well, maybe I have
21 not, in the exhibits. There was some prospect information
22 that was simply a part of my efforts to sell the well. I
23 see you have a cross-section there.

24 CHAIRMAN FESMIRE: This is Exhibit 4 on the --

25 Q. (By Mr. Bruce) Yeah, Exhibit 4. And what is the

1 purpose of showing that exhibit, Mr. Corbett?

2 A. The purpose of that is simply to demonstrate that
3 there was still considerable oil and gas remaining in the
4 ground. There was an offset well that had produced 45,000
5 barrels from the Gallup in a zone that was never completed
6 in the Barbara.

7 45,000 barrels at these later prices -- we're
8 turning now to these exhibits, Exhibit 3 -- here, I have
9 them -- has substantial value, not only to an operator but
10 to the State. There are resources there that have
11 essentially gone now to waste because the well is plugged
12 and abandoned.

13 Q. And even with the increasing prices, after 2005
14 you were essentially out of the business, so you had no
15 desire to go do the rework yourself?

16 A. I had no desire, and I have no cash flow.

17 Q. And finally, you did mention you have now changed
18 careers, and has that also resulted in a reduction in your
19 income?

20 A. It is a radical reduction in my income while I'm
21 in school and will be a substantial reduction in my income
22 in May when I finish. My intention was never to not plug
23 these wells. I have, from the time that I was not able to
24 sell them, tried to be responsible for them. And what came
25 about was not that I lacked the will to plug the wells.

1 Financially I have made arrangements now to borrow the
2 money to plug the wells, and that will equate to the
3 plugging bond, to our request regarding the fine.

4 Q. Now one thing that Mr. Perrin said, that
5 sometimes -- or if operators are not made to comply, they
6 -- whether it's a TA or a P-and-A, they could use that
7 money someplace else. Did you use that money someplace
8 else, other than to pursue your current occupation?

9 A. Health insurance. I was not -- have not
10 reinvested, certainly, since 2004 in oil and gas. I own no
11 other oil and gas wells, I operate no other oil and gas
12 wells, I have no working interests, and I sold those when I
13 went back to school for exactly this reason, because this
14 sort of thing can be -- financially, it can wipe out an
15 individual.

16 Q. And were Exhibits 1 through 5 either prepared by
17 you, under your supervision, or compiled from Northstar's
18 business records?

19 A. Yes, they were.

20 MR. BRUCE: Mr. Chairman, I'd move the admission
21 of Northstar Exhibits 1 through 5.

22 CHAIRMAN FESMIRE: Ms. MacQuesten, any --

23 MS. MacQUESTEN: No objections.

24 CHAIRMAN FESMIRE: Northstar Exhibits 1 through 5
25 will be admitted to the record.

1 MR. BRUCE: And I pass the witness, Mr. Chairman.

2 CHAIRMAN FESMIRE: Ms. MacQuesten?

3 MS. MacQUESTEN: Thank you.

4 CROSS-EXAMINATION

5 BY MS. MacQUESTEN:

6 Q. Mr. Corbett, when Northstar acquired its wells,
7 as I understand, most of those wells were inactive at the
8 time of acquisition.

9 A. That's correct.

10 Q. And was Northstar aware of its responsibilities
11 to either return those wells to compliance or plug and
12 abandon those wells?

13 A. We were.

14 Q. And assumed that responsibility when it became
15 operator of record of those wells?

16 A. Yes.

17 Q. Do you agree with the testimony Mr. Perrin has
18 given that although Northstar did considerable work on
19 returning wells to compliance up to 2002, but after 2002 it
20 did not do work on the wellbores of the Barbara or the
21 Davie well until the plugging?

22 A. It is, I think, a matter of record that between
23 2002 until 2007 I did not have a rig on those wells. That
24 doesn't mean that I wasn't working on other wells, it
25 doesn't mean I wasn't working on those wells in some other

1 way that didn't involve a rig.

2 Q. By working on them in a way that didn't involve a
3 rig, do you mean you were trying to transfer those wells to
4 another operator?

5 A. Or taking leases. We did work on the locations
6 so that they would be safe, maintaining fences and --

7 Q. So you performed some work on the surface of the
8 leases?

9 A. That's correct.

10 Q. Is it accurate to say that your focus after 2002
11 was to try to transfer those wells to another operator?

12 A. After two thousand and -- the beginning of 2004,
13 it was my intent, and I think that the correspondence that
14 I attached shows that we tried to sell those beginning in
15 '04. In '02 we were working on those wells with some
16 aspirations of our own -- on other wells, not those two
17 wells.

18 Q. And in -- Was it in 2004 that you were able to
19 transfer the majority of your wells to another operator?

20 A. That's correct.

21 Q. If you could look at your Northstar Exhibit
22 Number 1 that shows the activity on the Barbara and Davie
23 wells, I see an entry for 11 of 2004, Sale concluded with
24 Davie and Barbara omitted.

25 A. That's correct.

1 Q. Is that when the bulk of the sales transactions
2 took place?

3 A. The rest of the wells were sold at that point.

4 Q. And you testified that the Barbara and Davie
5 wells fell through the cracks and weren't part of that
6 sale?

7 A. That's correct.

8 Q. But in January of 2005, the next entry is
9 Northstar negotiating to sell the two wellbores. Are those
10 two wellbores the Davie and Barbara?

11 A. That's correct.

12 Q. So is they fell through the cracks, you were
13 aware within two months that they had fallen through the
14 cracks and that we needed to take some further action on
15 those?

16 A. I was immediately aware, and more than a little
17 unhappy at the closing of the sale, the rest of the
18 properties. And I began then, promptly after that, talking
19 with the people that might be interested in these two
20 wellbores.

21 Q. Okay. So you were aware that you were still
22 operator of record of these two wells and responsible for
23 them?

24 A. Yes, I was.

25 Q. In your testimony, you described beginning work

1 on the wells, and a person showed up at the site saying
2 that they were either his wells or he was interested in
3 those wells?

4 A. He claimed to own the well.

5 Q. Okay. And your description of that activity, all
6 of that activity occurred after the plugging order was
7 issued from the Division hearing?

8 A. After the initial hearing, that's correct.

9 Q. If I could switch gears on you here just briefly,
10 if you could turn to Exhibit Number 3, please, this is your
11 chart showing the price of crude oil?

12 A. Yes.

13 Q. As I'm reading this chart, it appears that the
14 prices were relatively low from 1997 to 2002. Would you
15 agree with that?

16 A. That's correct.

17 Q. And prices started to rise after 2002?

18 A. They did.

19 Q. Now most of the wells -- well, all of the wells
20 that you were able to return to production or plug and
21 abandon, all of that activity happened before the end of
22 2002; is that right?

23 A. That's correct.

24 Q. When the prices were low you were able to return
25 12 wells to compliance?

1 A. I should note that -- for instance, these Dome
2 federal wells, the Campbell and the Gass well, are all gas
3 wells, "gas" with one s. They are -- And so they were not
4 so affected. But that's correct.

5 Q. Have the prices for gas generally been rising
6 also?

7 A. They have.

8 Q. So after 2002, until the time when you plugged
9 the Barbara and the Davie, that's when the prices were
10 going up; is that right?

11 A. The prices -- Well, I think the graph shows
12 fairly clearly that, particularly beginning in 2004 when
13 oil went through \$30, the prices have gone up.

14 Q. And it's during that time period that you weren't
15 able to return the wells to compliance or transfer them to
16 another operator?

17 A. From 2004 I was not able to find a buyer for the
18 wells, and I didn't return the wells to compliance. I
19 was -- Well, I didn't have the cash flow after 2004,
20 because I wasn't working as a petroleum geologist to do
21 this work.

22 Q. In looking at the documents that you provided in
23 Exhibit 1A -- and these are documents -- if I'm reading
24 them correctly, these are documents that track some of your
25 activities in trying to transfer the wells?

1 A. That's correct.

2 Q. I'm looking particularly at a document towards
3 the end of Exhibit 1A, and it's a letter dated October 6th,
4 2006. It's about the fourth page from the back. And is
5 this a letter sent to a prospective buyer of the Barbara
6 and Davie wells?

7 A. Yes, it is.

8 Q. And at that time were you offering to sell them
9 for \$20,000 and a 2.5-percent overriding royalty interest
10 in future production?

11 A. I had put a price, an asking price, in the letter
12 because I was concerned that if I offered to give them away
13 they would look like no one wanted them. Yes, I did put a
14 price in the letter.

15 Q. Okay. Was it after this letter that you put the
16 wells up for auction?

17 A. Yes, it was.

18 Q. Did you receive any bids in the auction?

19 A. No, I didn't.

20 Q. When you made your arrangement with the gentleman
21 who appeared at the well site -- Was that Mr. Gustin?

22 A. Yes, it was.

23 Q. You entered into an assignment to him of these
24 two wells?

25 A. Yes, I assigned -- well, it's Exhibit 1B.

1 Q. And what were the terms of that assignment? What
2 did you receive in exchange for the wells?

3 A. In fact, I was simply assigning the wells to him.
4 He claimed that he had a rig, that he was operating
5 production already, he was bonded and was capable of
6 operating these wells.

7 Q. So your hope was that he would take over as
8 operator of record and you would be relieved of the
9 responsibility, he would then have wells that he may be
10 able to produce?

11 A. Right, I thought there was value in those. What
12 was in it for me was that I would have avoided the \$50,000
13 plugging cost.

14 Q. Sure. But no -- There was no sales price for the
15 wells, you were simply turning them over?

16 A. I was assigning them, yes.

17 Q. So although prices are relatively high these days
18 and you believe these wells have potential, you were not
19 able to find a buyer for them at any price?

20 A. That's true.

21 Q. You referenced -- one of your exhibits is a copy
22 of an agreed compliance order that was entered into between
23 the Oil Conservation Division and a company, DB&G Gas and
24 Oil?

25 A. That is Mr. Gustin's production company.

1 Q. And is it your understanding that Mr. Gustin's
2 production company at one point intended to become operator
3 of record and take over these wells?

4 A. That's correct.

5 Q. And that agreed compliance order, if you were to
6 read the provisions of it, would only become effective if
7 he did become operator of record of those wells?

8 A. Of course.

9 Q. And you are aware that he never did become
10 operator of record?

11 A. I'm aware of that.

12 Q. All right, so there's no confusion that --

13 A. Absolutely.

14 Q. -- he was?

15 And just to be perfectly clear, all of the
16 activity that you described about plugging these wells and
17 the arrangements with Mr. Gustin that didn't work out, all
18 of that happened after the plugging order was issued?

19 A. That's correct.

20 Q. So all that activity, all the confusion over who
21 might operate the wells, the delay in getting the plugging
22 done, all of that involves a time period that is not
23 covered by the \$10,000 penalty that Mr. Perrin is asking
24 for; is that right?

25 A. That's, as I understand it, correct.

1 MS. MacQUESTEN: Thank you, those are all the
2 questions I have.

3 CHAIRMAN FESMIRE: Redirect?

4 MR. BRUCE: Just a couple.

5 REDIRECT EXAMINATION

6 BY MR. BRUCE:

7 Q. Ms. MacQuesten was questioning you about the
8 first auction was in December, '06 -- or '04, I think, or
9 maybe January, '05 -- and then there was a subsequent
10 auction February of '07, and -- when the second two wells
11 were put up.

12 Did you have to take -- after the first sale, did
13 you have to take -- You mentioned you were engaged in
14 leasing activity. Did certain new leases have to be taken
15 so that you could properly sell the Barbara well?

16 A. That's correct. In -- Well, before I did my
17 first work on the Barbara in 2000, I had to go out and take
18 leases so that I could produce the well. Again in 2006,
19 with -- and in fact, beginning before that if you look at
20 the correspondence, Terry Moores was the landman, and there
21 are e-mails back and forth between Mr. Moores and myself --
22 we had to take leases in order to sell the wells.

23 Q. And that's reflected, in one instance anyway, in
24 Exhibit 1B, the assignment to Mr. Gustin where it lists
25 four leases, and they're all dated in mid-2006, correct?

1 A. That's correct.

2 Q. That's all.

3 A. Oh --

4 Q. Go ahead, Mr. Corbett.

5 A. Well, the wells were -- of course, production
6 ceased in '91 and the leases lapsed under their own terms.
7 And so when I ended up then owning the wells in '97, there
8 were no leases. And so I had to go and take all new leases
9 in order to do the work that I did. That's all.

10 MR. BRUCE: Okay, thank you. I have nothing
11 further, Mr. Chairman.

12 CHAIRMAN FESMIRE: Ms. MacQuesten, any recross on
13 those issues?

14 MS. MacQUESTEN: No, thank you.

15 CHAIRMAN FESMIRE: Commissioner Bailey?

16 EXAMINATION

17 BY COMMISSIONER BAILEY:

18 Q. You talked about going back to school and
19 finishing up in May. What are you getting a degree -- Is
20 it an advanced degree that you're getting?

21 A. It's a master's -- I am in a seminary. My
22 earning potential is not rosy. I've not discussed that
23 because I don't see what I have done as appropriate
24 stewardship. I think that it is -- it obscures a witness
25 that is necessary for what I intend to do, what I feel

1 called to do.

2 But that is, in fact, the case, I am in a
3 seminary and will finish in 2008, in May.

4 Q. I'm concerned about the surface restoration on
5 these wells, because I see your contracts for plugging; I
6 don't see any contract for cleaning up the surface,
7 removing the tanks, removing all of the other material
8 that's still there on the surface. How is that being
9 handled?

10 A. You're wise and insightful to see that. I will
11 tell you that I have borrowed \$50,000 to pay the cost of
12 plugging and abandoning these wells. When I finish in the
13 end of May -- well, in fact, when I finish plugging the
14 wells, the loan comes due this December, and the only money
15 that I will have to repay that is with the plugging bond
16 that will be \$50,000 and is released when the wells are in
17 compliance, when they're properly plugged and abandoned.
18 So Mr. Perrin has some leverage with me still.

19 Q. But the release of the plugging bond cannot be
20 used for restoration of the surface, though, can it?

21 A. It can. When the bond is released, when the
22 wells are plugged and abandoned to Mr. Perrin's
23 satisfaction, the bond is released. It is a \$50,000 cash
24 bond that goes back to Northstar Oil and Gas, who is me,
25 and I will use that money, then, to repay the bank for the

1 loan to plug and abandon the wells and then find the
2 Secretary of the State of New Mexico and see what has to be
3 done to put a company to bed. Northstar will have no
4 further actions.

5 Q. That's all I have.

6 A. Did I make that clear?

7 Q. That there's no possibility of having that
8 surface restored within the next year, is what I got out of
9 that.

10 A. I'm sorry, what I was trying to say is that the
11 surface restoration has to occur by December in order for
12 Mr. Perrin to say we'll now release your bond.

13 Q. Okay.

14 A. Once that happens, then I can repay my loan,
15 which does come due in December. So that is my motivation.

16 COMMISSIONER BAILEY: Okay, thank you.

17 EXAMINATION

18 BY CHAIRMAN FESMIRE:

19 Q. Mr. Corbett, you mentioned -- Was it 2004 when
20 you re-entered the Barbara and found the tubing stuck?

21 A. It was 2000.

22 Q. 2000? And it was stuck relatively shallow, if I
23 understood. Correct?

24 A. We -- the plugging operations -- well, the tubing
25 was not stuck I left hanging in the wellbore and we -- it

1 was at -- it was at 3500 feet, approximately, that the
2 tubing had parted. It was stuck -- There was about 1000
3 feet of tubing stuck in the well.

4 Q. Okay. Now was it stuck or had it parted and
5 fallen down?

6 A. No, in fact there was an anchor that would not
7 release, and we pulled the tubing apart trying to get that
8 to release.

9 Q. Okay. Do you know why the anchor wouldn't
10 release?

11 A. I don't. It could have -- Well, I really don't
12 know. The records that I had -- I believe -- well, I have
13 records that that is where the anchor was, but don't know.

14 Q. Is there any -- When you went in and plugged the
15 well, did you get down past that anchor?

16 A. No, the plugging was done by setting a retainer
17 above the top of the fish and then pumping cement -- a
18 volume to fill to the perforations.

19 Q. Okay, so the perforations were above -- I guess I
20 don't --

21 A. No --

22 Q. -- understand.

23 A. -- the perforations were around 4500 feet, the
24 anchor at about 4300 feet, the top of the tubing at around
25 3300 feet. So about 1000 feet of tubing above the

1 perforations, 800 feet above the anchor, which wouldn't
2 release.

3 Q. So you set above the tubing with the retainer,
4 stabbed into the retainer, and pumped enough cement to fill
5 for the cement back to the retainer?

6 A. That's correct.

7 Q. From the bottom back to the retainer.

8 So I guess you're getting to -- you're getting to
9 my concern here. Is there any indication that it was a
10 casing problem that caused the anchor to become stuck?

11 A. The tubing that came out was not in bad shape. I
12 wish that I knew why it had parted, but -- in fact, I sold
13 the tubing yesterday, and it was -- it inspected well.

14 Q. So it was either a problem with the anchor itself
15 or the casing had collapsed around the anchor?

16 A. Those are the possibilities.

17 Q. Okay. Which would indicate that the casing, at
18 least the deep casing, might be having a problem?

19 A. There could be a cement problem there. I can
20 appreciate that concern. I can tell you that the anchor
21 had been sitting probably since about 1983, so 17 years.
22 Some water production with the DOL.

23 Q. Okay. You heard Mr. Perrin's testimony that, you
24 know, if we were to just absolutely calculate this penalty
25 it could amount to \$3.6 million. Is that --

1 A. I heard that.

2 Q. And that he has reduced it to \$10,000. That
3 seems pretty reasonable to me. Why should we reduce it
4 further?

5 A. Well, because I don't have \$10,000, of course.
6 Beyond that, this penalty doesn't send a message to the
7 industry because I'm out of the industry. It doesn't send
8 a message to Northstar Oil and Gas because Northstar Oil
9 and Gas is out of the production business. It creates a
10 financial burden at a time when I am perhaps least able to
11 stand that.

12 If you were to say, You have a \$10,000 fine
13 beginning in May of 2008, over a year, I might be able to
14 work that off. The fact of it is that right now that's --
15 I have borrowed to the extent of my ability to plug and
16 abandon the wells.

17 Q. So the only collateral you've got is that bond,
18 and you're going to have to cash the bond to pay the loan
19 to --

20 A. (Nods)

21 CHAIRMAN FESMIRE: I think that's all I have.

22 Any further direct, Mr. Bruce?

23 MR. BRUCE: I have no further questions of the
24 witness. I have about a 30-second statement at the end.

25 CHAIRMAN FESMIRE: Ms. MacQuesten?

1 MS. MacQUESTEN: No questions of the witness.

2 CHAIRMAN FESMIRE: Commissioner?

3 COMMISSIONER BAILEY: No.

4 CHAIRMAN FESMIRE: Okay. Thank you very much,
5 Mr. Corbett.

6 Ms. MacQuesten, do you have a close?

7 MS. MacQUESTEN: I do, and I'd like to start by
8 saying this is a difficult case, in part because Mr.
9 Corbett is a very nice man and he has dealt very
10 courteously with the OCD throughout this. It has just been
11 frustrating for us, not getting compliance, but all his
12 dealings with us have been courteous.

13 And in seeking a penalty in this case it is not
14 that the OCD is trying to say that Mr. Corbett is a bad man
15 or a dishonorable man or any of those things, it is to
16 maintain the integrity of our enforcement efforts.

17 You see, the point of this case is to decide what
18 the OCD can do to achieve compliance. And Mr. Corbett is
19 correct that this case won't serve as a deterrent to
20 Northstar because Northstar is not going to be in business
21 in New Mexico anymore, it doesn't need a deterrent.

22 The reason we're pursuing this, though, is that
23 imposing a penalty in this case will be a deterrent to
24 other operators.

25 If I understand Northstar's position in this

1 case, it is that they were able to eventually return the
2 wells to compliance, and the OCD cannot show that there was
3 environmental harm caused by that, so there should be a
4 reduced penalty or no penalty. It's really the no-harm,
5 no-foul theory of enforcement.

6 The reason the OCD cannot accept that as an
7 enforcement theory is that it tells the operator, You don't
8 have to take action to come into compliance when the OCD
9 writes letters to you, you don't have to take action when
10 the OCD calls, you don't have to take action when the OCD
11 files a compliance case against you. The key thing is only
12 when the OCD gets a hearing order against you. Then you
13 need to take action before it gets to the Commission,
14 because then you can say I'm in compliance, please don't
15 assess a penalty against me.

16 We simply do not have the resources as an
17 enforcement agency to go to hearing on every case to get an
18 order of compliance in every case in order to get the
19 operators to take action.

20 As Mr. Perrin pointed out in his testimony, the
21 major point of Rule 201 is to ensure that the environment
22 is protected, that hydrocarbons don't move from one zone to
23 another. The way we try to assure protection of the
24 environment and protection of the zones is to require that
25 the well, if it's inactive for a period of time, be placed

1 on temporary abandonment status or plugged.

2 In this case, the no-harm, no-foul idea of
3 penalties would be that we can chase after the operator
4 from 1991 to 2007, with no activity on the well, no
5 mechanical integrity tests, but then if it's brought into
6 compliance there is no downside.

7 If that is the standard, there's no incentive for
8 any operator to take action. And it's unfortunate that Mr.
9 Corbett is caught up in this case, but the fact of the
10 matter is that this case presents a very clear picture of
11 the problem that we have if we cannot take enforcement
12 action against operators.

13 Thank you.

14 CHAIRMAN FESMIRE: Mr. Bruce?

15 MR. BRUCE: Mr. Chairman, Ms. MacQuesten said
16 that this is an unusual case, and I'd agree. As an aside,
17 about 12 or 14 years ago I was sitting around my office
18 thinking, Boy, all these cases at the Division have become
19 routine, and I wonder what kind of future I have. And
20 since then, everything has been unusual.

21 (Laughter)

22 MR. BRUCE: And I don't mean to make light of
23 this situation, but I think the Commissioners themselves
24 could look at their dockets over the last few years and see
25 how unusual the cases have become. And I think it's just

1 part of the changing industry that things have become more
2 complicated.

3 With respect to the penalty, I think there's two
4 aspects to the penalty. You know, one is punishment for
5 past wrongdoing, and the second is deterrence.

6 Certainly, Mr. Corbett acknowledged he didn't
7 take care of this as he would have hoped in a timely
8 manner.

9 As to deterrence, because Northstar and Mr.
10 Corbett personally are no longer active in the business, we
11 don't think there's any deterrent value in a penalty at
12 this point. The wells have been plugged and abandoned, and
13 I think anything regarding environmental issues at this
14 point is pure speculation. And so we think the wells are
15 properly plugged and abandoned and that surface work will
16 be done and there should be no problem.

17 And we're not saying this is a no-harm, no-foul.
18 We understand the State's, the Division's interest in
19 enforcing their own rules. But at this point, really the
20 only punishment is to personally punish Mr. Corbett, and so
21 we would ask at the least a substantial reduction in the
22 penalty. And I would simply refer you -- That has been
23 done before, not by the Commission but by the Division, and
24 I would refer you to Order R-11,761-A, where a penalty, a
25 plugging penalty -- or failure, I should say, to plug

1 penalty was reduced, and that is what Northstar and Mr.
2 Corbett request.

3 Thank you.

4 CHAIRMAN FESMIRE: Mr. Corbett, I do have a
5 question. How much has it cost you to plug the wells
6 already, out of the \$50,000 that you --

7 MR. CORBETT: I've probably spent \$26,000.

8 CHAIRMAN FESMIRE: \$26,000. And then how much do
9 you have to expend on the surface restoration?

10 MR. CORBETT: I note that that doesn't include
11 payment, I don't yet have an invoice for the Barbara --

12 CHAIRMAN FESMIRE: The last two days?

13 MR. CORBETT: -- the tower reports, the surface
14 work. There may be another -- well, there could be \$4000
15 or \$5000 more on the Barbara, maybe \$1000 net of salvage of
16 the tank on the Davie.

17 MR. BRUCE: Mr. Chairman, if I might, Exhibit 5,
18 I think if you look at the second page of Exhibit 5 for the
19 Barbara well, down at the bottom it does have a cumulate to
20 date of approximately \$23,000. That is for the Barbara.

21 CHAIRMAN FESMIRE: Okay, and so that and the
22 difference of the prior cumulative cost is about what you
23 -- what we should add to this \$26,000? Or is that
24 \$26,000 --

25 MR. CORBETT: I would say -- Yeah, the \$26,000

1 does not include that \$23,000. So we're at \$49,000.

2 CHAIRMAN FESMIRE: Oh, so that's all new costs?

3 MR. CORBETT: Yes. Yeah, I have not been
4 invoiced for this -- the Barbara plugging amount.

5 CHAIRMAN FESMIRE: Okay. So if you've got
6 \$50,000 coming from the bond, you've got \$49,000 that
7 you've already expended and have to repay back, and you've
8 got \$5500 in surface remediation costs coming, you're going
9 to exceed the \$50,000, aren't you?

10 MR. CORBETT: It is possible.

11 CHAIRMAN FESMIRE: Are you prepared to do that?

12 MR. CORBETT: If it happens I will negotiate. In
13 fact, I really believe that this can be done at \$50,000.
14 I'm working with vendors whom I have known for a long time,
15 and if it were necessary they would probably take a payment
16 from me.

17 CHAIRMAN FESMIRE: Anything further, Ms.
18 MacQuesten?

19 MS. MACQUESTEN: No, thank you.

20 CHAIRMAN FESMIRE: Anything further, Mr. Bruce?

21 MR. BRUCE: No, sir.

22 CHAIRMAN FESMIRE: At this time I think we'll go
23 into executive session to discuss our options and would
24 accept a motion from the only Commission member present to
25 do that.

1 COMMISSIONER BAILEY: I second.

2 And all those in favor?

3 COMMISSIONER BAILEY: Aye.

4 CHAIRMAN FESMIRE: Aye.

5 Let the record reflect that the Commission has
6 moved to go into executive session to determine their
7 options in the case.

8 (Off the record at 11:02 a.m.)

9 (The following proceedings had at 11:10 a.m.)

10 CHAIRMAN FESMIRE: Let the record reflect that at
11 11:10 the Oil Conservation Commission came out of executive
12 session, went back into public session, that during the
13 executive session we did nothing but discuss the outcome
14 and the evidence presented in Cause Number 13,920.

15 And this is a -- Mr. Bruce, this is a very
16 difficult case because Ms. MacQuesten makes some very good,
17 valid arguments, and in just a minute we're going to move
18 to adopt an order that basically upholds the \$10,000
19 penalty. But at the time that Mr. Corbett is to pay that
20 penalty will be the date prior to or concurrent with the
21 release of his bond, and that penalty will be reduced by
22 any actual expenses incurred in the restoration of the
23 surface on the two locations.

24 So we're upholding the \$10,000 penalty, allowing
25 him a credit for the actual amounts expended to do the

1 surface restoration, and staying the payment date to the
2 date that his bond is actually released.

3 And do I hear a motion to that effect?

4 COMMISSIONER BAILEY: I move that that order be
5 drafted up by our counsel.

6 CHAIRMAN FESMIRE: I second.

7 All those in favor?

8 COMMISSIONER BAILEY: Aye.

9 CHAIRMAN FESMIRE: Aye.

10 Let the record reflect that the Commission has
11 adopted that as their decision, that counsel Bada will
12 draft the order, for which she is real excited, and that we
13 will take up the signing of that order at the next
14 Commission meeting.

15 MR. BRUCE: Thank you, Commissioners.

16 CHAIRMAN FESMIRE: Is there any further business
17 before the Commission?

18 MS. MacQUESTEN: No, sir.

19 CHAIRMAN FESMIRE: At this time the Chair would
20 entertain --

21 MS. BADA: I have one.

22 CHAIRMAN FESMIRE: Oh, I'm sorry.

23 MS. BADA: -- I do have one question. Do you
24 have any deadline for -- do you want to make the -- it will
25 either have to be due at the time of the release of the

1 bond, or the date by which surface restoration and cleanup
2 would have to be done under the Rules, so that you have
3 some finite time --

4 CHAIRMAN FESMIRE: Surface restoration and
5 plugging will have to be accomplished prior to the --

6 MR. BRUCE: Prior to the --

7 CHAIRMAN FESMIRE: -- release of the bond.

8 MR. BRUCE: -- release of the bond, correct.

9 CHAIRMAN FESMIRE: Yeah. And was that December,
10 '07 or '08?

11 MR. BRUCE: This December.

12 CHAIRMAN FESMIRE: This December.

13 MR. BRUCE: The payment comes -- I think the
14 testimony was, and -- the loan comes due this December.

15 CHAIRMAN FESMIRE: Okay. And like I said, it is
16 clear that the OCD will not release the bond until after he
17 has paid the difference. And if he wants to spend \$10,000
18 or more on the restoration, that's up to him.

19 MR. BRUCE: Then he's free to do so.

20 CHAIRMAN FESMIRE: Yes, sir. Okay?

21 MR. BRUCE: I will verify that date for
22 Commission counsel, but I'm 99-percent sure that's when it
23 -- I'll get an actual due date for the loan, and obviously
24 the Commission will have a date.

25 CHAIRMAN FESMIRE: Any further business before

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the Commission?

Then the Commission will stand adjourned until
its next meeting.

Thank you.

(Thereupon, these proceedings were concluded at
11:13 a.m.)

* * *

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 Commission 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 October 12th, 2007.



STEVEN T. BRENNER
 CCR No. 7

My commission expires: October 16th, 2010

STEVEN T. BRENNER, CCR
 (505) 989-9317