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

ORIGINAL

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

CASE NO. 14190

APPLICATION OF DENNIS LANGLITZ FOR
AUTHORITY TO INJECT

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: DAVID K. BROOKS, Legal Examiner
 RICHARD EZEANYIM, Technical Examiner
 TERRY G. WARNELL, Technical Examiner

October 16, 2008

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico
Oil Conservation Division, DAVID K. BROOKS, Legal Examiner,
RICHARD EZEANYIM, Technical Examiner, and TERRY G. WARNELL,
Technical Examiner, on Thursday, October 16, 2008, at the
New Mexico Energy, Minerals and Natural Resources Department,
1220 South Saint Francis Drive, Room 102, Santa Fe, New Mexico.

REPORTED BY: JOYCE D. CALVERT, P-03
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A P P E A R A N C E S

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1 MR. BROOKS: At this time, I'm going to call Case
2 No. 14190, the Application of Dennis Langlitz for Authority to
3 Inject.

4 Call for appearances.

5 MR. LARSON: Good morning, Mr. Hearing Examiner, Gary
6 Larson from the Santa Fe office of Hinkle, Hensley, Shanor and
7 Martin for Mr. Langlitz. I have two witnesses.

8 MR. BROOKS: Okay. And it seems the Division entered
9 an appearance in this case, so I will need to take a break at
10 this time and notify the Division's attorneys so they can have
11 everybody present for this.

12 We will take a ten-minute recess at this time.

13 [Recess taken from 9:06 a.m. to 9:21 a.m., and
14 testimony continued as follows:]

15 MR. BROOKS: Okay. At this time, we'll go back on
16 the record. We'll call Case No. 14190, Application for Dennis
17 Langlitz for Authority to Inject, Eddy County, New Mexico.

18 Call for appearances.

19 MR. LARSON: Gary Larson of the Santa Fe office of
20 Hinkle, Hensley, Shanor and Martin for Mr. Langlitz.

21 MS. MACQUESTEN: Gail MacQuesten representing the Oil
22 Conservation Division.

23 MR. BROOKS: Okay. We have a letter that the Bureau
24 of Land Management was going to be present for this. Is there
25 anyone here from the Bureau of Land Management?

1 Well, maybe they are not going to appear. Do you
2 want to make an opening statement, Mr. Larson?

3 MR. LARSON: No, Mr. Hearing Examiner.

4 MR. BROOKS: The Chief has reminded me we need to
5 swear the witnesses.

6 How many witnesses -- who are all your witnesses?

7 MR. LARSON: I have two witnesses, Mr. Langlitz and
8 Mike Kincaid.

9 MS. MACQUESTEN: I have one witness, Daniel Sanchez.

10 MR. BROOKS: Okay. Will the witnesses stand and be
11 sworn? State your names, please for the record.

12 MR. KINCAID: William Michael Kincaid.

13 MR. LANGLITZ: Dennis Langlitz.

14 MR. SANCHEZ: Daniel Sanchez.

15 [Witnesses sworn.]

16 MR. BROOKS: You may proceed. Do you want to make an
17 opening statement, Mr. Larson?

18 MR. LARSON: No, Mr. Examiner.

19 MR. BROOKS: Ms. MacQuesten?

20 MS. MACQUESTEN: Mr. Examiner, the OCD does not take
21 a position on the merits of this application. We have entered
22 our appearance for the sole purpose of alerting the Examiner to
23 the fact that the applicant is out of compliance with Rule 40.
24 No injection permit can be issued to the applicant while he is
25 out of compliance with Rule 40.

1 The applicant is out of compliance in two ways.
2 First, he has too many wells on the inactive well list. And
3 second, he has an unpaid penalty. We've outlined the facts in
4 the pre-hearing statement and supplied the supporting
5 documents. If you wish to have testimony on these matters, I
6 have Mr. Sanchez present. Otherwise, we will stand on the
7 information that was provided in the pre-hearing statement.

8 MR. BROOKS: Okay. Are those contentions going to be
9 contested, Mr. Larson?

10 MR. LARSON: They'll be addressed through
11 Mr. Langlitz' testimony.

12 MR. BROOKS: Then I think we'll need testimony from
13 the Division if they are contested.

14 You may proceed, Mr. Larson.

15 MR. LARSON: Thank you. I call Mr. Langlitz first.

16 LESTER DENNIS LANGLITZ

17 after having been first duly sworn under oath,

18 was questioned and testified as follows:

19 DIRECT EXAMINATION

20 BY MR. LARSON:

21 Q. Would you please state your full name for the
22 record?

23 A. Lester Dennis Langlitz.

24 Q. When we are do you reside, Mr. Langlitz?

25 A. 1425 South Country Club Circle in Carlsbad,

1 New Mexico.

2 Q. And how many wells do you operate?

3 A. Thirteen.

4 Q. And how many of those wells are producing wells?

5 A. Seven.

6 Q. Okay. And are you a sole proprietor?

7 A. Yes, I am.

8 Q. And when did you acquire these 13 wells?

9 A. In August of 1996.

10 Q. And from whom did you acquire them?

11 A. From Stephens and Johnson Operating.

12 Q. And your application addressed injection wells;
13 is that correct?

14 A. Yes, it does.

15 Q. And where are those wells located?

16 A. They're in Section 33, Township 20 South, Range
17 28 East in Eddy County, New Mexico.

18 Q. And who owns the surface where your injection
19 wells are located?

20 A. There's a 40-acre lease that's owned by Trent
21 Nielson and 200 acres of federal land operated by the Bureau of
22 Land Management.

23 Q. And are your injection wells part of a waterflood
24 project?

25 A. Yes, they are.

1 Q. And I'll direct your attention to Exhibit No. 1.
2 And is that a true and correct copy of the application you
3 submitted to the Division for administrative approval?

4 A. Yes, it is.

5 Q. And did you prepare the application?

6 A. Yes, I did.

7 Q. And did you have assistance in preparing the
8 application?

9 A. Yes, I did. Mike Kincaid of Stephens and Johnson
10 Engineering and the personnel of the Artesia OCD and Carlsbad
11 office of the BLM.

12 MS. MACQUESTEN: Mr. Examiner, if I may ask, I don't
13 have a copy of the exhibits. Do you have an extra copy?

14 MR. LARSON: I'm sorry. I had them sitting here
15 waiting for you. Sorry about that.

16 Q. (By Mr. Larson): And how many wells are you
17 requesting injection authority for?

18 A. Six.

19 Q. And have you previously injected into these
20 wells?

21 A. Yes, I have.

22 Q. And why did you submit your application
23 requesting administrative approval of authority to inject into
24 these wells?

25 A. To be able to re-inject into them because I had

1 lost my authority to inject.

2 Q. And why did you lose your authority to inject?

3 A. Because I failed to have the mechanical integrity
4 tests performed on those six wells in 2005.

5 Q. And subsequently, did you enter into an Agreed
6 Compliance Order giving you a time frame to pass mechanical
7 integrity tests and resume injection of the wells?

8 A. Yes, I did.

9 Q. And did anybody at the Division inform you that
10 these mechanical integrity tests could not be performed until
11 you obtained authorization to inject?

12 A. Yes, they did. Gerry Guye, the deputy director
13 at the Artesia office of the OCD.

14 Q. And do you remember when Mr. Guye informed you of
15 that?

16 A. It was in early February of 2008.

17 Q. Okay. I'll next direct your attention to
18 Exhibit No. 4. Does this Division order approve the creation
19 of the Saladar unit?

20 A. Yes, it does.

21 Q. And what is the current status of the Saladar
22 unit?

23 A. It has been broken up by the Bureau of Land
24 Management, and it is now just considered federal and fee
25 leases.

1 Q. And has the Division authorized you to commingle
2 Saladar Yates oil from the federal and fee leases?

3 A. Yes, they did.

4 Q. And I'm going to ask you next to refer to
5 Exhibit No. 5. Is this the Division order that authorizes you
6 to commingle the production?

7 A. Yes, it is.

8 Q. And do you still send revenue checks to the
9 owners who are identified in the unit agreement?

10 A. Yes, I do. The crude oil purchase, Plains
11 Marketing has dispensed those checks the entire time I've had
12 the lease.

13 Q. I'll next refer you to Exhibit No. 6. Is that
14 the Division order that created the Saladar unit waterflood
15 project?

16 A. Yes, it is.

17 Q. And are all the wells that you operate part of
18 this waterflood project?

19 A. Yes, they are.

20 Q. And referring back to Exhibit No. 6, does this
21 Division order set a limitation of injection pressure at
22 557 psi?

23 A. Yes, it does.

24 Q. And in that order were any of the wells that are
25 identified in your current application approved for injection?

1 A. Yes, sir.

2 Q. Can you identify for the record which of those
3 wells were approved?

4 A. They were the Saladar Well No. 2, 4, 6, and 7.

5 Q. Okay. And I'll next direct your attention to
6 Exhibit No. 7. Does this order authorize injection to another
7 of the wells addressed in your application?

8 A. Yes, Saladar No. 8.

9 Q. Okay. And does that order set a maximum
10 injection pressure of 600 psi?

11 A. Yes, it does.

12 Q. I'll next refer you to Exhibit No. 8. Did this
13 order also authorize injection to one of the wells identified
14 in your current application?

15 A. Yes, the Saladar No. 12.

16 Q. And does the order contain an injection
17 limitation of 576 psi?

18 A. Yes, it does.

19 Q. And what was the source of the water that you
20 previously injected in the wells that are identified in your
21 application?

22 A. It's the produced water from my production wells,
23 supplemented by the Double Eagle water purchase from the City
24 of Carlsbad.

25 Q. And are those the same two sources you would

1 propose to use if the Hearing Examiner approves your
2 application?

3 A. Yes, it is.

4 Q. And during the time that you injected into the
5 wells identified in your application, what pressures did you
6 inject at?

7 A. I've -- I maintain a pressure of -- I was
8 maintaining a pressure from 500 to 550 pounds.

9 Q. In the process of preparing your application, did
10 you identify all the wells within a half-mile radius of your
11 injection wells?

12 A. Yes, I did.

13 Q. And I'll next direct your attention to
14 Exhibit No. 9. And does this map specify the half-mile radius
15 of the wells that are located within that half-mile radius?

16 A. Yes, it does.

17 Q. And in the process of preparing your application,
18 did you also identify and locate all interest owners within a
19 half-mile radius?

20 A. Yes, I did.

21 Q. And did you provide notice to these interest
22 owners of the submission of your application?

23 A. Yes, I did.

24 Q. And are copies of those written notices part of
25 your application which is Exhibit 1?

1 A. Yes, it is.

2 Q. And did you receive any feedback from the BLM or
3 from any of the other interest owners after you submitted your
4 application?

5 A. Only from Yates Petroleum, and I received --

6 Q. I'm sorry, Mr. Langlitz, can you speak up a
7 little bit so she can hear you?

8 A. Yes. Only from Yates Petroleum in Artesia. And
9 they asked at what depth I would be injecting, and I told them
10 a maximum of 700 feet. He said, "It doesn't concern us, and
11 we're not going to interfere with anything."

12 Q. And that was the only feedback you received?

13 A. That was the only feedback, yes, sir.

14 Q. And did you also provide publication notice of
15 the submission of your application?

16 A. Yes, I did.

17 Q. And is the Affidavit of Publication also part of
18 your application which is Exhibit 1?

19 A. Yes, sir, it is.

20 Q. And did you also send written notices of today's
21 hearing to each of the interest owners?

22 A. Yes, I did.

23 Q. And I'll refer you now to Exhibit No. 10. Are
24 those true and correct copies of the letters that you sent via
25 certified mail to the interest owners of today's hearing and of

1 their right to appear at the hearing?

2 A. Yes, they are.

3 Q. And since you sent these letters notifying the
4 interest owners of the hearing today, have any of them advised
5 you that they oppose your application?

6 A. No, sir.

7 Q. And as the Hearing Examiner referred to, did you
8 receive a letter from the BLM?

9 A. Yes, I did.

10 Q. And did that letter state any opposition by the
11 BLM to your application?

12 A. No, it didn't.

13 Q. Are there any water wells located within a mile
14 of your injection lease?

15 A. Yes, sir. There are two on the ranch land, one
16 of them at the ranch house.

17 Q. I'm sorry. Could you please speak up?

18 A. I'm sorry. There are two freshwater leases -- I
19 mean, freshwater wells. One of them is immediately adjacent to
20 the Saladar Well No. 3 and one at the ranch house about
21 300 yards to the west of that same well.

22 Q. And has the water from these two wells been
23 analyzed?

24 A. Yes, it has.

25 Q. And did you submit that analytical data with your

1 application?

2 A. Yes, I did.

3 Q. Have you consulted with a petroleum engineer
4 about the matters addressed in your application?

5 A. Yes, I have.

6 Q. And who is that?

7 A. Mr. Mike Kincaid from Stephens and Johnson
8 Engineering.

9 Q. And what is the proposed average total volume of
10 fluids to be injected?

11 A. 120 barrels a day.

12 Q. And what's your proposed maximum volume?

13 A. 300 barrels.

14 Q. And is the system open or closed?

15 A. It is a closed system.

16 Q. And what is the proposed average injection
17 pressure that is identified in your application?

18 A. The average is 550 pounds.

19 Q. And what's your proposed maximum injection
20 pressure?

21 A. 600 pounds.

22 Q. And will injection between 550 and 600 psi be
23 sufficient to increase production in your producing wells?

24 A. Yes, it will.

25 Q. And to your knowledge, would injection at 600 psi

1 result in migration of injected fluids from your wells?

2 A. No, sir.

3 Q. And would injection at that pressure fracture the
4 formation?

5 A. No, sir.

6 Q. And what is your estimate of the amount of oil
7 you hope to recover by resuming injection into the six wells
8 identified in your application?

9 A. It should increase my production volume from
10 about four barrels a day up to eight or nine barrels a day.

11 Q. And do you believe that the resumption of
12 injection will result in sustainable production and be
13 profitable to you?

14 A. Yes, sir.

15 Q. And how many wells do you currently have that
16 appear on the Division's inactive well list?

17 A. Five.

18 Q. And could you identify those for the record?

19 A. They are the Saladar No. 1, 5, 7, 10 and 14.

20 Q. And have you recently posted single well bonds
21 for any of these wells?

22 A. Yes, I have.

23 Q. And that was an increased bond from the one you
24 had previously posted?

25 A. Yes, it was.

1 Q. And what is the current status of the
2 Saladar No. 1?

3 A. It is a well I want to propose to plug.

4 Q. You're going to plug the well bore and abandon
5 the well?

6 A. Yes.

7 Q. What's the current status of the Saladar 5?

8 A. Saladar 5 is -- two days ago I got it ready for
9 production, and it will be reported -- it will be reporting
10 production on the October C-115s.

11 Q. Okay. And is the Saladar 7 one of the wells
12 that's included in your application?

13 A. Yes, it is.

14 Q. So you can't inject in that well until you get
15 reauthorized for injection?

16 A. No, I can't.

17 Q. And what's the current status of Saladar No. 10?

18 A. It's going to take some remediation to get it
19 either in production or ready for a plug and abandonment.

20 Q. And then lastly, what's the current status of
21 Saladar 14?

22 A. I'm -- when I get back, I will run the pump and
23 the tubing in and it will also be reporting production on the
24 October C-115s.

25 Q. And would you be willing to execute an inactive

1 Agreed Compliance Order addressing the current inactive wells
2 that you haven't brought back into production?

3 A. Yes, I would.

4 Q. Now, you mentioned earlier in your testimony that
5 you entered into an ACO for purposes of bringing into
6 compliance the wells that had failed MIT tests?

7 A. Yes, sir.

8 Q. And did you pay a penalty to the Division at the
9 time you executed that ACO?

10 A. Yes, I did: \$15,000.

11 Q. And does the ACO provide for additional penalty
12 if you did not bring the wells into compliance by the deadline
13 set out in the ACO?

14 A. Yes, it does.

15 Q. And what was the compliance deadline in the ACO?

16 A. The original, or the -- the original was June.

17 Q. Was it the 30th of June?

18 A. Yes, sir. I lost track of the last day of June.

19 I'm sorry.

20 MR. BROOKS: Of '08?

21 THE WITNESS: Sir?

22 MR. BROOKS: Of '08?

23 THE WITNESS: Yes, sir.

24 Q. (By Mr. Larson): And prior to that deadline, did
25 you request an extension of deadline?

1 A. Yes, I did.

2 Q. And the Division issued an amended Agreed
3 Compliance Order to you?

4 A. Yes, they did.

5 Q. And what was the new compliance deadline?

6 A. July 31st.

7 Q. And when you requested this extended deadline,
8 did you believe you could bring your wells into compliance by
9 July 31st?

10 A. Yes, sir.

11 Q. And when did you learn that your application
12 could not be approved administratively and instead would have
13 to be presented at a hearing?

14 A. July 16th.

15 Q. And who informed you of that?

16 A. I believe you did.

17 Q. Okay. Did you receive an e-mail from Will Jones
18 of the Division?

19 A. Yes, I did.

20 MR. LARSON: That's all I have, Mr. Hearing Examiner.

21 MR. BROOKS: Ms. MacQuesten? I'm sorry. Did you
22 want to tender your exhibits?

23 MR. LARSON: I've got some more. I thought I'd just
24 tender them all at the end of Mr. Kincaid's testimony.

25 MR. BROOKS: Okay. Ms. MacQuesten?

1 CROSS-EXAMINATION

2 BY MS. MACQUESTEN:

3 Q. Mr. Langlitz, did I understand you to say that
4 you were told in early February of this year that you needed to
5 get authority to inject into these wells?6 A. To have the MITs. According to what I was told,
7 I had to be injecting into those wells at the time that the
8 mechanical integrity tests were run.

9 Q. And that was Mr. Guye who told you that?

10 A. Yes, ma'am.

11 Q. And did he tell you that you needed to get
12 authority to inject?

13 A. Yes, ma'am.

14 Q. All right. So you were aware in early February
15 that you needed to go through whatever the process was to get
16 authority to inject?

17 A. Yes, ma'am.

18 Q. And then do you remember in March of this year
19 entering into an Agreed Compliance Order with the OCD regarding
20 the MIT issue?

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

22 Q. So when you entered into that Agreed Compliance
23 Order, you were aware that you needed to get authority to
24 inject in order to start injecting?

25 A. Yes, ma'am.

1 Q. In that agreement, you agreed that you would be
2 able to do that by June 30th?

3 A. Yes, ma'am.

4 Q. Now, the application for authority to inject
5 wasn't filed until June 10th; is that right?

6 A. Yes, ma'am. That's when it was received.

7 Q. So it wasn't -- you didn't even seek the
8 authority to inject until 20 days before your deadline that you
9 had agreed to?

10 A. I was under the impression that I would be able
11 to handle this administratively, and Mr. Jones said we need to
12 have a full C-108 filed. Yes, ma'am.

13 Q. Well, what did you do to find out what it would
14 take to get the authority to inject? Did you talk to Mr. Jones
15 before you filed the application?

16 A. Yes, ma'am. I first called Mr. Jones. I believe
17 it was February 1st, but it was the first Monday in February.
18 And he told me I would need to get those wells tested, and
19 right after that, that same day, I talked to Gerry Guye, and he
20 said I couldn't inject into those wells to test them.

21 Q. Did you call Mr. Jones back and ask him about
22 that?

23 A. Yes, ma'am.

24 Q. And what was his response?

25 A. He said, "Well, we'll try to hurry this thing up

1 as quickly as we can and put it on the top." I believe his
2 words were: "I'll put it on the top of my stack."

3 Q. So the plan was you would file the application,
4 he would act quickly, and then you would do the MITs and you
5 would be in compliance with the order?

6 A. Yes, ma'am.

7 Q. But the application wasn't filed until 20 days
8 before the expiration of your order. So you hoped that the
9 approval would come in and then you would be able to MIT these
10 wells in 20 days?

11 A. Yes, ma'am.

12 Q. I believe you also testified that when you got
13 the extension until July 31st, you believed you'd be able to
14 accomplish your goals by July 31st; is that right?

15 A. Yes, ma'am.

16 MS. MACQUESTEN: That's all I have. Thank you.

17 MR. LARSON: Can I have some redirect?

18 MR. BROOKS: Okay. You want to wait until the
19 Examiners ask their questions so you can redirect as to things
20 we cover also?

21 MR. LARSON: Sure.

22 EXAMINATION

23 BY MR. BROOKS:

24 Q. Exhibit 9, is it? Did I get that correct? Is
25 that where the area of review is shown?

1 A. Yes, sir.

2 Q. The wells identified on Exhibit 9, are those all
3 of the wells within the area of review?

4 A. Yes, sir.

5 Q. Okay. That includes the wells that are labeled
6 and the wells that have well symbols on them?

7 A. Yes, sir.

8 Q. Okay. And do you have all these listed in your
9 C-108?

10 A. Yes, sir.

11 Q. And which ones of these wells are active that are
12 in the area of review?

13 A. There's a Mewbourne gas well, the Saladar 33, and
14 then the 13 Saladar wells that I operate.

15 Q. Okay. And now those are the number of wells that
16 have symbols 1 -- well, let's see. Within the well, this area
17 that's surrounded by the dashed line here --

18 A. Yes, sir.

19 Q. -- is that the unit?

20 A. Yes, it is.

21 Q. And the wells within that are the wells you
22 operate?

23 A. Yes, sir.

24 Q. Okay. Now, these other wells, the Chesapeake
25 wells, are those abandoned, Federal Four No. 2, Federal Four

1 No. 4?

2 A. No, sir. Those are -- I failed to recognize
3 those. They are producing wells now.

4 Q. Okay. What about the CML Miller Federal No. 2?

5 A. Yes, sir.

6 Q. Now, there's some plugged and abandoned wells
7 within this area of review?

8 A. Yes, sir.

9 Q. And which ones are those?

10 A. That's the gas well up at the center right, the
11 Wills Federal No. 1, the Bunnel Coons No. 2, and the --

12 Q. Okay. Let me be sure. The Bunnel Coons -- I see
13 the Bunnel Coons No. 1 and 2.

14 A. Yes, sir.

15 Q. Are those both abandoned?

16 A. They are plugged and abandoned, yes, sir.

17 Q. And the R.S. Light Wills Federal?

18 A. Yes, sir.

19 Q. That's plugged and abandoned?

20 A. Yes, sir.

21 Q. Okay. What else is plugged and abandoned?

22 A. The Malco No. 1.

23 Q. And where is that? Is that the one up to the
24 northwest?

25 A. Yes, sir.

1 Q. Okay. Go ahead.

2 A. The Malco 1X.

3 Q. That's the one in the corner there, right?

4 A. Yes, sir. The Riggs No. 1 over on the upper

5 right.

6 Q. Okay.

7 A. And the BHP No. 7 gas well.

8 Q. Okay. Now what about this Conley?

9 A. And then tucked in there, the Conley No. 1 is

10 plugged.

11 Q. Okay. And then there's one -- then, inside the

12 unit, there's one that says Conley Mayfield?

13 A. Yes, sir. That is a plugged well.

14 Q. And it looks like the two wells, the one that has

15 the line to the Conley Mayfield, and then there's another one

16 just a little bit to the northwest.

17 A. Yes, sir. There's the Conley Mayfield No. 1 and

18 the 1X.

19 Q. Okay. They're both P and A'd?

20 A. Yes, sir.

21 Q. Okay. Then this Basic Mayfield No.3?

22 A. It's a plugged well also.

23 Q. Okay. Now, the over to the left, the Riggs

24 No. 2 --

25 A. Yes, sir.

1 Q. -- that's P and A'd?

2 A. Yes, sir.

3 Q. Okay. And the rest of the wells within the unit
4 are the ones you operate?

5 A. Yes, sir. The No. 9 that is in that same 40-acre
6 section with the Conley and the Basic, it is also a plugged and
7 abandoned well.

8 Q. Okay. The No. 9 is P and A'd?

9 A. Yes, sir.

10 Q. Any others?

11 A. No, sir.

12 Q. Okay. Now, what is the significance -- the
13 triangles are injection wells?

14 A. Yes, sir.

15 Q. So the No. 2, 4, 6, 7, 8 and 12, are those all
16 part of this proceeding?

17 A. Yes, sir.

18 Q. And then the No. 1, 5, 11, 13 and 14 are
19 producing wells?

20 A. 1, 3, 5 -- let's see, 1, 3, 5, 11, 13 and 14 are
21 producing, yes, sir.

22 Q. Okay. Now, the P and A'd wells in this area, do
23 you have schematics of those in your C-108?

24 A. Yes, I do.

25 Q. Okay. Now, these wells down to the south, are

1 they deeper?

2 A. Yes, sir.

3 Q. What depth are those wells?

4 A. I have to defer to Mike Kincaid on that. It's in
5 my --

6 Q. Well, if he's the one that knows, we can ask him
7 when he's on the stand.

8 A. They're probably eight or ten thousand feet, I'm
9 guessing. I can find them in here. I don't --

10 Q. Are those wells cased off across this interval?

11 A. Yes, sir.

12 Q. Okay. Now, what is the depth, again? You told
13 us, but I don't remember exactly.

14 A. On my wells, sir?

15 Q. Yes, the injection wells?

16 A. The deepest one is 668 feet, I believe.

17 Q. What are you asking for as the injection
18 interval?

19 A. The interval -- the depth interval to inject?

20 Q. Yeah.

21 A. Okay. I just wanted to be sure we were -- it's
22 from 650 to 670 feet.

23 Q. And you said there were some water wells -- there
24 were a couple of water wells in this area?

25 A. Yes, sir.

1 Q. And what depth are they at? What are they
2 producing from?

3 A. I think they're about 60 feet.

4 Q. They've been there for a while?

5 A. Yes, sir.

6 Q. Water wells?

7 A. Water wells -- 15 or 20 years at least.

8 Q. You said you had sampled them. Do they produce
9 good water?

10 A. Yes, sir.

11 Q. And those are the only water wells that you know
12 of in this immediate vicinity in the area of review?

13 A. Yes, sir.

14 Q. Okay.

15 MR. EZEANYIM: Let me explore that before you go.
16 You have the injection well from 650 to 670. And you are
17 asking for about almost 500 psi?

18 THE WITNESS: Yes, sir.

19 MR. EZEANYIM: I thought the wells -- that's one of
20 my questions: I thought the wells are deeper than 650 feet,
21 and your perforated interval is deeper than that. If you apply
22 the point to psi --

23 MR. BROOKS: It's considerably more than that.

24 MR. EZEANYIM: Did you get -- I didn't want that to
25 pass, exploring that angle, and that's why I wanted to ask you.

1 THE WITNESS: Yes.

2 MR. EZEANYIM: How did you get authority to inject up
3 to 550 psi, or 600 psi?

4 THE WITNESS: On the previous --

5 MR. EZEANYIM: On those injection wells, yes.

6 THE WITNESS: I believe in the -- I don't know that
7 it's in the application, but there's a letter from the
8 engineers at Stephens and Johnson Engineering that addressed
9 that.

10 MR. EZEANYIM: I think maybe he will be able to
11 because that's really excessive. You are looking at about 140
12 psi here to inject 500 and something or 600. Maybe your
13 engineer will be able to answer that question for me.

14 THE WITNESS: Yes, he will.

15 MR. EZEANYIM: Okay. Go ahead.

16 MR. WARNELL: While we're on this subject, I might
17 ask: All of these are open holes, right?

18 THE WITNESS: All but one, sir.

19 MR. WARNELL: All but one?

20 THE WITNESS: Yes, sir.

21 MR. WARNELL: There's perms in one well? Which one
22 would that be?

23 THE WITNESS: That is the -- I don't want to
24 misspeak. I might have already misspoken. It might --

25 MR. WARNELL: I glanced through there. It looked to

1 me as though they were all open hole.

2 THE WITNESS: Yes. All of the injection wells are
3 open hole. I misspoke on that, then.

4 MR. WARNELL: Okay. I thought I saw a well with a TD
5 closer to 690 feet, close to 700 feet. Does that sound right?

6 THE WITNESS: I want to be sure. The No. 12 has
7 682 feet, and its total depth is 711. Yes, sir. And that is
8 an injection well.

9 MR. WARNELL: Thank you.

10 MR. BROOKS: Okay.

11 Q. (By Mr. Brooks): Let's see. What else what I
12 was going to ask you here? On the notices that you have sent
13 out, is this all federal minerals?

14 A. There are three fee wells on this.

15 Q. Within the units?

16 A. Yes, sir.

17 Q. And which ones are those?

18 A. They are the number -- Saladar 1, 2 and 11.

19 Q. That's on the Malco lease that you show here?

20 A. Yes, sir.

21 Q. And the rest of it's federal?

22 A. Yes, sir.

23 Q. And you own -- do you own all the lease rights
24 within the unit area?

25 A. Yes, sir.

1 Q. Okay. Now, are there offset operators that
2 you've notified?

3 A. Yes, sir.

4 Q. And who would those be? Which of the noticed
5 people are offset operators?

6 A. Devon Energy.

7 Q. Devon.

8 A. BPH, CML, Cimarex, Chesapeake, Exxon Corporation,
9 Merit Energy, Yates Petroleum and Tom Brown in Midland.

10 Q. Okay. Can you tell me for each of these where
11 their leases are located?

12 A. I don't think I have a map that shows those in
13 this application.

14 MR. BROOKS: Okay. Can you supplement us with that
15 information, Mr. Larson?

16 MR. LARSON: Certainly, Mr. Brooks.

17 Q. (By Mr. Brooks): Okay. Now, who owns the
18 surface where the injection wells are located?

19 A. The federal -- there's 200 acres of federal in
20 the Trent Nielson, the rancher there, owns 40 acres, the 40
21 acres that is identified as the Malco fee lease.

22 Q. So the federal minerals is also federal surface?

23 A. Yes, sir.

24 Q. And who is the gentleman who owns the Malco
25 surface?

1 A. Trent Nielson.

2 Q. And you gave him notice?

3 A. Yes, sir.

4 Q. And then were some of the noticed people
5 surrounding surface owners, or were they --

6 A. No, sir.

7 Q. No other surface owners noticed. Okay, well, I
8 don't believe that's required, but I always have to check these
9 things specifically.

10 Okay. And you didn't receive any protests except you
11 said Yates wanted some more information?

12 A. Yes, sir.

13 Q. Okay. Now, on the ACO, you said provided for a
14 \$15,000 penalty that you paid; is that correct?

15 A. Yes, sir..

16 Q. And there was an additional penalty if you didn't
17 complete by June 30th?

18 A. Yes, sir.

19 Q. And how much was that supposed to be?

20 A. 23 or 28,000 -- 28?

21 Q. 28,000?

22 A. Yes, sir.

23 Q. And when they extended your time to July 31st,
24 did they require you to pay any of that penalty to get an
25 extension?

1 A. No, sir.

2 Q. Okay. But the penalty was carried forward if you
3 didn't finish by July 31st; is that the way it was?

4 A. Yes, sir.

5 Q. Okay. And you have not paid that penalty?

6 A. No, sir, I haven't.

7 MR. BROOKS: I think that's all the questions I have.
8 Mr. Ezeanyim?

9 EXAMINATION

10 BY MR. EZEANYIM:

11 Q. I thought I could ask you some of the questions
12 that as an owner you can answer, but I have a bunch of
13 questions for the engineer person that's going to testify next.

14 First of all, I need to understand the situation
15 here. You are doing a waterflood expansion, right? In this
16 lease?

17 A. No.

18 Q. Are you asking for us to approve all these wells
19 for waterflood expansion?

20 A. This is to reauthorize the injection that I've
21 had.

22 Q. Okay. The authority you had you said expired
23 because you failed an MIT?

24 A. I didn't have the MITs performed.

25 Q. On all the wells?

1 A. Yes, sir.

2 Q. All your wells failed MITs?

3 A. They weren't ever tested. I didn't ever have
4 them tested. I failed to have them tested.

5 Q. So you were injecting in them after you tested
6 them -- oh, you never tested? Is it because you never tested,
7 that's why your authority expired, or you tested and failed?

8 A. I never tested them.

9 Q. You never tested them. Have you tested them now?

10 A. That's why I've been trying to get authority to
11 inject into there so I can pressure the wells up and test them.

12 Q. You need to test them because the order says you
13 need to do that at least every five years, otherwise you will
14 be injecting in a well that doesn't have any integrity. I
15 don't think I would be exploring that. Maybe I will talk with
16 your engineer and see what's going on with those wells that
17 you're injecting.

18 What is the status of those eight wells that you're
19 asking for injection? Are they shut in now or what's going on
20 with them?

21 A. I beg your pardon?

22 Q. What is going on with these wells right now?

23 A. They're just --

24 Q. Shut in?

25 A. They're all shut in, yes, sir.

1 Q. Okay. You have five wells, inactive wells. I
2 think they are the Saladar No. 1, 5, 7, 10, 14, right?

3 A. Yes, sir.

4 Q. Did you know you were out of compliance? Did
5 anybody tell you you were out of compliance? Because you are
6 out of compliance with five of them. Did anybody tell you you
7 were out of compliance?

8 A. Yes, sir.

9 Q. Who did?

10 A. Ms. MacQuesten.

11 Q. And did you intend to enter an Agreed Compliance
12 Order?

13 A. We have not at this time.

14 Q. You haven't entered into an Agreed Compliance
15 Order?

16 A. No, sir.

17 Q. Okay. And then I think you are scheduled to --
18 according to your testimony, on the Saladar No. 1, you are
19 going to plug and abandon?

20 A. I would like to, yes, sir.

21 Q. And then you are going to return No. 5 as a
22 producer?

23 A. Yes, sir.

24 Q. Okay. And then No. 7 would be, you know, you may
25 be tested and turn it into an injection?

1 A. Yes, sir.

2 Q. And then No. 10 you have to do some remedial work
3 before you're going to send it back to injection?

4 A. That would be a production well.

5 Q. Oh, after you do the remedial work?

6 A. Yes, sir.

7 Q. So it'll be a producer, okay. Now, No. 14,
8 you're going to turn that into a producer?

9 A. Yes, sir.

10 Q. Okay. When you learned you were out of
11 compliance, what effort did you make to be able to -- because
12 your injection operation is very valuable to you, I believe.
13 What efforts did you take in order to go back to compliance?
14 Because if you're going back to compliance, we shouldn't be
15 here. Unless there's an objection, we could approve your
16 waterflood expansion or reinstatement --

17 A. Yes, sir.

18 Q. -- by administrative application. So I don't --
19 if you are in compliance, we would have done it, and then you
20 could go ahead with your operations. But you brought us here
21 because you didn't care about those five wells. These five
22 wells are out of compliance. That's your testimony.

23 A. Yes.

24 Q. So you should have done something. We could have
25 approved the application administratively and we shouldn't have

1 to be here.

2 A. I wasn't aware of that, but yes, sir.

3 Q. Okay. And now you have agreed that you're going
4 to do all this work?

5 A. Yes, sir.

6 Q. I have some other things I wanted to talk about,
7 but I don't think I'll be going over those issues with you.

8 MR. EZEANYIM: You have another witness, you know,
9 expert, right?

10 MR. LARSON: Yes, sir. I have an expert petroleum
11 engineer.

12 MR. EZEANYIM: Maybe at that point, unless there's --

13 Q. (By Mr. Ezeanyim): You are the owner of these
14 wells?

15 A. Yes, sir.

16 Q. How many employees do you have?

17 A. Just me.

18 Q. Just you, okay. So if there's anything I need to
19 ask you about as the owner, and most of the technical questions
20 I have here I may ask your engineer, then?

21 A. Yes, sir.

22 Q. Okay.

23 MR. WARNELL: I have a question.

24 MR. BROOKS: Mr. Warnell?

25

EXAMINATION

1
2 BY MR. WARNELL:

3 Q. Producing wells. We've established that the
4 injection wells are open hole?

5 A. Yes, sir.

6 Q. On your producing wells, are they open hole, or
7 are there perfs?

8 A. There are a couple that are fully cased, but most
9 of those are open hole, yes, sir.

10 Q. Approximately when were these wells drilled?

11 A. From 1956. The final three wells, the 11 --
12 final four wells, the 11, 12, 13 and 14 were drilled in 1982.

13 Q. Okay. And I believe that you testified or
14 mentioned that it was a closed system?

15 A. Yes, sir.

16 Q. Can you tell me what that means?

17 A. From what I understand it, everything that I
18 inject I recover, and I reinject it.

19 Q. You recover?

20 A. I mean, I recover.

21 Q. I'm not sure what that means. It may be a better
22 question for your engineer.

23 A. Yes, sir.

24 Q. But how are you getting your injection fluids
25 into the injection wells? Is that by pipeline or --

1 A. Yes, sir.

2 Q. -- truck?

3 A. Yes, sir. By pipeline.

4 Q. So nothing is trucked in?

5 A. Yes, sir.

6 Q. Okay. Thank you.

7 A. Yes, sir.

8 MR. BROOKS: You understand that if we enter a new
9 order authorizing injection, that commencement of injection
10 will be contingent upon you having the MITs done before you can
11 commence injection?

12 THE WITNESS: Yes, sir. Yes, sir.

13 MR. BROOKS: Okay. Redirect, Mr. Larson?

14 MR. LARSON: Thank you, Mr. Hearing Examiner.

15 REDIRECT EXAMINATION

16 BY MR. LARSON:

17 Q. Just so the record is clear, your application
18 does not request an expansion of the Saladar unit waterflood
19 project?

20 A. No, sir.

21 Q. And when you communicated with Will Jones, I
22 believe you said it was the first Monday in February?

23 A. Yes, sir.

24 Q. At that time, did he discuss with you filing a
25 formal C-108 application?

1 A. No, sir.

2 Q. Was it your understanding that, based on
3 information in Division records, you could be reauthorized to
4 inject?

5 A. Yes, sir.

6 Q. And do you recall when Mr. Jones informed you
7 that you would indeed have to file a C-108 application?

8 A. I don't remember the exact date. I think it was
9 some time in the last part of April or maybe May.

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

11 MR. EZEANYIM: Mr. Larson, you were redirected, and
12 then let's go back to my question. In the application here for
13 this, it's marked for a waterflood expansion, and that's where
14 I got that information. So I don't know what you are actually
15 asking for.

16 MR. LARSON: I believe Mr. Langlitz addressed that.

17 MR. EZEANYIM: Okay. What are you saying? Are you
18 looking for a waterflood expansion? Because that is what is
19 marked on your C-108. But you are saying you're not seeking
20 that. What are you seeking? Are you seeking a reinstatement
21 of the authority to inject into the wells? Is that what you
22 are seeking?

23 THE WITNESS: Yes, sir. Into the six existing and
24 previous injection wells.

25 MR. EZEANYIM: Okay.

1 MR. BROOKS: Anything further, Mr. Ezeanyim?

2 MR. EZEANYIM: No.

3 MR. BROOKS: Ms. MacQuesten, do you have something
4 else for this witness?

5 MS. MACQUESTEN: Yes.

6 MR. BROOKS: Go ahead.

7 RE-CROSS-EXAMINATION

8 BY MS. MACQUESTEN:

9 Q. Mr. Langlitz, you were aware that the OCD takes
10 the position that the \$28,000 penalty is due; is that right?

11 A. Yes, ma'am.

12 Q. Are you aware of a letter that was sent to your
13 attorney on August 15th explaining that the OCD felt that the
14 penalty was due?

15 A. Yes, ma'am.

16 Q. And did you respond to that letter at all?

17 A. No, ma'am, I didn't.

18 Q. What is your position on the penalty?

19 A. Well, I was hoping that it would not be rolled
20 over into that because of the conflict where I couldn't get
21 into compliance because of the rules that the OCD had. My
22 understanding of the compliance is I had to test those wells,
23 and I had to be able to inject into them to test them.

24 Q. So I take it your position is you're not willing
25 the pay that penalty?

1 A. No, ma'am. That's not my position. I didn't.

2 Q. But what is your intention in the future? Is it
3 to pay the penalty? Is it to challenge the penalty? What is
4 your next step?

5 A. If I have to pay it -- I mean, if that's what you
6 rule, then I will come up with the money somehow. Yes, ma'am.

7 Q. If that's what we rule. Is there an action
8 pending on whether the penalty is appropriate?

9 A. No, ma'am. I didn't make an -- I mean --

10 Q. So there's no challenge to the penalty. You
11 didn't respond to the letter telling you the penalty was due,
12 and you have not paid the penalty?

13 A. That's right. Yes, ma'am.

14 Q. And you testified that you are now willing to
15 enter into an Agreed Compliance Order as to the inactive wells.
16 Have you entered into negotiations for an Agreed Compliance
17 Order?

18 A. I wasn't even aware that was an option until just
19 recently.

20 Q. You weren't aware of an inactive well Agreed
21 Compliance Order?

22 A. No. I wasn't aware that I could do a compliance
23 order.

24 Q. You already had one. You weren't -- what were
25 you not aware of?

1 A. Yes, sir.

2 Q. If we approve your injection wells, that's what
3 you are going to be making, right?

4 A. Yes, sir.

5 Q. Did you do any calculations to determine whether
6 that is possible? I know the oil prices have been going down.

7 A. Yes, sir.

8 Q. You know you're going to, you know -- it's not
9 going to be a lot for you?

10 A. No, it won't be.

11 Q. Because now when you do the remedial work, it's
12 going to take some money.

13 A. I beg your pardon?

14 Q. When you do the work, in able to get the
15 injection from it -- authority to inject -- you're going to
16 spend some money.

17 A. Yes, sir.

18 Q. You're going to be increasing your production
19 from four to eight barrels?

20 A. Yes, sir.

21 MR. EZEANYIM: Okay. That's all I have.

22 MR. BROOKS: Anything further, Mr. Larson?

23 MR. LARSON: Just one question. Ms. MacQuesten asked
24 you about a letter you were sent regarding the \$28,000 penalty?

25 THE WITNESS: Yes, sir.

1 MR. LARSON: And did your attorney have a
2 conversation with Sonny Swazo of the Division after you
3 received that letter?

4 THE WITNESS: Yes, he did.

5 MR. LARSON: That's all I have.

6 MR. BROOKS: Very good. The witness may step down,
7 and you may call your next witness.

8 MR. LARSON: I call Mike Kincaid.

9 MR. BROOKS: You may proceed, Mr. Larson.

10 WILLIAM MICHAEL KINCAID

11 after having been first duly sworn under oath,
12 was questioned and testified as follows:

13 DIRECT EXAMINATION

14 BY MR. LARSON:

15 Q. Would you please state your full name for the
16 record?

17 A. William Michael Kincaid.

18 Q. And where do you reside, Mr. Kincaid?

19 A. Wichita Falls, Texas.

20 Q. And who do you work for and in what capacity?

21 A. I'm employed by Stephens Engineering as a
22 consulting petroleum engineer.

23 Q. And could you briefly summarize your educational
24 and employment background?

25 A. I graduated from Texas A&M in May of 1972 with a

1 BS in petroleum engineering. I worked for Texaco Incorporated
2 from May 1972 until January 1974, and I've been employed with
3 Stephens Engineering from January 1974 to date.

4 Q. And are you a registered professional engineer?

5 A. Yes, I am. I've been registered since
6 January 1978.

7 Q. And is that in the State of Texas?

8 A. In the State of Texas, yes.

9 Q. Have you ever testified before a regulatory
10 agency with jurisdiction over oil and gas operations?

11 A. I've testified before the Texas Railroad
12 Commission.

13 Q. And you were qualified as an expert in those
14 cases?

15 A. Yes, sir.

16 MR. LARSON: Mr. Hearing Examiner, based on Mr.
17 Kincaid's education and professional experience, I move he be
18 qualified as an expert in petroleum engineering.

19 MR. BROOKS: Any objection, Ms. MacQuesten?

20 MS. MACQUESTEN: No objection.

21 MR. BROOKS: Any questions?

22 MR. EZEANYIM: Yeah, one more question. Are you
23 still an Aggie?

24 THE WITNESS: Excuse me?

25 MR. EZEANYIM: Are you still an Aggie? You went to

1 Texas A&M.

2 THE WITNESS: Texas A&M. I am an Aggie.

3 MR. EZEANYIM: Are you still an Aggie? Are you
4 still?

5 THE WITNESS: Yes, sir, I am.

6 MR. EZEANYIM: Okay. That's all I have.

7 MR. BROOKS: You don't need to ask that question.
8 Once an Aggie, always an Aggie.

9 MR. EZEANYIM: I'm sorry. Go ahead.

10 MR. BROOKS: Mr. Kincaid is so qualified. You may
11 proceed, Mr. Larson.

12 MR. LARSON: Thank you, Mr. Hearing Examiner.

13 Q. (By Mr. Larson): Mr. Kincaid, I'll direct your
14 attention to Exhibit No. 1. Are you familiar with the document
15 that Mr. Langlitz submitted to the Division for administrative
16 approval of his application for authorization to inject?

17 A. Yes, I am.

18 Q. And is there any information contained in the
19 application that you would like to correct for the record in
20 the hearing today?

21 A. Yes. There is a well data sheet of a well
22 operated by Mewbourne Oil Company. It's listed as the
23 Saladar 33 Fee Com No. 1. That needs to be the Saladar 32 Fee
24 Com No. 1, and it also needs to be shown in Section 32 instead
25 of Section 33.

1 MR. BROOKS: Okay. I'm going to need some guidance
2 to find that sheet.

3 THE WITNESS: It's located in that exhibit past all
4 of Dennis Langlitz' wells, past the Chesapeake Operating
5 Company wells. It's right after the CML exploration well.

6 MR. BROOKS: That's Mewbourne Saladar 33 Fee Com 1
7 gas well? Is that the one?

8 THE WITNESS: That's correct.

9 MR. BROOKS: Okay. Now, what were the changes you
10 wanted to make?

11 THE WITNESS: Instead of the Saladar 33, it needs to
12 be the Saladar 32. It needs to be shown in Unit letter O.

13 MR. BROOKS: Instead of M?

14 THE WITNESS: Instead of M.

15 MR. BROOKS: Okay.

16 THE WITNESS: And it needs to be shown in Section 32
17 instead of 33.

18 MR. BROOKS: Okay. Anything else?

19 THE WITNESS: There's a well schematic that has the
20 wrong API number.

21 MR. BROOKS: Where is that going to be?

22 MR. WARNELL: Is that past where we're at right now?

23 THE WITNESS: Yes. It's on toward the back.

24 MR. LARSON: Is that the Mayfield No. 3?

25 THE WITNESS: Right. It's the basic materials

1 Mayfield No. 3, yes.

2 MR. BROOKS: Okay.

3 THE WITNESS: And the API number, the last set of
4 numbers need to be 02439.

5 MR. BROOKS: 02349 instead of 02443? They should be
6 02439?

7 THE WITNESS: That's correct.

8 MR. BROOKS: Okay. Proceed.

9 Q. (By Mr. Larson): Mr. Kincaid, I direct your
10 attention to Exhibit No. 2. And can you identify the documents
11 that comprise No. 2?

12 A. Exhibit No. 2 consists of three well schematics.
13 They are plugged wells within the one-half mile radius of
14 investigation.

15 Q. And did you prepare this exhibit?

16 A. Yes, I did.

17 Q. And why did you prepare the exhibit?

18 A. These were wells that were not -- the first two
19 schematics are plugged wells that were not included in the
20 original application. And then the third schematic is a
21 correction of a schematic that was included in the application.

22 Q. And for that third document, based on your
23 analysis, you realized that the schematic with the application
24 was incorrect?

25 A. That's correct.

1 Q. And I'll next refer you to Exhibit No. 3. Did
2 you also prepare this exhibit?

3 A. Yes, I did.

4 Q. And what does it depict?

5 A. Exhibit 3 is a well data sheet and schematic of a
6 producing wells that is within the one-half mile radius of
7 investigation, and it was not included in the original
8 application.

9 Q. And was Stephens and Johnson Operating the
10 previous operator in the Saladar unit waterflood project?

11 A. Yes. That's correct.

12 Q. And were you personally involved in Stephens and
13 Johnson's operation of the waterflood?

14 A. Yes.

15 Q. And are you presently involved in Stephens and
16 Johnson's operations in southeast New Mexico?

17 A. Yes, I am. The closest project would be the East
18 Millman Pool unit, which is approximately nine miles north of
19 the Saladar unit.

20 Q. And do you have personal knowledge of the geology
21 of the area where Mr. Langlitz' injection wells are located?

22 A. Yes, I do.

23 Q. And are you familiar with the reservoir?

24 A. Yes. The Saladar unit produces from the Yates
25 formation.

1 Q. And I'll next direct your attention to
2 Exhibit No. 11. And did you also prepare this exhibit?

3 A. Yes, I did.

4 Q. And what does this exhibit depict?

5 A. This shows the geologic formations that are
6 encountered in this area along with their approximate depths
7 and gross thicknesses, starting with the Rustler formation at
8 about 200 feet down to the Capitan Reef, which is encountered
9 at approximately 800 feet.

10 Q. And are there any oil or gas zones above the
11 proposed injection zone?

12 A. There are no productive oil and gas zones above
13 the Yates. Productive oil and gas zones below the Yates will
14 probably not be encountered until you reach the Delaware
15 formation, which begins at about 2700 feet.

16 Q. And Mr. Langlitz' injection wells don't go that
17 deep, do they?

18 A. That's correct.

19 Q. And what is your estimate of the thickness of the
20 Yates formation?

21 A. The gross interval of the Yates formation is
22 approximately 200 feet. The oil productive zone in the Yates
23 averages approximately 20 feet thick.

24 Q. And is the zone into which Mr. Langlitz proposed
25 to inject continuous?

1 A. Yes, it is.

2 Q. And, to your knowledge, is there an aquifer above
3 the proposed injection zone?

4 A. Shallow water is encountered above the Yates
5 formation at a depth of approximately 50 to 75 feet from the
6 surface.

7 Q. How about below the Yates?

8 A. Below the Yates, there's an aquifer known as the
9 Capitan Reef, and it's encountered at a depth of approximately
10 800 to 1,000 feet deep.

11 Q. But again, Mr. Langlitz' injection wells don't
12 reach that depth, do they?

13 A. That's correct.

14 Q. And are you aware of any faults that might affect
15 the injection zone to one of these freshwater zones?

16 A. No.

17 Q. In your opinion, is the injection water
18 previously utilized by Mr. Langlitz and the injection water he
19 proposes to utilize compatible with the formation water?

20 A. The water that he will be or has been utilizing
21 and will utilize as injection is freshwater from the Carlsbad
22 system along with the produced formation water, and the waters
23 are compatible.

24 Q. And I believe you heard Mr. Langlitz testify
25 about two water wells in the area?

1 A. Yes.

2 Q. And would his proposed injection, in your
3 opinion, present any threat to those freshwater supplies?

4 A. No, it would not.

5 Q. And from a geologic standpoint, has the reservoir
6 been reasonably defined by previous development?

7 A. Yes, it has.

8 Q. And your opinion is based on your prior
9 experience with your company operating the waterflood project?

10 A. That's correct.

11 Q. Okay. And what is the continuing sustainability
12 of the reservoir for secondary recovery?

13 A. With favorable oil prices, the Saladar unit could
14 be sustained for at least another ten years or possibly longer.

15 Q. And could you generally describe for the Hearing
16 Examiner the construction of the six injection wells that are
17 identified in the application?

18 A. These wells are generally completed open hole
19 with production casing set on top of the Yates formation and
20 cemented back to surface or very near the surface. 2 3/8-inch
21 tubing is run inside the production casing with the packer set
22 within 50 feet of the Yates formation.

23 And I probably ought to, at this time, correct some
24 previous testimony. There's at least one injection well that
25 is cased to the TD: The Saladar Unit No. 12 does have

1 production casing set all the way to the TD of 711 feet, and
2 it's perforated from 658 to 682 feet. So there is one
3 injection well that does have the case total.

4 Also, the open hole sections in these injection wells
5 range from 602 feet, which is in No. 7, all the way down to
6 700 feet, which is in Saladar Unit No. 4, so I would think the
7 application for injection should be at those depths.

8 Q. And have you analyzed the available well data for
9 each of the wells in public record within the half-mile radius
10 identified in Exhibit 9?

11 A. Yes, I have.

12 Q. And does the application submitted by
13 Mr. Langlitz as supplemented by the exhibits you've brought
14 today include all the information to support your analysis?

15 A. Yes, it does.

16 Q. And how many plugged wells are there in the area
17 of review?

18 A. There are 12 plugged wells.

19 Q. And in your opinion, have all those wells been
20 properly plugged?

21 A. Yes. Those wells have been sufficiently plugged,
22 yes.

23 Q. And also in your opinion, is each of
24 Mr. Langlitz' injection wells adequately cased and cemented
25 such that no injection water can escape from the wells?

1 A. Yes, they were.

2 Q. And again, does the application as supplemented
3 by your exhibits contain all the information necessary to
4 support your conclusion?

5 A. Yes, it does.

6 Q. And I think you can anticipate some questions
7 from the Hearing Examiners. In your opinion, would
8 Mr. Langlitz' proposed maximum injection pressure of 600 psi
9 result in migration of fluids from the injection zone?

10 A. I don't believe that it would, no.

11 Q. And would injection at 600 psi fracture the
12 formation?

13 A. I don't believe it would. The original
14 completion data on some of these wells recorded the initial
15 shut-in pressures after some initial acid breakdown jobs, and
16 these initial shut-in pressures ranged from 550 pounds up to
17 600 pounds. And these initial shut-in pressure are a good
18 indication of the frac pressure of the reservoir.

19 Plus, once you begin injecting into the reservoir,
20 you change its characteristics. And over a period of time, you
21 actually increase the fracture pressure of that reservoir. So
22 based on that information, the frac pressure should be
23 significantly above the 600 psi.

24 MR. EZEANYIM: I wanted to ask that question. I
25 don't want to wait because I may forget this. I know when you

1 shut in, you can go up to 600 psi. That's not enough for us to
2 determine whether you are going to fracture the formation or
3 not. I was hoping you had a step-rate test to see and have
4 that fracture point to see where you can, you know -- we need
5 to have a step-rate test to do that.

6 Because when I look at the other -- I think there
7 were orders issued, very old orders issued, when we didn't have
8 the UIC program. The UIC program now requires that we do all
9 those. In 1979 -- this well was approved in 1979. We didn't
10 have primacy for the UIC program. I think we had it in 1993 or
11 something like that. But then there was no concentration for
12 the UIC program, so they can approve whatever they have.

13 But right now we have to look at that. And the only
14 way we can increase pressure in your injection interval,
15 according to your testimony, to 700 feet -- the most you can do
16 right now is 140 psi, regardless of what your shut-in pressure
17 says. So that's why -- I'm sorry. I needed to -- these are
18 some questions I needed to ask. But I wanted to explore it
19 right now while we're talking about it.

20 Maybe before this application may be approved, if
21 it's going to be approved, then we have to have that step-rate
22 test, because that seems awfully high from my own perspective.
23 We are going against our 700 series rules. We require the .2
24 psi a foot. That's all we require. And if you need to
25 increase it, we can just -- well, I might look at shut-in

1 pressure, which you mentioned, but before we really approve it
2 is the step-rate test. When you do a step-rate, you see where
3 that point is. You see what I'm saying?

4 THE WITNESS: Yes, I do.

5 MR. EZEANYIM: So that's really how we're going to do
6 it. We need to do -- after these wells are repaired, we need
7 to do a step-rate test to make sure we're doing it right.
8 Because the EPA has entrusted us to make sure those things
9 don't fail, you know. So we need to make sure we do a report
10 to EPA that we conducted a step-rate test, and we are able to
11 increase the pressure from 140, which it should have been, to
12 about 550 or 600, what you are asking. You can ask for
13 anything, but you need to give us data to be able to approve
14 those.

15 THE WITNESS: So the order might be approved
16 contingent upon a --

17 MR. EZEANYIM: We don't approve it contingent upon
18 it. It just needs to be done. If you haven't already done it,
19 I think it needs to be done. Because I can't just -- we can't
20 just give you 600 psi at that depth. I'll be going against the
21 rules. It doesn't work that way.

22 MR. BROOKS: What we normally do is authorize the
23 pressure at .2 psi.

24 MR. EZEANYIM: At .2 psi.

25 MR. BROOKS: And then if we decide -- you can get

1 administrative approval once you do your step-rate test.

2 MR. EZEANYIM: However, if you can inject -- I don't
3 know why. You may be right on those, but I don't know. If you
4 can inject at 140 psi, which is the most we can give you right
5 now, we can approve it if we want to approve it at 140. But if
6 you can't inject at 140, it doesn't do him any good until you
7 do that step-rate test. So if you really need the 600 psi or
8 500 psi, the step-rate is needed.

9 THE WITNESS: I understand.

10 MR. EZEANYIM: But we can't say you can go 500 or 600
11 already depending on that; no we can't do that. But we can
12 give you 140, what the rule says. So that when EPA comes and
13 they audit us, then they don't see that -- why are you going
14 against our rules, you know?

15 But once the step-rate is part of the folder, we can
16 say, "Here it is." Then it's not happening on the ground.

17 THE WITNESS: Well, he's definitely going to need
18 more than the 140 psi; is that what you're asking?

19 MR. EZEANYIM: That's what I'm saying. We can't just
20 say you can inject 500 pounds until there's a step-rate test.

21 THE WITNESS: Repeat that again.

22 MR. EZEANYIM: That's why we can't just issue you an
23 order, if an order were to be issued in this case. We can't
24 just say we can allow you to inject 500 hundred psi, 600 psi,
25 depending on you conducting this step-rate test. So it has to

1 be done, and then we evaluate it and include it there and
2 approve that you can inject at 600 psi or whatever pressure you
3 want, as long as it's demonstrated that you're not going to
4 frac the formation.

5 THE WITNESS: I understand.

6 MR. EZEANYIM: Okay.

7 MR. BROOKS: You may continue.

8 Q. (By Mr. Larson): Mr. Kincaid, in your expert
9 opinion, would the approval of Mr. Langlitz' application to
10 reauthorize injection into his six wells serve the interests of
11 conservation, prevention of waste, and protection of
12 correlative rights?

13 A. Yes, I do.

14 MR. LARSON: That's all I have for Mr. Kincaid, and I
15 move the admission of Exhibits 1 through 11.

16 MR. BROOKS: Any objection?

17 MS. MACQUESTEN: No objection.

18 MR. BROOKS: Exhibits 1 through 11 will be admitted.

19 [Applicant's Exhibits 1 through 11 admitted into
20 evidence.]

21 MR. BROOKS: Any cross-examination?

22 MS. MACQUESTEN: No cross-examination.

23 MR. BROOKS: Mr. Ezeanyim?

24 MR. EZEANYIM: Yeah. Let me explore something here.
25

EXAMINATION

1
2 BY MR. EZEANYIM:

3 Q. In the area of review, how many wells do we have?
4 I know you said 13. How many area of review wells do we have
5 for this -- how many injection wells for these six wells? How
6 many in the area of review do you have to do?

7 First of all, did you prepare the C-108? Did you do
8 the C-108?

9 A. No, I did not.

10 Q. Who did that?

11 A. Mr. Langlitz prepared the original application,
12 and I prepared Exhibits 2 and 3.

13 Q. I'm sorry. Then who should answer the question
14 of how many area of review wells -- maybe Mr. Langlitz can
15 answer that question.

16 MR. EZEANYIM: How many area of review wells do you
17 have in this unit? How many are total, including producers,
18 plugged and abandoned injection wells, any well within the
19 half-mile area of review? How many.

20 MR. LANGLITZ: 12 plugged, 16, 29 wells.

21 MR. EZEANYIM: There are 29 wells. Of those 29
22 wells, two are plugged and abandoned, right? Two are plugged
23 and abandoned?

24 MR. LANGLITZ: There are 12 plugged and abandoned.

25 MR. EZEANYIM: Okay. And the sketches are all here?

1 MR. LANGLITZ: Yes, sir.

2 MR. EZEANYIM: Okay. How many of those wells are
3 inactive?

4 MR. LANGLITZ: Of those -- if you're talking about
5 the ones on the inactive list?

6 MR. EZEANYIM: Not necessarily. In the area of
7 review, including those that are inactive, they may be owned by
8 somebody else. They don't have to be yours. How many of them
9 are inactive?

10 MR. LANGLITZ: Well --

11 MR. EZEANYIM: Okay. How many producers do you have
12 in that area of review? Keep in mind the producers may not be
13 all your wells. It could be somebody else's wells, but because
14 they come into your area of review --

15 MR. LANGLITZ: There are four.

16 MR. LARSON: I just handed Mr. Langlitz Exhibit 9
17 which shows the area of review.

18 MR. LANGLITZ: There are four active wells in the
19 area of review other than the ones on the Saladar unit.

20 MR. EZEANYIM: Okay. And they are producers? Those
21 four wells are producing in addition to yours?

22 MR. LANGLITZ: Yes, sir.

23 MR. EZEANYIM: But you don't --

24 THE WITNESS: I think there should be five.

25 MR. LANGLITZ: Is there five?

1 THE WITNESS: Right. The Mewbourne Saladar 32, the
2 Mewbourne Avalon Ridge 33, the Chesapeake Federal Four Well
3 No. 2, the Chesapeake 4 Well No. 4 and then the CML Miller
4 Federal 2. Those are five active producing wells that are not
5 operated by Mr. Langlitz.

6 MR. EZEANYIM: Okay. This is what I want you to do:
7 Out of the 29 area of review wells, I want you to clarify
8 them -- what, you know, like out of the 29, two are plugged and
9 abandoned, and we have casing for that. How many are
10 producers, and how many of them are inactive? Who owns them,
11 you know, in case we need to do some remedial work. So we need
12 to have a breakdown of these wells in the area of review.

13 MR. LANGLITZ: Yes, sir.

14 MR. EZEANYIM: And if you include the inactive wells
15 and nobody -- nothing is happening there, we need to see what
16 is going to happen -- what the sketch -- we need to look at the
17 sketch and see what's going on there. You can't just be
18 injecting in them -- in a well that has been an inactive well
19 in there.

20 If you have that in your mind that -- if you have an
21 injection well and there's an inactive well, that inactive well
22 has to be looked at very seriously before we can allow you to
23 inject in any of the wells that are in the area of review. So
24 I need a spreadsheet saying that.

25 And we're also going to need sketches of those

1 plugged and abandoned to see whether they were properly plugged
2 and abandoned.

3 MR. LANGLITZ: Yes, sir.

4 MR. EZEANYIM: If you produce that, we're still going
5 to look at the inactive wells plugged and abandoned, we need to
6 have --

7 MR. BROOKS: So we can clarify what we're going to
8 need to supplement the record with, I think all that
9 information is actually in here, but what you want is a
10 spreadsheet that lists all the wells, shows their status and
11 refers you to the exhibits where the information is
12 specifically provided.

13 MR. LANGLITZ: Yes, sir.

14 MR. EZEANYIM: I think it's not too difficult. You
15 can do it. But you might have somebody take a look at the
16 diagrams, because we want to make sure that the cement is
17 appropriate, unless you can do that yourself. If not, get
18 somebody to help you do that. Because we are going to
19 essentially look at that, just as if we are going to approve
20 your project.

21 MR. LANGLITZ: Yes, sir.

22 MR. EZEANYIM: So we need those. And then you need
23 to do the step-rate test.

24 MR. LANGLITZ: Yes, sir.

25 MR. EZEANYIM: The sooner you do it, the better.

1 Because once you do the step-rate test, then we can supplement
2 the record as if we are going to do this application.

3 You said there are two water wells. What is the
4 depth of the water wells in the area? What is the depth of
5 those freshwater wells? I heard you say 60 feet.

6 MR. LANGLITZ: That's about what the -- the one well
7 that they had pulled, the ranch owner has not owned the ranch
8 very long. So he's not aware of how deep -- I don't know if I
9 can find any well records on those.

10 MR. EZEANYIM: You need to find them. I wrote here
11 you said 60 feet. I wrote it down. Is that about right?

12 MR. LANGLITZ: That's about right, yes, sir.

13 MR. EZEANYIM: Do you have any water analysis of
14 these? You have to have those water analyses to see what
15 you're injecting in there.

16 MR. LANGLITZ: No, sir, I don't.

17 MR. EZEANYIM: You have to have a water analysis of
18 the wells there and water analysis of the fluids you are
19 injecting and, you know -- if you did the C-108, you said, this
20 is how I'm going to do it. Who did the C-108 for you? Did you
21 do it yourself?

22 MR. LANGLITZ: Yes, sir.

23 MR. EZEANYIM: You did it yourself?

24 MR. LANGLITZ: I did it with some help, yes, sir.

25 MR. EZEANYIM: Did you guys look at where you say

1 you're going to provide a water analysis? Because it's there.
2 The section on that form C-108.

3 MR. LANGLITZ: I thought it was for the freshwater
4 wells, and that's why I had that analyzed.

5 MR. EZEANYIM: You can have freshwater wells, but you
6 also have the well we're injecting. We need to know what the
7 concentration is and the concentration of the native water. We
8 need to know those, so we need to get that. If your C-108 is
9 not complete, we need to have that information.

10 MR. LANGLITZ: Yes, sir. I can get that.

11 MR. BROOKS: I thought the witness testified that
12 they did have a water analysis. Did they not have a water
13 analysis on the injection water?

14 MR. LANGLITZ: No, sir.

15 MR. EZEANYIM: No, they don't.

16 MR. BROOKS: Okay. So that's another thing we're
17 going to need, the water analysis on the injection water.

18 MR. EZEANYIM: So we must have the step-rate test and
19 a spreadsheet of the area of review indicating all the wells,
20 and then your water analysis. And then we will go back and
21 review them and see whether you met all the requirements.

22 Q. (By Mr. Ezeanyim): Now, you said that project is
23 sustainable for ten years in advance. You just mentioned that
24 in your testimony. Did you do any cost/benefit analysis to
25 demonstrate that? Because I don't know if you increase your

1 production from four to eight, have you done anything to make
2 sure that that's viable, really?

3 A. As to Mr. Langlitz, what his normal operating
4 expenses would be when he gets all the wells back going -- and
5 he indicated that he could operate it for \$2,000 a month.

6 So based on that, his economic limit will be
7 approximately one barrel of oil per day. And that's what I was
8 basing that estimate on. So right now, even at four barrels a
9 day, it would be profitable and even more profitable at eight
10 barrels of oil per day.

11 Q. Yeah. Because we need to also prevent waste
12 here. That's why I'm asking that question.

13 A. Right.

14 Q. And you say this is sustainable over a period of
15 ten years?

16 A. At least ten years, possibly longer.

17 Q. Well, the oil price is coming down.

18 A. Excuse me?

19 Q. The oil prices are coming down. I don't know
20 why, but it's not \$140 like it used to be. I don't know what
21 it is now. So it's really at the brink. If the oil prices go
22 back to where it used to be, I don't know how viable that
23 project will be.

24 A. Right. The one barrel of oil per day economic
25 limit was based on \$80 oil.

1 Q. Okay. What is the price currently?

2 A. The last couple of days, it was in the high-70s.

3 Q. Excuse me?

4 A. About 75, 77, the last couple of days.

5 Q. What is that? How much -- how many barrels a day
6 are you asking for this in this project? How many barrels a
7 day are you asking for?

8 A. Barrels of injection?

9 Q. Yeah. What is the maximum? What is your
10 minimum?

11 A. I think the average requested was like
12 120 barrels of water per day.

13 Q. The maximum was what?

14 A. The maximum was testified at 300 barrels per day,
15 I believe.

16 Q. Are you requesting a proposed injection pressure
17 of 550 to 600? Is that what you are going to request?

18 A. That is correct.

19 Q. Okay. Now, we need that step-rate test.

20 MR. EZEANYIM: And maybe I make this comment now to
21 Mr. Langlitz: Those five wells that you are out of compliance,
22 before even we're going to think about approval, you are going
23 to be in compliance with them. You've stated what you're going
24 to do.

25 So apart from all the remedial work you are going to

1 to, you still have to comply with those five wells. Because we
2 can't approve any injection before you comply with those five
3 wells.

4 MR. LANGLITZ: Yes, sir.

5 MR. EZEANYIM: Because we can't approve any injection
6 until you comply with those five wells. I just want to make
7 sure you understand that.

8 MR. LANGLITZ: Yes, sir.

9 Q. (By Mr. Ezeanyim): Did you do any zone
10 investigations here? Because I'm concerned. It's like the
11 case we had yesterday. This is very close to the Capitan Reef.
12 Did you look at the Capitan Reef and the injection zone and see
13 if there is any communication between those two? Because
14 they're very close to the Capitan Reef.

15 A. Yeah. The deepest --

16 Q. And this is a very good source of freshwater for
17 the people in Carlsbad. So can you tell me about this zone you
18 are injecting into, the Yates and the Capitan Reef, and
19 connection between the two of them?

20 A. The deepest wells on the Saladar unit go to a
21 total depth of approximately 700 feet, and the Capitan Reef in
22 this area -- you won't encounter it until 800 or 1,000 feet
23 deep. So you're going to have approximately 100- or 200-foot
24 barrier between the injection and the Capitan Reef. So the
25 possibility of impacting the Capitan Reef is minimal, very

1 minimal.

2 Q. Okay. And there are no fault zones in the area?
3 You don't get any fault zones? No faults?

4 A. No faults.

5 MR. EZEANYIM: Okay. That's all I have. Thank you.

6 MR. BROOKS: Okay. What did you do to satisfy
7 yourself that there are no faults in this area?

8 THE WITNESS: Well, just the general geologic
9 information in the area. The Yates formation is a
10 stratographic trap. And the geological information we have
11 doesn't show any abnormal displacement in that formation.

12 MR. BROOKS: You're generally pretty familiar with
13 the geology in this area?

14 THE WITNESS: That's correct.

15 MR. BROOKS: Okay. Mr. Warnell?

16 MR. WARNELL: Along the same lines, Mr. Kincaid,
17 looking through your exhibits here, there's a copy of our
18 administrative order, WFX-642, which allows injection of up to
19 600 psi on well No. 8. Now, that well, according to the well
20 sketch, goes down to 664 feet, which, if the Capitan Reef is at
21 800, then we're 136 feet above the Capitan Reef.

22 THE WITNESS: Correct.

23 MR. WARNELL: If you were to fracture the Yates
24 formation at 600 psi or 1,000 psi, whatever it would take to
25 fracture it, what would happen? Where would that fracture go?

1 THE WITNESS: The fluid that you inject is going to
2 go the path of least resistance. And with 100 to 200 feet
3 barrier between the Yates and the Capitan Reef, your path of
4 least resistance is going to be out and up rather than going
5 down. So if you created a fracture in the Yates formation, the
6 tendency of that frac would not be to go downward. It would be
7 to grow outward and upward.

8 MR. WARNELL: So you know of no situations where
9 they've frac'd the Yates into the Capitan Reef?

10 THE WITNESS: I don't know of any.

11 MR. EZEANYIM: So we should get that step-rate test.
12 We need it so we can look at it -- the step-rate so we can
13 evaluate what's going to there.

14 THE WITNESS: Correct.

15 MR. WARNELL: No further questions.

16 MR. BROOKS: Anything further, Mr. Larson?

17 MR. LARSON: Not for Mr. Kincaid. I just wanted to
18 get a clarification on the supplementation.

19 MR. BROOKS: Yeah. We'll do that. You may step
20 down, Mr. Kincaid.

21 Ms. MacQuesten, in view of the testimony, do you need
22 to put on anything, or is everything that is relevant to your
23 case been covered?

24 MS. MACQUESTEN: Although we've talked about the
25 Agreed Compliance Orders, they have not been admitted into

1 evidence.

2 MR. BROOKS: Okay. You may proceed with your
3 witness.

4 DANIEL SANCHEZ

5 after having been first duly sworn under oath,
6 was questioned and testified as follows:

7 DIRECT EXAMINATION

8 BY MS. MACQUESTEN:

9 Q. Would you state your name for the record?

10 A. Daniel Sanchez.

11 Q. And where are you employed?

12 A. The Oil Conservation Division.

13 Q. What is your title there?

14 A. Compliance and Enforcement Manager.

15 Q. As Compliance and Enforcement Manager, are you
16 generally familiar with the rules of the OCD?

17 A. Yes, I am.

18 Q. And are you familiar with the various enforcement
19 programs that the OCD uses to obtain compliance?

20 A. Yes, I am.

21 Q. Would you turn to what has been marked as OCD
22 Exhibit A?

23 A. Okay.

24 Q. And is this a copy of Rule 701, the rule
25 regarding permits for injection?

1 A. Yes, it is.

2 Q. If you could look at the first paragraph,
3 paragraph A, could you point us to any compliance requirements
4 an applicant must need before obtaining an injection permit?

5 A. Sure. The last couple of sentences in Section A,
6 "The Division shall grant the permit for injection under
7 19.15.9.701 only to an operator who is in compliance with
8 Subsection A of 19.15.1.40. The Division may revoke a permit
9 for injection issued under 19.15.9.701 after notice of hearing
10 if the operator is not in compliance of Subsection A of
11 19.15.1.40."

12 Q. All right. Let's turn to Exhibit B. Is this a
13 copy of the Rule 40 that is referred to in the injection rule?

14 A. Yes, it is.

15 Q. And if you could look at paragraph A of Rule 40,
16 that's the paragraph that's referred to in the injection permit
17 rule also?

18 A. Yes, it is.

19 Q. And it sets out what an operator must be in
20 compliance with?

21 A. That's correct.

22 Q. If I could direct your attention to A(4). What
23 is that requirement?

24 A. A(4) requires that, "Well operator is in
25 compliance with Subsection A of 19.15.1.40 if the operator has

1 no more than the following number of wells out of compliance
2 with 19.15.4.201."

3 Q. In general, what is 201 -- what is that?

4 A. The inactive well rule.

5 Q. All right. If you could look down a little
6 further on Rule 40 to Subsection F, it talks about an inactive
7 well list. What is that?

8 A. It's a list that is posted on the OCD's website
9 for all operators, and it will show any inactive wells for that
10 operator.

11 Q. So if we look at that list, it will tell us how
12 many wells the operator has that are out of compliance with 201
13 for purposes of figuring out if they're out of compliance with
14 Rule 40?

15 A. Yes.

16 Q. If you could turn to what's been marked as
17 Exhibit C, is this the Rule 40 inactive well listed for Dennis
18 Langlitz?

19 A. Yes, it is.

20 Q. And how many inactive wells does it show
21 Mr. Langlitz having?

22 A. It shows five.

23 Q. And how many wells does Mr. Langlitz have total?

24 A. 13.

25 Q. And now, going back to Rule 40, Rule 40 provides

1 that an operator can have a certain number of wells out of
2 compliance with 201 without being in trouble. But after he
3 reaches that limit, he's out of compliance with Rule 40; is
4 that right?

5 A. That's right.

6 Q. And it depends on how many wells that operator
7 operates?

8 A. Yes.

9 Q. For an operator who has a total of 13 wells, how
10 many wells would he be allowed to have on this list?

11 A. No more than two, or 50 percent of his total
12 wells.

13 Q. So with five, he's over the limit --

14 A. Yes.

15 Q. -- by three?

16 A. Yes.

17 Q. He'd need to clear three off the list to be in
18 compliance with Rule 40?

19 A. That's correct.

20 Q. Does Mr. Langlitz have an inactive well Agreed
21 Compliance Order in place?

22 A. No.

23 Q. Are you aware of a telephone call from
24 Mr. Langlitz' attorney to myself on Tuesday of this week
25 regarding the possibility of working out some sort of order?

1 A. I remember you bringing it up, yes.

2 Q. Other than that, has Mr. Langlitz ever approached
3 the OCD about an inactive well Agreed Compliance Order?

4 A. Not that I'm aware of.

5 Q. Now, does Mr. Langlitz have another Rule 40
6 compliance issue in addition to the inactive well issue?

7 A. Yes, he does.

8 Q. Let's turn back to Rule 40 -- that's Exhibit B --
9 and look at photograph 3 of Subsection A. Is that the other
10 compliance issue we need to address?

11 A. Yes, it is.

12 Q. And could you describe what that is?

13 A. It basically states that if the operator does
14 have a penalty assessment that is not paid for more than
15 70 days after the issuance of an order assessing the penalty,
16 then he would be in violation.

17 Q. Does Mr. Langlitz have an unpaid penalty?

18 A. Yes, he does.

19 Q. Is that unpaid penalty the result of a hearing
20 order or an Agreed Compliance Order?

21 A. Agreed Compliance Order.

22 Q. Were you involved in negotiating that?

23 A. Yes, I was.

24 Q. If you would turn to what's been marked as
25 Exhibit D. Is that a copy of the original Agreed Compliance

1 Order for Mr. Langlitz that resulted in this penalty?

2 A. Yes, it is.

3 Q. Could you summarize for us the compliance issue
4 that was involved in that order?

5 A. There were six wells that were a part of that
6 Agreed Compliance Order. All of them involved MIT tests that
7 the operator failed to be a part -- to come into compliance
8 with by not being around for the testing.

9 Q. Are those the same six wells that are the subject
10 of this application for injection permit today?

11 A. Yes, they are.

12 Q. Does this Agreed Compliance Order, Exhibit D,
13 outline the compliance efforts the OCD took to try to get
14 Mr. Langlitz to comply with the MIT requirements?

15 A. Yes, it does.

16 Q. According to the Agreed Compliance Order, when
17 did the OCD first take any compliance steps against
18 Mr. Langlitz regarding the MIT issue?

19 A. Originally it was back in 2005, where
20 Mr. Langlitz was informed that the MIT tests on those wells
21 were due. And he was sent a letter on those stating when those
22 tests were going to be run. They never got a response on
23 those, on that request.

24 Q. Is the information about that 2005 contact on
25 page 2 of the Agreed Compliance Order?

1 A. Yes, it is.

2 Q. And if you continue down that page, you'll see
3 the other efforts that were taken by the OCD?

4 A. That's correct.

5 Q. Could you summarize what happened after that
6 initial contact in 2005?

7 A. Okay. In 2006, another letter was sent to the
8 operator stating that the tests needed to be rescheduled, and
9 if they had any questions to notify the district office. No
10 one for the operator appeared at those tests.

11 Again on January 5th, of 2007, OCD inspector Gerry
12 Guye sent the operator a letter which informed the operator
13 that his authority to inject into the subject wells had been
14 suspended due to no mechanical integrity tests had been
15 conducted since May of 2000.

16 Deputy inspector Guye told the operator that the
17 wells needed to have a mechanical integrity tests conducted
18 prior to reinstatement of the operator's injection authority
19 for the wells. The OCD did not hear from the operator.

20 Q. Let me stop you there. So as early as January 5
21 of 2007, the OCD was trying to tell Mr. Langlitz that his
22 authority had been suspended and that he needed to test the
23 wells and get that authority reinstated?

24 A. That's correct.

25 Q. All right. What happened after that?

1 A. On December 6th of 2007, the OCD issued the
2 Notice of Violation to Mr. Langlitz for those violations.

3 Q. Was an administrative conference held as a result
4 of that notice?

5 A. Yes, it was.

6 Q. Were you a part of that conference?

7 A. Yes.

8 Q. If you look at paragraph 12 on page 2 of the
9 order, does that describe what Mr. Langlitz represented to the
10 OCD during that conference?

11 A. Yes, it does.

12 Q. What does it say about that January 5th, 2007,
13 letter in which the OCD tried to notify him that his authority
14 was cancelled?

15 A. That he found it while cleaning out his office,
16 but not until October of 2007.

17 Q. Okay. Was he continuing to inject until he found
18 that letter?

19 A. Yes.

20 Q. What does it say about his knowledge of the rules
21 governing injection wells?

22 A. That he had never read the rules.

23 Q. And what were his representations regarding being
24 able to come into compliance?

25 A. That given the time frame that was offered, that

1 he would be able to come back into compliance.

2 Q. And what was the time frame that was offered?

3 A. I believe the original time frame was June
4 30th, 2008.

5 Q. When was this order signed by Mr. Langlitz?

6 A. March 6, 2008.

7 Q. And did you look at this final page of this
8 order, the very first line? Did Mr. Langlitz, by signing this
9 order, agree to the correctness of all of the findings and
10 conclusions in the order?

11 A. Yes, he did.

12 Q. And did he agree that if he failed to comply,
13 that the order could be enforced the same way a final order of
14 the Division or Commission could be enforced?

15 A. Yes.

16 Q. What did Mr. Langlitz agree to do under this
17 order?

18 A. He agreed to pay a portion of the original
19 penalty. He agreed to get all the wells back into compliance,
20 and he agreed to speak with the engineering division here in
21 Santa Fe in order to file the paperwork to reapply for his
22 injection authority on the wells.

23 Q. If you could turn back a few pages to the part of
24 the order that talks about the penalty assessment, could you
25 tell us what was the total amount of the penalty in this order?

1 A. It was \$43,000.

2 Q. And what were the terms about waiving part of
3 that penalty?

4 A. \$15,000 was going to be due by March 14th, and
5 the rest of that \$28,000 would be waived given his statement
6 that he could go ahead and bring everything else back into
7 compliance by a date certain.

8 Q. So if he met the deadline, the \$28,000 penalty
9 would be waived?

10 A. Yes.

11 Q. Now, total penalty of \$43,000, how does that
12 compare to the penalties that are normally assessed in Agreed
13 Compliance Orders for violations of this kind?

14 A. Depending on the length of time they were out of
15 violation, they are similar.

16 Q. How did you calculate that \$43,000? Why was that
17 number picked?

18 A. It's been awhile, but if I remember correctly, it
19 was based on how many months he had been operating -- or still
20 injecting into those wells -- after he had been issued the
21 original letter, the Notice of Violation.

22 Q. Okay. If you could look at paragraph 3 under
23 Section 4, Order and Civil Penalty Assessment, if you could
24 read us that paragraph about when that \$28,000 would become
25 due.

1 A. Okay. "If the operator fails to comply with the
2 conditions of Ordering Paragraph No. 2, the \$28,000 shall
3 become immediately due and paid in accordance with Ordering
4 Paragraph No. 2(a)."

5 Q. Okay. Now, the original deadlines that were set
6 in this order were changed; were they not?

7 A. Yes.

8 Q. For the benefit of Mr. Langlitz?

9 A. That's correct.

10 Q. Are Exhibits E and F the two amendments that were
11 issued in the order extending the various deadlines?

12 A. Yes, they are.

13 Q. Who requested these extensions?

14 A. Mr. Langlitz.

15 Q. The final extension, though, in Exhibit F, if you
16 look at the second page of that, was everything supposed to be
17 completed by July 31st of 2008?

18 A. Yes.

19 Q. Did he complete the work that needed to be done?

20 A. No.

21 Q. Is the remaining \$28,000 penalty due?

22 A. Yes.

23 Q. If you could turn to Exhibit G, is this a letter
24 explaining that the penalty is due?

25 A. Yes, it is. It's dated August 15, 2008, and it

1 was sent by Mr. Sonny Swazo.

2 Q. Who's Mr. Swazo?

3 A. He's the attorney who signed off on the -- or was
4 the main participant in the Agreed Compliance Order with
5 Mr. Langlitz.

6 Q. Is Mr. Swazo with the OCD?

7 A. Yes, he is.

8 Q. And who is the letter to?

9 A. To Mr. Langlitz' attorney, Gary Larson.

10 Q. Now, as I recall, you said under Rule 40 an
11 operator would have 70 days to pay a penalty once the order
12 assessed the penalty?

13 A. That's correct.

14 Q. If we used the July 31st, 2008, date, as the date
15 the penalty is due, that being the date, the deadline, for
16 completing everything, is the penalty payment over 70 days late
17 now?

18 A. It would be, yes.

19 Q. If we used the August 15th date, the date of the
20 letter informing Mr. Langlitz that we considered the penalty
21 due, will he hit that 70-day deadline in about ten days?

22 A. Yes.

23 Q. I'm not going to make you do math on the stand.
24 That's why I'm suggesting these numbers.

25 A. That's good.

1 Q. At any point in this process -- well, let me back
2 up.

3 Has Mr. Langlitz done anything to challenge the
4 imposition of the penalty?

5 A. No.

6 Q. And have any payments been made on that \$28,000?

7 A. No.

8 Q. At any point in this process, was Mr. Langlitz
9 made aware of the consequences of being in violation of
10 Rule 40?

11 A. Yes, during the original admin conference back in
12 January.

13 Q. What was told to Mr. Langlitz?

14 A. We explained to him that the wells would be
15 inactive, that there was a Rule 40. He made it clear to us
16 that he hadn't read the rules on 701, and we told him he needed
17 to be more aware of the rule, specifically the Rule 40 issues.
18 So it's been a while.

19 Q. Okay. So we have two Rule 40 issues: We have
20 the inactive wells and the penalties. How could Mr. Langlitz
21 come into compliance on those two issues?

22 A. By first paying the \$28,000 penalty and entering
23 into an Agreed Compliance Order on those five inactive wells to
24 bring them into compliance with that rule.

25 Q. If he was able to -- we heard testimony today

1 that two of them are either returned to production or about to
2 be returned to production, and another one needs some work. If
3 he were able to bring at least three of those wells into
4 compliance, would he be in compliance with Rule 40 without
5 having to have an Agreed Compliance Order?

6 A. Yes.

7 Q. Okay. And just out of curiosity, if we entered
8 into an Agreed Compliance Order today on the inactive wells,
9 would he still be out of compliance with Rule 40 on the
10 penalties?

11 A. Yes.

12 Q. So the Examiners still would not be able to issue
13 that permit under 701?

14 A. That's correct.

15 MS. MACQUESTEN: Okay. I have no more questions. I
16 would move for the admission of OCD Exhibits A through G.

17 MR. BROOKS: Any objection?

18 MR. LARSON: No objection.

19 MR. BROOKS: OCD Exhibits A through G are admitted.

20 [Respondent's Exhibits A through G admitted into
21 evidence.]

22 MR. BROOKS: Cross-examination?

23 MR. LARSON: Thank you, Mr. Hearing Examiner.

24 CROSS-EXAMINATION

25 BY MR. LARSON:

1 Q. Just to follow up on Ms. MacQuesten's question:
2 Would you be willing to enter into an inactive well Agreed
3 Compliance Order with Mr. Langlitz?

4 A. Sure.

5 Q. Do you have any reason to dispute Mr. Langlitz'
6 testimony that he did not know that he had to go to a formal
7 hearing on his application until after the compliance deadline
8 was extended?

9 A. I have no doubt that he believes that was true.
10 One of the things that I did express to him at the admin
11 conference was that he needed to talk to Will Jones about it
12 and make sure that everything that he needed to get done in
13 order for that to happen, he understood it, and if he didn't,
14 he needed to continued to maintain contact either with the
15 district office or with us in Santa Fe to avoid any further
16 problems.

17 Q. But you have no basis to say that he had
18 knowledge that he had to go to hearing prior to July 16th?

19 A. No.

20 Q. Okay. And would you agree that he cannot come
21 into compliance with his obligations under ACO 225 until he
22 gets an order authorizing him to inject into those wells?

23 A. Yes. That's why we gave him the additional time
24 to get all these done. We knew that the process to get
25 authority to reinject was going to take some time, and we felt

1 that discussing it back in January would have given him plenty
2 of time to come and find out exactly what he was going to need
3 and how long that was going to take.

4 Q. But at this point, would you agree he's kind of
5 in a Catch-22 because if his application is denied, then he
6 can't come into compliance with AGO 225?

7 A. Yeah, to some degree. It could have been avoided
8 if he would have acted on it sooner, I believe.

9 Q. How could it have been avoided?

10 A. He could have gotten the wells back into
11 operation at that time and requested from the Division
12 authority to test the wells to get them back into injection to
13 test them, and then go ahead and shut them back in until the
14 paperwork was put through.

15 Q. And how would he have done that without going to
16 hearing?

17 A. Well, at the time, I don't think that was much of
18 an issue. That was one of the reasons we asked him to go ahead
19 and discuss it with Will Jones. There was a possibility that
20 he could have done it administratively without a hearing.

21 Q. Didn't he attempt to do it administratively?

22 A. I believe he did.

23 Q. And Mr. Jones then said it had to go to hearing?

24 A. After he reviewed what paperwork was originally
25 submitted by Mr. Langlitz, yes.

1 Q. Okay. And my last question, I'll refer you to
2 Division Exhibit D, which is ACO 225?

3 A. Okay.

4 Q. Is there any mechanism in that Agreed Compliance
5 Order for Mr. Langlitz to challenge the \$28,000 penalty that
6 remains unpaid?

7 A. No, not in this agreement.

8 MR. LARSON: Thank you.

9 MR. BROOKS: Mr. Ezeanyim?

10 EXAMINATION

11 BY MR. EZEANYIM:

12 Q. I just wanted to get some clarification a little
13 bit. There is a penalty for \$43,000, right?

14 A. That's correct.

15 Q. And has he paid a 15,000?

16 A. Yes.

17 Q. Did he pay it on time or late?

18 A. He asked for an extension, which we granted and
19 then he paid it on time.

20 Q. He paid. Okay, I thought the AGO says if you pay
21 \$15,000 by a certain date, then the 28,000 will be waived.

22 A. No. What the Agreed Compliance Order says is we
23 are willing to waive 28,000 of it if you meet these other
24 conditions. The 15,000 was still due no matter what?

25 Q. Okay. But he didn't meet all the other

1 conditions?

2 A. No.

3 Q. Okay. I just wanted to clarify that. Then,
4 coming back to what your counsel said about issuing an order
5 here.

6 Let's assume that he comes back and gets an Agreed
7 Compliance Order, however late it might be, is it possible that
8 the application is approved, would that satisfy you because he
9 has come into compliance with all those five wells so that if
10 this application could be approved, then we can go ahead and
11 approve it? Because, you know, if he hasn't complied, we will
12 still approve the application?

13 A. No. We would be satisfied, if I can get this
14 right, as long as he's in compliance with the inactive well
15 rule prior to you making a decision on this, and he is also in
16 compliance with that part of Rule 40 where he owes a penalty --
17 and I could see us going with the August 15th date. So he
18 still has another ten days or so -- whatever that time frame
19 may be -- in order to pay the penalty. He would no longer be
20 in violation of Rule 40 on either count; therefore, it wouldn't
21 matter in terms of what you decide on the application. It
22 could be approved.

23 Q. Okay. So by coming into compliance would
24 constitute coming to you and getting an Agreed Compliance
25 Order?

1 A. And paying the penalty.

2 Q. And paying the penalty. So at that point, we
3 would be free to evaluate the application?

4 A. Yes.

5 Q. Okay. I just wanted to -- okay.

6 MR. EZEANYIM: That's all I have.

7 MR. BROOKS: Mr. Warnell?

8 MR. WARNELL: I'm not sure if I have a question or
9 not. Let me throw you out my thoughts, Mr. Sanchez, and see if
10 there is a question in there.

11 On the inactive well list in your exhibits, there is
12 wells 1, 5, 7, 10 and 14.

13 THE WITNESS: Yes.

14 MR. WARNELL: On the ACO, there are six wells.

15 THE WITNESS: That's correct.

16 MR. WARNELL: 2, 4, 6, 7, 8 and 12.

17 THE WITNESS: Yes.

18 MR. WARNELL: So there's one well in those lists that
19 are common, and that is Well 7. So if I add all those up, we
20 have ten wells that are problem wells?

21 THE WITNESS: Yes. Only five of those wells are
22 considered inactive. The other wells, the other six from the
23 original case, it was a different violation that we were going
24 after, not them being inactive.

25 MR. WARNELL: Thank you.

1 MR. BROOKS: Are you through?

2 MR. WARNELL: Yes.

3 MR. BROOKS: I want to clarify where we are here.
4 There are five wells inactive, right?

5 THE WITNESS: Yes, sir.

6 MR. BROOKS: And I understand the testimony, only one
7 of those five wells is part of this injection application.

8 THE WITNESS: That's right.

9 MR. BROOKS: That's the No. 7.

10 THE WITNESS: Yes, sir.

11 MR. BROOKS: If Mr. Langlitz' testimony is true, and
12 he's going to plug the No. 1 -- I guess not true or false
13 whether he's going to or not, but he said he was going to -- if
14 he does, and he's right about the -- if he's truthfully
15 testified that the No. 5 and No. 14 are back on production,
16 once that is processed through the mail, then he would only
17 have two inactive well, right?

18 THE WITNESS: That's right.

19 MR. BROOKS: So he would no longer be out of
20 compliance Rule 40 except with regard to the penalty.

21 THE WITNESS: That's correct.

22 MR. BROOKS: So if he paid the penalty, then we could
23 go ahead and issue the order so he can do his MITs and then get
24 the injection wells back into injection; is that correct?

25 THE WITNESS: That's correct.

1 MR. BROOKS: Okay. Anything further from counsel?

2 MS. MACQUESTEN: No further questions of Mr. Sanchez.

3 MR. LARSON: No more questions.

4 MR. BROOKS: Okay. The witness may stand down. I
5 want to clarify, because we have so many follow-up items, I'm
6 going to continue this case and ask that we be back here -- is
7 there a problem with October 30 or the next Examiner Hearing.
8 Can we get the stuff by then?

9 MR. LARSON: Okay.

10 MR. EZEANYIM: And do you know what you're supposed
11 to get?

12 MR. BROOKS: That's what I was going to go over and
13 you can fill in and if I misstate, Mr. Ezeanyim.

14 For me, the one thing that I had requested was that
15 we have a breakdown of who -- what would be nice would be a
16 chart that would show on the map who operates each one of the
17 adjacent leases.

18 And also I think that we need to get actual graphic
19 presentations of this area of review, because you can't really
20 see what tracks are in it by this. It's just sort of a
21 freehand drawing of a circle around. What we need to get is a
22 land map and have somebody take a compass and draw that area of
23 review in so we know what we're really looking at.

24 And then we need the step-rate test. And we need a
25 spreadsheet on the area of review wells. I believe the C-108

1 instructions tell you how to do the spreadsheet. I want to be
2 sure, because, you know, if you review the C-108 instructions
3 and follow those, that would be what we need in the
4 spreadsheet.

5 MR. LARSON: Excuse me. That was the wells in the
6 area of review?

7 MR. BROOKS: All the wells in the area of review.

8 MR. EZEANYIM: All 29 of them.

9 MR. BROOKS: Regardless of their status -- they need
10 to show the status, but show also all the information that the
11 C-108 instructions call for.

12 And then we need a water analysis on the injection
13 water, which would be the -- of course, the Carlsbad water is
14 freshwater, but we need water analysis on the produced water
15 from the unit.

16 Anything else?

17 MR. EZEANYIM: No, nothing.

18 MR. KINCAID: May I make a comment?

19 MR. BROOKS: Okay. Yes, sir.

20 MR. KINCAID: The companies that do these step-rate
21 tests are very far behind on being able to do these tests, so
22 we'd have to find out if somebody could fit him in before this
23 October 30th.

24 MR. BROOKS: Yeah. Well, I think -- probably if we
25 can get all the rest of the stuff back October 30th, I think

1 I'll go ahead and set it and you can supplement with that.
2 We'll let you supplement that afterwards if you've been unable
3 to get the step-rate test performed by that time. I think that
4 would be the best way to handle it.

5 Now, I would make one further comment. I believe
6 it's pretty obvious that Mr. Langlitz is going to have to pay
7 this penalty or else he's going to have to file a hearing
8 application and get some kind of review of that. I suppose
9 there's no real procedure provided for reviewing it, but you
10 can ask for anything in a hearing application, and you didn't
11 ask for that at this time.

12 We're not going to be able to issue any kind of an
13 order until that penalty is paid, or until the Division issues
14 some sort of order saying he doesn't have to do it. So that's
15 something you need to take into consideration.

16 I'm going to -- with that, if there's nothing
17 further, we will continue Case No. 14190 to October the 30th.

18 I would ordinarily take a ten-minute break at this
19 time, but I want to take a lunch break at 11:45, and there's
20 not going to be time enough after the break to get anything
21 done, so we will stand in recess until 1:15.

22 MS. MACQUESTEN: When will we hear the other case?

23 MR. BROOKS: Well, we're going to have to take
24 this -- we have another case, so since we put the other one off
25 until 1:15, when we come back at 1:15, we'll do Case No. 14129

1 first, and then we will conclude with Case No. 14186, because
2 14129 will be much shorter, and 14186 will be longer.

3 Okay. We'll stand in recess until 1:15.

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18 I do hereby certify that the foregoing is
19 a complete record of the proceedings in
20 the Examiner hearing of Case No. 14190
21 heard by me on 10-16-2009.

22 David K. Bush Examiner
23 Oil Conservation Division
24
25

1

2 **REPORTER'S CERTIFICATE**

3

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6 foregoing proceedings in stenographic shorthand and that the
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10 I FURTHER CERTIFY that I am neither employed by nor
11 related to any of the parties or attorneys in this case and
12 that I have no interest in the final disposition of this
13 proceeding.

14 DATED this 16th of October, 2008.

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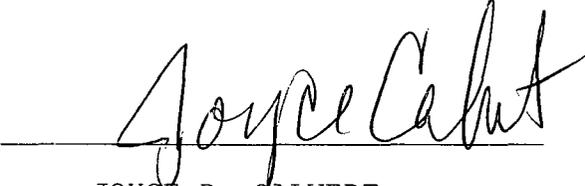
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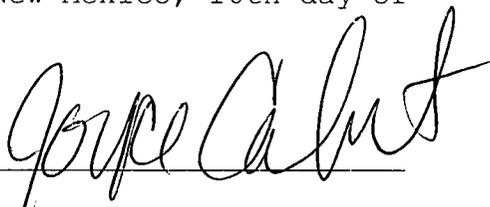
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11 Dated at Albuquerque, New Mexico, 16th day of
12 October, 2008.

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