

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:)
) CASE NOS. 13,859
 APPLICATION OF NEW MEXICO OIL)
 CONSERVATION DIVISION FOR A COMPLIANCE)
 ORDER AGAINST PRONGHORN MANAGEMENT)
 CORPORATION)
)
 APPLICATION OF NEW MEXICO OIL) and 14,052
 CONSERVATION DIVISION FOR A COMPLIANCE)
 ORDER AGAINST PRONGHORN MANAGEMENT)
 CORPORATION)
) (Consolidated)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

ORIGINAL

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

January 10th, 2008

Santa Fe, New Mexico

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These matters came on for hearing before the New Mexico Oil Conservation Division, WILLIAM V. JONES, Jr., Technical Examiner, DAVID K. BROOKS, Jr., Legal Examiner, on Thursday, January 10th, 2008, 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.

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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 9:59 a.m.:

3 EXAMINER JONES: And let's call Case 13,859,
4 Application of the New Mexico Oil Conservation Division for
5 a compliance order against Pronghorn Management
6 Corporation.

7 Call for appearances.

8 MS. MacQUESTEN: Mr. Examiner, Gail MacQuesten
9 representing the Oil Conservation Division. I have two
10 witnesses.

11 EXAMINER JONES: Any other appearances?

12 MR. PADILLA: Mr. Examiner, Ernest L. Padilla for
13 Pronghorn Management Corporation. I have one witness.

14 EXAMINER JONES: Any other appearances?

15 Will the witnesses -- all witnesses please stand
16 to be sworn?

17 (Thereupon, witnesses Sanchez and Baber were
18 sworn.)

19 MS. PROUTY: Oh, excuse me, I --

20 EXAMINER JONES: Okay, will one more witness
21 please stand to be sworn? Sorry.

22 (Thereupon, witness Prouty was sworn.)

23 EXAMINER JONES: Okay, I just noticed these are
24 two cases, two compliance cases against Pronghorn
25 Management. Do you want these to be called -- Do you guys

1 want these to be called concurrently?

2 MS. MacQUESTEN: Mr. Examiner, I had requested in
3 the prehearing statement that we hear these two cases
4 together. That is because the evidence that will be
5 presented in Case 13,859 is also relevant to Case 14,052, I
6 completely overlap. So --

7 EXAMINER JONES: Okay.

8 MS. MacQUESTEN: -- in an effort to save time, I
9 thought it would be best to present the evidence together
10 and then ask that you issue separate orders in the two
11 cases.

12 EXAMINER JONES: Okay, that's -- Is that okay?

13 MR. PADILLA: That's the way I understood it,
14 your Honor.

15 EXAMINER JONES: I overlooked that, I'm sorry.
16 Let's go ahead and call Case 14,052 also, Application of
17 the New Mexico Oil Conservation Division for a compliance
18 order against Pronghorn Management Corporation.

19 And I assume the same appearances in these two
20 cases?

21 MR. PADILLA: Yes.

22 MS. MacQUESTEN: Yes.

23 EXAMINER JONES: Same witnesses? Okay.

24 MS. MacQUESTEN: Mr. Examiner, we are here on two
25 related compliance actions against Pronghorn Management

1 Corporation.

2 Case 13,859 is an existing case. We are asking
3 you to reopen that case and issue an order requiring
4 Pronghorn to show cause why an additional penalty should
5 not be imposed and why an order should not be entered
6 finding Pronghorn in violation of an order requiring
7 corrective action.

8 The original order in Case 13,859 found Pronghorn
9 had filed false reports of production on 11 inactive wells.
10 The order required Pronghorn to take certain corrective
11 action and to pay a penalty. Pronghorn has not taken the
12 corrective action and has not paid the penalty.

13 The order in that case specifically stated that
14 if Pronghorn didn't pay the penalty, the OCD should
15 initiate further enforcement action, including imposition
16 of additional penalties. So we are here today to make that
17 request of you.

18 Because Pronghorn not only failed to pay the
19 penalty but failed to take the corrective action required
20 by the order, we are also asking that you enter an order
21 finding that Pronghorn has failed to take corrective action
22 required in the order issued in Case 13,859. We are asking
23 for this order under Rule 40.A.(2). Once such an order is
24 entered, Pronghorn will be in violation of Rule 40 until it
25 comes back before you and proves that it has taken the

1 corrective action that you required in that order.

2 That's the first case.

3 The second matter we are here on today is a new
4 compliance action against Pronghorn, and that is Case
5 14,052. We are asking for an order under Section 70-2-14.B
6 which states that if an operator violates any provision of
7 the Oil and Gas Act or any rule issued pursuant to that
8 act, the Division may order any well plugged and abandoned.

9 We are here asking for an order requiring
10 Pronghorn to plug and abandon all of its wells. That is
11 based on its history of noncompliance. And as you will
12 hear in the testimony today, the Division has tried every
13 possible way of obtaining compliance from Pronghorn, short
14 of requesting an order that it plug all its wells,
15 including letters of violation, agreed compliance orders,
16 cancellations of authority, and orders issued through the
17 Examiner and the Commission.

18 In asking for this remedy, there is an
19 alternative for Pronghorn if it wishes not to plug its
20 wells, and that is to transfer its wells to another
21 operator.

22 Basically what we're saying with this action is
23 that based on Pronghorn's past noncompliance and its
24 inability to come into compliance, we no longer want
25 Pronghorn operating wells in New Mexico.

1 There's an evidence packet in front of you.

2 Exhibit 1 is an affidavit from Dorothy Phillips,
3 the Division's financial assurance administrator. It
4 states that Pronghorn has a \$50,000 cash bond to secure the
5 plugging of its wells.

6 If you turn to the last page of Exhibit 1, it
7 also shows that Pronghorn has not filed single well
8 financial assurances for its state and fee wells that have
9 been inactive for more than two years. That requirement
10 became effective on January 1, 2008.

11 Exhibit 2 is the affidavit of service for Case
12 13,859, and Exhibit 3 is the affidavit of service for Case
13 14,052.

14 And with that, I would like to call Mr. Daniel
15 Sanchez.

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

19 DIRECT EXAMINATION

20 BY MS. MacQUESTEN:

21 Q. Mr. Sanchez, would you please state your name for
22 the record?

23 A. Daniel Sanchez.

24 Q. By whom are you employed?

25 A. Oil Conservation Division.

1 Q. And what is your title there?

2 A. Compliance and enforcement manager.

3 Q. As compliance and enforcement manager, do you
4 oversee the enforcement actions of the district offices?

5 A. Yes, I do.

6 Q. And are you familiar with the enforcement actions
7 taken against Pronghorn?

8 A. Yes, I am.

9 Q. Would you please turn to what has been marked as
10 Exhibit Number 4. Is this the well list showing all the
11 wells operated by Pronghorn in New Mexico that have not
12 been completely plugged and released?

13 A. Yes, it is.

14 Q. And how many wells appear on that list?

15 A. Thirty-nine.

16 Q. Are those the same 39 wells that appeared on the
17 list attached to the Application in Case 14,054 which was
18 filed back in November?

19 A. Yes, they are.

20 Q. With the same color-coding of those wells?

21 A. Yes.

22 Q. When was the list that is Exhibit Number 4
23 generated?

24 A. On January 8th, 2008, Wednesday [sic].

25 Q. So this is an updated version of the list that

1 was attached to the Application in this case?

2 A. Yes, it is.

3 Q. What is the significance of the color
4 highlighting?

5 A. The color highlighting is to simplify our review
6 of the different wells and what actions are going to be
7 taken against them.

8 Q. Okay. And does the color code indicate that the
9 well is either subject to a compliance order or we have an
10 allegation that there is a violation on that well?

11 A. Yes.

12 Q. And is every well on Pronghorn's list color-
13 coded?

14 A. Yes, they are.

15 Q. I'd like to go through each color, starting with
16 the blue wells.

17 And Mr. Examiner, if you could keep Exhibit
18 Number 4 handy as we go through the testimony, we'll be
19 referring to it as we go through all of the different
20 violations in this case.

21 Mr. Sanchez, are the 11 blue wells the subject of
22 a previous compliance action?

23 A. Yes, they are.

24 Q. And what action was that?

25 A. They were the wells that were -- that we brought

1 on false reporting.

2 Q. Is that Case 13,589?

3 A. Yes, it was.

4 Q. And that's the case that is also the subject of
5 the show-cause motion?

6 A. Yes.

7 Q. Can you tell us very briefly about the
8 allegations of false reporting in that case?

9 A. Yes, we had sent out an inspector, out of the
10 Hobbs District Office, to take a look at some of the wells.
11 And during those inspections they determined that there was
12 no way that they could be operating. And we reviewed the
13 records from Pronghorn and they showed production on those
14 wells from that time frame.

15 Q. All right, would you please turn to what has been
16 marked as Exhibit Number 5, please?

17 A. Okay.

18 Q. Is this a summary of the evidence that was
19 presented at the hearing in Case 13,859?

20 A. Yes, it is.

21 Q. And in fact was this summary itself an exhibit in
22 that case?

23 A. It was.

24 Q. If you could look at the second column on Exhibit
25 Number 5, it's titled Inspection Comment Summary. What is

1 shown in that column?

2 A. It shows the different violations that were
3 alleged for that well during the different time periods.

4 Q. Where does the information in that column come
5 from?

6 A. From RBDMS, our tracking system for inspections.

7 Q. And who enters that information?

8 A. The various field inspectors --

9 Q. So this is --

10 A. -- from the district.

11 Q. -- this is a summary of the inspection histories
12 that were conducted on the various wells?

13 A. Yes.

14 Q. And those inspection histories reflect
15 circumstances that would suggest that these wells were not
16 producing; is that right?

17 A. That's right.

18 Q. Now the next two columns, Oil Reports and Gas
19 Reports, do they show the months for which we received
20 reports from Pronghorn indicating production on those
21 wells?

22 A. Yes, they do.

23 Q. When we though, according to the evidence, those
24 wells could not have been producing?

25 A. That's correct.

1 Q. The Notice column, what does that show?

2 A. It's the dates that there were issuances of
3 letters of violation to Pronghorn --

4 Q. So Prong- --

5 A. -- from the OCD.

6 Q. So Pronghorn was put on notice that we had
7 questions about whether these wells were properly reporting
8 production?

9 A. Yes, on several occasions.

10 Q. The final column is Number of False Reports.
11 What does that -- the number in that column indicate?

12 A. The number of months that false reporting
13 occurred, from the initial period for that well through the
14 time that we caught false reporting, I guess.

15 Q. Okay. So what is the largest number of false
16 reports filed on any one of the wells in that case?

17 A. It was 72.

18 Q. Seventy-two months of false reporting on that
19 well. Is that the basis for the assessment of a penalty in
20 that case?

21 A. Yes, it was.

22 Q. What penalty was assessed?

23 A. \$72,000. \$1000 for each month of false
24 reporting.

25 Q. Is Exhibit 6 a copy of the order that was issued

1 in that case?

2 A. Yes, it is.

3 Q. And is it Pronghorn's failure to comply with that
4 order that's the subject of the motion for the order to
5 show cause?

6 A. Yes, it is.

7 Q. When was the order issued?

8 A. On June 15th, 2007.

9 Q. Did the order find Pronghorn in violation of Rule
10 201, the inactive well rule, and in violation of the
11 reporting requirements of Statute 70-2-31.B.(2) and Rule
12 1115.A?

13 A. Yes, it did.

14 Q. If you could look at pages 3 and 4 of the order
15 where it sets out what Pronghorn is required to do, if you
16 could summarize what the order required.

17 A. What it required was by December 30th of 2007
18 that Pronghorn bring the 11 wells in question back into
19 compliance, whether it was temporarily abandon them, plug
20 and abandon them, or bring them back into production.

21 It also required Pronghorn to comply with
22 ordering paragraph (1), The Division shall be authorized to
23 plug and abandon the subject wells, and the blanket cash
24 plugging bond, Number OCD-482, would be forfeited.

25 Q. And that would happen if Pronghorn failed to --

1 A. If they failed to --

2 Q. -- meet the deadline?

3 A. -- to meet the deadline.

4 Q. All right. Anything else?

5 A. Yes, it ordered Pronghorn to pay the \$72,000 by
6 July 30th of 2007, and -- oh -- Yeah, July 30th, 2007.

7 It also had, Pronghorn Management Company shall
8 file corrected production reports on the 11 wells and
9 provide contact information for private lessors affected by
10 the false production reports on or before July 30th, 2007.

11 Q. All right. Now when -- in the paragraph that
12 refers to the penalty of \$72,000, that's paragraph number
13 (3)?

14 A. Yes.

15 Q. And is there an instruction to the OCD on what to
16 do if Pronghorn fails to pay that penalty?

17 A. Yes, the Division shall initiate additional
18 enforcement actions against Pronghorn Management
19 Corporation, including imposition of additional penalties.

20 Q. Did Pronghorn return any of the 11 wells to
21 compliance by December 30, 2007?

22 A. No.

23 Q. Has Pronghorn filed corrected production reports?

24 A. No.

25 Q. If you could turn to what has been marked as

1 Exhibit Number 7 --

2 A. Okay.

3 Q. -- was a list prepared for purposes of this
4 hearing?

5 A. Yes, it was.

6 Q. And was the intent to show whether Pronghorn had
7 filed any amended reports since the issuance -- since the
8 hearing in that case?

9 A. Yes.

10 Q. And what does it show with regard to any
11 amendments filed?

12 A. There were no amendments filed for wells for that
13 time frame in the case.

14 Q. Okay, no amendments for the time periods for
15 which we had false reports; is that right?

16 A. That's correct.

17 Q. Now there's one entry -- if you look at the
18 second and third lines, there appear to be two entries for
19 August of 2007; is that right?

20 A. That's right.

21 Q. But that's the only amendment that has been
22 filed?

23 A. That's correct.

24 Q. And that is not a month that was at issue in the
25 order or a month that was subject to the requirement that

1 amendments be filed?

2 A. No, it wasn't.

3 Q. Have you compared the production appearing on the
4 current well list, that Exhibit Number 4, with the well
5 list that was used at the hearing in Case 13,859, to see if
6 the reporting had changed for any of those 11 wells?

7 A. Yes, and there were -- none of the reporting has
8 changed.

9 Q. So the reporting still shows production up
10 through whatever date had been listed at that time?

11 A. That's correct.

12 Q. So a lessor or anyone else looking at the
13 production data for those 11 wells would still think they'd
14 been active during the time period that Case 13,859 found
15 that they were, in fact, not active?

16 A. That's true.

17 Q. Does having false reports of production affect
18 OCD's authority to enforce its rules?

19 A. Yes, it does. Under Rule 40 an operator is only
20 allowed so many inactive wells, and they become subject to
21 Rule 40. Rule 40 allows certain privileges to operators,
22 and if they do fall under Rule 40, those certain privileges
23 can, and in some cases must, be taken away from the
24 operator.

25 Q. Okay. So if -- for a period of time after a

1 false report is filed, Rule 40 doesn't really work, does
2 it?

3 A. No.

4 Q. Because the computer thinks that the operator has
5 been producing that well or injecting that well?

6 A. And that the well is indeed in compliance, yes.

7 Q. Okay. Do false reports of production affect
8 OCD's enforcement of its financial assurance requirements?

9 A. Yes, it would. If the false reports are up to a
10 certain time period, the new assurance rule states that
11 operator has two years from the last production date or
12 injection date on a well for inactivity before additional
13 bonding is required.

14 So if there were false reporting, say, up to the
15 first part of 2007, those wells would not be subject to
16 that additional bonding.

17 Q. Have you had the opportunity to look at the
18 affidavit that Dorothy Phillips provided on financial
19 assurances for Pronghorn?

20 A. I reviewed it.

21 Q. And were there wells there that, because of the
22 false reporting, it appeared that financial assurances
23 weren't yet due?

24 A. Yes.

25 Q. But in fact --

1 A. -- they would be due.

2 Q. -- they would be due. And aren't there nine such
3 wells?

4 A. Subject to check, yes, I believe there was about
5 nine.

6 Q. And do you have an idea what the dollar total is
7 on those nine wells?

8 A. Cumulative, just a little over \$125,000.

9 Q. Okay. Actually, let's go to that exhibit so we
10 can get this clear. That's Exhibit Number 1, and it's the
11 last page of that exhibit --

12 A. Okay.

13 Q. -- and if we could look, just as an example, the
14 first well there is the Atlantic State Number 1. And the
15 far right column that's titled "In Violation", there's a Y.
16 Now that well would be subject to additional bonding right
17 now; is that right?

18 A. That's right.

19 Q. And the amount of the bond is in the Required
20 Bond Amount column, so the amount would be \$6368?

21 A. That's correct.

22 Q. So every Y that you see in that far right column
23 represents a well for which financial assurance is due now?

24 A. That's right.

25 Q. And because it's in the In Violation column, it

1 means they have not posted that amount, right?

2 A. That's correct.

3 Q. Now if you added up the Bond Required Amount for
4 each well for which there's a Y in the In Violation column,
5 that would be the \$125,000, right?

6 A. That's correct.

7 Q. But what you're saying is, there are some wells
8 that don't have a Y in that column because the false
9 reports are still out there indicating the well was in
10 production in the past two years?

11 A. That's correct.

12 Q. And in fact, if you took all those wells that are
13 coded blue, if they were state and fee wells, they would be
14 subject to bonding right now, wouldn't they?

15 A. Yes, they would.

16 Q. If the reports had been corrected. And it's the
17 amount of bonding on those wells that would be an
18 additional amount of bonding?

19 A. That's right.

20 Q. And how much additional bonding would there be?

21 A. I think it's somewhere around \$50,000. I might
22 be off on that, but it's -- it was substantial.

23 Q. Okay. Mr. Examiner, you can find the exact
24 amount. I've calculated, and my calculation comes out a
25 little higher, so you may want to look at that, but any

1 well that is coded blue, you can look on this list and
2 check the required bond amount and add up those figures to
3 find out how much Pronghorn is subject to bonding on, in
4 addition to the ones that are showing up right now on this
5 list.

6 Now did Pronghorn provide the contact information
7 for the lessors affected by the false reporting as required
8 by the order?

9 A. No.

10 Q. Has Pronghorn paid the \$72,000 penalty?

11 A. No, they haven't.

12 Q. Did Pronghorn ask for *de novo* review of the order
13 issued in Case 13,859?

14 A. Yes, they did.

15 Q. Did they later dismiss that request?

16 A. Yes, they did.

17 Q. And is the dismissal OCD Exhibit Number 8?

18 A. Yes, it is.

19 Q. All right. Let's turn to the green coded wells
20 on Exhibit Number 4.

21 A. Okay.

22 Q. Were the 16 wells coded in green subject to a
23 compliance action?

24 A. Yes, they were from Case 13,858, and it was a
25 plugging case.

1 Q. All right. Had the OCD taken any efforts to
2 obtain compliance from Pronghorn on those wells before it
3 filed Case 1358 [sic]?

4 A. Yes, we did.

5 Q. And what was that?

6 A. It was to enter into an agreed compliance order
7 on their inactive wells to give them time to go ahead and
8 get them back into compliance.

9 Q. When was that agreed compliance order entered?

10 A. Oh, I believe it was -- I have the date here. It
11 was in 2005. I don't have the exact month on that, but it
12 was in 2005.

13 Q. Okay, and it was after Pronghorn failed to follow
14 through on that agreed compliance order that OCD filed the
15 Application for hearing?

16 A. That's right.

17 Q. Was an order issued in that case?

18 A. Yes, Order 12,767.

19 Q. And is Exhibit 9 a copy of that order?

20 A. Yes, it is.

21 Q. When was the order issued?

22 A. On June 15th, 2007.

23 Q. And did that order find Pronghorn in violation of
24 Rule 201 as to the 16 wells coded green on Exhibit Number
25 4?

1 A. Yes, it did.

2 Q. Did the order give Pronghorn a deadline for
3 returning those wells to compliance?

4 A. Yes, October 2nd of 2007.

5 Q. How many of those wells has Pronghorn returned to
6 compliance?

7 A. I don't believe any of these wells have been
8 returned to compliance.

9 Q. If you would look at -- on the second page of
10 Exhibit Number 4, the New Mexico DL State Number 4 --

11 A. Okay, I'm sorry, that's right, it -- that well is
12 back in compliance. It shows production as of September of
13 2007.

14 Q. Okay, so there's one well that is now showing
15 production from that list of 16 inactive wells?

16 A. Yes, that's correct.

17 Q. Have any of the wells been plugged and abandoned?

18 A. No.

19 Q. Have any of them been placed on approved
20 temporary abandonment status?

21 A. No.

22 Q. So the only action to achieve compliance on these
23 wells was one well returned to production?

24 A. That's right.

25 EXAMINER JONES: What's the name of that well?

1 I'm sorry.

2 MS. MacQUESTEN: It's the New Mexico DL State
3 Number 4.

4 EXAMINER JONES: I've got it, okay.

5 Q. (By Ms. MacQuesten) And did Pronghorn also
6 request *de novo* review of this order?

7 A. Yes, they did.

8 Q. And then asked to dismiss that request?

9 A. Yes, they did.

10 Q. Is Exhibit Number 10 a copy of the order from the
11 Commission dismissing the *de novo* case?

12 A. Yes.

13 Q. Mr. Sanchez, after these two orders are issued in
14 Case 13,858 and 13,859, did Pronghorn meet with the OCD to
15 discuss complying with these orders?

16 A. Yes, they did.

17 Q. Were you present at that meeting?

18 A. Yes, I was.

19 Q. When did it take place?

20 A. On August 24th, 2007.

21 Q. Is Exhibit 11 a copy of the letter that was sent
22 to Pronghorn's attorney memorializing that meeting?

23 A. Yes, it is.

24 Q. If I could direct your attention to the second
25 page, which is the first page of the letter itself, in

1 paragraph 3 it discusses Order R-12,768. Could you
2 summarize what the letter tells Pronghorn it needs to do
3 under that order?

4 A. It tells Pronghorn that they were required to pay
5 the \$72,000 penalty as of July 30th, 2007, which of course
6 hasn't been paid yet. Pronghorn did not request a stay of
7 the order. It -- Pronghorn's penalty and corrected reports
8 were overdue, that the OCD was not willing to waive or
9 reduced the penalties assessed in that order due to the
10 seriousness of the violations. And if Pronghorn wished to
11 establish a payment plan, which they had requested during
12 that meeting, it would have to reopen the case and request
13 a plan from the Hearing Examiner or seek more favorable
14 terms from the Oil Conservation Commission.

15 Q. Does it go on to talk about the need for the
16 corrected reports?

17 A. Yes, it -- yes, that Pronghorn also needs to file
18 corrected reports as required, and please contact Jane
19 Prouty if they had any questions about how to file those.

20 Q. All right. And if you go to the next paragraph,
21 the fourth paragraph on that page, it discusses what
22 Pronghorn needs to do to bring its inactive wells into
23 compliance, the 11 wells that were in the false reporting
24 case and the 16 wells in the plugging case. What does it
25 tell Pronghorn it needs to do as to those wells?

1 A. It reminds Pronghorn that the 16 wells -- that
2 they had until October 2nd, 2007, to come into compliance,
3 and on the other 11 wells that they still had until
4 December 30th of 2007 to come into compliance.

5 Q. Okay. Did it give Pronghorn a suggestion as to
6 what to do if it couldn't meet those deadlines?

7 A. They needed to reopen the cases, request
8 additional time from an Examiner, or pursue its *de novo*
9 cases.

10 Q. Okay. At the time this letter was written, those
11 *de novo* requests were still pending; is that right?

12 A. Yes.

13 Q. But Pronghorn chose not to continue those *de novo*
14 requests, did they? They were both dismissed?

15 A. They were both dismissed, yes.

16 Q. Did they take the other advice and ask for -- ask
17 the Examiner to review both deadlines and give them a
18 different schedule for coming into compliance?

19 A. No, they didn't.

20 Q. Now, in the second paragraph of this letter
21 there's a discussion about cancellation of authority and
22 reinstatement of authority. Can you tell us what that's
23 referring to?

24 A. For a period -- I believe it was between February
25 and August -- the -- Pronghorn's authority to transfer --

1 or to produce and to inject was taken away for lack of
2 reporting.

3 Q. And is the reinstatement of authority an
4 attachment to that letter in Exhibit 11?

5 A. Yes, it is, and that too is dated August 24th,
6 2007, the day of that meeting.

7 Q. Okay. And if you could turn to Exhibit Number
8 12, just to complete the picture, is that the letter that
9 originally canceled the authority?

10 A. Yes, it is. And that was issued on February
11 15th, 2007.

12 Q. And it appears to be a certified mail letter. Is
13 the last page of Exhibit Number 12 the green return receipt
14 card indicating that Pronghorn did receive notice that its
15 authority had been canceled?

16 A. Yes, it is.

17 Q. Now this cancellation of authority, does it apply
18 to an individual well or to all the wells that Pronghorn
19 operates?

20 A. To all the wells.

21 Q. And the cancellation is for authority to
22 transport or inject?

23 A. To transport, or authority to inject.

24 Q. All right. And the -- if you look at the
25 cancellation letter and then the reinstatement letter, what

1 period are we talking about, during which the authority was
2 canceled?

3 A. February 6th, 2007, through August 24th, 2007.

4 Q. February 6th?

5 A. The date of the cancellation -- Oh, February
6 15th, I'm sorry. February 15th.

7 Q. Okay. Well, that brings us to the wells coded in
8 purple on Exhibit Number 4. What is the violation at issue
9 for the purple wells?

10 A. I believe these are the wells that, after the
11 letter taking away their authority to transport, these
12 wells were still producing and either transporting oil or
13 gas.

14 Q. Okay. If you could look at what has been marked
15 as Exhibit 13, 14, 15 and 16, are these four documents
16 production report summaries for the year 2007 for the four
17 wells coded in purple?

18 A. Yes, they are.

19 Q. And then on the back of each production report is
20 there a copy of the well inspection history for that well?

21 A. Yes.

22 Q. Now to summarize what we're seeing in these four
23 production reports, Pronghorn reported activity on all four
24 of these wells from March through August of 2007; is that
25 right?

1 A. Yes.

2 Q. And that was during the time period when they had
3 no authority to transport or inject; is that right?

4 A. That's right.

5 Q. Let's look at the first report. Is this the
6 production report for the Gila Number 4 well?

7 A. Yes, it is.

8 Q. And was this well producing oil or gas, or both?

9 A. Both.

10 Q. And Exhibit 14, is this the report for the Howse
11 C Number 1?

12 A. Yes, it is.

13 Q. And what was this well producing?

14 A. Just oil.

15 Q. All right. Now oil could be stored, it might not
16 have been transported; is that right?

17 A. That's right.

18 Q. Despite what appears on the production report,
19 was there any indication that gas was produced from this
20 well?

21 A. Well, there was a note on the inspection report
22 for March 13th of 2007, showed electric off HOA now, fresh
23 tracks, gas meter shows 4.9 MCF, yesterday's volume sales.
24 So it indicates a small amount of gas was actually produced
25 on that well.

1 Q. Okay, are there any other compliance issues with
2 this well that we have alleged in the Application?

3 A. Yeah, there was a well-sign violation.

4 Q. Okay, has that been fixed?

5 A. Yes, they've taken care of that.

6 Q. So we don't have a problem with the well sign
7 violation on this well?

8 A. No.

9 Q. If you could turn to Exhibit Number 15, is this
10 the production report for the Marshall Number 2?

11 A. Yes, it is.

12 Q. Now what type of well is this?

13 A. It's an injection well.

14 Q. Okay, and was it reporting injection during the
15 period when the authority to inject was canceled?

16 A. Yes, it was.

17 Q. And Exhibit 16, is this the report for the New
18 Mexico BZ State NCT Number 5?

19 A. Yes.

20 Q. And what activity was reported for this well?

21 A. Just gas.

22 Q. All right. So of the for wells, we have one
23 injection well, and we know injection was without
24 authority. We have two wells that were producing gas. And
25 we have a third well that was reporting production of oil;

1 the inspection history indicated there may be some small
2 amount of gas?

3 A. That's correct.

4 Q. All right. If you could turn to what has been
5 marked as Exhibit Number 18 -- and we're jumping one
6 exhibit ahead here, to the very last exhibit in the packet,
7 are these detailed balancing reports for the months of
8 March through August of 2007?

9 A. Yes.

10 Q. And just so the Examiner understands, this packet
11 is really a collection of individual monthly reports; is
12 that right?

13 A. That's correct.

14 Q. And each report lists all of the wells for
15 Pronghorn and its production activity for that particular
16 well, right?

17 A. That's right.

18 Q. What can it tell us about whether the gas that
19 was produced from those two wells was actually transported
20 in violation of the order canceling authority to transport?

21 A. The report actually does show transportation
22 occurring for that period of time.

23 Q. Okay. If you turn to the second document, which
24 is page 3 of 4 for the month of March, 2007, there's some
25 highlighting. And can you explain why we should be looking

1 at those highlighted sections?

2 A. Those highlighted sections actually show gas
3 being transported, and the amount of gas being transported
4 from certain wells.

5 Q. And are those wells the New Mexico BZ State NCT
6 Number 5 and the Gila 4?

7 A. Yes.

8 Q. And if you turn to a similar page for each month,
9 you will see whether transportation occurred on those two
10 wells?

11 A. Yes. And it's for the same two all the way up to
12 the month of June. In the month of June it shows only
13 transportation off the Gila Number 4.

14 Q. Okay. Because there was no reported gas
15 production on the BZ State --

16 A. -- State Number 5.

17 Q. -- Number 5?

18 A. That's correct. But the following month it picks
19 that up again, and once again the New Mexico BZ State NCT 5
20 and the Gila 4 are showing production and transportation,
21 as well as in August.

22 Q. All right, let's now look at the wells coded in
23 yellow on Exhibit Number 4. There are seven wells coded in
24 yellow. What is the violation at issue for the yellow
25 wells?

1 A. Inactive wells.

2 Q. If you look at Exhibit Number 4, there's a column
3 marked Last Production/Injection.

4 A. Uh-huh.

5 Q. According to that column, have the wells coded in
6 yellow been inactive for a period in excess of one year
7 plus 90 days?

8 A. Yes.

9 Q. Are any of those wells plugged and abandoned?

10 A. No.

11 Q. Are any of those wells on approved temporary
12 abandonment status?

13 A. No.

14 Q. Just out of curiosity, why weren't those wells
15 included in the inactive well case that we talked about
16 earlier?

17 A. When we first got into the inactive well case, it
18 was done out of the Hobbs district office. These wells,
19 the wells coded in yellow, are out of the Artesia office,
20 and we hadn't investigated those wells.

21 Q. Are you aware of any additional compliance issues
22 with any of the yellow wells?

23 A. Yes, there was -- one of the wells out of Artesia
24 district was plugged without OCD authority, and I believe
25 here -- the State M, which is Exhibit Number 17.

1 Q. All right. Turning to Exhibit Number 17, is this
2 a packet of information on the compliance issues at the
3 State M well?

4 A. Yes.

5 Q. And is the first page the well inspection history
6 for that well --

7 A. Yes, it is.

8 Q. -- describing the violations found?

9 A. Yes.

10 Q. Could you look at the entry that's marked for the
11 inspection date 5/11/2007 --

12 A. Okay.

13 Q. -- and if you could -- if you could just read
14 that entry to us.

15 A. Okay, Violation of Rule 19.15.4.201. Last
16 reported production was November 1st, 1995. Only steel
17 fencepost indicating where wellhead probably was. This
18 well has not been properly plugged. Operator must locate
19 wellhead and submit paperwork to plug. Plugging must be
20 witnessed. Violation of Rule 50. Pit violation. A pit on
21 site. Please submit a C-144 pit closure form by compliance
22 due date with closure of pit to occur within one month of
23 the compliance due date.

24 Q. If you could turn to the second page of Exhibit
25 Number 17, is this a letter of violation --

1 A. Yes.

2 Q. -- sent to Pronghorn on those violations that
3 you've just read to us?

4 A. Yes, it is, and that was sent on June 4th, 2007.

5 Q. And if you could turn to the third page of the
6 exhibit, are these photos taken by the inspectors?

7 A. Yes, they are.

8 Q. Now I notice that there are several pictures that
9 include the well sign, and the Pronghorn name isn't on that
10 well sign. It says Aspen Oil.

11 A. That's correct.

12 Q. What can you tell us about that?

13 A. Apparently at one point Aspen was looking at
14 taking over that site. But through our well files we show
15 no action was ever taken on that. The operator of record
16 is still Pronghorn.

17 Q. Can you point out the pit that the well
18 inspection history was complaining about?

19 A. I believe what they're talking about is on the
20 very bottom right-hand corner. It shows the tank, and just
21 to the back of the tank, there is an indentation there that
22 looks like they have been used as a pit or as a collection
23 point for leaking oil.

24 Q. Could you show us where the fencepost is that
25 shows where the well is located?

1 A. Yes, the second row, last picture, is the
2 fencepost where they believe the wellhead was located.

3 Q. What does Pronghorn need to do with this well to
4 bring it into compliance?

5 A. Well, to actually do what the letter has
6 requested, and that was to go ahead and locate the
7 wellhead, test it and make sure it was properly plugged and
8 clean up the site.

9 Q. We only have one more well unaccounted for, and
10 that's the well coded in pink, the Hastie Number 5. What
11 violation was alleged in the Application regarding this
12 well?

13 A. It was plugged but never released. The site
14 restoration was still required.

15 Q. Has that issue been resolved?

16 A. Yes, it has.

17 Q. And was that through action of the OCD or action
18 of Pronghorn?

19 A. By action of the OCD.

20 Q. What happened?

21 A. It was -- I believe it was -- I'm not sure. I
22 thought it was the federal, but it's not. OCD, the
23 district office, had to go out and ask Pronghorn to finish
24 cleaning up the site.

25 Q. But apparently it has been cleaned up?

1 A. But apparently it has been cleaned up.

2 Q. And were there paperwork issues that needed to
3 get resolved and --

4 A. Yes, and I believe those were resolved.

5 Q. Okay, and the OCD has taken care of that?

6 A. Yes.

7 Q. Should the Hastie, then, be coded as plugged and
8 abandoned and fall off this list?

9 A. Yes, it should be.

10 Q. So to summarize what we've been through today, we
11 haven't seen Pronghorn take any of the action required
12 under 13,858, the false reporting case?

13 A. No, we haven't.

14 Q. And that's the case that's the subject of the
15 show-cause order?

16 A. That's correct.

17 Q. And we've only seen one of the 16 wells in the
18 inactive well case brought back into compliance?

19 A. That's correct.

20 Q. And we have at least three wells that violated
21 the cancellation of authority letter?

22 A. Three, possibly four.

23 Q. Possibly four, because we're not sure about that
24 one well that reported oil production?

25 A. Yeah, with a minor amount of gas.

1 Q. With a minor amount of gas?

2 A. Yes.

3 Q. Okay. And then we have additional compliance
4 issues with the pits and the cleanup at the State M Number
5 1?

6 A. Yes.

7 Q. And we also have an issue of noncompliance with
8 the bonding requirements --

9 A. That is also correct.

10 Q. -- totaling about \$225,000?

11 A. Yes.

12 Q. So of the 39 wells on that well list, we have
13 only three that appear to be in compliance?

14 A. Yes.

15 Q. The New Mexico DL State Number 3, which was an
16 inactive well, it's now producing; the --

17 A. -- Hastie Number 5.

18 Q. -- Hastie Number 5; and possibly that Howse C
19 Number 1?

20 A. Yes.

21 Q. But we're not sure about that?

22 A. No, not yet.

23 Q. Okay. What are you asking the Examiner for in
24 Case 14,052, the new compliance action?

25 A. We're asking for the Hearing Examiner to order

1 Pronghorn to plug all its wells.

2 Q. Well, aren't 26 of the wells already under a
3 plugging order? The 11 false-reporting wells and the 16
4 inactive wells?

5 A. Yeah, they're under orders, but those orders also
6 gave the option of getting them back into production or
7 temporarily abandoning them, and we haven't seen any
8 indication that either one of those is going to happen, so
9 we would recommend that all of the wells be plugged.

10 Q. So now you're saying plug them?

11 A. Yes.

12 Q. TA would not be an option, producing would not be
13 an option?

14 A. No, we've -- I think we've run out of offers, I
15 guess, and options for this to happen, and we just don't
16 see that it's going to happen anytime soon.

17 Q. Now you're also asking that the order require
18 Pronghorn to plug all of its other wells too; isn't that
19 right?

20 A. That's correct.

21 Q. Including those that may be producing or capable
22 of production?

23 A. They -- Yes, all their wells. If they chose to,
24 they could transfer those wells to a viable operator who
25 would be willing to go ahead and take on those

1 responsibilities.

2 Q. So you have no objection if Pronghorn were to
3 transfer these wells to another operator, you just don't
4 want Pronghorn operating these wells?

5 A. That's correct.

6 Q. And if they don't transfer them, they need to
7 plug them?

8 A. Yes.

9 Q. And if they don't plug them, we will?

10 A. That's correct.

11 MS. MacQUESTEN: I would move for admission of
12 Exhibits 1 through 18.

13 EXAMINER JONES: Any exhibit -- any objections?

14 MR. PADILLA: No objection.

15 EXAMINER JONES: Exhibits 1 through 18 will be
16 admitted.

17 MS. MacQUESTEN: I have no more questions of Mr.
18 Sanchez.

19 EXAMINER JONES: Mr. Padilla?

20 CROSS-EXAMINATION

21 BY MR. PADILLA:

22 Q. Mr. Sanchez, would plugging producing wells be a
23 waste of oil and gas?

24 A. Plugging producing wells, I believe, yes, that
25 that would be. But in this case we don't have any

1 indication that most of these wells are plugging -- or
2 producing.

3 Q. At least -- According to your testimony, at least
4 one well is a producing well, right?

5 A. That's correct.

6 Q. And waste is contrary to the conservation -- to
7 the Oil and Gas Act, right?

8 A. Yes, sir.

9 Q. Now you mentioned in your testimony that you were
10 trying to get some information on lessors. Why is that?

11 A. The information from the -- would be to contact
12 the lessors to let them know that there were issues with
13 the false reporting.

14 Q. Is it the duty of the Oil Conservation Division
15 to assure that lessors receive their royalties?

16 A. I don't know that, I'm sorry. I can't say that
17 for sure.

18 Q. I mean, I don't understand your reason, why you
19 would be trying to get information, lessor information, to
20 contact them on false reporting.

21 A. I think that what we would be doing is giving
22 them that information so that they could look into it if
23 they chose to.

24 Q. Do you know when your last inspections on all
25 these wells were?

1 A. I believe they were prior to the Case 13,859.

2 Q. Have you had any new inspections since that time?

3 A. Not that I'm aware of.

4 Q. In preparation for this hearing did you do any
5 inspections at all?

6 A. No.

7 MR. PADILLA: I believe that's all I have.

8 EXAMINATION

9 BY EXAMINER JONES:

10 Q. Okay, so how many wells that -- this list, Number
11 4, has 39 wells; is that correct?

12 A. That's correct.

13 Q. Okay, and three are back into compliance?

14 A. Uh-huh.

15 Q. And you didn't -- there is no list of the
16 producing wells, is there, in these exhibits?

17 MS. MacQUESTEN: Mr. Examiner, you can tell which
18 wells are producing by looking at the last production
19 injection date on the well list.

20 EXAMINER JONES: So this 39 wells is all the
21 wells Pronghorn Management Corporation operates in New
22 Mexico?

23 MS. MacQUESTEN: That's right.

24 EXAMINER JONES: Okay. These producing dates,
25 are -- have these been verified? Are these reported

1 producing dates?

2 You probably had testimony to that effect, I'm
3 sorry, I should ask the witness here.

4 Q. (By Examiner Jones) Is this verified production,
5 or is this --

6 A. This is reported production. We haven't gone out
7 and verified these like we did on the previous 11.

8 EXAMINER JONES: The -- Well, I think I'll pass
9 my questions over to Mr. Brooks.

10 EXAMINER BROOKS: Well, I don't know that I
11 really have...

12 EXAMINATION

13 BY EXAMINER BROOKS:

14 Q. It looks like there -- The wells in purple are
15 wells on which production is being reported.

16 And did I understand you to say that -- are those
17 the wells -- are those the wells on which you contend that
18 production is being incorrectly reported, or are those the
19 wells that are in violation because they're producing when
20 you ordered them not to?

21 A. Those are the ones that we showed that were
22 producing when we ordered them not to.

23 Q. Okay, the purple wells are the ones that are not
24 supposed to be producing, because you canceled their
25 authority for --

1 A. Yes, though that authority has been reinstated as
2 of August 24th.

3 Q. Okay. So then you've got one, two, three, four
4 purple wells, and then there's -- the New Mexico DL State
5 Number 4 is also reporting current production, right?

6 A. That's correct.

7 Q. And so there's five wells in this list of 39 that
8 -- for which there is reported production as of the last
9 date that you have production reports?

10 A. Subject to verification, yes.

11 EXAMINER BROOKS: Okay. I really believe that's
12 the only question I had, to clarify that.

13 EXAMINER JONES: I should go ahead and ask one
14 more question here, Mr. Sanchez.

15 FURTHER EXAMINATION

16 BY EXAMINER JONES:

17 Q. The issue of violation of an order or a violation
18 of Rule 201, since the Oil Conservation Division -- I'm
19 sure you've thought about this, or you've talked it over
20 with your attorneys about the balance between conservation,
21 prevention of waste and the protection of human health and
22 the environment.

23 This -- do you consider this falling solely
24 within the protection of human health and the environment?
25 And how do you -- how do you -- just go over your

1 reasoning, the balance between the -- upholding the rules
2 and also satisfying our statutory obligations to prevent
3 waste.

4 A. You know, protection of human health --

5 Q. -- and prevent --

6 A. -- and the environment is -- you know, with a lot
7 of these wells, without any verification that they're even
8 capable of operating anymore, we have no idea whether the
9 wellbore on these are going to fail and possibly cause
10 problems to groundwater or migrate elsewhere. And without
11 any of that information, we have to assume that there are
12 going to be issues there.

13 And I'd rather stop it now than find out later
14 that that were the case, given the fact that we have
15 worked, you know, tirelessly in trying to get compliance
16 out of Pronghorn without anything, you know, coming out of
17 that work that we've put through to make that happen. We
18 don't believe that any additional time is going to matter
19 one way or the other.

20 You know, they've been under orders, they've been
21 under agreed compliance orders on inactive wells where
22 we've given them the opportunity to let us know how many of
23 those wells that they can take care of, and that was a
24 number that they picked, not us, and never met any of those
25 orders.

1 And I do believe it's going to become a matter of
2 protection of the -- you know, the environment and human
3 health, when it comes to letting these go any longer than
4 that.

5 You know, like I said, if another operator were
6 willing to take over those wells and take on the
7 responsibility of getting those wells back into production,
8 I think that would be great in terms of, you know, the
9 resources being properly used. But I don't see it
10 happening with this operator.

11 EXAMINER JONES: Okay, thank you.

12 FURTHER EXAMINATION

13 BY MR. BROOKS:

14 Q. Just to follow up on that, couldn't operator's
15 failure to maintain wells itself have caused waste of oil
16 and gas?

17 A. Yes, I believe that is the case.

18 Q. If the --

19 A. If these are viable wells, yes.

20 Q. -- hydrocarbons -- if the wells -- the non-
21 maintained wells provided a conduit to take the
22 hydrocarbons out of one formation where they were
23 encountered and cause them to migrate somewhere else where
24 they might not be found and might not be producible --

25 A. Yeah, that would be a waste.

FURTHER EXAMINATION

1
2 BY MR. PADILLA:

3 Q. In light of some of the questions, Mr. Sanchez,
4 you testified in questions to Mr. Jones' questions -- one
5 of Mr. Jones' -- you answered, as I understood, without any
6 verification. Right now you don't have any verification
7 that there's a threat to human -- to the human environment
8 or to the environment, right?

9 A. No, not at this time.

10 Q. With regard to waste, you don't know right now
11 whether there's any waste occurring because of lack of
12 maintenance?

13 A. We don't know that, not for sure.

14 Q. Now going back to the meeting that we had in
15 October and August of 2007, when there was a decision made
16 to lift the transport -- the cancellation of authority to
17 transport, at that time there was some consensus that we
18 would drop any *de novo* hearing so that Pronghorn would
19 attempt to get into compliance, right?

20 A. I believe that was mentioned, but I don't
21 remember the exact -- exact discussion on that, whether or
22 not you guys were going to continue it through *de novo*
23 hearing or not.

24 The issue of compliance was definitely addressed
25 in that meeting, though.

1 Q. Do you recall the discussion that Pronghorn would
2 rather spend its time trying to comply than spending time
3 on *de novo* hearings?

4 A. That was indicated to us, and I would have
5 probably believed it if we would have gotten some kind of
6 information from Pronghorn after that, that they had tried
7 to do anything. But up to this date we've received
8 nothing, so...

9 Q. But by your own testimony, you haven't been out
10 there to inspect any activity that Pronghorn may have been
11 doing since that time?

12 A. Not at this time.

13 MR. PADILLA: All right, that's all.

14 MS. MacQUESTEN: If I could address --

15 EXAMINER JONES: Sure.

16 MS. MacQUESTEN: -- a few more questions, and
17 also just provide some information to the Examiners.

18 You had asked about the most recent reporting.
19 The well list that's Exhibit Number 4 was generated on
20 Tuesday of this week. During the break I ran the list
21 again, and this is available on our website, you may take
22 administrative notice of it. Pronghorn has filed reports
23 for October of 2007, so it does show production on the four
24 -- or activity on the four purple wells and the New Mexico
25 DL State Number 4, showing activity through October of

1 2007, but otherwise it's the same.

2 And if I could ask Mr. Sanchez a few questions.

3 REDIRECT EXAMINATION

4 BY MS. MacQUESTEN:

5 Q. Mr. Sanchez, Mr. Padilla asked you about whether
6 it was the OCD's duty to notify royalty interest owners of
7 anything. Let me ask you this. Is it one of OCD's duties
8 to collect reporting information from operators?

9 A. Yes, it is.

10 Q. And is that information posted on our website to
11 be available to the general public?

12 A. Yes, it is.

13 Q. Including royalty interest owners, possibly
14 investors or any other interested persons?

15 A. Yes.

16 Q. And is that information also shared with the
17 Taxation and Revenue Department for purposes of determining
18 proper taxation?

19 A. Yes, it is.

20 Q. And is it shared with the State Land Office?

21 A. Yes, it is.

22 Q. So is it important that that information be
23 accurate?

24 A. Absolutely.

25 Q. And to the extent that OCD's information on

1 reporting is inaccurate, does that reflect badly on OCD in
2 its duties?

3 A. I believe it does.

4 Q. Mr. Padilla also asked you if the OCD had gone
5 out to inspect these wells prior to this hearing, and you
6 said no. That's -- was it -- When the orders required
7 Pronghorn to bring wells into compliance by producing, by
8 TA'ing, by plugging, would those events have generated a
9 document that would appear in the well file, or a
10 production report?

11 A. I'm sorry, could you ask the question again?

12 Q. Well, the orders told Pronghorn that as to the 11
13 wells with false reporting and the 16 inactive wells, that
14 they needed to bring them into production, and you had
15 testified -- or bring them into compliance, and you had
16 testified that under they orders they could have returned
17 them to production or injection.

18 A. Uh-huh.

19 Q. Now if they had done that, they would have filed
20 a document, right?

21 A. That's correct.

22 Q. A C-115 report?

23 A. Yes.

24 Q. And there was no such document --

25 A. No.

1 Q. -- for those wells?

2 Or they could placed them on approved temporary
3 abandonment status, right?

4 A. That's correct.

5 Q. And that would also have required a document
6 showing the district's approval of the TA status?

7 A. That's correct.

8 Q. And there are no such documents in the file; is
9 that right?

10 A. No.

11 Q. And the other way they could have returned them
12 to compliance is by plugging and abandoning the wells?

13 A. That's correct.

14 Q. And if they had been plugged and abandoned they
15 would have fallen off that well list?

16 A. Yes.

17 Q. And that has not happened?

18 A. No, it hasn't.

19 Q. So the things they needed to do under the orders
20 have not been done?

21 A. No, they haven't.

22 Q. And the orders' deadlines have now been expired
23 for several months?

24 A. That's correct.

25 Q. Mr. Padilla also asked you about the meeting that

1 was held in August, and if you could turn back to OCD
2 Exhibit Number 11, in the first page of the letter dated
3 August 24th Mr. Padilla was suggesting that some agreement
4 had been reached that they would drop their *de novo* case;
5 isn't that right?

6 A. Yes.

7 Q. But in this letter it refers to pursuing the *de*
8 *novo* case as being one of the options Pronghorn could take
9 if they didn't like the terms of the order?

10 A. That's correct.

11 Q. So this letter does not indicate that any
12 agreement was made with the OCD as to Pronghorn dismissing
13 the *de novo* case?

14 A. That's correct.

15 Q. That was still up to them, entirely up to them?

16 A. Yes.

17 Q. On the issue of waste, if producing wells are
18 plugged -- First of all, how confident are you with the
19 information that you received from Pronghorn as to whether
20 a well is producing or not producing?

21 A. At this point, until we verify it, I'm not
22 comfortable at all with it.

23 Q. If an order is issued as we request, telling
24 Pronghorn it needs to plug all of its wells, I believe you
25 testified that the option remained that Pronghorn could

1 transfer wells to another operator; is that right?

2 A. That's correct.

3 Q. And if another operator took over those wells,
4 that operator could produce them?

5 A. Yes.

6 Q. So it's not an absolute order saying this
7 producing well has to be plugged and that's the only
8 answer?

9 A. No, it's not.

10 Q. Do you think the market would take care of any
11 possible waste in terms of, if the well is valuable,
12 someone might step forward to take care of it?

13 A. Oh, I believe it would.

14 MS. MacQUESTEN: I think that's all I have at
15 this time.

16 EXAMINER JONES: Okay. Any more questions?

17 RE-CROSS-EXAMINATION

18 BY MR. PADILLA:

19 Q. You're just speculating on whether the market
20 would take care of -- whether somebody would take care
21 of --

22 A. Pretty much, yes.

23 Q. That's just your opinion, right?

24 A. That's my opinion.

25 Q. You're not an expert?

1 A. No, sir.

2 Q. You also said something about if Pronghorn
3 assigned the wells to someone else, would the penalties
4 assessed by the Oil Conservation Division have to be paid
5 first, before the OCD would approve a transfer?

6 A. I believe they would have to be.

7 MR. PADILLA: Okay, that's all.

8 MS. MacQUESTEN: As his legal advisor, may I --

9 EXAMINER JONES: Sure, sure.

10 MS. MacQUESTEN: Rule 40 has certain restrictions
11 on transfers of wells. But what we look at is the operator
12 taking over the wells and whether that operator is in
13 compliance, not the existing operator. We're more than
14 happy for noncompliant operators to turn their wells over
15 to compliant operators. Pronghorn would still be on the
16 hook for a penalty, but that wouldn't prohibit a transfer.

17 MR. PADILLA: Stand corrected.

18 THE WITNESS: Stand corrected, yes.

19 EXAMINER JONES: Okay, is that all for Mr.
20 Sanchez?

21 MS. MacQUESTEN: Yes, thank you.

22 EXAMINER JONES: Okay, next witness --

23 MS. MacQUESTEN: Mr. Examiner, I have Ms. Jane
24 Prouty available to testify about any of the reports. If
25 you or Mr. Padilla have any questions about those reports,

1 I can make her available. But otherwise, I would conclude
2 my case at this point.

3 EXAMINER JONES: Yeah. I did want to ask just a
4 couple of questions about the -- I don't know if Mr.
5 Padilla does, but if you put her on I would ask a couple of
6 questions to her.

7 MS. MacQUESTEN: All right, let's do that then.
8 Thank you.

9 JANE PROUTY,
10 the witness herein, after having been first duly sworn upon
11 her oath, was examined and testified as follows:

12 DIRECT EXAMINATION

13 BY MS. MacQUESTEN:

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

15 A. Jane Prouty.

16 Q. And where do you work?

17 A. At the Oil Conservation Division.

18 Q. And what is your title?

19 A. I'm the Bureau Chief in charge of Automation and
20 Records Bureau.

21 Q. In your position as Bureau Chief, are you
22 responsible for overseeing production reports, reporting by
23 operators?

24 A. Yes.

25 Q. And are you also responsible for overseeing the

1 information that's available on OCD's websites as to
2 production reports and other reports filed by operators?

3 A. Yes.

4 Q. Let me give you your very own exhibit packet.

5 A. May I make just one -- I'm responsible for OCD's
6 data. The -- We use the GO-TECH website, and they are
7 responsible for how they display some of the data, so we're
8 only responsible for what we display. But as far as I
9 know, the GO-TECH site is also accurate.

10 Q. Okay. Just to give everyone here a little
11 background on the relationship between GO-TECH and the OCD,
12 could you tell us how production data comes to the OCD and
13 how it goes to GO-TECH?

14 A. Okay, production data comes to the OCD in an
15 electronic file from the operators, and it's validated by a
16 web application. And then once it passes all validation,
17 it's stored in our system. And once a month I publish all
18 of our production data to a site that anyone can come and
19 pick up the data. And GO-TECH is one of the people who --
20 one of the groups who pick it up. IHS picks it up, maybe
21 five or six other companies who use production data for
22 maybe GIS applications or whatever pick it up, so just --
23 they get a monthly copy of all data.

24 Q. Okay. And one thing that may be a little
25 difficult to understand, the data that is obtained by the

1 operator is not the data that people would see if they went
2 to our website and looked up production data; is that
3 right?

4 A. I think you might be referring to the format we
5 get it in.

6 Q. Right.

7 A. Yes, operators use many different ways to get
8 their data into the format that we read. They can use an
9 Excel spreadsheet that we provide, or they can use their
10 own accounting systems, and we publish the layout we
11 expect. So that layout is a conglomeration of numbers all
12 together, and then the programs create that conglomeration
13 of numbers and also parse it back out into production.

14 Q. And if we were to look at that conglomeration of
15 numbers, you'd probably be the only person in the room who
16 would be able to read that and understand that; is that
17 correct?

18 A. I -- yes. Not "able to" because we publish a
19 layout, you can map it, it's pretty easy to map from the
20 layout. But as far as having memorized the layout, yeah.

21 Q. Okay. So that data that comes from the operator
22 to OCD in that format is then used to generate various
23 reports; is that right? --

24 A. Yes.

25 Q. -- that show up on the OCD website and on

1 GO-TECH's website, but the information those sites are
2 using is all the information provided or issued by the
3 operator?

4 A. Yes.

5 Q. Okay. There were two reports that you may be
6 able to help us on, and then the Examiners may have other
7 questions for you. One was the list showing whether
8 amendments had been filed by Pronghorn. Was that list
9 something that you generated specifically for this case?

10 A. Yes.

11 Q. And what were you trying to show by this list?

12 A. You had asked me about all C-115s filed by
13 Pronghorn, and I just ran a list against one table that
14 every time an operator submits a new C-115, whether it's
15 for the first time or 40 times after it for the same month,
16 we keep that data. So that was a summary of, yes, the
17 July, 2007, C-115 came in on this day, and it was the first
18 time it had been reported. The August one came on this
19 day, then there was a second August one that came in three
20 weeks later or whatever. So it tracks that summary
21 information to let us know all the different times that
22 C-115s have been filed.

23 Q. And what was your conclusion as to whether
24 Pronghorn had filed amendments on -- in year 2007?

25 A. They had not, and -- but for August there was

1 one. That's all I remember. I don't -- I'm not looking at
2 the exhibit. But August, 2007, there was one.

3 Q. Okay. Now another way we could have done this
4 would have been to pull up all the production reports filed
5 for the months of issue and compare them to what we had
6 pulled back when we originally did that case and see if
7 there had been any changes, right?

8 A. Yes.

9 Q. But that would have been rather bulky?

10 A. Yes.

11 Q. So this was a condensed way to find out if any
12 amendments had been filed --

13 A. Uh-huh.

14 Q. -- without having to tediously go through and
15 compare month by month to make sure they were the same.

16 Out of curiosity, do you recall any contact from
17 Pronghorn on how to file amendments?

18 A. No. I don't always know what company someone
19 works for when I help them on the phone, but I don't recall
20 it, and...

21 Q. The amendments at issue here would have been for
22 some 72 months. How would amendments for a 72-month period
23 be handled? Would they have to file an amendment for each
24 month, or how did it work?

25 A. Yes, they would just replace their files. So for

1 example, if they used the spreadsheet that we provide, it's
2 just a matter of going in to change one well and change the
3 disposition for that well, and then recreate that funny
4 file you were talking about.

5 We have a utility -- everyone -- we distribute a
6 utility that creates that glob of numbers, and then they
7 would resubmit it on the electronic application. So it's
8 very easy, but that's how it's done, you just change the
9 one that's affected, but you re-send all of the wells to
10 us.

11 Q. And again, you have -- nothing that you have seen
12 regarding Pronghorn indicates that amendments were filed
13 for a 72-month period?

14 A. No.

15 Q. The other report that people here may not have
16 seen before is that Exhibit Number 18, the very last one in
17 the packet, the Detailed Balancing Report.

18 A. Uh-huh.

19 Q. And we were using that to determine whether
20 Pronghorn had reported transportation of any product.
21 Could you explain to us how this document will help us
22 figure that out?

23 A. All right, this we call our summary balancing --
24 our detailed balancing report, because the intention is to
25 show by pool and property whether the gas produced matches

1 the gas dispositioned, and whether the disposition --
2 meaning transported, lost vapors, stolen, oil stolen,
3 whatever -- and same with oil, produced, the beginning of
4 the month storage, the end of the month storage and what
5 was transported. So the main intention of the report was
6 to show a variance between what was produced and what was
7 dispositioned

8 And in the column called Gas Transported, as you
9 have said, if there's a value there, you'll find to the
10 left who the operator reported transported the product and
11 from what meter it was measured or from what tank it was
12 taken.

13 So on the ones that were highlighted as having
14 had gas transported, you can see -- like -- I just went to
15 page 3 of the first month, and if you look at the Gila 4
16 Deep well in the Johnson Ranch-Wolfcamp, 1798 M's of gas --
17 MCF of gas were produced from that well, and the same exact
18 amount were transported. And you see that they were
19 transported by OGRID 7414, which is Enron.

20 So that's how we use the report. It's just a
21 one-time capture of what the C-115 looked like. Just for
22 oil and gas, not water.

23 Q. And the fact that the gas was transported is
24 something that the operator tells you in the C-115?

25 A. Absolutely, yes.

1 MS. MacQUESTEN: I have no other questions.

2 EXAMINER JONES: Mr. Padilla, do you have
3 questions for her?

4 CROSS-EXAMINATION

5 BY MR. PADILLA:

6 Q. You mentioned something about a funny report.

7 A. Did you say funny?

8 Q. A funny report.

9 A. Okay, yes, yes.

10 Q. Is that -- I didn't understand what you meant by
11 that.

12 A. All right, the -- Any operator creates a C-115 in
13 whatever way they want. If they have an accounting system,
14 that creates their C-115, and we don't make them turn
15 around and write it down on a piece of paper and give it to
16 us. They generate a file of data.

17 And then the data has to be in one format for the
18 OCD to accept it, for any organization to accept it. So
19 the data is simply moved from -- if you look at a C-115 on
20 your screen, it would say 10 MCF transported under this
21 well. The computer is going to take out the spaces and put
22 in the well number -- well, the API number, the pool
23 number, the property number, the transporter number that
24 the operator entered.

25 So all the numbers are the numbers that the

1 operator entered, but they're put into a certain file of a
2 standard format so that programs can read them. There's no
3 funny numbers in them. What it means is, they're glommed
4 together. It's not -- it's readable by the human eye,
5 because it just is a collection of numbers.

6 Q. Okay. You said you did a summary or a summary
7 review for -- to see whether any amendments had been filed.
8 How did you go about making that summary review?

9 A. Whenever a C-115 is submitted to the OCD,
10 something goes in to one of our tables of information, and
11 I queried that.

12 Q. But you didn't check every month?

13 A. Yes, I pulled everything that Pronghorn had ever
14 submitted.

15 Q. And what you view would have shown some
16 amendment?

17 A. Yes, if there had been any. There was one for
18 August of 2007.

19 MR. PADILLA: All right, that's all I have.

20 EXAMINATION

21 BY EXAMINER JONES:

22 Q. Okay, I think you -- this is a nice report. The
23 sales always match the production on this report?

24 A. Well, not necessarily sales. If it says
25 Transported, that was sales, but there's another column for

1 Other, and that would be where the vapor or the venting,
2 the flaring --

3 Q. -- gas?

4 A. Yes, would be in the gas area, and then oil, the
5 lost, stolen, sedimentation. So the two together would add
6 up. We allow them to be off by one for rounding.

7 Q. Okay. So is this an ONGARD --

8 A. No, it's generated on our server at EMNRD, and
9 it's available on the web.

10 Q. Okay. But the Tax and Rev people, do they have
11 access to this, or do they get reported directly from the
12 producer to them, or do they take numbers reported to OCD
13 and see if they -- if they taxed based on production or if
14 they taxed based on sales or whatever --

15 A. All of the above.

16 Q. All of the above?

17 A. Yes. Every night we send our data to ONGARD, so
18 Tax and Rev and the Land Office do their own calculations
19 on it, but they actually wrote their reports like this
20 after we have them, so they also use our reports on the
21 web, they create their own reports that are similar. Well
22 operators report data to Tax and Rev, for example, and to
23 the Land Office, and Tax and Rev has programs written to
24 compare. So they are always looking for what was reported
25 to the OCD as transported and what was reported to Taxation

1 and Revenue, and if they don't match they become audit
2 candidates.

3 Q. Okay.

4 A. So the user data for a second measure.

5 Q. Okay. So if there was some operator who kept
6 reporting -- kept -- when operators fill out a computer
7 program or spreadsheet or something to report data, can
8 they easily report the same data from month to month
9 without -- In other words, how easy is this system to -- In
10 this case we have testimony that data was reported
11 incorrectly, when the wells weren't even producing, so
12 obviously they might have got taxed on that too.

13 But is it a case where the -- I forgot what I
14 was trying to say here, but I think it was the -- Is it
15 real easy to do that? In other words, is this the only
16 case ever that you've seen operators that might have
17 fabricated data, and is it easy to do computerwise, or does
18 it take some kind of deliberate, intentional act to do?

19 A. Well, I don't know. You know, we don't have any
20 way of checking, for my job. We take the data we receive.

21 But things like -- in the beginning operators
22 would accidentally add an extra zero or something, and our
23 numbers would -- you know, I'd be getting calls from all
24 over the country saying, Boy, you're producing a lot, you
25 know.

1 But in the last five years we've had this system
2 that automatically balances. So if they were to make a
3 mistake and enter an extra zero in the production, they'd
4 have to make the same mistake on the disposition side. So
5 that's totally reduced any type of keying mistakes that we
6 used to have, our requirement to have them be in balance.

7 So -- But if they intentionally wanted to deceive
8 -- they're -- again, they're required to indicate what
9 happened to the product they produced. And if that were a
10 sold product, it would come around on the Taxation and
11 Revenue side where they would say, no, the transporter is
12 reporting they picked up five times as much or five times
13 as little, and they would catch those variances, and they
14 do catch those variances, so...

15 And then the last one about making just a --
16 maybe accidentally repeating one report to the next, that
17 could happen, but the oper- -- we put our data on the web
18 with the responsibility of the operator to make sure that
19 that's what they reported. And they and everyone else, all
20 their stakeholders, would look at that data. And if you
21 saw two months the same, people see that, and we see it and
22 others do, and fix it.

23 So I don't think it happens -- it may happen, but
24 then people amend and fix it.

25 EXAMINER JONES: Okay. Okay, that's all the

1 questions I have, so...

2 Do you have any questions?

3 EXAMINER BROOKS: Nothing.

4 EXAMINER JONES: Thank you very much.

5 MS. MacQUESTEN: That concludes the OCD's case.

6 EXAMINER JONES: Okay, we'll probably break at

7 12:00?

8 EXAMINER BROOKS: 12:00, yeah, about 12:00.

9 EXAMINER JONES: Do you want to go ahead and --

10 EXAMINER BROOKS: I'd say about 10 till 12:00,
11 that will give us 25 minutes.

12 EXAMINER JONES: 25 minutes or so, to -- before
13 lunch, at least. Okay.

14 MR. PADILLA: We can put on our case.

15 EXAMINER JONES: Okay.

16 MR. PADILLA: We'll call Mr. Baber at this time.

17 GUY A. BABER, III,

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

20 DIRECT EXAMINATION

21 BY MR. PADILLA:

22 Q. Mr. Baber, please state your full name, please.

23 A. My name is Guy Allen Baber, III.

24 Q. Mr. Baber, what is your connection with Pronghorn
25 Management Corporation?

1 A. I'm president of Pronghorn Management
2 Corporation.

3 Q. Mr. Baber, you've been in trouble with the OCD
4 for quite a while, haven't you?

5 A. I guess you could say that.

6 Q. Okay. Tell us generally where you have been in
7 relation to your regulatory requirements and your oil and
8 gas operations, say in the last two years.

9 A. Well, it's been an ongoing situation. I've had,
10 obviously, some problems, financial situations being the
11 main one, and been trying to move forward and be positive
12 about everything. I have made some progress the last few
13 months, I have been able to bring an investor -- investment
14 group, in, and prepared to do some work on our leases.

15 Q. When did that happen?

16 A. We started working around -- seems like around
17 the first part of October. But it's been -- I've been, you
18 know, attempting to raise money or find an investment group
19 or a partner for several months now, end of years, and at
20 times I thought I might have had something together, and
21 every time it seemed to fall through and not work out.

22 Q. Give us a type of -- OCD had an Exhibit 4, which
23 is highlighted with the multi-colors on it. What kind of
24 wells generally are those that are in that exhibit? Are
25 they old wells, new wells? What kind of wells are they?

1 A. Most of them are old wells. They're shallow
2 wells, all except the Gila 4 that we mentioned, from the
3 Delaware, Ramsey Sand, Bell Canyon zone, which is about
4 5200 feet, up to the Jalmat, Yates zone, which is around
5 2200, 2300 feet.

6 Q. In terms of fresh water, are there any wells that
7 you know of that have encountered fresh water in the area
8 of the wells?

9 A. There are not. The wells we have are -- surface
10 is set through the freshwater and cemented, and the
11 production string.

12 Q. Now, in August of 2007, we had a meeting with the
13 OCD in the midst of applying for *de novo* hearings on some
14 of the cases that have been filed against you. What was
15 your consensus of the meeting, as far as what you were
16 trying to do and achieve with the OCD?

17 A. What I was trying to -- is get within -- maybe
18 not total compliance, but with a -- you know, make some
19 major steps in compliance and try to -- these wells on this
20 list, all the wells, either return them to production or
21 injection, as the case may be.

22 Q. Why is injection -- why are the injection wells
23 relevant?

24 A. Well, just take for instance, oh my, New Mexico
25 State DL and EF lease, and the well that we talked about I

1 put on, the DL Number 4.

2 In addition to that, we have the New Mexico State
3 EF Number 3 that we did some work on also for -- it's an
4 SWD injection well that we've -- we returned it back to
5 injection status and did the necessary work to bring it
6 back, mechanical integrity test and so forth.

7 But the reason I need -- the injection well is
8 important is, with this we don't have to haul our water
9 off, which water hauling in today's market is costing you
10 about \$3 a barrel to haul off. We have this injection well
11 that we can -- that's been approved for the lease -- for
12 lease water to go -- inject into it.

13 The -- well, of course, the DL Number 4 only was
14 doing -- it was making about -- oh, somewhere about 11 to
15 15 barrels of oil initially, but it's down to -- now, the
16 last few weeks, it's been doing about 5 1/2 barrels and
17 105, 108 barrels of water. So you can see with that type
18 of ratio what -- how important it is for us to have an
19 injection well to go to with our water.

20 Q. Now you've prepared an exhibit, Exhibit 1, for
21 introduction at this hearing. Tell us what that is.

22 A. Well, what I tried to do is, I went down the list
23 that we had, working off the list we've been talking about,
24 and tried to give a -- a projected expenditure of what we
25 feel like it would take for us to bring the well back into

1 production or back into -- return to injection, whatever
2 the status may be.

3 And then --

4 Q. Let's start off at the top, with the Atlantic
5 State Number 1. You have \$7500. Is that an actual or
6 projected expense?

7 A. That's projected. Basically, everything's in
8 place on this well with the pumping unit, the tubing, the
9 rods and the pump. Apparently there's something wrong
10 downhole with either the pump or the tubing. That may have
11 a hole in it, something of that nature, that we feel like we
12 can get this well back in production for this projected
13 amount of money.

14 Q. Take us across. You have the API number, the
15 well name, the projected expense, rig days, then you have a
16 number, IQ -- 1Q.

17 A. What I was trying to do was come up with a
18 reasonable time frame and a realistic time frame that I
19 feel like, with -- certainly with approval, that we could
20 get these wells back in compliance.

21 Of course, 1Q 08 means first quarter '08, 2Q 08
22 second quarter '08, 3Q 08 third quarter '08. What I tried
23 to do is -- my focus right now would be on the DL lease and
24 the EF lease and the Marshall leases where we could go
25 and --

1 (Off the record)

2 Q. (By Mr. Padilla) Let me ask you, we're talking
3 about the first line, how you were explaining the projected
4 expenditure, \$7500. Let me ask you, how did you arrive at
5 that projected expenditure?

6 A. Just estimated what I thought it would cost us
7 with rig time, rental tools, and any additional contracted
8 work we might -- might be necessary, connections,
9 miscellaneous connections, possibly pressure testing, that
10 type of situation, keel truck, transport.

11 Came up with -- basically just an authority for
12 expenditure, an AFE, and --

13 Q. Well, let's talk about that.

14 A. -- that's about what the number is.

15 Q. There's been a lot said here that you've made a
16 lot of promises and you haven't complied with them. How
17 can you assure the Division that \$7500 is not pie in the
18 sky or some other type of figure that you're pulling out of
19 the -- somewhere?

20 A. Well, just from experience and -- I don't know if
21 I've made a bunch of promises, but I've been told what was
22 represented to me and things haven't worked out like I
23 would hoped they would, certainly not. I mean, I've been
24 having to live with this thing every day too, and it's been
25 difficult at times.

1 But I believe I have some money put together, as
2 shown, getting tack to DL lease, you're asking me about --

3 Q. Is that on the second page?

4 A. Yes, sir.

5 Q. Okay. Okay, go ahead and tell us about DL lease.

6 A. The DL 4, we have projected it would take us
7 about \$36,500 to put it back together and back on, which to
8 date we've spent right at the \$35,000 number, and the well
9 is producing and has been producing.

10 We did do pressure testing on our casing above
11 the perfs and below the perfs to make sure the mechanical
12 integrity is okay. We're doing a base test on the
13 production now, and maybe down the road we might be looking
14 at a frac job, and that's one of the reasons we wanted to
15 know if the, you know, casing is in good shape.

16 Again, continuing work on the -- we've done some
17 work on the EF Number 3, which is a saltwater
18 disposal/injection well. We had to -- we spent -- our
19 packer -- we did a pressure test in the backside. The
20 casing didn't -- the backside didn't hold, so we suspected
21 a packer leak and a hole in the tubing, and that's what we
22 found.

23 And we did our pressure testing, and the well --
24 we got it back on and everything back in the hole, and we
25 passed the mechanical integrity test.

1 And hopefully in the next couple of weeks -- I've
2 set pumping units on the DL Number 3, the DL Number 5, and
3 also on the EF Number 1, and we will be putting those wells
4 back on production.

5 Q. How soon are they going to be back on production?

6 A. I've been -- they should be back on production in
7 the next couple weeks. I've got -- I have electricity now
8 to these wells. I've been back and forth to electricians
9 and, you know, getting electricity, motors installed and
10 transformers and so forth, for about three weeks now.

11 But as you can see, for the overall DL lease and
12 EF lease I've -- we spent right at \$300,000. If you add --

13 Q. You have --

14 A. -- all that up, it comes right close to
15 \$300,000.

16 Q. You have a figure down here, actual expenditures
17 of \$298,400. Is that --

18 A. Okay, that's rounded off, that's probably --
19 yeah, that's -- yes, that's --

20 Q. Okay, where are you going next? Where's your
21 next focus?

22 A. Well, of course our focus is to get the -- as I
23 mentioned, the DL 3, the DL 5 and the EF Number 1 on
24 production.

25 And then we will move up to the New Mexico State

1 DL Number 1, and we think there's some lower Delaware that
2 we're interested in testing and evaluating that situation,
3 that wellbore. It's -- this -- the DL Number 1 is the only
4 wellbore out there in this area or on our lease that
5 penetrated the lower Delaware. It's cased to 9000 feet,
6 and the rest of these DL and EF wells are cased basically
7 around 5200 feet. So we're going to attempt a recompletion
8 in the lower Delaware wells.

9 Q. You have that slated for the second quarter of
10 2008?

11 A. That's -- that's correct.

12 What I was trying to do is where our focus would
13 be, and of course always where we could go for cash flow to
14 help us out, to help us to pay for these -- some of these
15 projects. And, you know, some of these we may move to, you
16 know, third quarter that were scheduled for second quarter,
17 or some of them, you know, may be -- that we had in the
18 fourth quarter, that we may try to get on in the second
19 quarter. I was just trying to get an overall view of what
20 we would try to do.

21 Q. I asked you earlier about the projected
22 expenditure. How did you arrive at those, and what
23 assurance can you give the Division that you have the money
24 to do this?

25 A. Well, I don't -- all the assurance I have is, I

1 have spent \$300,000, and the investment group has committed
2 to over a million, or right at a million dollars right now,
3 and we've signed a letter agreement and have -- and they're
4 ready to proceed --

5 Q. How --

6 A. -- as well as we are.

7 Q. Okay, let me ask you now, how do they -- how do
8 they fund a particular project?

9 A. What we do on our end is, we talk about what a
10 particular project would be. I submit an AFE, which is
11 broken down on your contract and expenses with your --
12 whatever you're going to have to spend out on a well, your
13 pulling unit time, rental tools, water, you know, whatever
14 the situation might be, whatever -- you know, possibly acid
15 work, stimulation for cleaning the wellbore and then
16 putting the well back on production.

17 Q. How did you arrive at the AFE numbers?

18 A. Just knowing what the costs are --

19 Q. Yeah, I unders- --

20 A. -- in today's market.

21 Q. I understand that. But I mean, how did you
22 assess what you had to do, say, for the Atlantic State
23 Number 1 well to spend \$7500?

24 A. Just knowing the history of the well and knowing
25 the depth of the well and knowing what's in the wellbore

1 itself, tubing and rods, and knowing I'm not going to have
2 to purchase tubing and rods, I've got the tubing and rods
3 in the well, and knowing the pumping unit is all set.

4 Q. How did you know you had a hole in the tubing?

5 A. We -- I said we suspect a hole in the tubing,
6 just the way the thing -- it won't pressure-test, and
7 that's what we suspect, the way the pressure test acted.
8 It'll pressure up a little bit, but then it'll bleed right
9 back off. It'll hold, but it won't hold, and then it'll
10 bleed -- slowly bleed back off.

11 Q. But you've done this assessment on the well
12 itself already?

13 A. That's correct.

14 Q. All right. So let's take the next well, the
15 Fields Number 4. You have that slated for the second
16 quarter. Let me ask you, how did you evaluate that well to
17 do work on it, on the second quarter of '08?

18 A. We felt like this well had a chance of being
19 productive, and it has -- we'd have to install a pumping
20 unit on it, but besides that everything else is in place,
21 tubing and rods and pump. We'll probably have to,
22 obviously, change the rod and pump in it -- rods and pump,
23 or the pump, but with a pumping unit I believe we can bring
24 it back into production.

25 Q. What other wells are you projecting the first

1 quarter of '08?

2 A. Well, we had the Atlantic State, New Mexico State
3 DL 3. DL 4 is -- we put it in fourth quarter, '07. DL 5,
4 and then of course the EF Number 3 and the EF Number 1
5 would be first quarter.

6 And then we have another shallow well over in
7 Eddy County also, the Sivley State Number 1, that we feel
8 like we can put on production fairly economical in the
9 first quarter of '08.

10 Q. What do you have to do to that well?

11 A. That would be -- we'd have to install a pumping
12 unit there, and we bought a string of tubing that we would
13 need, and we'll have some additional rods, and we'll have
14 to buy a rod pump.

15 Q. Is that expenditure included in the \$300,000?

16 A. No, it is not. We've had that, basically -- our
17 tubing, we've had it in our inventory, that we haven't been
18 using.

19 Q. Can you tell the Examiner what kind of
20 engineering and geologic evaluations you have made on these
21 wells?

22 A. The big -- where I had my major engineering
23 evaluation done in a geologic study was on that Cruz-
24 Delaware area, which takes into play the DL and EF leases
25 on the state side, and then the Marshall Fields lease on

1 the federal side. I had to put something together from an
2 engineering standpoint and a geological standpoint to have
3 a professional and a -- and a -- reserve figures put
4 together and -- to present to investors or an investment
5 group, to show them that -- not only what we suspected
6 might be the situation out on these leases in this zone,
7 that it's backed up with engineering and geology reporting.

8 Q. How much did you spend on that geologic and
9 engineering study?

10 A. Oh, the number is probably going to be --
11 probably \$4000 or \$5000, but -- It would probably have been
12 more than that, but the engineer I had working with me is
13 interested in possibly taking an interest or -- a working
14 interest or maybe even an override, some type of interest
15 in the project itself. And that's the case of the
16 geologist also.

17 Q. I notice that the Marshall wells are slated to --
18 for work on the second quarter.

19 A. Yes, sir.

20 Q. How sure are you of doing that work?

21 A. Well, I feel pretty confident with what we've
22 established already on the -- I'll probably know more about
23 it -- well, I say that, that's not right. The investment
24 group is committed to this work, and they feel good about
25 the project just with the little work we've done already

1 and some of the results we've seen, so I feel fairly
2 confident we can get it done.

3 As you can see, the big capital expenditure on
4 getting these wells back going is purchasing pumping units.

5 Q. How difficult is it to get pumping units today?

6 A. It's -- the pumping units are -- there's -- it's
7 not a problem, you've probably got maybe a week to 10 days
8 delay time. The pumping units themselves are not a
9 problem, the problem is scheduling setting the pumping
10 units with the contracting people, having trucks available.

11 Q. What's your experience been to date with regard
12 to contract work?

13 A. About a two- to three-week lag time, from when
14 you -- when you want -- when you -- when you like to have
15 them -- when you're ready to move the pumping unit out
16 there and get it set to when they could fit it into your
17 schedule. It's been running about two weeks, maybe two and
18 a half weeks.

19 Q. How many people are employed by you?

20 A. Nobody, zero.

21 Q. How many employees do you have?

22 A. I don't have any employees.

23 Q. You're Pronghorn?

24 A. I'm Pronghorn.

25 Q. So you need to get contractors; is that --

1 A. That's correct.

2 Q. How -- I can't emphasize the answers strongly
3 enough, these assurance questions I'm asking you about,
4 your commitment or your investors' commitment to assure the
5 Division that this work is going to occur. Can you comment
6 on that?

7 A. It just -- with what I think I've done already,
8 with the almost \$300,000. And just like I believe Mr.
9 Sanchez said, in today's market, you know, there's an
10 opportunity, which I've finally been able to put some
11 investment money together to go out and do this type of
12 work.

13 I mean, now's the time -- good faith on my part
14 -- I've been fighting it every day. I know, obviously, it
15 doesn't look like, but I've been fighting it every day, and
16 there's been some confusion on where we were and so forth.

17 But anyway, I mean, it's -- even this is an
18 aggressive plan, but I think we can, you know, put it
19 together and get the majority of this work done.

20 Q. All right. Let me ask you about your thoughts
21 and comments on the Division's case in terms of shutting
22 you down completely.

23 EXAMINER JONES: Mr. Padilla, I hate to
24 interrupt, but is that a place we could break for lunch?

25 MR. PADILLA: Sure.

1 EXAMINER BROOKS: Okay, thank you.

2 EXAMINER JONES: Come back at around 1:15.

3 MR. PADILLA: All right.

4 THE WITNESS: Thank you.

5 (Thereupon, noon recess was taken at 11:52 a.m.)

6 (The following proceedings had at 1:18 p.m.)

7 EXAMINER JONES: Okay, let's go back on the
8 record and continue the testimony of Mr. Baber.

9 Q. (By Mr. Padilla) Okay, Mr. Baber, before the
10 lunch break I believe I had asked you whether you had heard
11 the presentation of the Division's case here today, and I
12 asked you what your -- whether you had a comment about --
13 or reaction to the case and the Division's requests.

14 A. Well, certainly it's very -- confusing, I guess,
15 would be one word. And I mean, like I've stated before, I
16 know this has been a long time in coming, or in the
17 process, but I feel like I finally can make some progress
18 and am ready to do so, ready to move forward positively and
19 get some of this work done.

20 Like was stated earlier, market conditions have
21 changed, and it's freed up some investment money, and I
22 believe I can move forward and get these -- some of these
23 situations corrected, and I don't see any need for the --
24 right now for the plug and abandonment when we can possibly
25 return several of these to -- in compliance and production

1 and generate the royalties for the State and move forward
2 in that manner.

3 Q. Mr. Baber, on Exhibit 1, your Exhibit 1, the last
4 two wells on that exhibit, on page 2, what is the status of
5 those? One of them says that for the State HL Number 1
6 that the lease has expired. What's the condition of --

7 A. That lease has expired, and -- I don't know, it
8 was put up for -- as a sealed bid in December, and I
9 haven't seen the results of that and don't know who bought
10 the lease or who put it up for sealed bid. But the
11 wellbore is still there, and I will talk to the new lease
12 owner and try to work something out with them on that.

13 And then the State M, there's a question whether
14 -- I don't believe I own that, I believe it's -- that's
15 Aspen Oil Company's well and lease. I don't believe it's
16 mine.

17 Q. Have you done any investigation as to whether
18 you're the actual operator of the well?

19 A. Again, it looks like to me, from my paperwork,
20 that it was transferred to Aspen Oil Company.

21 Q. Have you done any work on that recently?

22 A. I have not.

23 Q. If you are the operator -- Well, how soon can you
24 find out whether you are the actual operator or not?

25 A. I can find out in the next few days. I certainly

1 ought to know something by next week.

2 Q. Okay. Mr. Baber, did you prepare Exhibit Number
3 1?

4 A. Yes.

5 Q. Do you have anything further to -- Well, let me
6 ask you this. Would plugging and abandoning these wells as
7 required -- as requested by the OCD, in your opinion, cause
8 waste?

9 A. It looks like to me at this point in time it
10 would be unnecessarily -- unnecessary. Obviously to plug
11 and abandon them is quite expensive, and I'm here offering
12 to do some work and to -- to be able to go back to go back
13 to work and, you know, use my money towards trying to
14 establish production and cash flow and being able to work
15 with the leases from there.

16 Q. Where are you with regard to -- to the penalty
17 assessment of \$72,000 that has been made against you?

18 A. Well, I mean, I don't have the money and, you
19 know, the investment group is not going to pay that kind of
20 money, you know. They'll put money into an opportunity to
21 rework the wells and so forth, but -- I mean, if I'd of had
22 the money, I wouldn't be in this situation where I am now.

23 Q. Mr. Baber, do you have an opinion as to whether
24 any of the wells listed on Exhibit Number 1 is a threat to
25 the environment or human welfare?

1 A. I don't think so, no.

2 MR. PADILLA: I'll pass the witness. Ask the
3 introduction of Exhibit Number 1 first.

4 EXAMINER JONES: Any objection?

5 MS. MacQUESTEN: No objection.

6 EXAMINER JONES: Okay, Exhibit Number 1 will be
7 admitted.

8 Go ahead, Ms. MacQuesten.

9 MS. MacQUESTEN: Mr. Examiner, I'd like to ask
10 Mr. Baber some questions using the OCD's exhibits. May I
11 approach the witness and give him a copy of the exhibits?

12 EXAMINER JONES: (Nods)

13 THE WITNESS: Thank you.

14 CROSS-EXAMINATION

15 BY MS. MacQUESTEN:

16 Q. Mr. Baber, how did you become aware of the
17 hearings today?

18 A. I think the first I heard of it was a friend of
19 mine in Artesia called me up and said we were in the legal
20 notices in the Artesia paper on a Sunday morning.

21 And then of course I'm sure I -- Ernie and I have
22 been talking, so...

23 Q. Okay. Is the address we've been using to contact
24 Pronghorn correct? P.O. Box 1772, Hobbs, New Mexico,
25 88241?

1 A. Yes, ma'am.

2 Q. And that's the address of record with the PRC for
3 the corporation also?

4 A. I'd just have to check on that. I don't know if
5 it is or not.

6 Q. But it is the right address for us to use?

7 A. Yes, ma'am.

8 Q. Could you explain why the notice of the hearing
9 that was sent to that address was returned from the post
10 office unclaimed after three attempts to deliver?

11 A. I don't know.

12 Q. Are you checking your mailbox?

13 A. Apparently we didn't. I've been gone a few days,
14 and I mean, I don't know -- Apparently I didn't get
15 notified on some of these other items also.

16 Q. Okay. Well, if you look at Exhibit Number 3,
17 there's a copy of that envelope, and it shows attempts to
18 deliver on December 10th, December 19th and December 25th,
19 and it was returned to us unclaimed. Had you not checked
20 your box during that time period?

21 A. I'm sure I have checked it during that time
22 period. I don't know why --

23 Q. What is the --

24 A. -- I don't have that --

25 Q. -- best place for us to get in touch with you

1 then?

2 A. Well, phone numbers and -- this is -- this is as
3 good as any.

4 Q. Okay. Let's talk first about Case 13,859, the
5 false-reporting case that is the subject of the motion for
6 the order to show cause.

7 If you could turn to Exhibit Number 6, the copy
8 of the order that was issued in that case --

9 A. Okay.

10 Q. -- now you didn't testify in that hearing, did
11 you, Mr. Baber?

12 A. I don't believe so.

13 Q. Were you even present at the hearing?

14 A. No, ma'am.

15 Q. But you were represented by counsel who appeared
16 at the hearing; is that correct?

17 A. Yes, ma'am.

18 Q. Have you read the order that was issued?

19 A. Yes, ma'am.

20 Q. Now you understand that in that case the OCD
21 found that you had knowingly and willingly filed false
22 reports of production on some of the 11 wells over a period
23 of some years; do you understand that?

24 A. I understand it now.

25 Q. Well, at what point did you understand that?

1 A. Probably back in August, our meeting in August.

2 Q. Before our meeting in August you had not read the
3 order?

4 A. Ma'am, I don't know when I read the order and
5 when I haven't read the order.

6 Q. Okay. If you could take out Exhibit Number 4,
7 our list of wells with the color-coding, and if you could
8 look at the blue wells, those are the wells that are the
9 subject of the false-reporting case.

10 If you'd look at, for example, the J.F. Black
11 properties, there are a number of wells but there's only
12 well with the false reporting, one well coded in blue. And
13 in the Marshall Properties, again just one well coded in
14 blue.

15 A. (Nods)

16 Q. A couple of wells coded in blue for the New
17 Mexico BZ State, two on the DL State, one on the EF State.

18 The other wells for those properties were not
19 reporting any production; is that correct, Mr. Baber?

20 A. Yes, ma'am.

21 Q. So really, those properties had no production at
22 all; isn't that right?

23 A. I believe the BZ had production and the DL had
24 production.

25 Q. Well, let me put it this way. The Hearing

1 Examiner found that the reports were false for periods of
2 time on those wells; isn't that right?

3 A. I think that's correct.

4 Q. Mr. Baber, isn't it true you were filing false
5 reports of production on one or two wells for each property
6 so that you could keep the lease alive on those properties?

7 A. No, ma'am, that's not correct.

8 Q. So you're saying that you were filing reports of
9 one barrel of oil per well, and that's what that well was
10 producing?

11 A. I don't know what I'm saying at this point in
12 time. I don't really understand the --

13 Q. Well, why were you filing production reports --

14 A. -- line of questioning.

15 A. Why were you filing production reports on those
16 wells?

17 A. Because that's what you're supposed to --
18 supposed to file production reports monthly.

19 Q. But you were filing reports showing production on
20 wells that the examiners found were incapable of producing.

21 A. Well, that's what I'm trying to say, I think
22 they're capable of producing, and we're here to correct
23 this situation and make the amendments and move forward.

24 Q. But at the time you were filing reports of
25 production when they were not, in fact, producing?

1 A. Apparently so.

2 Q. Were you paying taxes on those -- on that
3 production that you were reporting?

4 A. We hadn't sold anything, so I don't imagine we
5 paid taxes at that point in time. We pay taxes when we
6 sell the -- sell the oil or sell the gas --

7 Q. Well, the time --

8 A. -- I believe.

9 Q. -- period on one of those wells spans six years
10 of false reporting, so you weren't selling any of that oil
11 that you -- I mean, if you're reporting production and --
12 you're telling me that you falsely report production, but
13 you're not selling it -- you're not telling the Tax
14 Department that any of this is being sold, it was just
15 supposedly sitting on the lease? I'm trying to understand
16 what the story is.

17 A. I don't guess I understand, really, what your
18 question is.

19 Q. Okay, I just want to make clear. You're
20 reporting production that isn't there, you're saying you
21 don't have to pay taxes on it because it wasn't actually
22 sold, which is true, oil that's not sold doesn't have to --
23 isn't subject to tax.

24 What was the royalty situation? Were you paying
25 royalties or not?

1 A. If we hadn't sold anything, I wouldn't think we'd
2 pay royalties.

3 Q. Okay, so the only thing that you were doing was
4 reporting to us production that wasn't there.

5 A. The reports were filed, yes.

6 Q. Okay. Now once the order came out and once we
7 had the meeting about trying to bring you into compliance,
8 did you take any action to correct the false reports?

9 A. Yes, ma'am, I've tried to take some correction
10 action and haven't been successful in finding someone that
11 understands what we're trying to do. And my focus in the
12 last few months has been with putting my deal together on
13 my investment money and getting some work done there, and
14 now at this point in time I've visited with the oil and gas
15 report people there in Hobbs, New Mexico, and I think we
16 can -- she's not familiar with what we're trying to do, but
17 I think we can -- if I -- if I need to bring them up here
18 and meet with somebody and get these reports amended,
19 that's what we'll do.

20 I did talk to Jane one time right after our
21 meeting, and she was very helpful and said, you know, go
22 through the computer, go through this and that, and we --
23 we talked about, or I talked about that, you know, it looks
24 like -- bulky and a lot of material.

25 And I asked her, you know, could I make the

1 changes with one report?

2 And she said, No, we'd rather not. But she said
3 it would be easy -- something to do with -- you could do --
4 key in a couple of items where you might be able to change
5 30 months at a time or 30 items at a time. I didn't really
6 understand what she was talking about.

7 But I have found the oil and gas reporting that
8 will help me out in this situation.

9 Q. Is that how you filed reports, through a
10 reporting service?

11 A. We have not been, but we are going to start.

12 Q. Okay, so you used to file your own reports?

13 A. We filed -- I had some other people filing
14 reports for me.

15 Q. And now you're using a professional reporting
16 service?

17 A. That's -- yes, ma'am.

18 Q. And the professional reporting service doesn't
19 know how to file an amended report?

20 A. Now, I don't know if the whole service knows it
21 or -- this individual that I talked to said she hadn't done
22 it before.

23 Q. When did you talk to them?

24 A. Well, right after our meeting in August, in
25 October or so.

1 Q. Okay, now the deadline in the order was July 30th
2 to get those corrected reports in. Did you take any action
3 before July 30th?

4 A. I don't remember if I did or not.

5 Q. When can we expect to have corrected reports?

6 A. I would say with some of the knowledge I found
7 out today, I bet we could get it done in two or three
8 weeks. I'll get on it and get it done. Now like I say,
9 I'll get on it. If I've got to bring somebody from oil and
10 gas reports or, you know, contract somebody here, I'll
11 certainly be glad to do it.

12 Q. Now you have -- you testified you have investors
13 who are willing to put approximately a million dollars into
14 your properties to bring them into production?

15 A. Yes, ma'am.

16 Q. Did you tell those investors that the reports
17 that were on file with the OCD were incorrect?

18 A. I haven't. No, ma'am, I haven't.

19 Q. Did you tell them anything about the status of
20 your wells?

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

22 Q. Did you tell them anything about your compliance
23 issues?

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

25 Q. What did you share with them?

1 A. I told them that I need to get some work done,
2 and that's why I'm -- I told them I needed to get some work
3 done and get the wells in compliance.

4 Q. But you didn't talk to them about the false
5 reporting?

6 A. I don't think so.

7 Q. And if someone who was interested in investing in
8 your properties and went to the OCD reports, they would
9 have been under the impression that there were some
10 producing wells on those properties?

11 A. The production that was reported is on the scale
12 of what these wells have accumulated in the past is -- is
13 -- you know, less than half of one percent, I think. So it
14 wouldn't make any decision-making process on an -- from an
15 economic issue.

16 Q. But at least they would have thought those --
17 there wasn't a problem with those wells, that they were
18 capable of producing something?

19 A. Pardon me?

20 Q. That they were capable of producing something?

21 A. Yes, they are capable of producing something.
22 That's why I presented this sheet here, that I do feel like
23 they're capable of production.

24 Q. Now, if we go back to the order in that false-
25 reporting case, there's a provision on the very last page,

1 paragraph (4), it says, Should Pronghorn Management
2 Corporation fail to correct the false production reports as
3 to the 11 wells by July 30th, 2007, no further Form C-104
4 shall be issued for any well Pronghorn operates until it
5 has corrected those false production reports.

6 Were your investors aware that you were going to
7 have problems getting C-104 reports done?

8 A. No, ma'am.

9 Q. So -- Were you even aware of this provision that
10 you had no authority to transport to get allowables --

11 A. No, I didn't understand that.

12 Q. Uh-huh. Now the order also tells you you were
13 supposed to provide contact information for the lessors
14 that you filed the false reports on. I didn't hear
15 anything in your testimony about what you plan to do about
16 that.

17 A. I'll have to talk with Ernie about that. I don't
18 know what we plan to do. I don't understand that, so we'd
19 have to figure that out and --

20 Q. Okay. Well, maybe I can help you with that. The
21 properties that are at issue with the false reporting, some
22 of them are state and some of them are federal, and we know
23 how to get in touch with those folks, but we had a problem
24 finding out who the private lessor was on the J.F. Black
25 property. Do you know who the lessor is there?

1 A. No, ma'am, I don't.

2 Q. Can you find out?

3 A. I'll find out.

4 Q. Where are you going to get that information?

5 A. Well, as soon as I find out, I'll do my good
6 faith effort and due diligence and make a note of it and
7 see if we can't find out.

8 Q. Okay, now that information was due on July 30th,
9 2007. You've made no effort to give us that information
10 until today; is that right?

11 A. That's probably right.

12 Q. Now bringing the wells back into compliance, the
13 11 wells that are the subject of this order, did I
14 understand you correctly, there's only one well that you've
15 taken action on so far, and that's the State EF 1. You've
16 put a pumping unit on that?

17 A. No, ma'am, I have -- I have the -- the DL 4 is
18 producing. I've set a pumping unit on the DL Number 3 --

19 Q. Well now, wait a minute. I'm asking you about
20 the wells that are the subject of this particular order --

21 A. Oh, I'm --

22 Q. -- the show- --

23 A. -- well, I thought we were talking about --

24 Q. -- cause order.

25 A. I thought we were talking about the whole deal.

1 Okay --

2 Q. Yeah.

3 A. -- go ahead.

4 Q. If it's just this one -- the only one I saw was
5 the State EF 1 and that you were putting a pumping unit on
6 it but it wasn't producing yet. Is that the current
7 status?

8 A. That's right, waiting on electricity to run the
9 rods and pump in the hole.

10 Q. Okay. Are you going to have to request an
11 allowable for that well?

12 A. I wouldn't think so.

13 Q. When we met to talk about complying with these
14 orders, we told you that if you couldn't meet the schedule
15 set in the orders that you should contact the Examiners and
16 ask them for a different schedule, but you haven't done
17 that, have you?

18 A. I don't remember that being part of our
19 conversation.

20 Q. Well, it's part of the letter. Do you want to
21 look at that letter?

22 A. No, that's okay. If that's what the letter says,
23 that's fine.

24 Q. Okay. Let me ask you about the penalty that was
25 assessed in that case. What is your intention with regard

1 to the penalty?

2 A. Well, ma'am, I don't have the money now, but I'll
3 pay the penalty if that's what you want -- what -- do.
4 Maybe we could work something out, you know, let me get
5 some of these wells back going and try to generate some
6 cash flow, and maybe we can work something out or -- I'd
7 like to work something out.

8 Q. So you do intend to pay it?

9 A. Yeah, I -- would say so, if that's what I need to
10 do to -- to get this situation straightened out.

11 Q. What kind of schedule would be reasonable?

12 A. I don't have any idea. I mean, I'd like to --
13 you know, if -- give me the opportunity to get focused on
14 this work and get some wells going, and with the market the
15 way it is, you know, monitor my progress, and I'll check
16 back with you in six months or whatever the situation might
17 be, and, you know, maybe we can address it now.

18 I don't -- I haven't talked to anybody, you know.
19 I heard somebody mention that, you know, a payout schedule,
20 you know, something like that, would be amenable.

21 Q. Well, what schedule would work for you?

22 A. I -- ma'am, I don't know, I don't know what --
23 the way I'm going to be on my production and what my
24 monthly cash flow is going to be. Of course, certainly
25 generating cash flow, I'd like to put it back into these

1 projects, these wells, to help the overall situation there.

2 Q. Now, you said that your investors weren't willing
3 to have any of their money used for the penalty; is that
4 right? Did you discuss it with them?

5 A. I haven't discussed the penalties with them, no,
6 ma'am.

7 Q. Oh, so they don't know that you're subject to a
8 penalty?

9 A. I don't know what they know, I don't know if they
10 are or not. I really haven't -- We've had other focus,
11 other than this penalty.

12 Q. Okay. I'd like to ask you a few questions about
13 Pronghorn's status with regard to Rule 40, and if I may,
14 I'd like to give the witness a copy of that rule.

15 Mr. Baber, are you familiar with Rule 40 at all?

16 A. No, ma'am.

17 Q. Okay. Do you understand that operators who are
18 out of compliance with Rule 40, the OCD may, and in some
19 circumstances must, deny certain privileges to that
20 operator? Are you familiar with that concept at all?

21 A. I've heard that concept --

22 Q. Okay.

23 A. -- before.

24 Q. Well, I've given you a copy of Rule 40, and if
25 you look at that first paragraph it lists the ways that an

1 operator can be out of compliance, and I just wanted to go
2 through those with you.

3 The first way would be if the operator doesn't
4 meet the financial assurance requirements. And you
5 understand right now that Pronghorn is out of compliance on
6 financial assurances to the tune of about \$225,000? Are
7 you aware of that?

8 A. I wasn't aware of that, no, ma'am.

9 Q. Okay. Why don't you take a look at what's been
10 marked as Exhibit Number 1, and that's the affidavit of
11 Dorothy Phillips. And the very last page of that affidavit
12 lists the financial-assurance status of all Pronghorn's
13 wells, and I don't know if you've seen this before, Mr.
14 Baber, but this is something you can see on our website.
15 Do you see all of those Y's in the very far right-hand
16 column?

17 A. Yes, ma'am.

18 Q. And those are the wells that the computer tells
19 us have been inactive for more than two years and are state
20 or fee wells, so they are subject to single-well bonding
21 requirements. And the amounts of those bonds are in the
22 column marked Bond -- Required Bond Amount.

23 What are your plans for posting the single-well
24 financial assurances?

25 A. I've been working with the -- with a local

1 insurance company on the bonding requirements, not -- well,
2 I didn't realize on, of course, these wells, but on some of
3 the BLM wells, and apparently that bonding market is freed
4 up a little bit, so there's a good chance that we would
5 have the opportunity to be able to post that bond, and I'd
6 have to come up with the cash -- cash bonds --

7 Q. Okay.

8 A. -- as being kind of the --

9 Q. And speaking of the BLM bonds, the BLM required
10 you to posts additional financial assurances recently,
11 didn't they?

12 A. Well, on these wells, these Marshall Fields
13 wells --

14 Q. Okay --

15 A. -- yeah.

16 Q. -- how much did they require?

17 A. I believe the number was \$125,000.

18 Q. Was that -- were you able to find a surety for
19 that, or did you have to post the bond?

20 A. I'm working on that.

21 Q. So that --

22 A. That's what I've been working on, not the state
23 wells, which I'll have to add to that.

24 Q. Okay, but they have not yet been posted?

25 A. That's correct.

1 Q. And I'm not sure I understood. Are you working
2 with a surety right now on the state bonds, or just the
3 federal ones?

4 A. The federal.

5 Q. Okay.

6 A. I'll be working with the state bonds in the
7 morning when I get back into town.

8 Q. Okay. You understand it's not just the wells
9 with the Y in the far right column that require bonding,
10 but also the false-reporting wells if they were state and
11 fee wells?

12 A. I'll get all that addressed, I certainly will.

13 Q. How are you going to be able to come up with the
14 money for the bonding? Is that something the investors
15 would be able to --

16 A. We've talked about that, yes, ma'am.

17 Q. When are you going to be able to get those bonds
18 posted?

19 A. It's been a little slow. I know that sounds like
20 that's my answer to everything, but if you would like I
21 could keep you updated. I don't have a time frame.
22 Hopefully within, you know -- well, it's -- hopefully
23 within the month, month and a half.

24 Q. Let's go back to Rule 40 and look at the second
25 way an operator can be out of compliance, and that is if

1 they're subject to a Division or Commission order issued
2 after notice and hearing finding the operator in violation
3 of an order requiring corrective action. Do you understand
4 that's the type of order we're asking for today?

5 A. Yes, ma'am, I do now.

6 Q. And that if such an order is issued and you don't
7 complete the corrective action that was required in the
8 case of 13,859, you'll be out of compliance with Rule 40?

9 A. Yes, ma'am.

10 Q. Okay, let's go to the third one, the penalty
11 assessment. An operator would be out of compliance with
12 Rule 40 if a penalty assessment is unpaid more than 70 days
13 after the issuance of the order.

14 Now, you understand, even if we enter into a
15 payment plan you're still going to be out of compliance
16 under Rule 40 until that penalty is paid?

17 A. Okay.

18 Q. And the last one is, it can have no more than the
19 following number of wells out of compliance with the
20 inactive well rule, and for an operator of Pronghorn's
21 size, with 39 wells, it can have no more than two inactive
22 wells.

23 So you also understand that with all the inactive
24 wells that you have, you're going to be out of compliance
25 with Rule 40?

1 A. I do now.

2 Q. Do you understand that while you're out of
3 compliance with Rule 40, the OCD may deny APDs, may deny
4 well transfers to Pronghorn, must deny allowables and
5 authorization to transport, must deny injection permits?

6 A. Ma'am, I'm sure you can do exactly what you say
7 you're going to do, and if that's what you want to do -- I
8 mean, it's not the answer to the problems, but if that's
9 what you'd like to do, I guess you can -- can do it,
10 obviously.

11 I'm here trying to -- you know, I guess -- I
12 guess I could just let you have the \$50,000 bond and walk
13 away from the whole deal. I don't think that's the answer.

14 Q. There was a --

15 A. If --

16 Q. Go ahead.

17 A. Well, I mean, it's --

18 Q. Well, I'm just asking you these questions because
19 you're proposing certain actions with regard to these
20 wells, and I want to understand whether you know what
21 roadblocks are in your way, so I can understand how you
22 propose to deal with them.

23 A. Well, if you keep throwing roadblocks at me, I
24 don't guess I can deal with them. If one proposal leads to
25 something else that I can't do or -- you know, taking away

1 the transporting of the oil and gas, I mean, that's --
2 that's just -- I mean, to me -- you ask to be realistic and
3 reasonable. You know, please, let's be realistic and
4 reasonable. You take away the cash flow that I do have and
5 turn it into zero, if you lock me down, how can I do
6 anything?

7 Q. Uh-huh.

8 A. Is that where we want to head, or -- it doesn't
9 seem like that's the best for the State of New Mexico, and
10 it doesn't seem like it's best for me either, or for
11 Pronghorn.

12 Q. Well, Mr. Baber --

13 A. What's done is done, and obviously there's been
14 some mistakes made, and I'm here to say I'm willing to give
15 it a good faith effort and get this situation corrected and
16 move forward.

17 Q. And I'm trying to figure out how you're proposing
18 to --

19 A. And I appreciate that.

20 Q. But isn't it -- what you've been -- what I'm
21 hearing, Mr. Baber, and correct me if I'm wrong, is that
22 you're choosing to work on the wells you and your investors
23 want to work on, and you have not done anything about
24 correcting false reporting, about alerting the private
25 lessor, have disregarded the schedule sent out in the

1 orders, so how do you propose to deal with this?

2 A. Well, I guess that's where we had our
3 misunderstanding, that I was looking at the deal from an
4 overall view to try to get it -- get something done, not
5 necessarily what my focus would be, like you said, but to
6 satisfy you and looking at the whole picture instead of
7 just through these orders, and trying to come up with a
8 realistic time frame where I can get something done.

9 I don't think with what I have seen here that
10 trying to get 11 wells back in compliance, or 15 wells,
11 whatever the situation is, in, you know, 30 days or 60 days
12 is realistic.

13 Q. Well, Mr. Baber, you were here for Mr. Sanchez's
14 testimony. He testified about inactive well agreed
15 compliance orders dating back to 2005 when we were trying
16 to work with you to have you bring your wells into
17 compliance, and so we aren't saying suddenly everything has
18 to be done in 30 days. This has been a project of years.

19 A. I agree. I don't -- I don't -- I -- issues have
20 been -- presented themselves. I've had some medical
21 problems, personal problems, and I'm here today and want to
22 try to work something out.

23 It looks like I have the opportunity here, and
24 market conditions have improved with, you know, most of
25 this production that would be stripper production at best,

1 but there's some opportunity there now with the market
2 conditions they are, with the price of the product being
3 what it is.

4 Q. That opportunity could be available to a
5 different operator, though, it wouldn't have to necessarily
6 be you; is that right?

7 A. Ma'am, I don't understand your line of
8 questioning. You say a different operator and then we talk
9 about that, and I can't transfer it because I owe this
10 penalty. So I'm a little confused on, you know, where we
11 are and where you want to head and what you want to do.

12 Q. Well, I'm sorry if that was confusing. Rule 40
13 would prohibit Pronghorn from acquiring additional wells
14 itself, but it wouldn't prohibit Pronghorn from
15 transferring them to someone else.

16 A. Is that a statement or a question, or --

17 MS. MacQUESTEN: I just -- you had indicated that
18 you were under a different impression, and I wanted to tell
19 you that wasn't what I was trying to tell you.

20 All right, I have no other questions. Thank you.

21 MR. PADILLA: Nothing further.

22 EXAMINATION

23 BY EXAMINER JONES:

24 Q. Mr. Baber, what is the price of oil right now?

25 A. We sold some oil last month, some sweet oil,

1 Delaware oil, for like \$95.50.

2 Q. What was it about a year ago?

3 A. Oh, I'd just be speculating, Mr. Jones. I think
4 it was maybe \$45 or \$50.

5 Q. Big jump in a year.

6 A. Yeah, it obviously has been significant.

7 Q. How old are these wells?

8 A. Oh, gosh, probably the majority of them are late
9 '70s. Middle '70s, late '70s, early '80s.

10 Q. They were -- in other words, they were drilled
11 during the last boom where oil was going to go to \$100?

12 A. Yeah, that's how I was so lucky to get in the
13 business, is when it went to eight -- six and eight dollars
14 in '86 and '87.

15 Q. This Cruz-Delaware, is that -- what zone of the
16 Delaware is that?

17 A. That's Bell Canyon, Ramsey sand.

18 Q. Oh, so it's -- it was here yesterday but not
19 today, I take it.

20 Is it any good still?

21 A. Yeah, I think that's -- we've got a good chance
22 of reworking these wells and putting them on pump, and then
23 this is where the engineering -- we feel like even though
24 we are moving a lot of water, the majority of these wells
25 were completed naturally --

1 Q. Oh.

2 A. -- but we're still maintaining a high fluid
3 level, and it looks like possibly the original pressures
4 are still there. So we're looking at -- with new
5 technology and frac work, we're looking at frac'ing these
6 wells.

7 Q. And getting rid of a bunch of water --

8 A. Yes --

9 Q. -- and --

10 A. -- play the water game, so to speak.

11 Q. Yeah.

12 A. That's why the injection wells are imported
13 and --

14 Q. Is that what this consultant engineer you had and
15 geologist told you too, or -- you probably already knew
16 that, but --

17 A. Yeah, it was kind of an idea I had and threw it
18 at them. And apparently some of this work has been done in
19 other areas. I believe the Paduca-Delaware. And then of
20 course, even -- the guys were talking about even with this
21 that -- possible -- potential waterflood, or pressure-
22 maintenance, I guess, would probably be a better
23 terminology -- that is right south of us in the North Elmar
24 Unit. I think the North Elmar's even been from -- even
25 from waterflood on into tertiary.

1 Q. Geraldine Ford stuff.

2 A. Yeah. And then the --

3 Q. -- Ramsey --

4 A. -- I think Yates has an Avalon-Delaware that
5 they're attempting to...

6 Q. Did these consultants -- did you look at
7 everything on a payout basis about how much it would cost
8 and what you could and -- in other words, did you
9 prioritize your work and -- how long ago did you do all
10 that?

11 A. It's been a work in progress, Mr. Jones, but
12 really I got -- started getting people interested in it
13 this summer, the guys I've been -- and it's -- well, it was
14 -- well, this summer, June, 1st of June.

15 And it's been a long process with these guys too.
16 It's been a little bit slower than we would like for it to
17 be, because we've been waiting on lawyers to make sure the
18 title is clear and some legal things of that nature, and I
19 just got word a couple of days ago that it looks like the
20 title is in good shape, and they feel comfortable with what
21 all they're doing. And obviously they feel comfortable,
22 we've already put \$300,000 into the deal.

23 Q. The -- but they -- you project it's going to need
24 -- for this -- all this -- actually getting the wells back
25 on line, \$2 million, but you've only got \$1 million

1 promised?

2 A. Well, it's -- it'll be an ongoing deal. And what
3 we might do after today's meeting is, obviously, with the
4 OCD's signing off is -- is -- you know, I don't know what
5 I'll try to do, maybe sell the wells or -- you know, try to
6 get something done.

7 And of course, Mr. Jones, with the commitment on
8 the \$1 million -- with that comes the cash flow. And I
9 haven't run the economics on that, on where we think we'll
10 -- we could be, but, you know, we could very easily be at
11 -- on the DL lease and the EF lease, you know, we could be
12 at 7500 barrels a day in three months. So, you know, that
13 would generate some fairly significant cash flow for us.

14 Q. Where would you get all those pumping units that
15 -- used ones?

16 A. We're -- no, we've been buying new. We bought
17 new ones. Yeah, sure have. New ones -- it surprised me
18 also, new ones -- we bought the size 228 pumping units, and
19 they were -- new ones were within \$4000 of used ones. What
20 you've seen is -- oh, Weatherford's designing a good
21 pumping unit now and --

22 Q. Really?

23 A. -- some of these other major public companies are
24 national, coming out with -- well, they've, of course, been
25 making units, but they're gearing up to build equipment

1 again.

2 EXAMINER JONES: Well -- David?

3 EXAMINER BROOKS: Okay, thank you.

4 EXAMINATION

5 BY EXAMINER BROOKS:

6 Q. Mr. Baber, do you remember that there was a
7 compliance proceeding brought back in -- I think it was
8 probably '02 -- that involved a whole bunch of operators,
9 of which Pronghorn was one, to get inactive wells plugged?

10 A. I don't remember exactly the time, but I remember
11 the meeting, yes, sir.

12 Q. Were -- some of the wells that were involved in
13 that proceeding, weren't they some of the same wells that
14 are on these -- that are in this list now?

15 A. I don't believe so. Well, that State M is. I
16 don't believe the -- Well, the State M, and then we
17 mentioned the Hastie, that lease was.

18 Q. Well, we go back and look here -- I don't
19 remember which ones were involved, but we go back and look
20 here on this list and we've got wells that have been
21 inactive since 1985, 1993, 1987 -- a whole bunch of them.
22 Not -- a lot of them weren't, but a lot of them are 2000
23 and something, but there's a bunch of them that date back
24 to the 1990s.

25 But anyway, this order -- Number 13,859, and then

1 Number 13,858 -- I'm trying to -- give me a minute to find
2 13,858, I've lost it here.

3 Okay, that's Exhibit Number 9. No, I've got *de*
4 *novo* here. That's Exhibit Number 9, 13,858. If you look
5 at this -- pages -- the third and fourth pages of Exhibit
6 9, there's a list of wells there, (a) through (p), and then
7 if you look at Exhibit 2 -- at paragraph (2) and follow
8 along with me there, I'll read that, Should Pronghorn
9 Management fail to comply with ordering paragraph (1), the
10 Division shall be authorized to plug and abandon the
11 subject wells.

12 Now if you look at paragraph (1), which is on the
13 third page of that order, it says that you're to plug and
14 abandon or restore to or otherwise bring into compliance
15 those wells by October 2, 2007, correct? Is that what it
16 says?

17 A. Yes, sir.

18 Q. And you didn't do that, did you? For any of
19 those wells?

20 A. No, sir.

21 Q. And so under the terms of this order, the
22 Division is authorized to plug and abandon those wells?

23 A. Mr. Brooks, if you want to plug and abandon the
24 wells, I guess that's your discretion.

25 Q. Did you disclose to the investors that you've

1 recruited to put money into these wells, that there's an
2 order in place that says that the Division can come in any
3 day and plug and abandon those wells?

4 A. Not specifically, no, sir. The investors know
5 that we need to get the work done and are committed and
6 willing to get the work done also.

7 EXAMINER BROOKS: Thank you. That's all I have.

8 EXAMINER JONES: Mr. Padilla?

9 MR. PADILLA: Nothing further.

10 EXAMINER JONES: Okay. Do you guys want to do
11 closing statements?

12 Thanks --

13 THE WITNESS: Is that it for me?

14 EXAMINER JONES: -- Mr. Baber.

15 THE WITNESS: Thank you.

16 MS. MacQUESTEN: Mr. Examiner, I think the
17 evidence speaks for itself.

18 The question of waste has come up. I did want to
19 say that we're proceeding under a particular statute. The
20 Legislature has given us the power to issue orders
21 requiring any well to be plugged and abandoned if the
22 operator is in violation.

23 By stating it that way, the Legislature has made
24 the decision that this is an appropriate remedy for the
25 OCD. It could have written it so that we had to have a

1 finding that no waste would occur or minimal waste would
2 occur, but they didn't. A separate provision that provides
3 for this remedy.

4 I think it's an appropriate remedy in this case,
5 given what we've heard today. And although we don't have
6 to prove that the waste would be minimal, I think we have
7 shown that.

8 Another operator could take over these wells.
9 Mr. Baber was the operator for many years. I think the
10 true waste was having him be the operator and sit on these
11 wells that are supposedly productive. A financially
12 viable, competent, compliant operator could operate these
13 wells, and now is the time to move to such an operator, and
14 not Mr. Baber.

15 EXAMINER JONES: Okay.

16 MR. PADILLA: Very briefly, Mr. Jones, I think
17 that -- there's no question that the Oil Conservation
18 Division has a remedy that it's proposing. I think that it
19 would be -- fly in the face of the Oil and Gas Act to plug
20 and abandon oil and gas wells that are producing or are
21 capable of producing oil and gas.

22 The testimony here has been that Mr. Baber has
23 finally got himself somewhat able to operate and these
24 wells back in production from a financial standpoint.

25 I think, sure, you can go out and do a fire sale

1 and sell these wells and have somebody else produce it. I
2 think Mr. Baber could have walked away and very frankly
3 said, if the Oil Conservation Division is going to
4 interpose and insist on having complete compliance with the
5 mandate of the orders, then he's in violation, and so
6 therefore there is no remedy.

7 I don't think that the Oil Conservation Division
8 has ever taken a posture like this in the past, in terms of
9 -- and I understand there's a new -- there's a new
10 atmosphere and there's new regulations that mandate some
11 better management of oil and gas wells.

12 The market now has changed a lot of practices and
13 has actually allowed resurrection of oil and gas fields
14 that have not been productive in the past due to economic
15 reasons. Mr. Baber's testimony today has been that the
16 price of oil today allows -- with the ability to inject oil
17 -- or produced water in the vicinity of the wells, to
18 produce the wells economically and with a financial reward.

19 Throwing \$72,000 at the Oil Conservation Division
20 doesn't solve any problems. Mr. Baber has testified he's
21 willing to pay the \$72,000, but right now needs to get this
22 well set up producing oil and gas.

23 So again, there's no question that the OCD has a
24 remedy available to put Mr. Baber out of business. It
25 doesn't make any sense, but -- especially when there's no

1 verification that waste is occurring due to maintenance or
2 that there's an environmental threat to anything out there.

3 The -- Mr. Sanchez's testimony has been that
4 since the last hearing there's been no inspections. Prior
5 to this hearing there's no update on the inspection, and
6 there's been no added testimony with regard to the
7 condition and status of the wells to verify whether or not
8 there's an environmental threat or whether there's waste
9 occurring there from the standpoint of mismanagement.

10 In addition to that, we could be in *de novo*
11 hearings. Mr. Baber chose not to be in *de novo* hearings,
12 and after issuance of the application -- after these
13 orders, we met with the Division trying to solve this
14 problem. And there was no agreement that we would dismiss
15 our *de novo* application, I agree that with counsel. But
16 Mr. Baber at that point decided that rather than spend his
17 time arguing about compliance issues in hearings that would
18 be unproductive as far as complying, he would rather spend
19 his time trying to get these wells under compliance.

20 Mr. Baber's testimony has been here, today, has
21 been that he has demonstrated effort, and it shows he has
22 had at least one well and one injection well ready and able
23 to operate, and very shortly he will have two additional
24 wells. And so I think in terms of the spirit of what he's
25 supposed to be doing, he has complied with that.

1 So we would ask that the Division not take a
2 severe action of putting Mr. Baber out of business and in
3 effect confiscating his oil and gas production.

4 The issue of whether or not lessors are being
5 paid royalty or not is not for the Division to worry about.
6 I'm not saying that there isn't some concern there, but at
7 the same time the OCD is not -- or has no jurisdiction to
8 decide whether or not a lessor is being paid his or her
9 royalty.

10 We have dealt with the Land Office, the Land
11 Office is satisfied and has not canceled oil and gas
12 leases, and Mr. Baber has complied with the requests of the
13 State Land Office to deal with the DL leases, which he has
14 done.

15 One of the leases he did not fight, and that
16 lease did expire. The DL leases with the land office have
17 been -- they have not been canceled or expired in any other
18 way. So in terms of having somebody at least acquiesce to
19 Mr. Baber's request, the Land Office has done so.

20 So I think that while there are concerns with the
21 OCD, I think that Mr. Baber is moving along fairly
22 satisfactorily and has essentially complied with the spirit
23 of the orders. True, he hasn't paid the \$72,000, and he
24 has not done that timely, nor has he requested some stay
25 with regard to that. But in terms of -- we're here today

1 and we're responding, and I think that Mr. Baber ought to
2 be given additional time with which to comply and then
3 periodically report to the OCD as to what his status is,
4 and then at that time decide whether he should plug and
5 abandon wells, based on his continuing evaluation of oil
6 and gas wells as he goes through his resurrection of these
7 properties.

8 Thank you.

9 EXAMINER JONES: Thank you.

10 Do you want to say one more thing?

11 MS. MacQUESTEN: May I have a reply?

12 EXAMINER JONES: Sure.

13 MS. MacQUESTEN: On the issue of good faith,
14 we're talking about a history of noncompliance that goes
15 back many years. And as Mr. Brooks pointed out, it goes
16 back even further than the evidence that we've presented
17 today.

18 Mr. Baber has ignored letters of violation,
19 inactive well agreed compliance orders, two hearing orders,
20 a letter canceling authority to transport and inject.

21 If Mr. Padilla wants to talk about good faith,
22 what could Mr. Baber have done to show good faith? Well,
23 at a minimum, after those orders were issued, he could have
24 done the things that did not require a lot of money to do:
25 Correct the false reporting and provide the lessor

1 information.

2 Mr. Padilla is still arguing about whether we are
3 even entitled to ask for the lessor information. That is a
4 dead issue. The order is in place, it's a final order,
5 they need to provide it. It doesn't cost him any money to
6 do it, he could have done it. He could have filed those
7 reports.

8 Not only did he not take those actions when the
9 orders came out, he didn't take the action when we filed
10 the motion to show cause. He knew we would be pursuing
11 this and saying that he hadn't taken this corrective
12 action, and he still hasn't.

13 The conduct that he's taken has not been to
14 satisfy the OCD, it's been to satisfy his own business
15 interests and his investors, whom he apparently has not
16 told about all his compliance problems. He is ignoring
17 every roadblock that is going to be thrown in front of him
18 because of his own violations and continued noncompliance.
19 This is not something the OCD is doing to him, this is
20 something he has done to himself, and he is not recognizing
21 the reality of those things.

22 So I take exception to the concept that Mr. Baber
23 has shown good faith.

24 Thank you.

25 EXAMINER JONES: Okay, thank you both.

1 With that, we'll take Case 13,859 and Case 14,052
2 under advisement.

3 And let's take a brief recess and come back at
4 2:30.

5 (Thereupon, these proceedings were concluded at
6 2:19 p.m.)

7 * * *

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12
13 I do hereby certify that the foregoing is
14 a complete record of the proceedings in
the Examiner hearing of Case No. _____,
15 heard by me on _____.

16 _____, Examiner
Oil Conservation Division
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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 April 3rd, 2008.



STEVEN T. BRENNER
 CCR No. 7

My commission expires: October 16th, 2010