

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

DOCKET: EXAMINER HEARING

April 14, 2016
8:26 a.m.
Wendell Chino Building
Porter Hall
1220 S. St. Francis Drive
Santa Fe, New Mexico

CASE NO. 15475 (Continued from the
March 31, 2016 Examiner Hearing)

TRANSCRIPT OF PROCEEDINGS

APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION
COMPLIANCE AND ENFORCEMENT BUREAU FOR A COMPLIANCE ORDER
AGAINST SIANA OPERATING, LLC, FOR WELLS OPERATED IN LEA
COUNTY, NEW MEXICO

BEFORE: WILLIAM JONES, Lead Examiner
SCOTT DAWSON, Examiner
DAVID K. BROOKS, Legal Examiner

REPORTED BY: DEBRA ANN FRIETZE
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A P P E A R A N C E S

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1 EXAMINER JONES: We will begin the docket
2 with Case Number 15475. It's an Application of the
3 New Mexico Oil Conservation Division Compliance and
4 Enforcement Bureau for a Compliance Order against Siana
5 Operating, LLC, for wells operated in Lea County,
6 New Mexico.

7 We welcome appearances at this time in this
8 case.

9 MR. HERRMANN: Mr. Examiner, Keith
10 Herrmann, representing the Oil Conservation Division
11 Compliance and Enforcement Bureau.

12 MR. STRANAHAN: Mr. Hearing Officer, Robert
13 Stranahan on behalf of Siana Operating, LLC.

14 EXAMINER JONES: Other appearances?

15 MS. MIANO: Michelle Miano on behalf of the
16 New Mexico State Land Office.

17 EXAMINER JONES: From looking at the docket
18 in this case, I see that there haven't been prehearing
19 statements submitted from the State Land Office or from
20 the respondent in this case.

21 Is there any debate about whether they
22 would be able to question the witnesses?

23 MR. HERRMANN: No.

24 EXAMINER JONES: You can question the
25 witnesses of the applicant in this case.

1 MS. MIANO: Thank you.

2 EXAMINER JONES: Okay. Will the applicant
3 please proceed?

4 MR. HERRMANN: Yes, Mr. Examiner. The Oil
5 Conservation Compliance and Enforcement Bureau brought
6 this case to hearing in response to an emergency order
7 issued on March 9th due to Siana's lack of compliance
8 with a Division directive.

9 This has been an ongoing matter since
10 last -- the beginning of last September. And we have
11 decided that formal compliance action is required, and
12 we will seek a Division order requiring compliance by a
13 date certain.

14 I have four witnesses today. One change on
15 my prehearing statement is Amber Groves will not be
16 appearing today on behalf of the State Land Office. She
17 had direct contact with the operator sites. And
18 instead, I will propose that we substitute Jamie Keyes.
19 He's an Oil Conservation Division Inspector out of
20 District 1 and also will be testifying on the same
21 topic.

22 EXAMINER JONES: Okay.

23 MR. HERRMANN: For my first witness, I
24 would like to call Kellie Jones. And at this point, I
25 don't know if you'd like to swear in all four of my

1 witnesses.

2 [At which time Kellie Jones, Jaimie Keyes,
3 Tomas Oberding and Daniel Sanchez were duly
4 sworn under oath.]

5 MR. HERRMANN: My first witness is
6 Ms. Kellie Jones. She is currently the Oil Conservation
7 Division District 2's geologist, but at the time she was
8 serving as an OCD Environmental Specialist.

9 KELLIE JONES
10 having been previously sworn under oath,
11 was questioned and testified as follows:

12 DIRECT EXAMINATION

13 BY MR. HERRMANN:

14 Q. Would you please state your name, title and
15 place of employment for the record?

16 A. My name is Kellie Jones. I currently work at
17 OCD, District 2, Artesia, as their geologist. At the
18 time of this incident, I was an OCD, District 1,
19 Environmental Specialist.

20 Q. Have you previously testified in an expert
21 capacity before the Oil Conservation Division?

22 A. No, I have not.

23 Q. Could you please provide the Examiner with a
24 brief description of your qualifications?

25 A. Okay. I have a degree, a Bachelor of Science,

1 in Geology. I have approximately 15 years of experience
2 in the environmental field, working in such places as
3 the Texas Commission on Environmental Quality, working
4 for the DOD and other companies dealing with
5 environmental issues before Compliance and
6 Investigations.

7 Q. Could you briefly describe the duties you
8 perform for the Oil Conservation Division?

9 A. As the Environmental Specialist for District 1,
10 I perform field inspections, I process incoming soil
11 reports, I work with operators on providing comments on
12 their remediation plans, as well as any sort of
13 corrective measures that they may want to put in place
14 as preventive measures.

15 MR. HERRMANN: At this point, I'd like to
16 move to admit Ms. Jones as an expert witness in
17 environmental assessment.

18 EXAMINER JONES: Any objection?

19 MR. STRANAHAN: We would object to her
20 being admitted as an expert. I don't believe that her
21 qualifications are that of an expert, maybe as a
22 practitioner.

23 EXAMINER JONES: You're offering her as a
24 geologist?

25 MR. HERRMANN: No.

1 EXAMINER JONES: Say that again, please.

2 MR. HERRMANN: As an expert witness in
3 environmental assessment.

4 Ms. Jones has vast experience reviewing
5 environmental sites, and she has performed work on --
6 Ms. Jones, how many sites have you worked on in your
7 employment with the Oil Conservation Division?

8 THE WITNESS: There's no way to tell.
9 Probably over 100, 150, and that's just in the last year
10 alone.

11 EXAMINER JONES: Would you please restate
12 your objection?

13 MR. STRANAHAN: I would just object to
14 having Ms. Jones as an expert witness, qualified as
15 such. I don't believe that 15 years' experience as a
16 reader of reports and as a person that oversees sites is
17 qualified as an expert.

18 EXAMINER JONES: Any comments on this,
19 Ms. Miano?

20 MS. MIANO: Not at this time.

21 EXAMINER JONES: Mr. Herrmann, any other --

22 MR. HERRMANN: I think you can note
23 Mr. Stranahan's objection, but I believe Ms. Jones is
24 qualified to testify in the capacity I've requested.

25 EXAMINER BROOKS: Well, this is in the

1 discretion of the Examiner. I would note, however, that
2 if there is any doubt about the witness's
3 qualifications, the Examiner can take that in -- if he
4 chooses to admit the evidence, can take that into
5 consideration in terms of credibility.

6 EXAMINER JONES: Ms. Jones is so qualified.

7 Q. (By Mr. Herrmann) Ms. Jones, have you had
8 personal dealings with Siana in the alleged violations
9 at issue today?

10 A. Yes, sir, I have.

11 Q. Thank you. So you have direct factual
12 knowledge, as well?

13 A. Yes, sir.

14 Q. Could you please identify Oil Conservation
15 Division -- or OCD Exhibit 1?

16 MR. HERRMANN: I'll present some copies to
17 the Examiners. I've also presented some to opposing
18 counsel.

19 A. Exhibit 1 is a list of all wells operated by
20 Siana in District 1.

21 Q. So just for clarity ongoing in this proceeding,
22 it would be safe to say that we might refer to these
23 wells by their name, by their full descriptive and
24 location information that can be found on Exhibit 1?

25 A. Yes, sir.

1 Q. And page 2 of Exhibit 1, would you please
2 identify that?

3 A. It's the information on the company itself, as
4 well as who the owner of the facility is or the company,
5 as well as, you know, their address and such.

6 Q. And this is a printout from the New Mexico
7 Secretary of State?

8 A. Yes, sir, it is.

9 Q. Could you please identify the officers of
10 Siana, LLC?

11 A. Yes. The first one -- the only one listed is
12 Ragsdale, Tom.

13 Q. All right. Let's move on to Exhibit 2. Could
14 you please identify that for the record?

15 A. It is various email correspondence that has
16 occurred regarding Siana and their ongoing issues.

17 Q. And the first email is dated Monday, September
18 28th, 2015. Could you tell what that was -- or who that
19 conversation was between and what the topic was?

20 A. Yes. This email was from Amber Groves, who is
21 a State Land Office employee, who had received this
22 communication from up -- you know, chain of command,
23 stating that there was a release at the site, and she
24 was asking if we could look into it. And it was at the
25 Siana APD Federal Number 1 spill site, and it also

1 included pictures showing a release at the site, which
2 included previous water flowing off the well pattern.

3 The second email is from Siana's Anthony
4 Riggan, who I attempted to contact the day that I
5 received the email from Ms. Groves. It was an email
6 that was dated 12/21 of 2015. I notified him that they
7 were overdue on filing their Siana-141, which is the
8 notification of a spill from the September 28th release.

9 He stated that he was waiting for
10 information from Tom Ragsdale, Siana's operator, on how
11 to respond.

12 Q. And what was the date on that email?

13 A. 12/21/2015.

14 Q. Just to reiterate, the first email, when the
15 release was noticed, was Monday, September 28th?

16 A. Yes, sir.

17 Q. And had you notified Siana prior to that that
18 they had a release on site?

19 A. I had called them and left a message for
20 Mr. Riggan on the 28th, asking for further information,
21 but I had not received a response.

22 Q. Okay. And he stated that he was waiting for
23 direction from his boss, Mr. Ragsdale?

24 A. Yes, sir.

25 Q. And the last email, would you please identify

1 that?

2 A. Okay. The third email is from Ms. Groves to
3 Anthony Riggan and myself, dated February 5th, 2016,
4 asking for an update on this particular site.

5 I had emailed him back on January 25th and
6 notified them that the OCD had issues with the initial
7 Siana-141 that we had received.

8 Q. What were those issues?

9 A. The main one was that they reported they had
10 lost just two barrels and that they had picked up two
11 barrels. And from what we had seen throughout the time
12 since September, there's no way that it was just two
13 barrels and that they had picked up everything that they
14 had lost.

15 Just for a side note, anything under five
16 barrels is a non-reportable spill. If it's over five
17 barrels, it is a reportable spill. They have 14 days to
18 get in the Siana-141. And if it's over 25 barrels, it's
19 a major incident and requires immediate 24 notification.

20 This had to be greater than five barrels
21 from the initial September spill that I saw.

22 Q. You've reviewed the pictures that Ms. Groves
23 initially sent you on Monday, September 28th?

24 A. Yes, sir.

25 Q. Have you reviewed what the OCD will later admit

1 as Exhibit 3, a PowerPoint presentation?

2 A. Yes, sir.

3 Q. Would you state that you -- or let me rephrase
4 that.

5 Are the photos cited to Ms. Groves in the
6 first few slides an accurate and fair depiction of the
7 photographs she sent you?

8 A. Yes, sir, they are.

9 MR. HERRMANN: I have no further questions.

10 MR. STRANAHAN: Mr. Hearing Officer, we, as
11 you know, are going to be seeking a continuance at the
12 end of this proceeding because I've only recently been
13 engaged as counsel. So we would like to reserve any
14 cross-examination based on that request for a
15 continuance.

16 EXAMINER JONES: Ms. Miano, questions of
17 the witness?

18 MS. MIANO: No questions, Mr. Examiner.

19 EXAMINER JONES: Ms. Jones, does the OCD
20 catch any samples of soils from the overflow that you
21 alleged came from this spill?

22 THE WITNESS: Okay. We're not discussing a
23 pit, we're discussing an active site.

24 EXAMINER JONES: Okay, the active site.

25 Does the OCD catch samples of the soil, or

1 does the OCD just take pictures and ask the operator to
2 prove that it's not a release?

3 THE WITNESS: It depends on the
4 circumstances. For this particular incident, we were
5 leaving it up to the operator to provide the
6 information. But since we had no communications until
7 December, that would -- I mean there's no way to go back
8 in time and take samples.

9 EXAMINER JONES: Do you mean the salt would
10 have been drawn away, or it -- it would still be there,
11 wouldn't it?

12 THE WITNESS: Well, we had indications that
13 there were continual releases at the site, so there was
14 no way to pick out one incident from the other because
15 it appeared to be piling on each other.

16 EXAMINER JONES: Do your pictures have
17 dates on them?

18 THE WITNESS: The ones from this group I
19 believe do. And any of the pictures that we had taken
20 here at the OCD do as well, they are date stamped, yes.

21 MR. HERRMANN: We'll get into this with
22 another witness, Mr. Jones.

23 EXAMINER JONES: Okay.

24 Do you have anything?

25 EXAMINER DAWSON: I have a question.

1 Ms. Jones, when you say, "picked up," when
2 they picked up two barrels at the site, just for
3 clarification of the record, you are referring to they
4 picked it up with -- they sucked it up with a vacuum
5 truck, correct?

6 THE WITNESS: There was no notification on
7 how they picked it up.

8 EXAMINER DAWSON: Okay.

9 THE WITNESS: So from our visual
10 observation, it appeared that I had not been picked up.

11 EXAMINER DAWSON: Okay.

12 That's all the questions I have.

13 EXAMINER JONES: Mr. Brooks?

14 EXAMINER BROOKS: No questions.

15 MR. HERRMANN: My next witness is Mr. Jamie
16 Keyes, also appearing via speaker phone.

17 JAMIE KEYES

18 having been previously sworn under oath,
19 was questioned and testified as follows:

20 DIRECT EXAMINATION

21 BY MR. HERRMANN:

22 Q. Mr. Keyes, can you hear me all right?

23 A. Yes.

24 Q. Would you please state your name, title and
25 place of employment for the record?

1 A. My name is Jamie Keyes. I work for the
2 New Mexico Oil Conservation Division as an Environmental
3 Specialist in District 1.

4 Q. Have you personally visited the site Siana
5 identified in Exhibit 1?

6 A. Yes, I visited them on several occasions.

7 Q. What dates did you visit them?

8 A. February 19th, March 1st, March 9th and March
9 15th.

10 Q. And what prompted these visits?

11 A. I was requested to check these sites out after
12 a compliance action had been started. I had been
13 informed that they had lost their authority to transport
14 before they could transport and/or inject on February
15 19th. And I was told specifically to see if the wells
16 were producing.

17 Q. And what did you see?

18 A. On February 19th, I saw that the Blue Dunns 1
19 and Number 2, as well as the Royal Trude's pumpjacks
20 were operating.

21 Q. Did you see any other wells operating?

22 A. On that day, those were the only pumpjacks I
23 saw operating on that day.

24 Q. What about other days?

25 A. On March 1st, I saw a water truck connected to

1 the APD Federal Number 1, the Curry State Number 2; 5
2 and 6 pump jacks were also operating.

3 On March 9th, I saw the transfer pump at
4 the Curry Federal Number 2 well operating, and it was
5 leaking as well.

6 Q. And have you reviewed the PowerPoint
7 presentation that we'll be presenting today?

8 A. Yes, I have.

9 Q. And would you state that the photos contained
10 are a fair and accurate depiction of the sites
11 identified?

12 A. Yes, I would.

13 MR. HERRMANN: No further questions.

14 EXAMINER JONES: Mr. Stranahan?

15 MR. STRANAHAN: The same statement, that we
16 will be asking to recall potentially witnesses that
17 testify here at a later proceeding for cross-examination
18 based on the record.

19 EXAMINER JONES: Did you want to offer him
20 as an expert?

21 MR. HERRMANN: No, not at this time.

22 MS. MIANO: No questions.

23 MR. HERRMANN: With that, I will call --

24 EXAMINER JONES: I think Mr. Dawson might
25 have a question.

1 EXAMINER DAWSON: Mr. Keyes, on the Curry
2 Federal Number 2, you said that there was a transfer
3 pump that was leaking; is that correct?

4 THE WITNESS: Yes.

5 EXAMINER DAWSON: That's the only question
6 I have.

7 EXAMINER JONES: Mr. Keyes, the well you
8 said that had a pumping unit on it, I thought you said
9 APD Federal Number 1; is that correct?

10 THE WITNESS: Can you restate that?

11 EXAMINER JONES: Which well did you say had
12 pumping unit on it?

13 THE WITNESS: Are you talking about the one
14 that was leaking?

15 EXAMINER JONES: Not the transfer pump,
16 before that. Which wells are saltwater disposal wells
17 out there?

18 THE WITNESS: The APD Federal is a
19 saltwater disposal, and the Curry Federal.

20 EXAMINER JONES: Which of the wells -- I
21 noticed that Siana has basically, it seems, two groups
22 of wells. They have at least two wells that are around
23 Monument Abo, the Monument area, and it looks like the
24 rest of the wells are around Antelope Ridge; is that
25 correct?

1 THE WITNESS: Uh-huh.

2 EXAMINER JONES: What sites did you go out
3 and inspect, the Curry State wells?

4 THE WITNESS: I visually inspected all the
5 sites on Exhibit 1.

6 EXAMINER JONES: Can you summarize what you
7 saw going on out there, just so we can put all this in
8 context? You saw releases; is that correct, Mr. Keyes?

9 THE WITNESS: I have seen evidence of
10 previous releases, and several besides some of the sites
11 had active releases. And like I said previously, on
12 June 19, 3/1, 3/9 and 3 -- yes, on 3/9, all of those
13 sites were active.

14 EXAMINER JONES: They were actively
15 leaking?

16 THE WITNESS: Working, running.

17 EXAMINER JONES: Did you talk to anybody
18 with Siana?

19 THE WITNESS: I have not had any
20 communication with anybody from Siana.

21 EXAMINER JONES: But Ms. Jones is the one
22 that's trying to contact people with Siana; is that
23 correct?

24 MS. JONES: Yes, it is.

25 EXAMINER JONES: Okay.

1 And you just talked about a little bit of a
2 problem with getting ahold of the people with Siana?

3 MS. JONES: Yes, sir.

4 EXAMINER JONES: Okay.

5 These sites, Mr. Keyes, that you're talking
6 about, were they all associated with wells, or were some
7 of them flowlines or pipelines or transfer stations or
8 what?

9 THE WITNESS: These were all wells.

10 EXAMINER DAWSON: Mr. Keyes, Exhibit 1 --
11 this is Scott Dawson. I'm sorry.

12 On Exhibit 1, can we go through those 11
13 wells that are depicted on Exhibit 1, go down that list,
14 and can you kind of briefly describe what you saw on
15 each well on the date you were out there?

16 MR. HERRMANN: Mr. Examiner, it might be
17 better to do this with my next witness. It will be a
18 little bit easier presentation-wise.

19 EXAMINER DAWSON: Okay. And the
20 presentation will probably hit each well?

21 MR. HERRMANN: Yes.

22 EXAMINER DAWSON: That would be great.
23 Thank you.

24 EXAMINER JONES: Mr. Brooks, do you have
25 any questions?

1 EXAMINER BROOKS: No questions.

2 EXAMINER JONES: Any other questions of
3 this witness, or do you want to wait until the next
4 hearing?

5 MR. STRANAHAN: We would like to wait.

6 MR. HERRMANN: My next witness is Dr. Tomas
7 Oberding.

8 TOMAS OBERDING, PhD

9 having been previously duly sworn under oath,
10 was questioned and testified as follows:

11 DIRECT EXAMINATION

12 BY MR. HERRMANN:

13 Q. Dr. Oberding, would you please state your name,
14 title, and place of employment for the record?

15 A. My name is Dr. Tomas Oberding. I work for the
16 New Mexico Oil Conservation Division as the hydrologist
17 in charge of District 1.

18 Q. Have you previously testified in an expert
19 capacity at an Oil Conservation Division hearing?

20 A. Yes.

21 MR. HERRMANN: I move to admit Dr. Oberding
22 as an expert witness in environmental assessment.

23 MR. STRANAHAN: I would just like to
24 request whether or not he's ever been disqualified as an
25 expert witness.

1 THE WITNESS: No.

2 MR. STRANAHAN: Then I have no objection.

3 MS. MIANO: No objection.

4 EXAMINER JONES: He is so qualified.

5 MR. HERRMANN: Thank you.

6 Q. (By Mr. Herrmann) Are you personally familiar
7 with the sites in question?

8 A. Yes.

9 Q. And was that on March 15th?

10 A. Yes, it was.

11 Q. Let's go on through this exhibit I've been
12 discussing.

13 Could you please identify what's on the
14 screen behind you?

15 A. What's on the screen behind me is an aerial map
16 of the APD Federal, as well as the well sign for APD
17 Federal, which is a saltwater disposal well.

18 We can go through the image on the next
19 one. Here we can see what was initially offered by the
20 State Land Office. Ms. Groves sent these images in late
21 September as indication of a release happening on the
22 site. And you can see that that is the road -- if we go
23 back -- or if you look at your map -- let me go through
24 this map, and I will do my best not to destroy the TV.
25 This would be the road, so we'll have that as a point of

1 reference.

2 The well is up here. Here's your tank
3 battery, and this is the loadout section. In the next
4 image or the next slide, this rundown over here is
5 occurring on the south side of the site. So that's what
6 we're looking at.

7 The white is indicative of a chloride
8 release. You can notice that it is going literally off
9 the site and pooling, as well as, if it continues, it
10 would undoubtedly reach towards -- or go down the road.

11 Q. And would you please just identify the site so
12 we can --

13 A. It is the APD Fed Number 1.

14 Q. Which is the saltwater disposal well?

15 A. It's the saltwater disposal well, yes, sir.

16 Q. And this release was witnessed?

17 A. On September 28th. And here is the same date
18 for the same site. The left image is the hookup line
19 for the site, and you can see that there is an actual
20 release occurring at that time. The right side is part
21 of inside the berm of the battery itself.

22 Please note the contamination, the distinct
23 difference in soil color between the berm and what's
24 within the berm. There is some activity going on in the
25 background. The dark coloration of the soil within the

1 berm, as well as the even nature of the line, is
2 indicative that there was a release at that site.

3 Q. And briefly referencing OCD Exhibit 4, the
4 first page is the 141 that was eventually filed for this
5 release?

6 A. Yes, sir.

7 Q. What was the volume on this release report?

8 A. The volume reported was two barrels. And the
9 volume recovered was also two barrels, which, as is
10 evidenced by Slide Number 3, the one with the road, that
11 is greater than two barrels.

12 Q. In your opinion?

13 A. In my opinion, yes.

14 Q. With the area impacted up here and the fact
15 that it's running off into a public right-of-way?

16 A. Yes, sir.

17 Q. And what's the date on this 141?

18 A. The date on this 141 is January 11th.

19 Q. And what's the date that they stated they
20 discovered a release?

21 A. They stated they discovered a release at the
22 end of September, September 29th.

23 Q. And what remedial action did they state they
24 did?

25 A. That they had a vacuum truck. It was probaled

1 at a hose connection. Remedial action was -- the
2 affected area, which they describe as
3 20-feet-by-20-feet, was cleaned, and the berms and the
4 dikes around this area were reinforced.

5 Q. And this next slide, would you please identify
6 that?

7 A. This next slide is the APD Federal Number 1.

8 Q. So the same site?

9 A. The same site, correct.

10 Q. And what's the date on that?

11 A. The date is September 30th, so it is two days
12 after the initial set of images. This is indicative of
13 some activity going on on the site.

14 What is clearly evident is the white, which
15 is from the chloride, which is associated with chloride
16 in the left-side image, which is the southern edge, as
17 well as the other image also has a good deal of white
18 within the soil.

19 Please notice the darker coloration is also
20 indicative of a hydrocarbon with the associated release.

21 Q. And again, you would state that this is greater
22 than two barrels?

23 A. Yes. In my opinion, this is greater than two
24 barrels based on the area.

25 Q. Greater than five barrels?

1 A. Yes.

2 Q. Let's jump forward to the same site this
3 February.

4 A. Okay. This next image is from February 12th.
5 The image was provided by the State Land Office, again
6 APD Federal. This is a subsequent release because, as
7 we saw in the first set of images, that for reference
8 would be taken to the right side of this image. Looking
9 towards our left, that area was darker colored, but not
10 pooling liquids. This is pooling liquids of some
11 nature.

12 Towards the left of the pool, you can
13 notice there's a darker -- what appears to be an oil
14 sheen, as well as potentially to the north -- or sorry,
15 to the right side, but most definitely to the left. And
16 it appears that they've sort of bermed it.

17 This is an image also taken on February
18 12th of this year. This is one of the hookup lines. It
19 is actively releasing saltwater, or it is actively
20 releasing the liquid which should be saltwater from this
21 site.

22 Q. That is where a water disposal truck would hook
23 up with a saltwater disposal well?

24 A. Yes, it is.

25 Q. And there should be some sort of backflow

1 preventer or some safety mechanism to stop water from
2 flowing out of that lake, correct?

3 A. There should be, yes.

4 This is also from February 12th on the same
5 site. And this is behind the previous image, closer to
6 the road on the southern side. This is the area of
7 pooling that you saw in one of the initial images.

8 Please notice that there is a barrel, so
9 that is actually a barrel for reference as well. It
10 gives you an idea. You can clearly see the white from
11 the saltwater, as well as the hydrocarbon collection on
12 the pool.

13 This next image is a larger view of that
14 same area. In the background, on the left, you can see
15 the active release from the saltwater hookup area as it
16 flows in towards this pooling area.

17 The indication of white or the white that
18 is seen indicates that this has not just been flowing
19 and eroding into this area, but actually has flowed over
20 a larger area at some point in time.

21 Q. And been absorbed?

22 A. And been absorbed or evaporated, yes.

23 Q. And these are photos from roughly a week later?

24 A. Yes. These were taken by the OCD Inspector,
25 Mark Whitaker. This is behind the tanks. You can see

1 the road in between the two tanks, as well as one of the
2 saltwater hookups, the most potentially one that was
3 leaking.

4 Please notice that there is still a lot of
5 hydrocarbon staining on the soil, as well as what
6 appears to be some activity to move the soils due to the
7 fact that you see an imprint on top of the
8 contamination. Please also continue to notice that
9 there is white from the chlorides. This is --

10 Q. More of the same?

11 A. -- more of the same.

12 To the south, again, the salt is literally
13 crystalizing out, creating these barriers, as well as
14 the hydrocarbon that is pooling there in that area.

15 Q. And when we did inspections, we found other
16 releases at other sites that the Siana operates?

17 A. Yes, sir, we did.

18 So this is a list of other sites that were
19 inspected. And there's also the dates that they were
20 inspected, be they February 19th or March 1st.

21 I can read that. So the first one would be
22 the Blue Dunn. This would be going in order from those.
23 This is a production site. Please note the dark stain
24 of the soil around the tanks and around the flowlines.
25 That is indicative of a release.

1 Q. And it's a release would require reporting?

2 A. Yes. Based on the area that is evidenced in
3 these pictures, this is greater than five barrels, in my
4 opinion, and would definitely require reporting.

5 On this next set of images, on the left you
6 see a hookup line and what appears to be some form of
7 field-rigged catchment that appears just to be a buried
8 barrel, and there are releases around it.

9 This is the Curry Federal Number 2. And
10 here you can see -- within the berm on the left-hand
11 side, you can see the dark hydrocarbon staining, as well
12 as the -- this is a good picture because of the depth.
13 You can see the multiple layers in there, as well as the
14 light from the chlorides.

15 Q. And it looks like they've been trying to cover
16 it up with fresh dirt?

17 A. Based on the depth, it appears that what is
18 happening here, is that there was a release, and there
19 is fresh soil or dirt being put on top of it. And
20 hence, you'll get a pancake effect.

21 The right-hand side image is outside of the
22 berm, so that elevated area is the berm itself. You can
23 see there is the staining within the berm.

24 The staining that is on the left-hand side
25 of the image does not appear to be staining that would

1 come from a release directly on top of that location,
2 but rather a leaching-type stain, i.e., there is a
3 significant amount of contamination that is going under
4 the berm and becoming evidenced outside of the berm.

5 Q. So just to be clear, on that image on the
6 right, the site is to the right. And you can see the
7 staining that exists, and that staining appears to seep
8 in through the berm?

9 A. Yes, sir. The staining on the left-hand side
10 appears to be seeping through the berm, as there are no
11 erosional marks at that point where the stains are. In
12 fact, there are actually tiremarks at that area.

13 Q. So you would see some flow or something --

14 A. You would see some flow. You would see some
15 erosion if there were a line that was being dropped or a
16 hose.

17 Q. Now, you've approved hundreds of reclamation or
18 remediation plans?

19 A. Yes, sir.

20 Q. Is putting dirt on top of everything ever
21 approved by the Oil Conservation Division?

22 A. Not as a final measure, no, it's really not.
23 This is the AAA Federal Number 2 site. On the left
24 picture, you can see the large staining around the
25 bottom of the tank, as well as a weep hole from what

1 appears to be a patched area at the very top of the tank
2 where the patch has failed and has continued to leak
3 out.

4 On the right-hand side, you can see where
5 the oil is literally becoming asphaltene, in that the
6 releases or release had been so old that it has
7 desiccated and become asphalt, essentially.

8 You can also see the thickness of the
9 releases there, as well as the current release coming
10 out of the tank.

11 Q. And generally, what's the condition of the tank
12 in this photo?

13 A. This tank -- both those tanks, because you can
14 also see on the farther tank, or what would appear to be
15 the middle tank, there is another leak, active leak,
16 coming out of it.

17 These would be considered, in my opinion,
18 not very good tanks. These would be in fairly poor
19 condition.

20 Q. Because they're barely keeping the fluid in
21 them?

22 A. That would be absolutely correct.

23 Q. And it looks like they've undergone a number of
24 patches?

25 A. It is indicative at the very top that there

1 have been numerous patch attempts at these tanks, most
2 of which -- or at least several of which have failed
3 over time.

4 Q. Anything else?

5 A. That's pretty much it for this particular set
6 of images.

7 This is the Curry State Number 5. And you
8 can see on the left image there is fresh soil, as also
9 indicated by the partially-buried connection line.
10 However, there is a dark staining of hydrocarbon, which
11 with no apparent source, i.e., the tanks above the
12 ground appear to be in better condition than the
13 previous ones.

14 There are no active weep holes coming from
15 them. However, this again appears to be indicative that
16 there was a release, and there was fresh soil brought in
17 on top, and that it would be seeping through that fresh
18 soil because there is no generalized flow pattern to
19 this contamination that we're seeing.

20 On the right-hand side, you see the rest of
21 the pad within the berm, and you can see that there is
22 distinctly hydrocarbon staining within the area over a
23 large area. This would be again, indicative that this
24 is greater than five barrels, based on the area.

25 Q. Well, moving on to Exhibit 4, these are release

1 reports that Siana has since filed?

2 A. Uh-huh.

3 Q. The first is the one originally filed in
4 January that the second page shows was accepted for
5 information only?

6 A. Yes.

7 Q. What does that mean?

8 A. For information only means that we've accepted
9 the information that they've given us. However, we
10 disagree with some of the items that have been offered
11 in the details.

12 On the second page, you can note that there
13 are cross-marks for the two barrels, for the volume
14 released and volume recovered. That indicates that we
15 disagree with what they offered as two barrels, based on
16 our own observations, either by the pictures or the site
17 visit.

18 So for information only just allows us to
19 create a bookmark and open the site in our records.

20 Q. And the rest of the release reports, those were
21 a result of a meeting with Siana representatives on
22 March 7th?

23 A. Yes, they were. The rest of the -- except for
24 the final one, the rest of them are 3/9, so March 9th.
25 These would be minimally acceptable, due to the fact

1 that there's almost no actual information within them.

2 We understand and accept that operators
3 will encounter sites where they do not know the volume
4 of the release and have nothing recovered because it is
5 a historic site. So we accept sites that have -- or
6 141s that have volume releases of unknown.

7 However, the fact that there is actually no
8 information further on, including and especially the
9 described area effective in cleanup action taken, when
10 those are written as NA, that's borderline not
11 acceptable due to the fact that even at a historic site,
12 you can clearly see -- most of the time, okay, we can
13 describe this area as, for example, 20-by-20 feet, as
14 being impacted.

15 So when something like this is offered,
16 it's more perfunctory that they almost didn't visit the
17 site is sort what it's indicative of, that they didn't
18 actually go and see the sites. If they can't offer at
19 least what the area that's impacted...

20 Q. And any attempt to identify the source?

21 A. None. There was absolutely no attempt to
22 identify the source. They also -- yeah. There's
23 basically very little information.

24 And also, the type of release, they
25 indicate that it's produced water at all sites.

1 However, as we've seen in the images that we just went
2 through in the prior exhibit, in Exhibit 3, I believe,
3 there is also indication that there are hydrocarbon
4 releases at some point in time, not just produced water.

5 Q. And you attended this March 7th meeting?

6 A. Yes, I did.

7 Q. Do you recall Siana being notified that they
8 did not have any authority to transport or inject?

9 A. Yes, I do.

10 Q. Who else was at that meeting?

11 A. There were several representatives from Siana.
12 I believe Daniel Sanchez and Jim Griswold were also in
13 attendance, as well as myself.

14 Q. And me?

15 A. As well as you, yes. Absolutely.

16 Q. These reports that we requested are enough to
17 get OCD started in determining what further corrective
18 action needs to be taken?

19 A. Yes. They are essentially an opening bookmark
20 that allows us to identify the site as one that needs
21 delineation and examination of some sort and potentially
22 remedial action. In general, based on these images,
23 most definitely.

24 Q. And will these releases get better as time goes
25 on?

1 A. By themselves, no.

2 Q. So they will need action?

3 A. They do need action, yes. And as time goes on,
4 the cost associated with any such corrective action does
5 increase.

6 Q. So in your opinion, it's in the best interest
7 of eliminating waste into the environment and
8 correlative rights to have the Division issue the
9 requested order?

10 A. Yes, sir, it is.

11 Q. Were Exhibits 1 through 4 prepared by you or
12 under your direction?

13 A. Yes, they were.

14 MR. HERRMANN: At this time I would like to
15 move to admit OCD Exhibits 1 through 4 to the record.

16 MR. STRANAHAN: No objection.

17 EXAMINER JONES: Exhibits 1 through 4 are
18 admitted.

19 [Exhibits 1 through 4 admitted.]

20 EXAMINER JONES: Mr. Stranahan?

21 MR. STRANAHAN: We would again like to
22 reserve our right to cross-examine the witness.

23 I would request that the Department provide
24 any sampling that was done on any of the sites within
25 the show here that would have gone to determining the

1 size of the alleged release, if they exist.

2 EXAMINER JONES: Okay.

3 Scott?

4 MS. MIANO: May I ask a question?

5 EXAMINER JONES: Yes.

6 CROSS-EXAMINATION

7 BY MS. MIANO:

8 Q. May we go back to the first images of the APD
9 Federal Number 1?

10 A. Okay.

11 Q. I think it's probably one, two, three, the
12 fourth slide.

13 MR. HERRMANN: Say when, Michelle.

14 MS. MIANO: Keep going back.

15 MR. STRANAHAN: We would also again object
16 to the State Land Office cross-examining the witnesses.
17 They didn't prepare a prehearing statement, so we would
18 object on the record to their participation in
19 cross-examination.

20 EXAMINER JONES: Your objection is noted.

21 MR. STRANAHAN: Thank you, sir.

22 Q. (By Ms. Miano) Mr. Oberding, on this dark spot
23 that we see on the right by the tanks, you mentioned in
24 some of the other slides that the dark was -- the dark
25 discoloration was caused by hydrocarbon releases?

1 A. Yes.

2 Q. Would this be your opinion for this image, as
3 well?

4 A. Yes.

5 Q. Thank you.

6 And then is this the same pool that is in
7 the next slide?

8 A. No, in the --

9 Q. Sorry, one more slide. Yes.

10 A. No. That is different. Most evidently
11 different because there are significant months that
12 passed between two those photographs. The pool that
13 we're seeing would be on top of the previous dark area.

14 Q. Okay.

15 A. So at this point, it would be covering the
16 previous dark area. It is the same area on the site.
17 However, the previous area doesn't actually have any
18 standing liquid, and this does.

19 Q. Okay, thank you.

20 And then for some of the other slides, you
21 mentioned the quality of the tanks. In your opinion and
22 in the inspections that you looked at from these images,
23 what is the quality of the tanks here?

24 A. The quality of the tanks here is it's fair.
25 They are not -- they're better quality than the ones

1 that have active weep holes in them. They're evidently
2 not brand-new tanks.

3 As to what the quality underneath or at the
4 bottom of the tanks is, I can't say from this image.
5 From my inspection of the site, they were okay. They
6 wouldn't be actively causing a concern directly, per se.

7 Q. Okay, thank.

8 A. So the release of the liquid would not be
9 coming from a structural part of the tank that has
10 failed, at least from this image.

11 Q. But more -- in your opinion, perhaps more --

12 A. Of the associated --

13 Q. -- of the association?

14 A. -- piping or tubing and/or connections.

15 Q. Okay. And then from -- in your opinion, with
16 this pool being on top of the pool that was in previous
17 images, this looks like there would be continuous
18 operations going through the timeline that we see here
19 that you're presenting?

20 A. Yes. That is indicative that they had -- that
21 they were continuing to operate between those two
22 images, yes.

23 MS. MIANO: Thank you.

24 EXAMINER JONES: Mr. Dawson?

25 EXAMINER DAWSON: Mr. Oberding, on Exhibit

1 4, the first page on Exhibit 4, which is a Siana-141, a
2 Release Notification and Corrective Action, signed by
3 Tom Ragsdale on January 11th, 2016. And it says, "A
4 release of produced water by a vacuum truck was created
5 near the unloading section of the SDW facility," which
6 is a saltwater disposal facility.

7 If there was an operator of a vacuum truck
8 that noticed a release of produced water while he was
9 unloading or loading from the facility, would you think
10 that if there was an operator that was unloading or
11 loading produced water and they noticed a leak, wouldn't
12 you assume that they would shut in that valve
13 immediately if there was --

14 THE WITNESS: I would hope so, yes. Under
15 best management practices, the operator of the truck
16 and/or the facility should be aware that when there is a
17 release occurring during part of that operation, that
18 whatever that operation is, it should be immediately
19 stopped and that leak contained until -- and then
20 operations continued once that is fixed.

21 EXAMINER DAWSON: That's kind of what I
22 thought. I thought, you know, if there were truck
23 operators out there with a vacuum truck and he's loading
24 his truck with produced water, I would think that if
25 that hose was leaking, he would stop immediately. So I

1 wanted to clarify that.

2 THE WITNESS: Yes, sir.

3 EXAMINER DAWSON: And in your testimony,
4 you also touched on an increase in cost, hence time, for
5 a release if it is not remediated quickly?

6 THE WITNESS: Yes, sir.

7 EXAMINER DAWSON: So you're talking -- the
8 increase in cost, just for clarification, that would be
9 due to the percolation or migration or the downmovement
10 of the produced water and/or hydrocarbons at the site?

11 THE WITNESS: Yes, sir.

12 EXAMINER DAWSON: And that would have
13 the -- the increase in cost you're talking about would
14 be due to that percolation down where that thing is
15 migrating, downward?

16 THE WITNESS: Exactly.

17 EXAMINER DAWSON: Would you also assume
18 that if that was not remediated quickly, that that could
19 also contribute to possible groundwater contamination at
20 the facility or site?

21 THE WITNESS: It could, yes. It could
22 potentially.

23 EXAMINER DAWSON: So the remediation aspect
24 is that the operator or the responsible party conducts
25 that remediation and cleans the site up quickly,

1 correct?

2 THE WITNESS: Yes, sir.

3 EXAMINER DAWSON: Okay. That's all the
4 questions I have.

5 EXAMINER DAWSON: Dr. Oberding, your
6 September pictures, there were big rains in September;
7 is that correct.

8 THE WITNESS: There were some rains in
9 September, yes.

10 EXAMINER JONES: You have pictures of
11 February, too, and there are hardly any rains?

12 THE WITNESS: Yes.

13 EXAMINER JONES: Is this site on a low,
14 topographically?

15 THE WITNESS: Depending on the scale. It
16 is located nearby what I believe is the area called
17 Antelope Ridge. I wouldn't call it a low area, per se.
18 It's in a plane. There are some tiny, small hillocks
19 nearby within a mile or so, or a couple of kilometers.
20 But it itself is not in a bowl, or anything to that
21 effect, where -- I believe where you're going is: Would
22 rain potentially be pooling on the site? For my visit
23 at the site and my understanding of it, no, that could
24 not happen. Rain could not pool sort of from the
25 surrounding environment off to the site.

1 EXAMINER JONES: Most of the pictures
2 you've shown are around this saltwater disposal well,
3 and that's permeated into the Upper Cherry Canyon -- or
4 Upper Bell Canyon from wells that are producing, it
5 seems, out of the Cherry and the Brushy. So it's
6 Delaware waters, it looks like. Delaware waters, are
7 you familiar with those waters, how --

8 THE WITNESS: Only tangentially familiar.

9 EXAMINER JONES: It seems there's a big
10 area northwest of this well that's graded off and flat.
11 Is that an old pit or something out there?

12 THE WITNESS: Potentially. There are
13 usually pits associated with well sites where the well
14 itself had its own pit, unless it was a closed loop
15 system where they removed it entirely or had a complete
16 excavation for their pit.

17 EXAMINER JONES: So there could be a pit on
18 the site. I have not looked back in the records to see
19 what kind of pit is associated with this.

20 Okay. I'm not sure if Google Earth is
21 evidence, but you can see a lot from Google Earth.

22 This Cherry Canyon production in this area
23 is also being produced not just by Siana but by -- I
24 noticed Chevron and some other operators.

25 Is there a big difference or is there any

1 difference in how these people are handling their water?

2 THE WITNESS: In terms of how they dispose
3 of their water?

4 EXAMINER JONES: How are they containing
5 their water in tanks. Are you noticing other spills
6 just like this all over the area, or is Siana the only
7 one?

8 THE WITNESS: Most every site, due to the
9 very nature of the corrosive waters and so on of the
10 products that are dealt with, there are going to be some
11 releases at almost every site. However, other operators
12 appear to be slightly more proactive in what, as
13 Mr. Dawson was asking, that if there's an active
14 release, they will notify us, and they will communicate
15 with us fairly soon and deal with that, as well as the
16 remediation efforts.

17 So the level of contamination that's
18 associated with other sites and other releases with
19 saltwater are less than this.

20 EXAMINER JONES: Okay. But your job
21 basically is not to compare in any way. It's just if it
22 releases, it releases, right?

23 THE WITNESS: Exactly. We don't compare
24 and play favorites.

25 EXAMINER JONES: Are you worried more about

1 oil releases or water releases?

2 THE WITNESS: Water releases.

3 EXAMINER JONES: For what reason?

4 THE WITNESS: The hydrocarbons, to some
5 extent, will not migrate as quickly as water. Water
6 tends to migrates very quickly.

7 EXAMINER JONES: Migrate laterally or --

8 THE WITNESS: Migrate laterally and
9 vertically. So it tends to move faster down and
10 potentially towards an aquifer than a straight oil
11 release.

12 Oil also, if it's just literally on the
13 surface or if it's within a lined facility or something,
14 the oil itself will remediate partially. Given enough
15 time, produced water does not remediate itself ever.
16 It's a simple fact of chemistry.

17 EXAMINER JONES: Okay. The Siana-141
18 reporting requirement, can you summarize exactly how
19 that works? Is it supposed to be within so many days of
20 a --

21 THE WITNESS: Yes. The --

22 EXAMINER JONES: -- notice of release?

23 So if they are aware of a release, they're
24 supposed to report it within so many days?

25 THE WITNESS: Yes. When they become aware

1 of a release, there's essentially two levels. The first
2 level that triggers a notification is five barrels. And
3 at that point, they're supposed to give us notice that
4 they have had a release. It's 15 days to receive a 141.

5 At 25 barrels or greater, they are to give
6 us, quote, "immediate notification" that has been
7 interpreted as roughly 24 hours, and we are perfectly
8 okay with that timeframe to give notice, either verbal
9 or written, usually by an email or a phone call, and
10 then they still have again 15 days to turn in a 141 on
11 that release.

12 EXAMINER JONES: Okay. What if you're the
13 one that notices the release, and they don't notice it?
14 Then what?

15 THE WITNESS: Then we attempt to contact
16 the operator and say, "You are having an issue over
17 here. Please give us a 141."

18 EXAMINER JONES: So does the date start at
19 that point?

20 THE WITNESS: The date would start at that
21 point, so 15 days from the time that we communicate with
22 the operator.

23 EXAMINER JONES: Okay.

24 THE WITNESS: If we are unable to
25 communicate with the operator, their associated staff

1 should be aware -- should be going and visiting sites on
2 a more regular basis than what the OCD staff is even
3 potentially capable of. And hence, their own staff
4 should be communicating internally to the responsible
5 parties within the organization saying, "We have a
6 problem at our site. "Let's" --

7 EXAMINER JONES: So you expect the
8 operators to actually monitor their wells and monitor
9 their sites?

10 THE WITNESS: Yes. Yes, we do.

11 EXAMINER JONES: What if there's a
12 disagreement whether there's a release or not? In this
13 case, maybe not, but what if there's a disagreement?

14 THE WITNESS: If there was a disagreement,
15 then we would have a meeting with them either over the
16 phone or -- more than likely, we would make a field
17 visit and meet them on site. And we would discuss what
18 we see as indications of a release and then try to
19 understand where the operator would say, "No, that's not
20 a release. You are imagining it," or something to that
21 extent.

22 EXAMINER JONES: You might ask for sampling
23 at that point?

24 THE WITNESS: At that point, most
25 definitely. If there's truly any disagreement, the

1 samples from the lab would indicate who has a correct
2 interpretation of the site.

3 EXAMINER JONES: So when would the date of
4 Siana-141 have started in that situation?

5 THE WITNESS: In that situation, we would
6 more than likely ask for a 141 just to open up the case.

7 EXAMINER JONES: Okay.

8 THE WITNESS: And most operators, by that
9 point in time, give us 141s if we're on a site. You're
10 right.

11 EXAMINER JONES: So even if they don't
12 agree, they'll give you a 141 to get this process
13 started?

14 THE WITNESS: Right. Exactly.

15 EXAMINER JONES: So in your opinion, the
16 saltwater dispose well is the main site that's a problem
17 here, or is it the producing wells also?

18 THE WITNESS: By "main problem," could you
19 please clarify that? You mean the more troublesome or
20 more --

21 EXAMINER JONES: There's more pictures
22 for --

23 THE WITNESS: There's more pictures, yes.
24 Yes, you are correct. That is the site of primary
25 concern, the site that initially initiated this whole

1 investigation.

2 EXAMINER JONES: And at that site, how was
3 the water being contained, or how was it originally
4 contained until it may have rusted out? Is it a pit or
5 is it a tank?

6 THE WITNESS: The tanks that you saw in the
7 images are the containments or the -- sorry, scratch
8 that word -- are the places where the saltwater is held
9 before injection.

10 From what I understand on this site, there
11 is a portion of the water that is pumped to another
12 disposal well that is not this disposal well, but this
13 is the main collection area.

14 EXAMINER JONES: The Curry Federal Number
15 2?

16 THE WITNESS: Yes, I believe so.

17 EXAMINER JONES: So are big pits allowed at
18 saltwater disposal wells under OCD rules at this times?

19 THE WITNESS: A big pit for --

20 EXAMINER JONES: A big pit for storage of
21 saltwater prior to disposal.

22 THE WITNESS: Prior to disposal, no.

23 If we want to start to discuss the
24 recycling of water, if a producer chooses to cite a
25 recycling facility in their containment for that

1 facility as a saltwater disposal, then we potentially
2 may see a large pit at a saltwater disposal that
3 contains saltwater in it, but that falls under a
4 different set of regulations.

5 The pit is constructed differently, with
6 different sets of liners than, say, for example, a drill
7 pit, which potentially is still on these sites, but more
8 than likely has been covered or closed.

9 EXAMINER JONES: So in that situation, that
10 would be a multi-use pit? Is that what you're talking
11 about, under those rules?

12 THE WITNESS: Under the recycling rules?

13 EXAMINER JONES: Yes.

14 THE WITNESS: It's not even -- it's called
15 a containment. It's to differentiate them. They're
16 officially now called containments. And yes, by the
17 very nature of that pit, that containment contains water
18 from multiple wells, from multiple sites.

19 EXAMINER JONES: Do you think there was
20 ever a pit at this saltwater disposal location?

21 THE WITNESS: Not for recycling, no. There
22 may have been one for the drilling of the pit or the
23 drilling of the well itself.

24 EXAMINER JONES: But not for disposal?

25 THE WITNESS: But not for disposal, no.

1 EXAMINER JONES: Not even back to 1982 or
2 19 -- whenever the well was permitted for disposal?

3 THE WITNESS: I can't speak to that. It
4 may have been there, it may not.

5 EXAMINER JONES: Okay. I don't have any
6 more questions.

7 EXAMINER DAWSON: I have one more question,
8 Mr. Oberding.

9 When you said there was an existing pit at
10 a facility or site that, if it's closed, it's usually
11 covered over and closed, according to OCD rules and
12 regs, before they are able to cover and close that site,
13 they have to test it and sample the soils underneath
14 that pit before that pit is closed, correct?

15 THE WITNESS: Absolutely. There are
16 procedures and numerous samples. And that is very
17 clearly outlined within our regulations, as to the steps
18 they have to take to close a -- to have a pit, quote,
19 closed, unquote.

20 EXAMINER DAWSON: That's all the questions
21 I have.

22 EXAMINER JONES: Mr. Brooks?

23 EXAMINER BROOKS: No questions.

24 MR. STRANAHAN: I had do have a request for
25 information, which is: On these eleven sites, we would

1 like to have any information with respect to
2 depth-to-groundwater and any well sampling that would
3 suggest there's a migration or indication of
4 groundwater, based on any alleged release.

5 EXAMINER JONES: If such sampling exists;
6 is that correct?

7 MR. STRANAHAN: If such sampling exists. I
8 understand that it may not. But if it's there, we'd
9 like to know about it.

10 EXAMINER BROOKS: Can we take a recess?

11 MR. HERRMANN: I have one last witness. I
12 anticipate it might take maybe another 20 or 30 minutes,
13 tops.

14 EXAMINER DAWSON: Well, let's take ten
15 minutes.

16 MR. HERRMANN: Okay.

17 [Recess from 9:38 to 9:53 a.m.]

18 EXAMINER JONES: Let's go back on the
19 record this morning and continue with the case.

20 MR. HERRMANN: All right. I have one
21 witness left, Mr. Daniel Sanchez. He's already been
22 previously sworn in.

23

24

25

1 DANIEL SANCHEZ

2 having been previously sworn under oath,
3 was questioned and testified as follows:

4 DIRECT EXAMINATION

5 BY MR. HERRMANN:

6 Q. Mr. Sanchez, would you please state your name
7 and title for the record?

8 A. Daniel Sanchez. I'm the Compliance and
9 Enforcement Manager for the Oil Conservation Division.

10 Q. Have you previously testified in an expert
11 capacity before the OCD?

12 A. Yes, I have.

13 MR. HERRMANN: At this point, I'd like to
14 move to admit Daniel as an expert in the oil and gas
15 operations and compliance with Oil Conservation Division
16 rules.

17 EXAMINER JONES: Objection?

18 MR. STRANAHAN: Have you ever been
19 disqualified or not accepted as an expert witness?

20 THE WITNESS: No, sir.

21 MR. STRANAHAN: Then I have no objection
22 with respect to compliance and enforcement testimony.

23 EXAMINER JONES: Do you object to --

24 MR. STRANAHAN: No, no. We would accept
25 him as an expert in that very limited area.

1 EXAMINER JONES: Compliance and enforcement
2 testimony?

3 MR. HERRMANN: That was what we moved to
4 admit -- well, testimony on compliance with Oil
5 Conservation rules and regulations and operations in
6 New Mexico that are compliant.

7 EXAMINER JONES: Okay.

8 EXAMINER BROOKS: Well, it's a little
9 unusual to qualify somebody as an expert on testimony.
10 That kind of suggests he's a professional witness.

11 I would suggest that we qualify him as an
12 expert on OCD compliance.

13 EXAMINER JONES: He's qualified as an
14 expert on OCD compliance.

15 Q. (By Mr. Herrmann) Could you describe the
16 OCD's actions in this case to get Siana into compliance
17 with OCD regulations?

18 A. Sure. It was initiated by the District Office.
19 They informed us of a spill that they were told about by
20 the State Land Office. We went ahead and tried to get
21 ahold of Siana about the release.

22 At the time we were getting that put
23 together, our Siana-115 administrator, the production
24 reports administrator, let us know that a 60-day letter
25 for nonreporting had been issued previous to that. And

1 there had been no reporting by Siana since October,
2 which means their last production month was August of
3 2015.

4 We went ahead and determined that they had
5 not complied with the 60-day letter. It had already
6 been beyond 120 days of reporting, so we went ahead and
7 issued a letter revoking their Siana-104, their ability
8 to transport and authority to inject.

9 Q. Just to clarify, if you'll refer to OCD Exhibit
10 5, it states there, "We had not received the Siana-115
11 report for August."

12 A. Okay, so the last report would have been July.
13 The last reported production would have been in July,
14 2015.

15 Q. So at that time, was this -- approximately what
16 time were you reviewing this or what date?

17 A. For the timeframe? We would have gone back and
18 actually looked at the production from July going
19 forward to see if it was just missed or maybe the
20 reports hadn't been taken into account in some way or
21 another. But through that process, we did find that
22 they had not been reporting over that timeframe --

23 Q. Okay.

24 A. -- all the way up to February, when we issued
25 the letter. That was on February 19th, 2016.

1 Q. And at the time, they were over 120 days late?

2 A. Yes.

3 Q. What do Oil Conservation Division rules
4 authorize us to do when an operator is over 120 days
5 late with their production reports?

6 A. We can revoke their authority to transport and
7 inject into their wells.

8 Q. And why does the OCD do this?

9 A. When an operator fails to report production or
10 injection for a period of time, usually it is reason for
11 us to be concerned that the operator is actually taking
12 care of those wells or doing what they're supposed to as
13 an operator.

14 Q. And do you have concerns that an operator might
15 be producing illegally or might have left the state?

16 A. Yes. We'll definitely be looking at whether
17 they continued to produce without reporting, which
18 causes a number of other issues. But yeah, we're more
19 concerned at this point with an operator just picking up
20 and leaving and leaving the state with the liability.

21 Q. And the information contained on production
22 reports, is that used by other agencies as well?

23 A. Yes. The State Land Office uses it, and Tax
24 and Rev uses it.

25 Q. Does the BLM use it?

1 A. Yeah, the BLM as well.

2 Q. And all of this is important for determining
3 how many royalties and taxes -- or how much needs to be
4 paid?

5 A. That's correct.

6 Q. So by us enforcing this, we're helping out a
7 number of agencies?

8 A. Yes, we are.

9 Q. So back to Exhibit 5. Please just reiterate
10 when we sent this out.

11 A. It was sent out on February 16th, Certified
12 Mail. It was signed for on February 25th by John Lelek
13 for Siana Operating.

14 Q. What other attempts were made to contact Siana
15 regarding this compliance issue?

16 A. At the time, we sent out an email to the
17 address that we had. It was to their attorney at the
18 time, Mr. Scotty Holloman I believe was his name. And
19 that was sent out on February 26th.

20 Q. And then did you ever address Siana in person?

21 A. Yes, we did. We had a meeting with Siana on
22 March 7th, the afternoon of March 7th, with a number of
23 their members or people, Tom Ragsdale, Mark Crosswell,
24 and I believe Jason Kilpatrick were there. And the
25 attorney at the time was Karin Foster. She was

1 representing them. And then of course there was you,
2 Dr. Oberding, and Jim Griswold.

3 Q. I think you may have been mistaken regarding
4 Jason Kilpatrick.

5 A. I wasn't quite sure on that one. I couldn't
6 remember if he had been there for that meeting. I
7 remember talking to him at one point.

8 Q. So going back to this PowerPoint that is now
9 being presented behind you, could you identify these
10 slides?

11 A. Yes. This is the AP Federal 1. This was after
12 the initial letter went out revoking their Siana-104,
13 authority to inject. It shows pretty clearly that there
14 is a truck still disposing of water in this well at this
15 location.

16 Q. And this is March 1st --

17 A. March 1st, 2016.

18 Q. So after the Return Receipt was received, after
19 their attorney was notified --

20 A. They continued to inject, yes. Now, what this
21 one is showing is that on the 19th, they had those two
22 wells, Blue Dunn Numbers 1 and 2, were still operating.

23 Now, whether or not they were transporting
24 that oil may be in question, but they were still
25 operating when they were clearly told not to. And the

1 same with these, the Curry State 2 and 3, State Number
2 5, March 1st. They were also operating at that time.

3 March 1st, February 19th, the Royal Trude;
4 Curry State Number 6, again operating after they were
5 notified not to.

6 Q. So it's the Curry State 6 on March 1st and the
7 Royal Trude on February 19th?

8 A. The 19th, yes.

9 Q. And lastly, could you identify this?

10 A. This is the Curry Federal Number 2. This was
11 March 9th, and it showed the whole --

12 [Audio interruption.]

13 A. Yes, water was being pumped into this location
14 and leaking.

15 Q. And this an injection well?

16 A. This is an injection well.

17 Q. And they lost their authority to inject, as
18 well?

19 A. Yes.

20 Q. And this is on March 9th, which is two days
21 after --

22 A. Two days after we specifically told them they
23 were not allowed to do that.

24 Q. And after getting reports from the District
25 that this well was injecting, what did the District --

1 or the Division do?

2 A. They put out an emergency order, shutting Siana
3 in again and setting the hearing date.

4 Q. Could you please identify Exhibit 6?

5 A. Exhibit 6 is a report that I asked to have
6 developed by our engineering group. It's information on
7 the disposal wells operated by Siana Operating. It
8 would be the Curry Federal Number 2 and the APD Federal
9 Number 1. And it was prepared by Philip Getz, our
10 engineering -- one of our engineers in that bureau.

11 Q. And what were the issues discovered with these
12 injection wells?

13 A. For the Curry Federal Number 2, the main issues
14 were the well is currently injecting in intervals, not
15 permitted under Order DW-588. The operator filed a
16 subsequent report with the State. With the form
17 Siana-103, dated November 29th of 2005, it stated that
18 two cast iron bridge plugs were drilled out, and it
19 gives the depths, and that additional perforations were
20 placed outside those reported or permitted depths.

21 There was never a proposed Siana-103 that
22 was filed that we could find in any of our records, so
23 there was no actual approval given for them to do that.

24 Q. And this additional 900 feet of perforations
25 from 6,220 feet to 7,165 feet in depth would require

1 approval from the OCD prior to doing any work?

2 A. Yes, they would.

3 Q. And this puts them out of their approved
4 injection interval?

5 A. Yes.

6 Q. And this could potentially impact other
7 operators' correlative rights in the area?

8 A. Yes, it could. For the AP Federal Number 1,
9 there were a few other issues there. There was the
10 initial records indicated that the packer had not been
11 set either at the depth permitted under their order as
12 DW-712, which was at 4,918 feet, or within 100 feet of
13 the top perforation permitted, which would have been at
14 5,110 feet. And the operator shall be required to
15 verify the packer setting is what came out of that.

16 Q. And for the laymen in the audience, what does
17 the packer do?

18 A. It keeps the fluid -- let's see. How can I say
19 this? It's necessary to ensure that the injected fluid
20 will stay confined in the injection zone, that specific
21 injection zone that they were permitted for in their
22 permit.

23 Q. Does this operator -- or if there's nothing
24 else in Exhibit 6, we'll just move on to discussing the
25 financial assurance. Does this operator have any on

1 file with the Division?

2 A. Yes, they do have a current blanket bond of
3 \$50,000, and they have a single well bond in the amount
4 of \$18,205 for the Curry State Number 1.

5 Q. And why does the Curry State Number 1 have a
6 single well bond associated with it?

7 A. Because it's been inactive for more than two
8 years.

9 Q. Referring to Exhibit 1, do you have a copy?

10 A. Yes.

11 Q. What else can you tell us about the Curry State
12 Number 1?

13 A. It has an expired temporary abandonment status
14 with it. At some point, it was given temporary
15 abandonment status for status by the OCD. But that has
16 expired, and it was never requested that an extension be
17 made on this, and it hasn't reported since February of
18 1993.

19 Q. So when a well is in temporary abandonment
20 status, it needs -- or how long do we approve a period
21 for temporary abandonment?

22 A. We can approve them for up to five years.

23 Q. And after that period expires?

24 A. After the period expires, depending on the
25 condition of the wellbore, they can request an extension

1 to the TA status, or we will require that that well be
2 plugged or put back under production.

3 Q. And lastly, could you identify OCD Exhibit 7?

4 A. Exhibit 7 is the Application of the Division to
5 enforce the order against -- you know, the emergency
6 order.

7 Q. And what was the date this was sent out?

8 A. March 17th, 2016. This was also followed up --
9 or this was actually received by Siana on March 21st, so
10 just a few days afterwards.

11 I can barely read the name, but it looks
12 like a Victoria Gonzales signed for Siana. Also, we
13 sent out notice by email. And this went out to Tom
14 Ragsdale, Jason Kilpatrick, Scotty Holloman and Mark
15 Crosswell. Along with that, we had receipt service from
16 all four of them showing that they received it that same
17 day.

18 MR. HERRMANN: At this point, I would ask
19 the Hearing Officer to take judicial notice that this
20 notice document was served within the timeframe
21 established in OCD Emergency Order E-41.

22 EXAMINER JONES: David?

23 EXAMINER BROOKS: I think that can be
24 done. Is there any objection?

25 MR. STRANAHAN: No.

1 MS. MIANO: No.

2 EXAMINER BROOKS: Very good. You may take
3 administrative notice as requested.

4 MR. HERRMANN: I have no further questions
5 for this witness and would like to move to admit OCD
6 Exhibits 5 through 7 to the record. And that will
7 complete all my exhibits. One through 4 were earlier
8 admitted with Dr. Oberding.

9 EXAMINER JONES: Exhibits 5 through 7, any
10 objections?

11 MR. STRANAHAN: No objection to admission
12 of those documents.

13 MS. MIANO: No objection.

14 EXAMINER JONES: Exhibits 5 through 7 are
15 admitted.

16 [Exhibits 5 through 7 admitted.]

17 EXAMINER JONES: Mr. Stranahan?

18 MR. STRANAHAN: We would again reserve our
19 right to recall the witness at a later date for
20 cross-examination.

21 EXAMINER JONES: Okay. Ms. Miano, any
22 questions from the State Land Office?

23 CROSS-EXAMINATION

24 BY MS. MIANO:

25 Q. For the APD Federal Number 1 well, Mr. Sanchez,

1 this completion note, does this indicate usually what is
2 out of compliance with your inspection for that well?

3 A. Yes.

4 Q. Are there any other possible problems that
5 might exist at the well, or is this the comprehensive
6 result from your inspection?

7 A. The review was made basically off the well
8 files. We would probably do a more complete inspection
9 on both of those wells at a later time to see if there
10 was any other additional issues that we had.

11 MS. MIANO: Okay, thank you.

12 No further questions.

13 EXAMINER DAWSON: The question I have is:
14 Do you know if Siana was ever on location when any of
15 her inspectors were on site on any of the sites?

16 THE WITNESS: I don't know that, no.

17 EXAMINER DAWSON: Can I ask that question
18 of you, Jamie or Kellie, and maybe Dr. Oberding? Was
19 Siana ever on site when any of you were on the site?
20 Did they ever meet you at the site?

21 MR. OBERDING: Not when I was there.

22 EXAMINER DAWSON: Mr. Keyes?

23 MS. JONES: This is Kellie. And no, not in
24 my experience.

25 EXAMINER DAWSON: Mr. Keyes?

1 MR. KEYES: No, I've never encountered
2 anybody from Siana on site.

3 EXAMINER DAWSON: Okay. That's all the
4 questions I have. Thanks.

5 EXAMINER JONES: The business about not
6 reporting, it's since been resolved; is that correct?
7 The production has been reporting, or do you have an
8 order --

9 THE WITNESS: They were working on it, but
10 I personally don't know at this time whether or not all
11 of the production reports have been brought up to
12 current.

13 EXAMINER JONES: Okay. But the disposal
14 permits have been revoked for both wells?

15 THE WITNESS: Yes, they have.

16 EXAMINER DAWSON: I have one more question
17 of you, Mr. Sanchez.

18 When they have a well that's been approved
19 for TA or temporary abandonment status, and you said
20 they can approve those up to five years, OCD does
21 require that the operator does periodically test that
22 well for mechanical integrity.

23 Can you kind of explain that to me on that
24 basis, how many times were they required during that
25 five-year period to test the mechanical integrity of the

1 well or wells?

2 THE WITNESS: If it's going to go into
3 Approved Temporary Abandonment status, they're only
4 required to do that mechanical integrity test up front.
5 It's witnessed by the District Office. And at that
6 time, it will issue the approved status or the timeframe
7 for that approved status. But it's not required that
8 they follow up after that unless they're going to
9 request extension for that status.

10 EXAMINER DAWSON: So at the time of the
11 request for extension, then they need to go out and
12 pressure test the well?

13 THE WITNESS: Yes.

14 EXAMINER DAWSON: That's all I have. Thank
15 you.

16 EXAMINER JONES: I don't have any
17 questions.

18 Mr. Brooks?

19 EXAMINER BROOKS: No.

20 EXAMINER JONES: We are all out at this
21 point. Since witnesses may or may not -- are you
22 through with your case, Mr. Herrmann?

23 MR. HERRMANN: Yes. At this time I'd just
24 present a closing statement, although I'd like to know
25 if this is going to be continued to a later date.

1 EXAMINER JONES: Do we have a motion to
2 continue?

3 MR. STRANAHAN: I would request that this
4 Hearing Officer grant Siana's opposed motion for a
5 continuance based on the factors cited within that
6 motion that was delivered April 12th, 2016.

7 In brief, it just states that I was only
8 recently retained as counsel for Siana. I have not had
9 time to review the allegations, determine the veracity
10 of the particular claims or investigate the progress
11 that has occurred in the interim from the date that my
12 client was notified.

13 So based on those factors, we would request
14 a continuance for Siana to put on its case and to rebut
15 the State's case.

16 EXAMINER BROOKS: For the record, since we
17 now have a court reporter here and we did not at the
18 previous hearing on your motion where we reserved ruling
19 until today, when were you retained by Siana.

20 MR. STRANAHAN: I actually have -- we
21 really only have a verbal commitment. I have not
22 received a signed engagement letter.

23 I was first asked, I think -- the first
24 date that I actually even found out anything about this
25 was, I believe, March 24th. But there are still many of

1 the documents that I didn't receive until just right
2 before the motion that was filed, so it would be
3 impossible for me to effectively cross-examine any of
4 the witnesses on information that I haven't had.

5 EXAMINER BROOKS: Okay. Have you had
6 sufficient opportunity to meet with the representatives
7 from Siana to inform yourself of this case.

8 MR. STRANAHAN: No, I have not.

9 EXAMINER BROOKS: Okay.

10 EXAMINER JONES: Any comments or debate
11 about this from the State Land Office?

12 MS. MIANO: I would add that while we
13 sympathize with Mr. Stranahan's situation, the State
14 Land Office continues to oppose a continuance.

15 The Commissioner of Public Lands would like
16 to resolve this issue as quickly as possible, given the
17 photographs and testimony today, to prevent further
18 deterioration of the land and get it back into operating
19 status for the beneficiaries.

20 EXAMINER BROOKS: One other question then
21 that I forgot to ask because I wanted to get into the
22 record the matters that were discussed at the motion for
23 a continuance hearing: What is the status of these
24 properties at this time.

25 MR. STRANAHAN: The status is -- and that

1 actually is also part of that motion, which I failed to
2 address. But they are shut in, and that is -- they have
3 voluntarily agreed to remain shut-in until the
4 conclusion of these proceedings and based on whatever
5 the determination is of this body.

6 So the idea that there would be further
7 releases or any other activities of dumping based on
8 some type of faulty injection can't occur because
9 they're not operating.

10 EXAMINER BROOKS: And by shut in, you mean
11 that the producing wells are not producing and the
12 injecting wells are not injecting.

13 MR. STRANAHAN: That is correct.

14 EXAMINER BROOKS: Okay. Thank you.

15 EXAMINER JONES: Mr. Herrmann?

16 MR. HERRMANN: I believe the OCD still
17 opposes this motion. This would be the second
18 continuance that would have been granted in this case.
19 We have, since September, had continual issues trying to
20 contact Siana with reporting releases, reporting
21 production, and gone above and beyond our rule or our
22 requirements as required by rule to notify operators of
23 these proceedings. And they continue to not observe our
24 notices and our requirements, and we consider these just
25 additional stall tactics on behalf of Siana.

1 EXAMINER JONES: We're going to continue it
2 until April 28th. And at that time -- does anybody
3 object to testimony by phone?

4 MR. STRANAHAN: I do not.

5 MR. HERRMANN: I'm sorry, what date was
6 that, Mr. Examiner?

7 EXAMINER JONES: April 28th --

8 EXAMINER DAWSON: Two weeks from today?

9 EXAMINER JONES: -- two weeks from today.
10 We hope to, at that time, complete the case
11 and take it under advisement.

12 MS. MIANO: Mr. Examiner, might I ask if we
13 are going to continue the case, that I have the
14 opportunity to formally submit a prehearing statement?

15 EXAMINER JONES: Yes, you do.

16 MS. MIANO: Thank you.

17 EXAMINER JONES: If it's done before the
18 end of the Thursday before the hearing.

19 MS. MIANO: Thank you. I appreciate that.

20 EXAMINER JONES: And anyone else would have
21 also.

22 MS. MIANO: Thank you.

23 MR. STRANAHAN: So Mr. Hearing Officer,
24 that means we're allowed to submit one as well?

25 EXAMINER JONES: You are.

1 MR. STRANAHAN: Thank you.

2 MR. HERRMANN: And we would also be allowed
3 to submit one if we wanted to present additional
4 testimony?

5 EXAMINER BROOKS: You did submit one; did
6 you not?

7 MR. HERRMANN: I did.

8 EXAMINER BROOKS: And you can amend it.

9 MR. HERRMANN: Thank you.

10 MS. MIANO: Thank you.

11 MR. STRANAHAN: Are we still on the record?

12 EXAMINER JONES: Not in this case, but we
13 can be if you want to.

14 MR. STRANAHAN: Can we go back on just
15 briefly?

16 EXAMINER JONES: Yes.

17 MR. STRANAHAN: I did ask Mr. Herrmann for
18 an electronic copy of the slide show that he presented.
19 And I just wanted to put on the record that he's agreed
20 to provide that, so that we don't have to go through the
21 rigmarole of any DPRA request, especially based on the
22 timeframe.

23 MR. HERRMANN: I'll work with opposing
24 counsel. We'll get him what he needs.

25 EXAMINER JONES: And you'll also --

1 whatever you supply him, any other person that makes an
2 appearance in the case.

3 MR. HERRMANN: Certainly.

4 MS. MIANO: Thank you.

5 [Proceeding adjourned at 10:21 a.m.]

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1 STATE OF NEW MEXICO.
2 COUNTY OF BERNALILLO
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9 REPORTER'S CERTIFICATE

10 I, DEBRA ANN FRIETZE, New Mexico Certified Court
11 Reporter No. 251, do hereby certify that I reported the
12 foregoing proceeding in stenographic shorthand and that
13 the foregoing pages are a true and correct transcript of
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16 I FURTHER CERTIFY that I am neither employed by nor
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18 and that I have no interest in the final disposition of
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