

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

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

IN RE LLJ VENTURES, d/b/a  
MARKER OIL & GAS

Case No. 22223

REPORTER'S TRANSCRIPT OF PROCEEDINGS

WEDNESDAY, DECEMBER 1, 2021

EXAMINER HEARING

This matter came on for hearing before the  
New Mexico Oil Conservation Division before Hearing  
Examiner, Ripley Harwood, Esq. on Wednesday,  
December 1, 2021, via Webex Virtual Conferencing  
Platform hosted by the New Mexico Department of  
Energy, Minerals and Natural Resources

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A P P E A R A N C E S

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1 (Time noted 9:28 a.m.)

2 EXAMINER HARWOOD: So moving right along, then,  
3 to the next item on the docket Item No. 7. For those of  
4 you who may have just joined us, to expedite, to make the  
5 best use of the time of the parties here today, we are  
6 sort of going in reverse order. We took 22224 first, now  
7 we are going to move to No. 7, which is Case No. 22223,  
8 which is the Notice of Violation issued to LLJ Ventures,  
9 LLC, d/b/a Marker Oil & Gas.

10 Mr. Tremaine, that's your case, I take it.

11 MR. TREMAINE: Yes, sir.

12 EXAMINER HARWOOD: May I have an entry of  
13 appearance for the Respondent LLJ Ventures, d/b/a Marker  
14 Oil & Gas.

15 MR. MARKER: Yes, sir. This is Larry Marker,  
16 owner of LLJ Ventures.

17 EXAMINER HARWOOD: All right. Mr. Marker, I  
18 take it you are not a lawyer.

19 MR. MARKER: No, sir. No, sir.

20 EXAMINER HARWOOD: All right. Well, then let's  
21 go ahead and proceed with this case.

22 Mr. Marker, you came in late so you don't  
23 know me. I'm a new hearing officer for OCD, so I'm here  
24 to listen and get educated. I assume, however, since this  
25 is OCD's case that they go first.

1                   Mr. Tremaine, how do you wish to proceed?

2                   MR. TREMAINE: I think that it's best, Mr.  
3 Examiner, to just get right into it. I don't think it's  
4 necessary to do much for openings, other than to say  
5 that -- well, I'll wait to see what you want to hear from  
6 me, but I think we could do a very brief, or no openings,  
7 and I would just call my only witness, Mr. Jackson.

8                   And the reason for that is I don't believe  
9 that there's any reason to further discuss the matter. I  
10 first heard from Mr. Marker late yesterday afternoon, so I  
11 don't believe there is any basis at this time to expect  
12 that we could resolve it short of the hearing, so probably  
13 best to just proceed.

14                  EXAMINER HARWOOD: Okay. Hold on a second. I'm  
15 opening the Notice of Violation and your Prehearing  
16 Statement. I have those in front of me.

17                  Mr. Jackson?

18                  MR. JACKSON: Yes, sir.

19                  EXAMINER HARWOOD: You will be a witness in this  
20 case. Do you swear, promise, or affirm that the testimony  
21 you are about to give here in this proceeding will be the  
22 truth, whole truth, and nothing but the truth under  
23 penalty of perjury.

24                  MR. JACKSON: Yes, sir.

25                  EXAMINER HARWOOD: Okay. Mr. Tremaine, you may

1 proceed.

2 MR. TREMAINE: Okay. Mr. Hearing Examiner, I  
3 have one housekeeping thing for this case, to clarify.

4 We actually have prepared in anticipation  
5 of questions two supplemental exhibits, because in  
6 preparing for this matter, Mr. Jackson, you know, updated  
7 the well list and the numbers. The information is  
8 ultimately contained in Exhibit 10 in the exhibit binder,  
9 which we will address through the testimony, but Mr.  
10 Jackson was able to provide a more succinct, concise list,  
11 and I think you will hear Mr. Marker has been active and  
12 some of the wells have changed status during the pendency  
13 of the NOV. So since those were not filed with the  
14 Prehearing Statement, I felt it was best to address them  
15 with you.

16 So I have the two exhibits, Supplemental  
17 Exhibits 14 and 15, and I can enter those either through  
18 testimony or a supplemental filing, whichever you think  
19 would be appropriate at this time. I had not sent those.  
20 I was working on these in the last couple of days, and I  
21 hadn't spoken to Mr. Marker at all, so these were just  
22 prepared in preparation for the hearing, and they need to  
23 be disseminated.

24 EXAMINER HARWOOD: Okay. So Mr. Marker hasn't  
25 been provided copies, he hasn't had a chance to look them

1 over?

2 MR. TREMAINE: That's correct.

3 EXAMINER HARWOOD: But I assume that you'd be  
4 showing them to the witness and having him explain them  
5 during the course of the hearing.

6 MR. TREMAINE: That's correct. Mr. Jackson has  
7 them in front of him at his work station and can reference  
8 them, but we haven't done -- I wasn't sure how you would  
9 want to handle getting them to you and Mr. Marker. They  
10 are almost in the way of rebuttal, but the information is  
11 contained already in Exhibit 10.

12 EXAMINER HARWOOD: Well, I guess my preference  
13 is that you just, you know, in the course of the hearing  
14 where you decide it's appropriate, you share them with us  
15 and lay the foundation for them, and then we'll see if  
16 Mr. Marker has any kind of objection to them. And we will  
17 do it that way. Does that make sense?

18 MR. TREMAINE: Yes. I can just Share Screen, if  
19 that is all right.

20 EXAMINER HARWOOD: That would be good.

21 Mr. Jackson, how come you don't show up in  
22 the participant list? I don't see you on here. Maybe you  
23 were at the bottom.

24 Oh, there you are. Sorry. Never mind.

25 Go ahead.

1 MR. TREMAINE: All right.

2 ROB JACKSON,

3 having been duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. TREMAINE:

6 Q. Good morning, Mr. Jackson. Could you please  
7 state and spell your name for the record.

8 A. Rob Jackson. R-o-b, J-a-c-k-s-o-n.

9 Q. Where do you work?

10 A. State of New Mexico, Energy, Minerals and  
11 Natural Resources Department, Oil Conservation Division,  
12 Administrative Compliance Bureau.

13 Q. How long have you been there?

14 A. Six months.

15 Q. And what specifically do you do for OCD?

16 A. I am a Compliance Officer A, and a Bond  
17 Administrator.

18 Q. Could you please describe the operational  
19 structure of the Administrative Complaints Bureau.

20 A. We have a three-member staff.

21 Q. And -- go ahead.

22 A. We do compliance with, uhm -- we do the  
23 compliance side but we also do the well transfer of  
24 operators and the C-115s, monthly production report  
25 approvals.

1           **Q.    Okay.  And you say there was three staff.  Who**  
2 **is your supervisor?**

3           A.    My acting supervisor right now is Karen Collins.

4           **Q.    And who is the other staff that you mentioned?**

5           A.    Amalia Bustamente.

6           **Q.    And how do you split up or organize work between**  
7 **the three of you?**

8           A.    We all tackle pretty much most of the same  
9 things.  Karen has the extra duties of Agreed Compliance  
10 Orders, IPRA Requests; and Amalia pretty much handles most  
11 of the C-145s, which is Transfer of Operators, and the  
12 C-115s; and I solely do the bond administration.

13          **Q.    Could you describe in a little more detail the**  
14 **bond admnistrator role.**

15          A.    Yes.  I recieve the bonds from new operators and  
16 from current operators who take on more and/or new wells;  
17 and I also am responsible for overseeing, as needed, those  
18 bonds.

19          **Q.    Do you review existing bonding compliance for**  
20 **active or inactive wells?**

21          A.    Yes.

22          **Q.    And did you review the bonds on file for this**  
23 **operator, LLJ Ventures?**

24          A.    Yes.

25          **Q.    Has there been any other staff involved in**

1 **matters of inactive wells and financial assurance issues?**

2 A. There's the other -- Karen and Amalia can review  
3 it, but as far as handling the bonds, that would be myself  
4 only.

5 **Q. Are there any former staff with the Division**  
6 **that were involved with that?**

7 A. Yes. Daniel Sanchez, who is now retired as of  
8 June of 2021.

9 **Q. What was his role with your group?**

10 A. He was the Bureau Chief. He was the position  
11 that Karen is in, except for Karen is acting and he was  
12 the standing, uhm, officer.

13 **Q. When did he retire?**

14 A. June of 2021.

15 **Q. Are you aware that the OCD filed a Prehearing**  
16 **Statement and Exhibit Binder in this case?**

17 A. Yes.

18 **Q. Have you reviewed the Prehearing Statement and**  
19 **the exhibits?**

20 A. Yes.

21 **Q. I want to ask you about that process.**

22 **So in terms of the Notice of Violation, who**  
23 **provided the initial information and numbers that are laid**  
24 **out in the Notice of Violation?**

25 A. That would have been Daniel Sanchez.

1 Q. Have you reviewed the information in the NOV?

2 A. Yes.

3 Q. Do you know, as you testify today, exactly when  
4 Daniel Sanchez ran the numbers and provided that  
5 information?

6 A. I do not know the exact dates of when he ran  
7 those numbers.

8 Q. Are you able to run a report on compliance in  
9 our system effective of a prior date?

10 A. No. I can run reports based on the current  
11 date. I can't run reports on a previous date.

12 Q. Okay. So in preparation for this hearing, you  
13 are not able to run the exact same report that Mr. Sanchez  
14 did; is that correct?

15 A. Correct.

16 Q. Generally from your review is the information in  
17 the Notice of Violation consistent and accurate with the  
18 review and records that you've prepared?

19 A. Yes.

20 Q. Are you aware that there is a section in the  
21 Prehearing Statement labeled Direct Testimony?

22 A. Yes.

23 Q. Is there anything that needs to be corrected in  
24 that testimony?

25 A. Uhm, I cannot verify the bond status that led to

1 the conclusions that Daniel ran that the operator had no  
2 active well bonds. That was stated testimony. It appears  
3 the operator has three in place right now.

4 Q. Otherwise is that Direct Testimony accurate?

5 A. Yes.

6 Q. Okay. Where are the bonds held physically  
7 within OCD?

8 A. There's a safe, a secured bond room with fire  
9 safes that hold the bonds.

10 Q. And are the bonds organized by operator?

11 A. Correct. Alphabetically by operator.

12 Q. So specifically -- so I understand your  
13 correction to be that the Prehearing Statement indicates  
14 that at the time of the NOV operator held no bonding,  
15 correct, but in fact he has three single-well bonds.

16 A. Correct.

17 Q. We are jumping ahead a little bit, but are those  
18 single-well bonds, in your review, sufficient for the  
19 wells they apply to?

20 A. No, they are too low. They are insufficient  
21 bonding.

22 Q. With the correction of acknowledging the three  
23 single-well bonds, do you affirm and adopt the Direct  
24 Testimony section of the Prehearing Statement as the  
25 testimony you intend to provide today?

1           A.    Yes.

2           Q.    I have a couple of questions for you about  
3 reviewing the information in the NOV.

4                    You just testified that Daniel Sanchez  
5 provided the initial numbers. How did you review or  
6 verify those numbers?

7           A.    I ran supplemental reports for the hearing.

8           Q.    When did you do that?

9           A.    November 29th.

10          Q.    What did you learn from the review and the  
11 reports that you ran?

12          A.    I verified the numbers that are in the NOV and  
13 updated the information that has changed from the date of  
14 the NOV until today. The operator has been active and the  
15 status of some of the wells have changed over the dates.

16          Q.    Are the updated numbers represented in any  
17 exhibits that we can talk about today?

18          A.    Yes. The supplemental exhibits that you  
19 mentioned, 14 or 15.

20          Q.    With that I would like to go through the  
21 exhibits with you.

22          A.    Okay.

23          Q.    So Exhibit No. 1, this is your resume, correct?

24          A.    Correct.

25          Q.    Bear with me one second while I pull this up.

1 Is that Screen Share visible?

2 A. Yes. It's a little small but it's visible.

3 Q. Okay. So the -- did you create, compile or  
4 review this exhibit?

5 A. Yes.

6 Q. You created this one, correct?

7 A. Correct.

8 Q. This exhibit is true and accurate, to the best  
9 of your knowledge?

10 A. Yes, it is.

11 Q. Moving on to Exhibit 2, this is the Notice of  
12 Violation issued to LLJ Ventures on July 20, 2021,  
13 correct?

14 A. Correct.

15 Q. And you have reviewed this exhibit?

16 A. Yes, I have.

17 Q. And with the caveat that you have updated the  
18 numbers in the exhibits that we'll talk about shortly,  
19 were you able to verify the accuracy of the information in  
20 this exhibit?

21 A. Yes.

22 Q. All right. And this Exhibit 3, this is the Oil  
23 Conservation --

24 EXAMINER HARWOOD: Mr. Tremaine, can I interrupt  
25 just a second on a procedural point?

1                   Are these admitted into evidence already?

2                   MR. TREMAINE:   They are not.  No, Mr. Examiner.  
3   I was intending to move through the exhibits, proceed  
4   through the exhibits, lay the foundation, and then move  
5   their admission.

6                   EXAMINER HARWOOD:  Why don't we do them one by  
7   one just so that it's clear.

8                   MR. TREMAINE:  I'm happy to do that.

9                   EXAMINER HARWOOD:  Let's go back.

10                   Mr. Marker, you're muted.  Would you get  
11   off mute?

12                   MR. MARKER:  Yes, sir.

13                   EXAMINER HARWOOD:  Did you have a chance to see  
14   the first two exhibits?  Mr. Jackson's resume -- let's  
15   see.  I guess the resume is the first exhibit.

16                   Do you have any objection to that?

17                   MR. MARKER:  No, sir, I have no objection to  
18   that at all.

19                   EXAMINER HARWOOD:  All right.  The next one was  
20   what, Mr. Tremaine?

21                   MR. TREMAINE:  The next one -- so I think  
22   procedurally, Mr. Examiner, I should move admission of  
23   Exhibit 1.

24                   EXAMINER HARWOOD:  Exhibit 1 will be admitted.

25                   MR. TREMAINE:  And Exhibit 2 is an 8-page Notice

1 of Violation.

2 EXAMINER HARWOOD: And you have already talked  
3 about the foundation.

4 Mr. Marker, do you have any objection to  
5 that being admitted into the record?

6 MR. MARKER: I'm having a hard time reading  
7 that. Is that the one that was issued in the middle of  
8 this year? Is that correct?

9 EXAMINER HARWOOD: I think it bears a date of  
10 July 20, 2021.

11 MR. MARKER: Okay. Yes. I actually have a copy  
12 of that, yes, sir.

13 MR. TREMAINE: Yes. And for clarity, Mr.  
14 Hearing Examiner, I have provided a copy of those for Mr.  
15 Marker.

16 I'm attempting to put this up on a  
17 different screen to see if it shares better. It may work  
18 better on my other screen here.

19 EXAMINER HARWOOD: All right. Well, we will  
20 admit Exhibit No. 2, and if you want to work on No. 3 I'll  
21 turn it back over to you.

22 Oh, that -- yeah, that's way better.

23 MR. TREMAINE: All right. Sorry, I had my other  
24 screen lit.

25 Q. So, Mr. Jackson, Exhibit 3 is the Oil

1     **Conservation Division's docketing notice, correct?**

2           A.    Correct.

3           **Q.    And have you reviewed this exhibit?**

4           A.    Yes.

5                   MR. TREMAINE:  Mr. Hearing Examiner, this  
6   exhibit is a filing so I would move its admission as  
7   Exhibit 3, constituting Notice of docketing to LLJ  
8   Ventures.

9                   EXAMINER HARWOOD:  Mr. Marker, do you have any  
10  objection to that?

11                  MR. MARKER:  No, sir.

12                  HEARING EXAMINER HARWOOD:  All right.  Exhibit 3  
13  will be admitted.

14           **Q.    All right.  Mr. Jackson, could you look at**  
15 **Exhibit 4.  This is the Certified Mail tracking**  
16 **information related to the Notice of Violation and**  
17 **Docketing Notice; is that correct?**

18           A.    Correct.

19           **Q.    And have you reviewed the tracking information**  
20 **contained in this exhibit?**

21           A.    I have.

22           **Q.    And have you been able to verify the accuracy of**  
23 **the tracking information associated with these tracking**  
24 **numbers that are stated in the Prehearing Statement?**

25           A.    Yes.

1           **Q.    And you verified that the tracking information**  
2           **stated in the Prehearing Statement is accurate?**

3           A.    Yes, it is.

4           MR. TREMAINE:   Mr. Hearing Examiner it may be  
5           necessary to discuss the status of the green cards and the  
6           Certified Mail tracking.   I'm not sure if you want me to  
7           address that now, but at this time I want to move  
8           admission of Exhibit 4.

9           EXAMINER HARWOOD:   Let me ask you, Mr. Marker.  
10          I see a "Received" in the upper right of this document.   I  
11          take it you can see this, as well.   Right?

12          MR. MARKER:   Yes, sir.   I'm not sure where we  
13          are going with all this.   I'm actually getting quite  
14          frustrated right now.   I don't even understand why this is  
15          there.   I picked the stuff up.   I'm not denying it.   I'm  
16          really -- I'm a bit confused right now.

17          EXAMINER HARWOOD:   Well, all we're doing is  
18          talking about whether certain documents should be admitted  
19          into the record in this case.

20          MR. MARKER:   That's not an issue.   I don't have  
21          an issue with any of these documents at all.   I mean --

22          EXAMINER HARWOOD:   Well, let's take them one --

23          MR. MARKER:   It is what it is.   The facts of the  
24          matter are the facts of the matter.   I mean, that's just  
25          the way it is.   There's discrepancies on the testimony on

1 the bond, but other than that...

2                   You know, this is a Certified Mail receipt,  
3 and here it is. You know, I signed it. There it is. Is  
4 he expecting me to deny this? What's the purpose of all  
5 this? Now I'm frustrated. I really am.

6                   EXAMINER HARWOOD: Well, we're not trying to  
7 frustrate anybody. This is legal procedural stuff. It  
8 just has to be done to admit documents into the record.  
9 So from what you're telling me, this is your signature in  
10 the upper right, you don't have any objection to this, so  
11 we're going to admit Exhibit No. 4.

12                   So try not to be frustrated, because all  
13 we're doing is putting documents into the record. Okay?

14                   MR. MARKER: Okay. I appreciate it. That's my  
15 signature. I did gather that. I'm not denying that at  
16 all. That would be a lie if I did.

17                   EXAMINER HARWOOD: Well, fair enough. I  
18 appreciate your honesty.

19                   And, Mr. Tremaine, I'll turn it back over  
20 to you.

21                   MR. TREMAINE: One more thing on this,  
22 Mr. Examiner. Part of the concern here and the reason  
23 there are two different types of receipts is because we've  
24 experienced very substantial delays in delivering  
25 Certified Mail, and in some cases we are not getting the

1 green cards back. But we are able to verify the Certified  
2 Mail delivery using the tracking information.

3 So that's why rather than simply submit the  
4 green cards as an exhibit to speak for themselves, I'm  
5 eliciting testimony. So I think it's necessary to be very  
6 transparent about that. The Docketing Notice is not  
7 specifically required to be delivered by Certified Mail,  
8 however it was.

9 So with that, moving on.

10 Let me flip this back.

11 Q. Mr. Jackson, Exhibit 5, is it correct this is  
12 the civil penalty calculation for the inactive well  
13 violations under 19.15.5.9.8 (sic)?

14 A. Yes.

15 Q. And have you been able to review the information  
16 contained in the civil penalty calculation, specifically  
17 the number of inactive wells as stated in the NOV that  
18 support the civil penalty calculation?

19 A. Yes.

20 Q. From your review is the information contained in  
21 this exhibit accurate?

22 A. It is.

23 MR. TREMAINE: At this time I would move the  
24 admission of Exhibit 5.

25 EXAMINER HARWOOD: Mr. Marker?

1 MR. MARKER: I Don't have a problem with  
2 Exhibit 5.

3 EXAMINER HARWOOD: All right. Exhibit 5 will be  
4 admitted.

5 Q. Mr. Jackson, same questions for Exhibit 6. This  
6 is the civil penalty calculation for the failure to  
7 provide adequate financial assurance for active wells; is  
8 that correct?

9 A. Yes, it is.

10 Q. And have you been able to verify the numbers and  
11 information contained in this exhibit as they applied at  
12 the date of the NOV?

13 A. Yes.

14 Q. And from your review is this exhibit accurate?

15 A. It is accurate. For Daniel's numbers it is  
16 accurate, yes.

17 MR. TREMAINE: So at this time I would move  
18 admission of Exhibit 6.

19 EXAMINER HARWOOD: Mr. Marker?

20 MR. MARKER: Yes, sir.

21 EXAMINER HARWOOD: Any objection?

22 MR. MARKER: No, sir. No objection.

23 EXAMINER HARWOOD: All right. Exhibit 6 is  
24 admitted.

25 Q. All right. Mr. Jackson, again we are looking at

1 **Exhibit 7. Is it correct that this is the civil penalty**  
2 **calculation provided at the time of the Notice of**  
3 **Violation for failure to provide adequate assurance for**  
4 **inactive wells?**

5 A. Correct.

6 Q. And based on your review of the -- have you been  
7 able to review this exhibit?

8 A. Yes.

9 Q. And based on your review of the information and  
10 numbers at the time of the NOV, is this exhibit accurate?

11 A. Yes, it is.

12 MR. TREMAINE: At this time I would move  
13 admission of Exhibit 7.

14 EXAMINER HARWOOD: Mr. Marker, any objection?  
15 You're muted.

16 MR. MARKER: No, sir. No objection.

17 EXAMINER HARWOOD: All right. Exhibit 7 will be  
18 admitted.

19 Q. Mr. Jackson, moving on to Exhibit 8, is it true  
20 that this is a Notice of Intent to Plug and Abandon a  
21 well, specifically Gates No. 1, which was signed and dated  
22 by the operator in this case?

23 A. Yes, it.

24 Q. Is this document available for public review on  
25 the OCD permitting system?

1           A.    On OCD website publicly viewable, yes.

2           **Q.    And you had the opportunity to review this**  
3 **document?**

4           A.    Yes.

5           MR. TREMAINE:   Okay.   Mr. Hearing Examiner, I  
6 would move the admission of Exhibit 8.

7           EXAMINER HARWOOD:   Again, Mr. Marker, any  
8 objection?

9           MR. MARKER:   No, sir, no objection.

10          EXAMINER HARWOOD:   All right.   Exhibit 8 is  
11 admitted.

12          MR. TREMAINE:   And to clarify, Mr. Hearing  
13 Examiner -- I'll try to move through these very quickly,  
14 but the C-103s and the -145s that I have as exhibits were  
15 prepared in preparation for -- to demonstrate Notice by  
16 email to Mr. Marker, because I had not had contact with  
17 him.   So these are -- since he is here and communicating  
18 they are somewhat unnecessary at this time, so I'll try to  
19 move quickly, but that's their purpose.

20          EXAMINER HARWOOD:   Thank you.

21          **Q.    Mr. Jackson, Exhibit No. 9, this is this another**  
22 **Notice of Intent to Plug and Abandon signed and dated by**  
23 **Mr. Marker?**

24          A.    Yes, it is.

25          **Q.    You have had the opportunity to review this and**

1     **it is available on the public space on the OCD website?**

2             A.     Yes, it is.

3             MR. TREMAINE:   I would move the admission of  
4     Exhibit 9.

5             EXAMINER HARWOOD:   Again, Mr. Marker, any  
6     objection?

7             MR. MARKER:   No, sir, no objection.

8             EXAMINER HARWOOD:   All right. Exhibit 9 is  
9     admitted.

10            **Q.    Mr. Jackson, Exhibit No. 10, is it correct that**  
11     **this is a complete well list for wells registered to LLJ**  
12     **Ventures up to date as of November 24, 2021?**

13            A.     Yes, it is.

14            **Q.    Have you been able to review this exhibit?**

15            A.     Yes.

16            **Q.    And is it also true that this is information**  
17     **that's pulled directly from the OCD online system in the**  
18     **form of a report?**

19            A.     Yes, it is.

20            MR. TREMAINE:   Mr. Hearing Examiner, I would  
21     move admission of Exhibit 10.

22            EXAMINER HARWOOD:   Mr. Marker, any objection?

23            MR. MARKER:   No, sir.

24            EXAMINER HARWOOD:   Exhibit 10 is admitted.

25            **Q.    All right. Mr. Jackson, Exhibit No. 11, is it**

1 correct that this is a C-145 Change of Operator Form  
2 signed and dated by Mr. Marker?

3 A. Yes, it is.

4 Q. And this Transfer of Operatorship was approved  
5 as of July 26, 2021, by your supervisor?

6 A. Yes.

7 Q. Have you been able to review the content of this  
8 exhibit?

9 A. I have.

10 Q. And this exhibit speaks to the transfer of 14  
11 wells from the operator to Tarco Energy shortly after the  
12 date of the Notice of Violation?

13 A. Yes, it is.

14 MR. TREMAINE: At this time I would move  
15 admission of Exhibit 11.

16 EXAMINER HARWOOD: Mr. Marker.

17 MR. MARKER: I have no objection to that.

18 EXAMINER HARWOOD: Exhibit 11 will be admitted.

19 Q. Similarly, Mr. Jackson, Exhibit No. 12, is it  
20 true that this is another Form C-103, Notice of Intent to  
21 Plug and Abandon another well operated by LLJ Ventures,  
22 which is signed and dated by Mr. Marker?

23 A. Yes, it is.

24 Q. And this is also available on the public website  
25 for OCD?

1           A.     Correct.

2                   MR. TREMAINE:   I would move admission of Exhibit  
3  12.

4                   EXAMINER HARWOOD:   Mr. Marker?

5                   MR. MARKER:   I am looking.   Which well is that?

6                   MR. TREMAINE:   This is for Homan No. 1.   I  
7  can --

8                   MR. MARKER:   No, that's fine.   The Homan, I have  
9  no problem with that.   Thank you.

10                   EXAMINER HARWOOD:   All right.   Exhibit 12 is  
11  admitted.

12                   MR. TREMAINE:   All right.   Mr. Hearing Examiner,  
13  Exhibit 13 is an email delivery receipt of the OCD Docket  
14  Notice which I believe speaks for itself, and I would move  
15  Exhibit -- move for admission of Exhibit 13 as an email  
16  receipt that Mr. Marker did in fact receive the Docket  
17  Notice.

18                   EXAMINER HARWOOD:   Mr. Marker, any objection to  
19  this?

20                   MR. MARKER:   I'm actually not seeing it, but I  
21  don't have any objection.   I did receive the Docketing  
22  Statement.

23                   MR. TREMAINE:   It's quite small print.   This  
24  might help.

25                   MR. MARKER:   I see it now.

1 EXAMINER HARWOOD: No objection?

2 MR. MARKER: No objection, no, sir.

3 EXAMINER HARWOOD: All right. Exhibit 13 is  
4 admitted.

5 Q. All right. I'm going to move on, Mr. Jackson,  
6 to Supplemental Exhibit 14. This is -- well, I'll ask  
7 you. What is this exhibit?

8 A. It's the Inactive Well List that I ran recently,  
9 because the well numbers have changed from when Daniel ran  
10 his reports until when I ran the report more recently, and  
11 reflects different numbers.

12 Q. And when did you run this report?

13 A. I believe that was November 29th.

14 Q. And this reflects -- from your review this  
15 reflects the numbers updated as of the date you ran the  
16 report?

17 A. I'm sorry. November 24th. Yes.

18 Q. All right. Is this information, to the best of  
19 your knowledge, true and accurate?

20 A. Yes, it is.

21 Q. I would move admission of Supplemental Exhibit  
22 14.

23 EXAMINER HARWOOD: Mr. Marker, do you have any  
24 objection to this? It's a new exhibit. Do you need time  
25 to review it?

1           MR. MARKER: I can't see the whole thing. There  
2 are a couple of issues I have. I thought the Cooper wells  
3 were actually federal wells and Aston & Fair was actually  
4 one that was supposed to have been a Change of Operator to  
5 Tarco back in July.

6           And other than that, without being able to  
7 see it -- there's probably a few discrepancies, but for  
8 just to get on with it, let's just go ahead, acknowledge I  
9 think there's two or three wells that are not right. The  
10 numbers aren't that critical as far as one, two, or three  
11 wells go. Let's just admit that and move on.

12           EXAMINER HARWOOD: All right. Well I'll admit  
13 it, and you will have an opportunity to question the  
14 witness about it, okay, if you so choose.

15           MR. TREMAINE: This is, I think, a good -- we  
16 are going to get into the specific violations in reference  
17 to this exhibit shortly, but just to clarify this exhibit  
18 at this time.

19           **Q. Mr. Jackson, is it true that this exhibit speaks**  
20 **to the total wells that have been inactive for more than**  
21 **15 months?**

22           A. Yes.

23           **Q. So this will necessarily include federal, state**  
24 **and private wells?**

25           A. All of them, yes.

1           **Q.    Because this exhibit specifically relates to the**  
2 **plugging and abandoning requirements in 19.15.5.9?**

3           A.    Yes.

4           MR. TREMAINE:   With that I will move on to  
5 Supplemental Exhibit 15.

6           **Q.    Mr. Jackson, what is this exhibit?**

7           A.    It's an Active Well Additional Financial  
8 Assurance report.

9           **Q.    Did you run this report?**

10          A.    Yes, I did.

11          **Q.    And when did you do that?**

12          A.    November 29th.

13          **Q.    And based on your understanding is the**  
14 **information contained in this report true and accurate?**

15          A.    Yes.

16          **Q.    And so to clarify, this exhibit, this applies to**  
17 **violations listed in the NOV under 19.15.8.9(D); is that**  
18 **correct?**

19          A.    That's correct.

20          **Q.    And so is it true that this exhibit contains a**  
21 **list of all of the wells that are subject to OCD's bonding**  
22 **requirements generally?**

23          A.    Yes.

24          **Q.    And is it also true that this exhibit indicates**  
25 **the specific wells which are in violation of the Inactive**

1 **Well Additional Financial Assurance requirement?**

2 A. It does reflect that.

3 **Q. And those wells are differentiated by a "Y" in**  
4 **the last column?**

5 A. Correct.

6 MR. TREMAINE: Mr. Examiner, I would move for  
7 admission of Supplemental Exhibit 15.

8 EXAMINER HARWOOD: Mr. Tremaine, would you  
9 minded scrolling down through that thing so that Mr.  
10 Marker can see how many -- okay. So it's two pages?

11 MR. TREMAINE: Yeah, it's two pages. It  
12 reflects that there are currently 50 wells listed in the  
13 OCD system that are registered to LLJ Ventures which are  
14 on either state or fee land and require financial  
15 assurance under OCD's rules.

16 EXAMINER HARWOOD: Mr. Marker, do you have any  
17 objection to this exhibit?

18 MR. MARKER: Yeah, the fact that this is the  
19 first I've seen it is an issue.

20 The first three wells I'm seeing there,  
21 actually I think are supposed to be on my operator number,  
22 Artesia State 1 and 2. There like I said, I thought we  
23 had done a Change of Operator with Tarco on that one.

24 Gates State, both of the Gates State are  
25 being plugged. They should be plugged by now. I don't

1 know that yet because I'm not talking to the guy that  
2 bought them from me until he gets the Change of Operator  
3 done.

4 And I can't see the rest of that, because  
5 I'm trying to scroll this up and I can't scroll anything.

6 I'm really kind of confused at how we can  
7 add a whole bunch of exhibits with this much information.

8 EXAMINER HARWOOD: Well, Mr. Marker, you'll get  
9 a chance to ask questions and to testify.

10 MR. MARKER: And how am I going to view this  
11 stuff? I have -- I'm sorry, go ahead, sir.

12 EXAMINER HARWOOD: Let's -- you should be taking  
13 notes while Mr. Jackson testifies, and thinking about  
14 questions you want to ask him. And between the time that  
15 the -- when OCD finishes its testimony in its case, you'll  
16 get a chance to ask him questions. And we can take a  
17 break and we can make arrangements for these Exhibits 14  
18 and 15 to somehow be transmitted to you so you will have  
19 them in front of you.

20 How does that sound?

21 MR. MARKER: That sound fine. Thank you.

22 EXAMINER HARWOOD: All right. I'll note your  
23 objection for the record, Mr. Marker. Your objection goes  
24 to the weight not the admissibility of the document.  
25 Exhibit 15 will be admitted.

1 MR. TREMAINE: All right. With that, those are  
2 all of the exhibits. I believe they all have been moved  
3 and admitted, and so with that I'll move on to the  
4 specific violations listed in the NOV.

5 And as soon as I email -- I think it's up  
6 here. Now that I understand how they are admitted, I will  
7 be forwarding both the supplemental exhibits to Ms.  
8 Salvidrez and Mr. Marker.

9 Q. Mr. Jackson, I want to ask you some questions  
10 specifically about the NOV.

11 What is the first violation alleged in the  
12 Notice of Violation?

13 A. Too many inactive wells.

14 Q. And specifically what rule is being violated?

15 A. That would be Rule 19.15.5.9.

16 Q. And from your review of the information is that  
17 violation ongoing?

18 A. Yes, it is.

19 Q. At the time of the NOV, how many wells were  
20 registered to the operator?

21 A. At the time of the NOV Daniel ran the report and  
22 it had 165 wells registered to the operator.

23 Q. And as of November 29th, how many wells were  
24 registered to the operator?

25 A. When I ran the report on 1-9 it was 150 wells

1 registered to the operator.

2 Q. Under the rules in the 19.15.5.9, how many wells  
3 can be inactive for more than twelve months plus 90 days?

4 A. An operator with 150 wells can have up to five  
5 inactive wells at any given time.

6 Q. And is that true? Is that number of inactive  
7 wells, does that apply to both the number of wells that  
8 were listed at the time of issuance of the NOV and at the  
9 time of your report?

10 A. Yes. Just five wells, yeah.

11 Q. At the time of the NOV, how many wells did the  
12 operator have which had not produced within 15 months?

13 A. At the time of the NOV it would be 116.

14 Q. And at the time you ran the report on these  
15 wells, how many did the operator have which had not  
16 produced within 15 months?

17 A. When I ran the report it was down to 87.

18 Q. What sanction is OCD proposing for this  
19 violation?

20 A. The civil penalties that are -- the civil  
21 penalties listed in the NOV and the Prehearing Statement.

22 Q. Moving on, what is the second violation?

23 A. Insufficient inactive well financial assurance.

24 Q. I intended to ask you first about the Active  
25 Well FA.

1                   Is there a violation for insufficient  
2 active well financial assurance?

3           A.    Yes, there is insufficient bonding for active  
4 wells.

5           Q.    And the answer that you gave kind of alluded to  
6 is there also a violation for insufficient inactive well  
7 financial assurance?

8           A.    Correct.

9           Q.    Okay.  So I'm going to focus first on the active  
10 wells.  I want to ask you a couple of general bonding  
11 questions.

12                   So for active wells, does the active well  
13 bonding requirement apply to all wells registered to the  
14 operator?

15           A.    Yes.

16           Q.    Would that exclude wells located on federal  
17 land?

18           A.    Yeah, it applies to private -- excuse me, State  
19 and Fee wells.  Federal lands are covered by bonding with  
20 BLM or the federal property owner.  My apologies.

21           Q.    Thank you.  So the number of wells that require  
22 bonding under OCD's rules is going to be less than the  
23 number of wells registered to the operator?

24           A.    Correct.

25           Q.    So in terms of active wells -- is it true that

1 operators can provide either single-well or blanket  
2 bonding for active wells?

3 A. Yes. Those are the two options.

4 Q. How much bonding is required -- how do you  
5 determine the amount of bonding required for a single  
6 well?

7 A. NMAC Rule 19.15.8.9 lists out how much blanket  
8 bond somebody needs to have for how many wells they have.

9 Q. I think I turned you around. I'm asking about  
10 single-well bonds.

11 How do you determine the total amount of  
12 bonding required for a single well?

13 A. Oh, for a single-well bond, the math for that is  
14 \$25,000 plus \$2 per foot of depth.

15 Q. In terms of blanket bonding, how do you  
16 determine the amount of blanket bonding required?

17 A. That's what I was alluding to, is 19.15.8.9, the  
18 rule which states how much bonding you would need, blanket  
19 bonding you would need per how many wells you need bonding  
20 for.

21 Q. Okay. So for a certain number, total number of  
22 wells, an operator must have established amounts of  
23 blanket financial assurance?

24 A. Correct.

25 Q. And in terms of this active well financial

1 assurance violation alleged in the NOV, specifically what  
2 rule is being violated?

3 A. 19.15.8.9(C).

4 Q. And based on your review in preparation for this  
5 hearing, is that violation ongoing?

6 A. Yes.

7 Q. As of the date of the Notice of Violation, July  
8 20th, how many total qualifying wells were registered to  
9 the operator?

10 A. I have 64 state and fee wells.

11 Q. Based on that number of 64 state and fee wells,  
12 how much active-well blanket bonding was required at the  
13 time of the NOV?

14 A. He would have needed to have \$125,000 blanket  
15 bond.

16 Q. How much blanket bonding did the operator have?

17 A. Zero.

18 Q. How much single-well bonds did the operator  
19 have?

20 A. Three.

21 Q. Three separate single-well bonds?

22 A. Three separate single-well bonds.

23 Q. And you had testified earlier that the required  
24 amount for single-well bonds was \$25,000 plus \$2 per foot  
25 of depth, correct?

1           A.    Correct.

2           Q.    Do the individual single-well bonds, are they  
3   sufficient as they apply to the specific wells that they  
4   are attached to?

5           A.    They are insufficient bonding.

6           Q.    Do you know the total amount of single-well  
7   bonds provided by the operator?

8           A.    All three of the single-well bonds he has in  
9   place with us right now total up to \$22,290.

10          Q.    So all three of those together would not be  
11   sufficient for one single-well bond under the rules,  
12   correct?

13          A.    Correct.

14          Q.    As of the date you ran the report, how many  
15   qualifying wells did the operator have?

16          A.    50 as of when I ran the report.

17          Q.    Based on that number of 50 qualifying wells, how  
18   much blanket bonding would be required of the operator?

19          A.    For 50 wells needing a blanket bond, that would  
20   be \$75,000.

21          Q.    At the time you ran the report a reviewed the  
22   bonding, how much blanket bonding did the operator have?

23          A.    Zero.

24          Q.    And is it true that he still held those  
25   single-well bonds that you previously testified about?

1 A. Yes, we still have those.

2 Q. And those bonds are -- as of the date of your  
3 report are they still insufficient?

4 A. Correct.

5 Q. So for the alleged violation of insufficient  
6 active well bonding, what sanction is OCD seeking?

7 A. Uhm, the civil penalties listed in the NOV and  
8 the Prehearing Statement.

9 Q. So what is the -- you have alluded to this  
10 already. What is the third violation alleged in the  
11 notice of violation?

12 A. That would be Insufficient Inactive Well  
13 Financial Assurance.

14 Q. And specifically what rule is being violated?

15 A. That would be 19.15.8.9(D).

16 Q. Based on your review in preparation for this  
17 hearing, is that violation ongoing?

18 A. Yes, it is.

19 Q. So under 19.15.8.9(D) when is a well considered  
20 quote/unquote inactive?

21 A. After two years of inactivity or zero  
22 production.

23 Q. And is it true that we need to distinguish  
24 inactivity under 19.15.8.9(D) from inactive wells for the  
25 purpose of 19.15.5.9(A)?

1           A.    Inactive wells?  Oh, yes.  Yes.

2                         Inactive wells are inactive as of 15 months  
3 but the financial assurance is needed after two years.

4           Q.    Thank you.  And is it -- you testified earlier  
5 that the active financial assurance requirements apply to  
6 all state and fee wells.  Is that also true of the  
7 inactive-well bonding requirement?

8           A.    Correct.

9           Q.    And is it also true that financial assurance for  
10 inactive wells can also be provided by either a blanket  
11 bond or single well financial assurance?

12          A.    Yes, they can.

13          Q.    Uhm --

14          A.    It's a different blanket bond than the active  
15 well blanket bond, though.

16          Q.    In terms of the single-well financial assurance,  
17 for inactive wells, is that computed the same way as  
18 single-well financial assurance is computed for active  
19 wells?

20          A.    Yes.  \$25,000 plus \$2 per foot.

21          Q.    So those three single-well bonds for currently  
22 registered for the wells that the operator currently has  
23 registered, those are still insufficient for the  
24 inactive-well bonding?

25          A.    Correct.

1           **Q. In terms of the blanket financial assurance, how**  
2 **do you determine the amount of blanket financial assurance**  
3 **required for inactive wells?**

4           A. It's also Rule 19.15.8.9 that establishes ranges  
5 of how much, how many wells an operator has that are  
6 inactive and how much blanket bonding is needed for that  
7 range.

8                   (Note: Reporter inquiry.)

9           A. (Continued) I'll slow down.

10                   There's ranges of how many wells an  
11 operator has and that apply, and there's a number, a  
12 blanket bond number for that range. So, for example,  
13 inactive wells, if they have 1 to 5 wells it's \$150,000  
14 blanket bond. If it's 6-to-10 wells it's \$300,000 blanket  
15 bond. Just ranges like that.

16           **Q. All right. So as of the date of the Notice of**  
17 **Violation back on July 20th, how many wells did the**  
18 **operator have that required inactive well financial**  
19 **assurance?**

20           A. At that point it was 30. I notice in Exhibit 2,  
21 page 6 and 8.

22           **Q. As of that date, based on the number of 30**  
23 **inactive wells, how much blanket financial assurance was**  
24 **required for the inactive wells?**

25           A. For 30 wells that range would be \$1 million.

1 Q. As of the date of the Notice of Violation, how  
2 much inactive well financial Assurance did the operator  
3 have?

4 A. Zero.

5 Q. And specifically did -- let me ask you to split  
6 that up to be more clear.

7 How much blanket financial assurance did  
8 the operator have?

9 A. Zero.

10 Q. Is it true -- I believe you have already  
11 testified that he still has -- that he has those three  
12 single-well bonds.

13 A. Yes.

14 Q. And those bonds were insufficient under the  
15 rule?

16 A. Correct.

17 Q. All right. As of November 29th when you  
18 reviewed the information, how many qualifying wells did  
19 the operator have?

20 Let me clarify that. How many inactive  
21 wells did the operator have?

22 A. 21.

23 Q. And as of that date, how much inactive blanket  
24 financial assurance would have been required for those 21  
25 wells?

1           A.    For 21 wells that would be \$500,000.

2           Q.    As of that date, how much inactive blanket  
3 financial assurance did the operator have?

4           A.    Zero.

5           Q.    And again he had those three insufficient  
6 single-well bonds, correct?

7           A.    Single-well bonds.

8           Q.    So for the violation of insufficient inactive  
9 well financial assurance, what sanction is OCD seeking?

10          A.    Uhm, the civil penalties that are noted in the  
11 Prehearing Statement and the NOV.

12          Q.    To your knowledge, prior to yesterday afternoon  
13 had the operator taken -- strike that.

14                    To your knowledge has the operator taken  
15 any of the compliance actions that are required under  
16 Section 3 of the Notice of Violation?

17          A.    No, he has not.

18          Q.    And then, to your knowledge, prior to yesterday  
19 afternoon had the operator contacted OCD generally, or  
20 Administrative Compliance Bureau specifically, to discuss  
21 the Notice of Violation?

22          A.    No, he has not.

23          Q.    In the Prehearing Statement the OCD updated its  
24 request to Revoke Authorization to Transport From All  
25 Wells. What is the reason for that update?

1           A.    Uhm, the operator is -- seems to be out of  
2 compliance, is not communicative about coming back into  
3 compliance, and in effect seems to be flaunting the OCD  
4 standards and rules.

5           Q.    I want to ask you, point you to -- pardon me one  
6 moment.

7                        I want to point you to Exhibit 11, which  
8 we've referred to in the past. And I can Share Screen  
9 here if I can get to the right screen.

10                      Pardon me. I'm being clumsy with this.

11                      This is Exhibit 11, which has just been  
12 admitted. This is one of the following pages.

13                      There are 14 wells on this list which were  
14 transferred to Tarco Energy, correct?

15           A.    Correct.

16           Q.    And from your review of this transfer is it true  
17 that Mr. Marker signed and submitted this transfer prior  
18 to issuance of the NOV?

19           A.    Which NOV date? I don't quite ---

20           Q.    The NOV -- uh, would it refresh your  
21 recollection if I pointed you to Exhibit 2, with the date  
22 of July 20, 2021?

23           A.    July 20 of 2021. Okay. And this is signed --  
24 yes.

25           Q.    So Mr. Marker appears to have initiated the

1 transfer of those 14 wells prior to issuance of the NOV?

2 A. Correct.

3 Q. We talked about how the numbers of wells have  
4 changed in the 3 1/2 months since the issuance of the NOV.  
5 Does this transfer that overlaps with the issuance of the  
6 NOV, does that explain some of the change in the number of  
7 wells?

8 A. It does. It does. It lowered the amount of  
9 wells that I had found when I ran my reports, compared to  
10 what date we ran this report.

11 Q. Have there also been additional wells that have  
12 gone into either inactive well status or inactive  
13 financial assurance status since the date of the NOV?

14 A. That is very possible. I'm not sure. I'd have  
15 to research that more as to which wells had fallen off  
16 into inactive status since then.

17 MR. TREMAINE: Okay. One moment, Mr. Examiner.

18 All right. With that, Mr. Examiner, I'm  
19 done with Direct Examination.

20 MR. HARWOOD: All right. So let's take a  
21 15-minute break because you'll need time to get those two  
22 exhibits to Mr. Marker. Correct?

23 MR. TREMAINE: Yes. Correct. I'm sending them  
24 right now.

25 EXAMINER HARWOOD: Okay. All right. And that

1 will give Mr. Marker a little bit of time to review them.

2 Mr. Marker, when we come back on the record  
3 you will have the opportunity to ask questions of Mr.  
4 Jackson about everything he testified about and about all  
5 the documents. Okay?

6 MR. MARKER: Okay. Just to save time, just to  
7 save time asking Mr. Jackson, I think he needs to review  
8 his records on what my bonds are. I've actually --

9 EXAMINER HARWOOD: Let's hold that off, because  
10 I don't think it will save time. And also, you know, when  
11 you offer information about what you believe to be the  
12 facts of the case, I'm going to have to put you under  
13 oath. Okay? You will be a witness at that point.

14 But when we come back your role will be to  
15 ask Mr. Jackson questions, not to testify. Do you  
16 understand that?

17 MR. MARKER: Yes, sir. So do I go ahead and get  
18 off here and just log back in, or just leave it on?

19 HEARING EXAMINER HARWOOD: Just leave it on. We  
20 will take 15 minutes.

21 Let's see. It's close enough to 10:30.  
22 Let's come back at 10:45, and in the meantime you look for  
23 those documents to come through, and you will have a  
24 chance to review them before we recommence. Okay?

25 MR. MARKER: Very good. Thank you.

1 EXAMINER HARWOOD: All right.

2 (Note: In recess from 10:29 a.m. to 10:45 a.m.)

3 EXAMINER HARWOOD: We are back on the record in  
4 Case No. 22223, notice of Violation issued to LLJ  
5 Ventures, LLC, d/b/a Marker Oil & Gas.

6 Mr. Tremaine, my understanding is, is that  
7 Mr. Jackson was your only witness, and you concluded his  
8 Direct Testimony. I'm not sure what the protocol is, if  
9 any, for closing arguments in these matters. I would  
10 assume if those are standard procedure that you would wait  
11 until the close of the entire case.

12 Can you tell me about that?

13 MR. TREMAINE: This is the first NOV that I've  
14 had at the Division here, but consistent with other  
15 Division hearings I would say we do have an opportunity,  
16 typically, for closing, and it would be at the submission  
17 of the entire case. So I would wait, your Honor, till Mr.  
18 Marker is done and any questions you might have before  
19 proceeding with that. I do think that is appropriate, and  
20 I would request that opportunity, unless you deem it  
21 appropriate for any kind of supplemental filing, for which  
22 case it might be best to address closings in that  
23 briefing.

24 EXAMINER HARWOOD: Let me ask you this: Are  
25 these typically decided, you know, on the day of the

1 hearing, or taken under advisement? Do you know the  
2 answer to that question? Because if the answer is that I  
3 have time to decide this, then there's also an opportunity  
4 for, you know, closing arguments to be submitted in  
5 writing, which gives people time to formulate their  
6 thoughts better.

7 If you don't know the answer to that, maybe  
8 you could ask Mr. Ames or someone else about it and we  
9 could figure that out before we get to the end.

10 MR. TREMAINE: Typically I think actual Orders  
11 are taken under advisement and issued later.

12 EXAMINER HARWOOD: Okay.

13 MR. TREMAINE: So I can't answer the question of  
14 how often there are supplemental findings, if there's  
15 Proposed Findings of Fact and Conclusions of Law, but if  
16 you would like a Draft Order I am prepared to both  
17 file the motion in support and provide a Draft Order.

18 EXAMINER HARWOOD: Okay. Well, I wasn't  
19 thinking about those things, I was just thinking about  
20 whether or not we would -- yeah, you could submit a  
21 Proposed Order, I suppose, for review, along with a  
22 closing, written closing argument.

23 But we don't have to decide that now. I  
24 just throw it out for thought.

25 Mr. Marker --

1                   So, Mr. Tremaine, OCD rests its case at  
2 this point?

3                   MR. TREMAINE: Yes, sir.

4                   MR. MARKER: Yes, sir. Can I ask that Mr.  
5 Jackson get back on?

6                   MR. HARWOOD: Yes. Mr. Jackson is on now.

7                   Before you proceed, though, Mr. Marker,  
8 because you're not a lawyer and sometimes non-lawyers  
9 interject statements into their questions, I'm going to  
10 swear you in as a witness at this point. Okay? That will  
11 save us doing it later.

12                   (Note: Whereupon Mr. Marker was duly sworn by  
13 Examiner Harwood.)

14                   MR. MARKER: Yes, sir.

15                   EXAMINER HARWOOD: All right. Now, you're not  
16 here to testify yet. This is your opportunity to ask Mr.  
17 Jackson questions about what he said. Okay? So try and  
18 keep that distinction in mind as we proceed here.

19                   And you have the floor.

20                   MR. MARKER: If I cross the line, just nudge me  
21 back over. Okay?

22                   EXAMINER HARWOOD: I will do it. That's my job.

23                   MR. MARKER: First of all, Mr. Jackson how are  
24 you doing?

25                   THE WITNESS: Good. How are you doing, Mr.

1 Marker?

2 MR. MARKER: I'm doing all right, I'm doing all  
3 right. It's been a rough few years, hasn't it.

4 CROSS EXAMINATION

5 BY MR. MARKER:

6 Q. Okay. First off, I am a little bit confused  
7 about the status of my bonds. And before we get off into  
8 the particular numbers and stuff, Lexon, which actually  
9 they sold out to Sompco, but I'm going to continue to call  
10 them Lexon, okay?

11 They actually have four single-well bonds  
12 and a blanket bond, a \$50,000 blanket bond for me. If  
13 that is not the case, when was that released and why was  
14 it released?

15 A. I have record of a blanket bond that was  
16 released in 2019 per the request of Lexon.

17 Q. Did anybody notify me that it was released, or  
18 why did Lexon release it? Do you have any idea?

19 A. No, I don't. I'd have to do some more research  
20 for that.

21 Q. So we've released my blanket bond, and all this  
22 time I've been -- never mind. I was getting into a  
23 statement. Sorry about that.

24 So you -- the OCD released my blanket bond  
25 with Lexon. Did they release one of the single-well bonds

1 I had, single-well bond that I had on the Johnson well out  
2 north of Roswell?

3 A. I only have four single-well bonds, three of  
4 which are active and the other one is active but not  
5 released. It's not released but it doesn't apply, because  
6 it's to one of the wells that you transferred away, so it  
7 actually belongs to Tarco now. So their bond covers that  
8 well, this bond doesn't cover anything.

9 Q. Okay. And has that bond been released?

10 A. No. There had been no request for release of  
11 that bond yet.

12 Q. Okay. So we've released my blanket bond, we  
13 claim in 2019, with Lexon.

14 A. Yes, sir.

15 Q. And we're not sure why.

16 A. Not at this point, I don't know. I'd have to do  
17 more research. It was released before I started working  
18 here, so I'd have to contact the person who released it,  
19 and get their email and find out if they had sent you the  
20 notification or not.

21 Q. Okay. All right. Let's go to the exhibits that  
22 I got emailed a few minutes ago.

23 A. Okay.

24 Q. Okay. I have the one that's got the 87 wells on  
25 it, correct? Is that 14 or 15? I've got 150 inactive

1 wells.

2 A. Exhibit 14.

3 Q. This is Exhibit 14?

4 A. Yes, sir.

5 Q. Okay.

6 EXAMINER HARWOOD: Mr. Tremaine, maybe you could  
7 put that up on the screen for us.

8 MR. TREMAINE: Certainly. Let me -- just give  
9 me one moment while I move things around here so you can  
10 actually see it.

11 Is that visible?

12 EXAMINER HARWOOD: Yes.

13 MR. TREMAINE: Please let me know, Mr. Hearing  
14 Examiner or Mr. Marker, if we need to move anywhere in the  
15 document. It is seven pages long.

16 MR. MARKER: Okay.

17 Q. So on this exhibit here, Exhibit 14, just to  
18 make it clear to the hearing examiner, this is the federal  
19 and the state wells, correct?

20 A. Correct.

21 Q. And I'm only required to have state bonds on the  
22 state or the fee wells; is that correct?

23 A. That is correct.

24 Q. Okay. And you're not aware that I have actually  
25 sold most of these wells, are you.

1           A.    There is -- if these wells are appearing right  
2 here, they have not been appropriately transferred on a  
3 C-145 Form.

4           Q.    Okay.  And the last -- can you tell me in the  
5 last two years how many different entities -- actually the  
6 last three years, how many different entities have  
7 attempted to transfer wells out of my name and they were  
8 prevented from doing that?  When I say "my name," that  
9 means LLJ Ventures.  Sorry about that.

10          A.    I don't have that number in front of me.

11          Q.    Would you say it was significant?

12          A.    I couldn't tell you right now without research.

13          Q.    Okay.  Just every one of these wells that you're  
14 showing -- never mind.  That was a statement.

15                        You don't have anything with WMD Operating,  
16 and you don't have any records of Tarco attempting to  
17 change operators prior to finally successfully doing that  
18 in July of last year?

19          A.    I could pull that up but I don't have that in  
20 front of me right now.

21          Q.    Were you aware that I sold those wells to Tarco  
22 over two years ago and the State has refused to give him a  
23 Change of Operator?

24          A.    I'm not aware of that.

25          Q.    Were you aware that WMD Operating actually had

1 the rest of my state wells, I sold those over three years  
2 ago, and the State of New Mexico would not transfer  
3 operator to them?

4 A. I am not aware of that.

5 Q. Okay. Exhibit 14 is the list of wells that most  
6 of the wells on it don't even pertain to this, because  
7 they are federal wells.

8 MR. TREMAINE: Objection. Misstates the exhibit  
9 and the testimony around the exhibit.

10 MR. MARKER: How does that misstate the exhibit?  
11 Most of those are federal wells.

12 EXAMINER HARWOOD: No, Mr. Marker, you don't get  
13 to argue.

14 Why don't you try to reformulate that as a  
15 question.

16 MR. MARKER: Okay.

17 Q. Do you agree that Exhibit 14 contains wells that  
18 aren't pertinent to this hearing?

19 A. No, that's not correct. They are pertinent to  
20 the inactive well issues but not to the bonding issues.

21 Q. Okay. You talking -- on the inactive wells are  
22 you talking 15-month inactive or the two-year inactive?

23 A. The two-year inactive means, uh -- there's an  
24 inactive well can be inactive for 15 months before it's  
25 declared inactive, and then it has up to two years to get

1 the bonding in place. That's what the difference between  
2 15 months and two years is.

3 This what you're looking at right here is  
4 the inactive well list, and it is the 15-month.

5 Supplemental Exhibit 15 shows the inactive  
6 wells that are state and fee that have bonding issues. I  
7 think that's where you might be getting confused on 15.

8 **Q. Actually I'm not confused on it at all.**

9 A. Okay.

10 **Q. I was just wanting you to clarify your**  
11 **statement.**

12 A. Okay.

13 **Q. I'm well aware of the bonding requirement.**

14 **Were you aware that I was attempting to**  
15 **sell all of my Eddy and Lea County wells to get under the**  
16 **limit of the bond that I thought I had?**

17 A. I was not aware -- I'm not aware of that.

18 **Q. Have you ever called and asked me that?**

19 A. I have not.

20 **Q. Have you -- excuse me. I'm sorry. Go ahead.**

21 A. I have not. Go ahead.

22 **Q. Has anybody with the OCD ever called and asked**  
23 **me any of that?**

24 A. I can't speak for anybody else, but I have not.

25 **Q. You don't have any knowledge of the OCD trying**

1 to contact me directly, other than these noncompliance  
2 Orders; is that correct? Or NOVs. That's what they call  
3 them.

4 A. I am not aware of any other contact other than  
5 legal, correct.

6 Q. Okay. Let's go to Exhibit 15, then.

7 Were you aware of the situation with the  
8 Rose state well over in Lea County?

9 A. I am not.

10 Q. Okay. That was another state well that I had  
11 that I had sold. There was delay in the Change of  
12 Operator. Anyway, that was completed in December, also.

13 You weren't aware of that?

14 A. No.

15 Q. Were you aware that several years ago Daniel  
16 Sanchez ordered me to shut in most of my Chavez County  
17 wells, my Chavez County state and federal wells?

18 A. I am not aware of that.

19 Q. Were you aware that after he had me shut those  
20 wells in the Bureau of Land Management fined me \$920,000  
21 for shutting those wells in?

22 A. I'm not aware of that.

23 Q. Were you aware that when the BLM asked Mr.  
24 Sanchez if he told me to shut the wells in, he told them  
25 that he -- he denied ever telling me that?

1           A.    I am not aware of that.

2           Q.    Okay.  So let's go to Exhibit 15.

3           A.    Okay.

4           Q.    Are the Artesia State wells -- didn't we do a  
5 **Change of Operator to Tarco on those?**

6           A.    If there was a transfer attempt it was never  
7 completed.

8           Q.    That's not part of the list of the Tarco wells  
9 **that we did in July?  Can somebody check that?**

10          A.    I'd have to check that.  That would be on the  
11 C-145 that is in the exhibit.

12                         What exhibit is that?  Do you know offhand,  
13 Mr. Tremaine?

14                         MR. TREMAINE:  I can pull it up here.  Excuse  
15 me.

16                         One moment.  It's not up.

17                         MR. MARKER:  While he's looking for that, can I  
18 go ahead with another question?

19                         EXAMINER HARWOOD:  Sure.

20          Q.    Do you agree if I had been able to do a Change  
21 **of Operator on all of my Eddy and Lea County wells that I**  
22 **would now be well below the number of bonds that I thought**  
23 **I had in place?**

24          A.    No, I'm not aware of that at the moment.  I'd  
25 have to do more research to figure that out, the math on

1 that.

2 **Q. My Chavez County wells are the Cannon, the**  
3 **Johnson, the Mary Ann Cannons, and the Tamaracks and the**  
4 **Shugart. Those are my Chavez County wells.**

5 MR. TREMAINE: Mr. Marker, I'm sorry to  
6 interject, but I tried to pull up the exhibit for you that  
7 you were referring to in your last question, but you moved  
8 on.

9 Do you want Exhibit 15 or Exhibit 11, the  
10 C-145?

11 MR. MARKER: No, no, this is good. This is  
12 good. The 14 wells selected I've got the State A instead  
13 of the Artesia State.

14 The three top wells on Exhibit 15, the  
15 Artesia State 1, 2 and the Aston & Fair that's there, I  
16 honestly thought -- actually, I have sold them to Tarco.  
17 We've already done -- we've already done the assignments.

18 **Q. Just so that the hearing examiner knows, there's**  
19 **two steps to selling an oil well, right? You sell the**  
20 **well, you assign it, and then you get a Change of**  
21 **Operator; is that correct?**

22 A. Is that to me?

23 **Q. Yes, sir.**

24 A. There is a two-step, but it should be almost  
25 simultaneously. As close together as possible.

1           Q.    I would agree with that a 100 percent. 100  
2 percent.

3                            Are you aware I've been basically  
4 hounding -- were you aware that I was having a hard time  
5 getting both of the WMD and Tarco to complete the Change  
6 of Operator?

7           A.    I'm not aware of that.

8           Q.    Okay. Did you ever call and ask them that?

9           A.    No, I have not.

10          Q.    Did Daniel? Mr. Sanchez, I'm sorry.

11          A.    I am not aware of what he -- I couldn't speak to  
12 that.

13          Q.    Okay. So right now we don't have any idea when  
14 my blanket bond was canceled or why. Okay.

15          A.    There is a date for the cancellation. I don't  
16 know the why at this point right now, but I can give you  
17 the date.

18          Q.    Is it common to cancel a bond like that without  
19 it being replaced?

20                            Let me rephrase that. Have you ever known  
21 a blanket bond to be canceled when it wasn't replaced with  
22 another one?

23          A.    If the operator was not paying the, uhm -- their  
24 insurance company or bank, sometimes the bank will stop  
25 honoring that bond.

1           **Q. I had to step away for a second. Say that**  
2 **again, please.**

3           A. Yeah, sure. Sometimes when an operator -- the  
4 only time I've seen a blanket bond not being recovered is  
5 either when the operator has gotten rid of their wells and  
6 they didn't need a blanket bond anymore, or the operator  
7 was not honoring payment to the bank, and the bank would  
8 not -- would no longer honor that bond.

9           **Q. How many of those have been canceled like that?**

10          A. I couldn't -- I have no idea. I couldn't speak  
11 to that.

12          **Q. Have you ever heard of that happening other than**  
13 **now?**

14          A. Yes.

15          **Q. You're saying that you released a bond, you**  
16 **released the bonding company or the bank, in this case it**  
17 **would have been the bonding company, you released the bond**  
18 **without having another bond in place, and then nobody**  
19 **bothered to call and tell me that my bond was canceled?**

20                 MR. TREMAINE: I'm not sure what the question  
21 is.

22          **Q. Did anybody call and tell me my bond was**  
23 **canceled?**

24          A. I -- well, it was before my time, and no, I  
25 would not be aware of anybody else having contacting you,

1 if they have or not. They should have by procedure, but I  
2 couldn't tell you, I couldn't speak to if they had.

3 MR. MARKER: Judge, could I take about a  
4 two-minute break?

5 EXAMINER HARWOOD: Yeah, but let's keep it  
6 short.

7 MR. MARKER: Okay.

8 (Note: In recess from 11:05 a.m. to 11:06 a.m.)

9 MR. MARKER: Sorry about that. Okay. Back to  
10 the blanket bond.

11 Q. Right now we don't know exactly why it was  
12 canceled and who canceled it.

13 A. We don't know why it was canceled but we do know  
14 OCD canceled it. So we do know the who, yes.

15 Q. And we don't know that I was ever contacted by  
16 anybody telling me that was canceled.

17 A. I have no idea about that, no.

18 Q. Are you aware of the collateral position  
19 required for a blanket bond in New Mexico right now?

20 A. No.

21 Q. Are you aware that a blanket bond in most cases  
22 requires a collateral position?

23 A. Yes, I would imagine it would. I didn't -- not  
24 for -- I don't know the rules of it, but yes, I would  
25 imagine it would need collateral. Yes.

1 Q. Are you aware that my collateral position was 40  
2 percent of the amount of the bond?

3 A. No, I'm not aware of that.

4 Q. And now a bond cannot be -- now I'm not -- a  
5 bond is not available to me without 100 percent  
6 collateral. Are you aware of that?

7 A. No, I'm not.

8 Q. Do you know why New Mexico requires -- why  
9 bonding companies require 100 percent collateral position?

10 A. I do not.

11 Q. Can you venture a guess?

12 A. No.

13 Q. Okay. Okay. So in reality you have canceled my  
14 blanket bond. I find out about it today. That wasn't in  
15 the Prehearing Statement or any information that I have  
16 ever received.

17 Is that true, that you know of?

18 A. That I know of, correct. It is available to the  
19 operator through log-in on our website, the status of  
20 their wells, the status of their bonding, and all the  
21 reports that are in the -- in the, uh, hearing.

22 Q. Do you agree that our communications have not  
23 been ideal between me and the OCD?

24 A. I couldn't speak to that.

25 Q. Have you ever communicated with me?

1 A. I have not.

2 **Q. Is that normal?**

3 A. We generally don't contact operators. Most of  
4 the time we are being contacted by operators to let them  
5 know -- they ask -- if I'm being contacted by an operator,  
6 they are asking me what is their bonding status, do they  
7 need bonding for something. We don't really go out and  
8 address them unless they are in violation, and then we try  
9 to contact them.

10 **Q. So I got the Notice of Violation in July or**  
11 **whenever; is that correct?**

12 A. Correct.

13 **Q. And then we were going to have this hearing**  
14 **earlier and it got delayed; is that correct?**

15 A. That I don't know.

16 **Q. And I got the Prehearing Statement on Wednesday**  
17 **night; is that correct?**

18 A. I don't know. I didn't send it.

19 **Q. And then we added some more exhibits for today;**  
20 **is that correct?**

21 A. Correct.

22 **Q. And I didn't have any idea I didn't have a**  
23 **blanket bond up until today; is that correct?**

24 A. I suppose. I can't speak to what you know and  
25 don't know.

1 MR. MARKER: Okay. That's all I have.

2 THE WITNESS: Okay.

3 EXAMINER HARWOOD: Thank you, Mr. Marker.

4 Mr. Tremaine, you have redirect for your  
5 witness?

6 MR. TREMAINE: I do have a couple of questions.

7 REDIRECT EXAMINATION

8 BY MR. TREMAINE:

9 Q. Mr. Jackson, what are the -- some reasons that  
10 in your experience a C-145 may be rejected?

11 A. There would be bonding issues. The current  
12 status of the wells that they have in place, or if they  
13 have too many inactive wells in place, the receiver of the  
14 wells is in violation in any way, it will be blocked, most  
15 likely.

16 Q. Do I understand that to mean that OCD may reject  
17 a transfer if the receiving operator doesn't have  
18 sufficient bonding in place?

19 A. Correct.

20 Q. Okay. Would OCD potentially reject the transfer  
21 if the receiving operator had their own set of compliance  
22 issues?

23 A. Correct.

24 Q. Are you generally aware of attempts by Mr.  
25 Marker to transfer wells?

1           A.    I don't recall offhand me personally doing his  
2   C-145s as they were put in.  I've only viewed after the  
3   fact in research for this hearing.

4           Q.    I want to ask you about that blanket bond  
5   sufficiency.

6                        You had said that the \$50,000 blanket bond  
7   was released back in 2019 by OCD staff but you weren't  
8   currently aware of the reason for that.  Correct?

9           A.    Correct.

10          Q.    So I just want to be clear:  In your testimony  
11   earlier I believe you had indicated that at the time of  
12   the NOV Mr. Marker had -- I don't want to get this number  
13   wrong.  Do you recall the number of qualifying wells that  
14   the blanket bond would have applied to at the time of the  
15   NOV?

16          A.    At the time of the NOV, qualifying wells.

17                       EXAMINER HARWOOD:  Are we talking active or  
18   inactive?

19                       MR. TREMAINE:  I'm talking about the total  
20   number of active qualifying wells, so state and fee wells  
21   that are subject to the active well bonding requirement in  
22   19.15.8.9(C).

23                       EXAMINER HARWOOD:  I think my notes say 64, but  
24   I'll wait till the witness...

25          A.    That's correct.  It's 64 at the time the NOV was

1 done.

2 Q. Do I recall correctly from your testimony that  
3 that bond amount would have been 125,000?

4 A. 64 would be 125,000, correct.

5 Q. So even if Mr. Marker had a \$50,000 blanket bond  
6 in place at the time of the NOV, regardless if, you know,  
7 its status was released or not, that had been in place,  
8 his financial assurance for the number of qualifying wells  
9 he had would have been \$75,000 deficient?

10 A. Correct.

11 Q. And similarly, I believe from your testimony  
12 earlier, you had indicated that at the time you ran the  
13 most recent report about November 29th that the active  
14 well-bonding requirement at that point would have been  
15 \$75,000. Did I get that right?

16 A. That would be correct. He dropped down to 50  
17 wells that were qualifying, and that put him in the  
18 bracket of the \$75,000 blanket bond.

19 Q. So whether or not he had a \$50,000 blanket bond  
20 in place, his bonding would have been insufficient under  
21 our rules, correct?

22 A. Correct.

23 Q. Did you hear -- do you recall hearing earlier  
24 during testimony that Mr. Marker said he was well aware of  
25 the OCD's bonding requirements?

1           A.    Yes.

2           Q.    Is it true that there are situations where due  
3 to the language of the bonding and the status of the  
4 relationship between the operator who is getting the bond  
5 and the insuror, that OCD may be, unfortunately, forced to  
6 release a bond?

7           A.    I'm sorry.  Could you -- I'm not --

8           Q.    That was a very poor question.

9                        I believe you testified earlier that there  
10 are certain situations in which a bond gets released  
11 because of a lack of payment by the operator, for  
12 instance.  Is that correct?

13          A.    That's correct.

14          Q.    Okay.  And is that because the particular  
15 language of the bond that was on file with the OCD does  
16 not provide in that specific case a mechanism for the OCD  
17 to decline to release the bond?

18          A.    I believe that would be the case.  I can't speak  
19 because I'd have to read the bond itself.

20          Q.    Well, let me clarify.  In this particular case  
21 you're not aware of the particular language in the bond or  
22 the reason for releasing the bond.

23          A.    Correct.

24          Q.    Okay.  But, generally speaking, there are and  
25 have been certain situations where the OCD has had to

1 **release a bond and then demand that the operator provide**  
2 **an updated bond; is that correct?**

3 A. That's correct.

4 MR. TREMAINE: Okay. I don't have any further  
5 questions, but for the sake of -- Mr. Hearing Examiner,  
6 for the sake of expediency I would stipulate that the  
7 Prehearing Statement was filed the evening of the deadline  
8 for Prehearing Statements. It was filed on Wednesday, so  
9 it is true that Mr. Marker received the Prehearing  
10 Statement on Wednesday.

11 EXAMINER HARWOOD: Okay. Is there any legal  
12 significance to that stipulation? Are you saying the  
13 thing was not timely?

14 MR. TREMAINE: Oh, no, Mr. Hearing Examiner, it  
15 was absolutely timely; however, I'm simply trying to  
16 address the question that I don't believe was resolved in  
17 the line of questioning so that we don't have to cover it.

18 EXAMINER HARWOOD: Okay. Fair enough.

19 I guess -- well, first of all can you stop  
20 sharing the exhibit so we can go back to bigger pictures  
21 of -- yeah, the participant. Thank you.

22 CROSS EXAMINATION

23 BY EXAMINER HARWOOD:

24 Q. I guess I would like to understand a little bit  
25 more about the circumstances of the release of Mr.

1 Marker's blanket bond with Lexon, which I have in my notes  
2 was done in 2019.

3 I know, Mr. Jackson, you don't have the  
4 institutional memory because that was before your time,  
5 but can you explain to me a little bit more the  
6 circumstances under which OCD might release such a bond,  
7 and why would it be with, I guess, a company called Lexon  
8 and not Mr. Marker, and why would he not have Notice of  
9 that?

10 I know that's a compound question. I'm  
11 just trying to speed things along.

12 A. Not a problem.

13 An operator gets bonding through a bank or  
14 through an insurance company. We don't do direct bonding  
15 like that. So that's why. It would go through Lexon or  
16 Bank of America or a Farmers Insurance or something like  
17 that.

18 Q. Is Lexon like a bank or bonding agency?

19 A. It's an insurance agency, I think.

20 Q. Oh, okay. All right.

21 A. They're called officially Lexon Insurance  
22 Company.

23 Q. All right. Okay. It might be hypothetical, but  
24 under what circumstances can you imagine OCD would have  
25 released such a bond?

1           A.    The notes that I have for this by the person who  
2 did release the bond said: Bond release per request of  
3 issuer, Lexon Insurance Company

4           **Q.    So that could be for any number of reasons**  
5 **having to do with satisfaction of the insurance company's**  
6 **requirement for maintaining the bond in place?**

7           A.    Correct. I couldn't speculate as to who, or why  
8 they made the request.

9           EXAMINER HARWOOD: Okay. I understand. Okay.  
10 All right. That's all I have.

11                   Now, Mr. Marker, you have an opportunity to  
12 present your case. You know, your defense, of -- I take  
13 it you would be your only witness on your behalf. Is that  
14 correct?

15           MR. MARKER: Yes, sir. I do have a couple of  
16 questions, either of you or Mr. Jackson, one or the other,  
17 and this is the release of the bond, but I --

18           EXAMINER HARWOOD: Well, we can't let these  
19 things go on forever. I'm going to limit you to two or  
20 three questions under the circumstances.

21                   I can't answer them, so you will have to  
22 direct them to Mr. Jackson.

23           MR. MARKER: Okay. Right now I've just got the  
24 one and the rest I can handle whenever I close.

25                   Lexon, I thought I had five separate bonds

1 with Lexon, four single-well bonds and one \$50,000 blanket  
2 bond. Well, actually I have six. A federal bond, as  
3 well. But that's nothing to do with this.

4 FURTHER CROSS EXAMINATION

5 -resumed-

6 BY MR. MARKER:

7 Q. Why do you think the OCD would release the  
8 blanket bond and one of the single bonds and leave the  
9 other three single-well bonds intact?

10 A. The blanket bond was released upon the request  
11 of the insurance company, Lexon Insurance. The other four  
12 bonds are still active but one doesn't apply, because,  
13 like I said, it's one of the wells you got rid of to  
14 Tarco. So they have bonding in place for that well, that  
15 single-well bond. So that single-well bond can be  
16 released. It's just in our bond room right now because  
17 it's not been requested to be released.

18 Q. So you're saying, or it would seem that Lexon  
19 asked to be released from the \$50,000 bond, and the other  
20 three or four bonds they didn't ask to be released,  
21 knowing that they are all on the same policy.

22 I'm confused as to why we would release the  
23 \$50,000 bond and not the other three, or why the OCD would  
24 even do that and not inquire as to why they weren't.

25 And at the time when I bought those bonds

1 they were sufficient. We also have to let the hearing  
2 examiner know that the financial assurance has increased  
3 dramatically in the period of time I've been dealing with  
4 this mess.

5 Is that correct?

6 A. There was a change in amount of bond  
7 requirements in 2019. I don't know the exact month,  
8 though.

9 Q. Did I carry that through to the Court of Appeals  
10 and challenge it in court?

11 A. I don't know.

12 Q. I did.

13 A. Okay.

14 Q. I fought it all the way. We went from \$50,000  
15 to \$250,000 on the blanket bond. The maximum allowed  
16 blanket bond was from 50 to 250; is that correct?

17 A. The maximum -- the current maximum after the  
18 2019 adjustment -- give me one second.

19 \$250,000 is the maximum. You will have  
20 unlimited amount of active-well coverage for that blanket  
21 bond.

22 Q. Yes, sir. Okay. And single-well bonds went  
23 from -- well, obviously they went up three or four times,  
24 because my -- \$10,000 bond on my single wells were  
25 sufficient when I bought them. Is that correct?

1           A.    I'm not sure.  I would have to see the math on  
2   that.  I think the math prior to the 2019 (inaudible) was  
3   more like \$5,000 plus \$1 per foot.

4           MR. MARKER:  Yes, sir, I believe that's correct.  
5   I couldn't remember if it was \$1 or \$5 a foot, because  
6   those wells were just a few hundred feet.  For this  
7   conversation, yes, sir.

8           Okay, Mr. Examiner, that's really all I  
9   have right now.  I'm at a dead end until we figure out why  
10  my bond got canceled, and I've got a few statements and  
11  then I'm pretty much done.

12          EXAMINER HARWOOD:  All right.

13          Well, however you wish to proceed, Mr.  
14  Marker.  You have the floor.

15          MR. MARKER:  Okay.  The only statement I've got  
16  to make, obviously -- and I'm not here to step on any toes  
17  or cast aspersions on anybody, but the bottom line is the  
18  last three or four years me and the OCD have been  
19  adversaries.  I view NM OCD as an adversary.

20          From where I sit the OCD has done  
21  everything they possibly can to put me out of business,  
22  and when you start canceling people's bonds and you don't  
23  tell them, and then you refuse to do Change of Operator,  
24  and then you actually bold-faced lie about what you told  
25  an operator to do in a hearing, it tends to lead to some

1 conflict between the parties.

2 I'm not sure where all this is going to go.  
3 I'm upset that I did not know that I didn't have a \$50,000  
4 bond, and I'm wondering why some folks are hanging on to  
5 my collateral money if I'm not bonded.

6 That's the same thing they did to me on a  
7 federal bond that I canceled, which is part of my  
8 relationship with Lexon. Somo bought them and that's who  
9 owns them now.

10 Anyhow, bottom line is had the OCD done my  
11 Change of Operator when they were requested by WMD and  
12 Tarco, and then again by Tarco, I never would have been  
13 out of compliance because the number of state and fee  
14 wells I had would have been well below the required for a  
15 \$50,000 bond.

16 That's pretty much all I have to say,  
17 really, other than the fact I just need to know when I can  
18 get a transcript of this hearing, and I'll go over it and  
19 follow whatever appeal process is possible, or whatever.  
20 Or I would definitely like to know why my bond got  
21 canceled and I was never told, and then I will be on the  
22 phone with Tarco this afternoon asking where my money is.

23 Thank you.

24 EXAMINER HARWOOD: Okay, Mr. Marker.

25 Mr. Tremaine, questions for Mr. Marker?

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CROSS EXAMINATION

BY MR. TREMAINE:

Q. Mr. Marker, you said you challenged the bonding requirements all the way through the Court of Appeals. Correct?

A. Yes, sir.

Q. You lost that case, correct?

A. I did.

Q. Okay. So the state of the law, as it is currently, is that the bonding requirements laid out in the Notice of Violation are the requirements, and they have been the requirements since sometime in 2019.

A. Since I lost the appeal, yes, sir.

Q. Did you ever call myself or Ms. Collins or Mr. Jackson to talk about the Notice of Violation?

A. No, sir. Nobody answers their telephones.

Q. In my experience --

A. Did you answer your telephone yesterday when I called you?

Q. Yesterday afternoon?

A. Yes, sir.

Q. I did not talk to you on telephone yesterday afternoon.

A. No, sir. I tried to call you and I sent you an email, is that correct?

1                   Is that correct?

2           Q.   Well, unfortunately Mr. Marker, this is my  
3 opportunity to ask you questions. But we will get to the  
4 question you're asking here.

5           A.   Okay.

6           Q.   You did call me. I understand that. You also  
7 sent me an email right after you called me. Correct?

8           A.   Yes, sir.

9           Q.   And I responded to your email providing you all  
10 the information that you requested in your email.  
11 Correct?

12          A.   Yes, sir.

13          Q.   So you got the answer you were looking for  
14 within a couple of hours; is that right?

15          A.   Uh, I didn't get to talk to you. (Note:  
16 Pause.)

17                   I had to close the back door. Clouds are  
18 coming in.

19          Q.   So I answered your question about email, right?

20          A.   Yes, sir. Go ahead.

21          Q.   The Notice of Violation was issued on July 20,  
22 2021, and I believe you testified earlier that you  
23 received that Notice of Violation, correct?

24          A.   I did.

25          Q.   And the Notice of Violation very clearly

1 outlines that as of the date of the Notice of Violation  
2 you had zero blanket financial assurance. Right?

3 A. I did not see that part of it, no, sir.

4 Q. Did you read the Notice of Violation?

5 A. I didn't read it all, no, sir.

6 Q. Okay. So the statement that you were unaware of  
7 the fact that you didn't have a blanket bond in place was  
8 based on the fact that you didn't read the entire Notice  
9 of Violation prior to coming to this hearing?

10 A. No, it was based on the fact that I did not know  
11 I didn't have a blanket bond in place.

12 MR. TREMAINE: One moment.

13 Well, I'll let the record speak for itself.

14 MR. MARKER: Okay.

15 Q. Do you dispute the fact that the Notice of  
16 Violation indicates that you had had zero blanket bond in  
17 place for either active or inactive wells?

18 A. To be honest with you, I haven't even -- I was  
19 looking through that there on the 15-minute break, and I  
20 ran out of time after reviewing the previous exhibits.

21 I will review that when we get done here,  
22 though.

23 Q. So your testimony is that you reviewed the  
24 Notice of Violation that was issued back in July on the  
25 15-minute break during the middle of this hearing?

1           A.    I reviewed part of it when I first got it.  I  
2 immediately picked up the phone, told the guys that I had  
3 sold those wells to.

4                        Can I make a statement that's answering the  
5 question?

6           **Q.    I don't have any objection.**

7           A.    Okay.  As soon as I got the Notice of Violation,  
8 I read the first part, saw it was a financial assurance.  
9 I picked up the phone and called Joe Calder (phonetic) and  
10 then I called Chris.  Joe Calder is the Tarco guy, Chris  
11 is the WMD guy.  I said, "Guys, you've messed me around  
12 enough" -- I didn't use those exact words -- "you've  
13 messed me around long enough.  Now I'm going to be fined  
14 because I don't have enough financial assurance.  You need  
15 to get your stuff together" -- I didn't use those exact  
16 words.  "You need to get your stuff together and get the  
17 Change of Operators done, because you've put me in pretty  
18 good crack."

19                        I know it was my responsibility, I was the  
20 Operator of Record, so let's not go through that.  It's my  
21 fault that I didn't get the Change of Operator done, but  
22 that's where we're at.

23           **Q.    And do you understand that there's actually**  
24 **three different violations alleged in the Notice of**  
25 **Violation?**

1           A.    Yes, sir.

2           **Q.    Okay.**

3           A.    Most of the recent in that stuff, a lot of those  
4 wells are showing inactive.  When I did the -- when I  
5 changed the assignments before we got the Change of  
6 Operator done, I expected those guys to help me do the  
7 reporting.  The reporting is behind.  There's no possible  
8 way that I can report those.  Those guys have been pumping  
9 those wells and selling oil off of those wells.  I have no  
10 way of knowing exactly how they are doing and how they're  
11 doing it.  If I reported those wells it would be a blatant  
12 lie.  There's no way I can report those without lying, and  
13 I'm not going to lie.

14           **Q.    Let me back you up there, Mr. Marker.**

15                           **Which wells are you referring to?  Are you**  
16 **referring to wells that have been listed in the NOV as**  
17 **inactive for more than 15 months; i.e. they need to be**  
18 **plugged and abandoned under the OCD rules?**

19           A.    Let me look at your exhibit and know exactly  
20 which ones you're talking about.

21                           Exhibit 15?

22           **Q.    Well, I'm asking you, because I'm not sure which**  
23 **wells you're referring to.**

24           A.    Anything -- any wells I have in Eddy or Lea  
25 County that are on state or fee land, the API number is

1 going to be 025 or 015. Those are Eddy and Lea County  
2 wells. If they are 005 they are Chavez County wells.

3 As you can see I have much less than what  
4 was required to cover with the \$50,000 bond.

5 Q. So I'm going to go ahead and share here so we  
6 can be very clear.

7 This is the Exhibit 15, which I believe the  
8 testimony about this exhibit will clearly indicate that  
9 this is referring to a list of wells that are subject to  
10 financial assurance requirements.

11 So I'll state a few wells. And that there  
12 is certain of these wells have been inactive for more than  
13 two years. Those are indicated with the "Y" in the last  
14 column.

15 And -- oops, sorry. I -- my apologies.

16 A. Okay. Well, wait a second. The ones with the  
17 "Y", the bond required now, those are the wells that  
18 Sanchez required that I shut in by agreement.  
19 Mr. Sanchez.

20 Q. Do you have an agreed Compliance Order with the  
21 OCD approving temporary abandonment of those wells?

22 A. Yes, sir. Somewhere. It's also part of the  
23 lawsuit I have with the BLM.

24 Q. Are you able to furnish that agreement as an  
25 exhibit for consideration in this hearing?

1           A.    I'll have to find it.  We could call Mr. Sanchez  
2   and ask him if he remembers.  I could call my lawyer, the  
3   one that I had back at the time.  She's the one that made  
4   the agreement.  That's the agreement I'm talking about he  
5   denied, and then the BLM ended up fining me \$920,000.

6           Q.    Well, I'm going to leave that to you.  I want to  
7   get back to your earlier statement here that you have got  
8   these wells that are on this list because they require  
9   financial assurance, active well financial assurance or  
10  inactive well financial assurance, --

11          A.    Yes, sir.

12          Q.    -- neither of which you have.

13                        So your earlier statement -- I believe you  
14  indicated that the wells with APIs that I'm highlighting  
15  here for the benefit of everyone, that had an 015 of 025.

16          A.    015 is Eddy County and 025 is Lea County.

17          Q.    And I understand your testimony, recent  
18  testimony to indicate that you have an agreement, an  
19  assignment for all of these wells to move over to another  
20  operator; is that correct?

21          A.    They're two separate operators, yes, sir.

22          Q.    I also understood your testimony to indicate  
23  that you were not filing production reports for those  
24  because they are being operated by the other operators.  
25  Is that correct?

1           A.    Actually, I am doing my best to get what  
2 information I can to get current on my reports. I realize  
3 I'm behind on them, but I'm not going to file reports that  
4 I know are bogus. I'm waiting on the sales ticket from  
5 Plains -- and I forget the name of the outfit that buys  
6 from the shallow wells. The shallow wells are the ones  
7 that Tarco has.

8           **Q.    So --**

9           A.    You -- excuse me. Go ahead. I'm sorry.

10          **Q.    Well, who are -- the wells that are with APIs**  
11 **015 or 025, those two counties, who are you selling those**  
12 **wells to?**

13          A.    I'm selling those to Tarco. WMD decided they  
14 couldn't do the deal, and they decided -- it was two  
15 brothers. They were partners. They just turned them back  
16 to me. I've got quite the mess there to get squared away.

17                   And Tarco, the reason that we got the  
18 Change of Operator done in July is I agreed to go ahead  
19 and let him get the Change of Operator done except for the  
20 three that required the single-well bond, because they  
21 didn't want to put up the money required for the  
22 single-well bond. And he has since shanked me on that  
23 deal.

24                   He was also supposed to take those that WMD  
25 was going to take, but he hasn't got his bonding in place

1 for those yet. And I refused to give him a change -- or  
2 sign it until he got a Change of Operator done, and he  
3 shanked me on that deal, as well.

4 I'm not blaming anybody for my problems.  
5 Those are my problems because I'm a poor businessman. The  
6 bottom line is I'm an honest guy and I'm not going to lie  
7 and then put out a bunch of bogus reports that I know are  
8 false. If I'm not making oil I'm going to report zero.  
9 If I don't know how much oil is being made I'm simply not  
10 going to report it.

11 Q. These wells you're selling to, it was either WMD  
12 or Tarco, the ones we're talking about here, some of which  
13 are listed on Supplemental Exhibit 15, when did you agree  
14 to transfer those wells to either Tarco or WMD?

15 A. Tarco was well over two years ago, WMD was a  
16 little bit prior to that.

17 Q. And --

18 A. If you look -- I'm -- there's a little delay  
19 here, so sometimes it sounds like I'm interrupting you.  
20 I'm really not.

21 Q. I understand. You're trying to answer the  
22 questions. That's just fine. We can just be patient with  
23 each other.

24 So I believe earlier in your testimony you  
25 had indicated that you were unable to provide production

1 reporting for these wells because they were being pumped  
2 by those operators that assumed operatorship of them. Is  
3 that correct?

4 A. Yes, sir, that would be correct.

5 Q. So your understanding is that either Tarco or  
6 WMD is producing oil from these wells?

7 A. WMD is not anymore, because he turned them back  
8 to me, and I understood that. I have no ill feeling. He  
9 gave it all he had.

10 The biggest problem we had is right about  
11 the time that the financial assurance took effect, the  
12 bigger bond had to be in place, that's when these deals  
13 fell apart. When they raised financial assurance it  
14 basically destroyed the smaller independent oil producers  
15 that were either trying to grow or get into the business.  
16 They were no longer able to get bonding so the deals we'd  
17 made prior to that pretty well fell apart, which why I was  
18 opposed to the increase in the financial assurance like  
19 they were. They basically -- that was the first step in  
20 the State of New Mexico getting rid of the independent oil  
21 producers, and this is just another part of that.

22 And no-one can deny that the State of New  
23 Mexico does not want to get rid of the independent oil  
24 producers.

25 Q. Mr. Marker, I don't want to belabor this point

1 much more, but you'd indicated these wells you agreed to a  
2 transfer to either WMD or Tarco. How many total wells are  
3 we talking about?

4 A. We are going to have to sit here and count them.

5 Between those two companies everything in  
6 the 015 and the 025 -- I'm sorry, not the 015. The 025  
7 and the 015, yes. The 015 and the 025, those would be  
8 transferred out of my operator number if things had gone  
9 like they were supposed to.

10 Q. Okay. And that was respectively two years ago  
11 and three years ago.

12 A. This mess started in 2017. I ran out of money  
13 for lawyers then, and it's been worse ever since.

14 Q. Since that time you had indicated that WMD, at  
15 least, had kind of handed the wells back over to you more  
16 recently. When did that occur?

17 A. It's probably been six to eight months ago.  
18 Maybe a little bit longer. It would have been in early  
19 2020. So yeah, a little bit longer.

20 Q. And the 015 wells, was that transfer with WMD or  
21 Tarco?

22 A. Some of them were Tarco and some of them were  
23 WMD.

24 Q. So for 015 they were split up between the two?

25 A. Yes, sir. What I was trying to do was downsize

1 my business where I could operate my business by myself  
2 without the need of a pumper, hiring a pumper. I do know  
3 the pulling unit work. I got my own pump and my water  
4 haul, and I do pretty everything by myself. And I was  
5 trying to get down to a level where I could operate any  
6 wells that were within, you know, 15 to 20 miles of the  
7 house. I live north of Roswell.

8 I was just trying to downsize my business.  
9 I thought I had enough bonds in place to take care of  
10 what I had, and I was going to regrow my business from  
11 there.

12 Didn't work out like that.

13 **Q. Let me follow up on that.**

14 **So I understand 015, all those wells were**  
15 **split between WMD and Tarco. Is that true of 025 or were**  
16 **all 025 going to one operator?**

17 A. 025 were going to go to WMD.

18 **Q. Okay. And is Tarco still operating the wells**  
19 **that are intended to transfer to them under 015?**

20 A. Yes, sir. That was the list of those wells that  
21 you saw in that Change of Operator. We finally got the  
22 Change of Operator done without the three single-well  
23 bonds. I told him, "Just go ahead and get the Change of  
24 Operator done, and then you guys -- then I'll do the  
25 paperwork to plug the wells, you guys plug the wells,"

1 because the State Land Office had also canceled that  
2 lease. Mack Energy (phonetic) was on my rear end to get  
3 those wells plugged, and they actually helped me with the  
4 paperwork to get them plugged. And then Mr. Tarco was  
5 supposed to plug the well. I don't know if he got them  
6 plugged yet or not because we're no longer speaking.

7 I was taught to respect my elders. When  
8 I'm upset I might say things I don't mean, so I'm simply  
9 not talking to him, because he also shanked me on the next  
10 deal. When I took the WMD wells back, he agreed to take  
11 those, and he didn't do it. Well, he was doing it but he  
12 didn't get the Change of Operator done.

13 **Q. Earlier in your testimony you had indicated that**  
14 **you understand that you are the responsible party because**  
15 **you are the Operator of Record. Is that correct?**

16 A. Yes, sir. I understand I'm responsible for what  
17 goes on with those wells. I'm not denying that and I  
18 never would.

19 **Q. The wells you were just talking about about the**  
20 **State Land Office lease, when did the State Land Office, I**  
21 **don't know the right terminology, suspend or cancel that**  
22 **lease?**

23 A. That was the Homan and the two Gates wells.  
24 They canceled that lease apparently -- I didn't know about  
25 it, but they canceled it a few months after I first sold

1 it to Tarco. That's why he got involved with it, because  
2 apparently -- well, he was already -- we had already done  
3 the, uh -- changed the assignment by the time the State  
4 had canceled that lease. I was working with -- we were  
5 working with Mack Energy at the time. I had the same  
6 issue on a well over in Lea County. It was called the  
7 Rose State No. 1 or No. 2. I had the same issue over  
8 there. That operator took that well and plugged it. I  
9 believe it's plugged by now. I did the paperwork and they  
10 plugged it.

11 **Q. For those --**

12 MR. MARKER: Can I go pee real quick? I got to  
13 go pee real quick. Can I use the restroom real quick?  
14 I'm sorry.

15 EXAMINER HARWOOD: Let's take a five-minute  
16 break. Let's come back at 11:50 and let's try to wrap  
17 this up by noon if that is at all possible.

18 (Note: In recess from 11:45 a.m. to 11:50 a.m.)

19 EXAMINER HARWOOD: Are you ready to proceed? Do  
20 we need Mr. Jackson?

21 MR. TREMAINE: I do not need Mr. Jackson. I  
22 understood Mr. Marker to be done.

23 MR. MARKER: I don't need Mr. Jackson. I'm  
24 pretty well done. I'm about talked out anyway.

25 EXAMINER HARWOOD: Mr. Tremaine, I didn't mean

1 to cut you off. Do you have further questions for Mr.  
2 Marker?

3 MR. TREMAINE: Just a couple or so. I realize  
4 this line of questions is going on a little long. I'm  
5 going to move on, but I have one clarification here for  
6 Mr. Marker if we're back on the record.

7 EXAMINER HARWOOD: Ms. Macfarlane, I take it  
8 we're back on the record.

9 MR. TREMAINE: Okay. Thank you.

10 Q. Mr. Marker, just a clarification here.

11 You have had the opportunity now to review  
12 Supplemental Exhibit 14, and I understand you to indicate  
13 that -- we've talked quite a bit about the attempted  
14 transfer of the 015 and the 025 wells. I just want to  
15 clarify: Do you understand that there are a number of the  
16 015 wells that are on the inactive, i.e. have not reported  
17 production in over 15 months, list in Supplemental Exhibit  
18 14?

19 A. Are you talking 015 wells?

20 Q. Yes. I can share my screen if necessary.

21 A. You're talking not reported production or  
22 reported zero production.

23 Q. Well, let me ask you this.

24 A. There's several of those -- honestly there's  
25 several of those that I have reported no production simply

1 because I wasn't producing them.

2 I can always fill in the one well per month  
3 and all that stuff, but that's actually a lie so I don't  
4 do it.

5 They don't make reporting -- I report zero  
6 reproduction, and would have a hard time believing that  
7 there's 15 months gone by that I didn't file a report. I  
8 do believe that there's reports filed that show no  
9 production, that would show zero production.

10 **Q. But your earlier testimony was that you**  
11 **understood either WMD or Tarco was producing oil from**  
12 **those wells?**

13 A. Some of those well they were, yes, sir. And I'm  
14 having a hard time determining which wells and what else.  
15 My plan was to go back and see what they sold and back  
16 into it like that. See what was sold, what wells going,  
17 which came better, back into it like that.

18 Similarly what I did with most of my 015  
19 wells that I got from Tam (phonetic) Oil, the ones me and  
20 Daniel had agreed I would shut in until I got current on  
21 the production reports. I did, and since then I haven't  
22 been able to get the wells pumping because I simply ran  
23 out of money.

24 **Q. Okay. I'll move on.**

25 **Mr. Marker, when was the last well that you**

1 **plugged or contracted to plug?**

2 A. Are you talking prior to this or this particular  
3 matter?

4 Q. It doesn't have to be any one of these wells.  
5 I'm just asking when was the last time that you, as the  
6 operator, plugged or commissioned plugging and abandonment  
7 of one of your wells.

8 A. Okay. That was in 2000 and I believe it was 18,  
9 I plugged the two Decafs (phonetic).

10 Q. And in 2018 how much did it cost you to plug one  
11 of those wells?

12 A. The first one cost me about \$25,000. There was  
13 some issues with -- it was close to the river, so I hired  
14 it all done. The next one was a little farther from the  
15 river so I did that myself. The first one cost me about  
16 25,000, the next one cost me about -6. I had my own  
17 pulling unit, my own water truck, the cement pump, the  
18 whole deal.

19 That was actually on Bitter Lakes. Both of  
20 those wells were on Bitter Lakes and they were federal  
21 wells.

22 Q. Do you have any reason to believe that the cost  
23 of plugging a well now would be less than that? Would you  
24 agree that \$25,000 would be a conservative estimate to  
25 plug a well?

1           A.    Depends to the depth of the well.  But if you  
2   are going to hire it done, if you are going to hire it  
3   done -- and I'm just going to shoot the (inaudible) with  
4   you, I don't have any figures or anything around in my  
5   play book, \$25,000.  When I got the quote to plug the Rose  
6   State over there in Lea County, the quote was \$22,000 and  
7   then I was supposed to take care of the stuff on the  
8   surface.

9                            And that was a 3800-foot well.

10           **Q.    So \$22,000 for P&A of the well, plus you had**  
11 **surface reclamation that you needed to do?**

12           A.    Yes, sir.  That was about on a 3800-foot well.  
13  Most of these wells I have are less than 1,000-foot deep.  
14  But -- your cost is less for a more shallow well but it's  
15  not half.  Well, it would be about half in this state, but  
16  it's not much less than that.

17           **Q.    Do you understand that as of the date of the**  
18 **last report you -- OCD records are showing that you have**  
19 **87 wells which have not produced in at least 15 months and**  
20 **need to be plugged and abandoned?**

21           A.    They are showing 87 wells, but the reports are  
22  showing zero production, and -- rephrase that.  Say that  
23  again.

24           **Q.    Well, we talked about Exhibit 14 in Mr.**  
25 **Jackson's testimony that as of the time he ran the report**

1    OCD records indicated there was zero production reported  
2    for more than 15 months on 87 of your 150 wells.

3           A.    Okay.  Most of that is due to the fact that I'm  
4    also behind in my reporting.  And the Allen Federal, in  
5    reality the Allen Federal, the first well on Exhibit 14,  
6    that's actually a gas well and the BLM canceled my Change  
7    of Operator, or rescinded my Change of Operator.

8           Q.    How many wells are you behind in reporting on?

9           A.    Everything that I have got.

10          Q.    How far behind?

11          A.    I'm going to say at least six to eight months.

12          Q.    Are you testifying today that in the last six to  
13    eight months these wells have been producing and you have  
14    not reported?

15          A.    Some of these wells have been producing and I  
16    haven't reported them.  Haven't got them reported yet.

17                    That'd be a lie if I told you any other.

18          Q.    I may have a follow-up question on that.  One  
19    moment.

20                    I'm going to move on -- uh, I'm going to  
21    move back real briefly.  You know, the information before  
22    the Division is that you have 87 wells that require  
23    plugging and abandoning, and I believe it's been clear in  
24    the record that based on the total number of wells you  
25    could have five.  So 82 of these wells do in fact need to

1 be plugged and abandoned according to OCD records, and --  
2 sorry for the long premise here, but...

3 We've talked about the cost of plugging and  
4 abandoning a well, so based on that conservative estimate  
5 that you're looking at \$25,000 a well at 82 wells, you're  
6 looking at a plugging liability of greater than \$2  
7 million.

8 Are you able, is LLJ able to plug and  
9 abandon 82 of these wells?

10 A. Well, for preface, the statement of the 87 wells  
11 you're talking about, those are not all state wells. Some  
12 of those are federal wells.

13 Q. Let me clarify. I think you misunderstand my  
14 question. I'm talking about inactive for more than 15  
15 months, which under 19.15.5.9(A) you are required to plug  
16 and abandon. You're actually required to plug and abandon  
17 the well after 12 months of inactivity and you have got 90  
18 days to do it. You're in violation after 15 months.

19 All of the wells on Exhibit 14 have  
20 reported zero production for greater than 15 months. I  
21 believe that has been clearly established in the record.

22 My question to you -- this has nothing to  
23 with financial assurance, this question is about plugging.

24 Does LLJ Ventures have the ability to plug  
25 greater than \$2 million worth of plugging liability?

1           A.    No.

2           **Q.    How many wells could you realistically plug in**  
3 **the next year?**

4           A.    Because of the current financial conditions, I  
5 would be fortunate to get -- I would be fortunate to get  
6 two a month.

7           **Q.    Okay.  So you're talking fortunate to plug 24**  
8 **wells within the next year.**

9           A.    There's actually probably only five or six of  
10 these wells that would even be required plugging.  Most of  
11 them I could just turn back on and they would be producing  
12 again.  With some work.

13          **Q.    How about --**

14          A.    Just pump changes, tubing changes, rod changes,  
15 some jack repairs, stuff like that.  They are in  
16 disrepair.

17          **Q.    You just testified that a certain number of**  
18 **these wells have in fact been producing and you're six to**  
19 **eight months behind in production reporting.  Can you give**  
20 **the hearing examiner an estimate of how many wells are in**  
21 **that status?**

22          A.    Are you talking of these 87 or of the 50?

23          **Q.    87.  I'm talking about production, not financial**  
24 **assurance.**

25          A.    That's going to be a challenge right now.

1 Well, for instance, your Loco Hills A  
2 Federal and your Loco Hills B Federal, I sold those wells  
3 in May.

4 Q. Do you have an approved C-145 authorizing  
5 transfer?

6 A. No, sir, not yet. We are still trying to get  
7 the Change of Operator done with the feds. They're  
8 federal wells, we wanted to get the federal side done  
9 first.

10 Q. Do you understand that OCD may require a  
11 compliance plan on the part of the receiving operator to  
12 make sure that they have a plan to bring those wells into  
13 compliance before they approve the transfer?

14 A. Yes. That's why they're working with the BLM  
15 right now, the feds right now.

16 You want me to give you a list of those  
17 wells, hit the high spots on those?

18 Q. Well, I'm trying to simply get a ballpark of how  
19 many wells you're behind in production for, because I  
20 understand your argument to essentially be you shouldn't  
21 have to plug these wells because they're producing. And  
22 you're six to eight months behind in reporting, which I  
23 would note is in and of itself a separate violation which  
24 is not listed in the current Notice of Violation.

25 So that's a separate matter.

1                   But the problem, and what I'm trying to get  
2 at through my question here, is: How is the hearing  
3 examiner supposed to be able to determine which wells need  
4 to be plugged if you are telling him that you're in  
5 violation of the reporting requirements and they are not  
6 actually inactive.

7                   What information can you provide to the  
8 hearing examiner so he can make an informed decision about  
9 which wells have to be to be plugged, and set appropriate  
10 deadlines.

11           A.    The hearing examiner would just simply have to  
12 ask me to go to Exhibit 14, provide him a list of the  
13 wells that I can get producing again simply by turning  
14 them on, or that are actually producing. If they are not  
15 producing, why they are not producing. That would be  
16 pretty simple in these wells that I actually own.

17           Q.    So are you able, as you sit here today, to go  
18 one by one through the 87 wells listed in Supplemental  
19 Exhibit 14 and say whether it's not -- whether it hasn't  
20 produced but is able to be turned back on, or whether --  
21 sorry, poor question.

22                   Are you able to provide the status of each  
23 and every well in Supplemental Exhibit 14, as you sit here  
24 today?

25           A.    Yes. Off the top of my head, yes, sir.

1                   When you start talking about the Mary Ann  
2 Cannon, those are the wells that are on the river out  
3 here. The Mary Ann Cannon I've actually sold oil off of  
4 those. Not very recently but that was some of the last  
5 wells.

6                   I got -- the biggest mess I made in my  
7 reporting was done in May after I sold what I call the  
8 Loco Hills wells, All-American Well Service. Your KKs,  
9 the JJs, the Fed Ls, the Qs, the Rs.

10                  MR. TREMAINE: Well, Mr. Hearing Examiner, I'm  
11 done with my cross examination. I'm not sure how to  
12 proceed, because I don't believe that Mr. Marker has  
13 provided sufficient information for you to determine the  
14 status of the wells. We have only the information before  
15 the Division in the form of these exhibits and the status  
16 based on reporting.

17                  I do understand he represents he can  
18 provide the status, but I'm reluctant to dive through each  
19 and every one of the wells in the form of cross  
20 examination, because I think we are going to be here well  
21 into the afternoon to do that.

22                  EXAMINER HARWOOD: Yeah. I'm not -- I'm not  
23 willing to go that route.

24                  I guess given that Supplemental Exhibit 14  
25 was not something Mr. Marker had before the hearing, I'm

1 going to allow him to address that, if he wants to, in a  
2 closing argument, and I'd like to do closing arguments in  
3 this case in writing.

4 Let me ask Ms. Macfarlane. Ms. Macfarlane,  
5 without putting undue pressure on you, how soon is it  
6 realistic to expect the transcript for this proceeding.

7 (Note: Discussion off the record.)

8 Mr. Marker, could you get us your closing  
9 argument in writing by January 7th?

10 MR. MARKER: Yes, sir. If you tell me to, I  
11 will.

12 EXAMINER HARWOOD: All right. So your deadline  
13 is going to be January 7th for your closing argument, and  
14 if you want to include in that closing argument the answer  
15 to the question on the status of all the wells in  
16 Supplemental Exhibit 14, I would encourage you to do that.

17 Then I'm going to give OCD until the 21st  
18 to submit their closing argument. Is that enough time for  
19 you, Mr. Tremaine?

20 MR. TREMAINE: Did you say January 21st?

21 EXAMINER HARWOOD: Yes.

22 MR. TREMAINE: Yeah, that's fine.

23 EXAMINER HARWOOD: Okay.

24 MR. MARKER: So Judge -- I'm just going to call  
25 you Judge because Examiner sounds weird.

1                   Do you have an email address? Who would I  
2 send my closing arguments?

3                   EXAMINER HARWOOD: Send it to the agency and  
4 they will get it to me.

5                   So you'll need to make arrangements to get  
6 it to Ms. Salvidrez, Marlene Salvidrez.

7                   MR. MARKER: Okay.

8                   EXAMINER HARWOOD: All right. So I believe that  
9 that brings this matter to a close. And is there anything  
10 further for me from either of the parties on this?

11                  MR. TREMAINE: Nothing from OCD.

12                  EXAMINER HARWOOD: Mr. Marker?

13                  MR. MARKER: I'm good. Thank you. Thanks for  
14 your time. Everybody, thanks for your time.

15                  EXAMINER HARWOOD: Okay. All right. Thank you,  
16 Mr. Marker.

17                               We will go off the record in Matter No.  
18 22223, LLJ Ventures, d/b/a Marker Oil & Gas.

19                               (Time noted 12:04 p.m.)

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1 STATE OF NEW MEXICO )

2 : ss

3 COUNTY OF TAOS )

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REPORTER'S CERTIFICATE

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I, MARY THERESE MACFARLANE, New Mexico Reporter

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CCR No. 122, DO HEREBY CERTIFY that on Wednesday,

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December 1, 2021, the proceedings in the above-captioned

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stenographic shorthand the proceedings set forth herein,

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and the foregoing pages are a true and correct

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I FURTHER CERTIFY that I am neither employed by

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nor related to nor contracted with (unless excepted by the

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rules) any of the parties or attorneys in this case, and

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that I have no interest whatsoever in the final

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disposition of this case in any court.

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/s/ Mary MacFarlane

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