

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

ORIGINAL

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

CASE NO. 14189

APPLICATION OF THE NEW MEXICO OIL
CONSERVATION DIVISION, THROUGH THE
ENFORCEMENT AND COMPLIANCE MANAGER, FOR
A COMPLIANCE ORDER AGAINST AMERICO
ENERGY RESOURCES, LLC, EDDY AND LEA
COUNTIES, NEW MEXICO

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

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

October 30, 2008

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico
Oil Conservation Division, DAVID K. BROOKS, Legal Examiner,
TERRY G. WARNELL, Technical Examiner, and RICHARD EZEANYIM,
Technical Examiner, on Thursday, October 30, 2008, at the
New Mexico Energy, Minerals and Natural Resources Department,
1220 South Saint Francis Drive, Room 102, Santa Fe, New Mexico.

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

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1 MR. WARNELL: Okay. It's 9:30. Let's go back on the
2 record. Our next case is Case No. 14189, Application of the
3 New Mexico Oil Conservation Division for a Compliance Order
4 against AmeriCo Energy Resources, LLC, Eddy and Lea County, New
5 Mexico.

6 Call for appearances.

7 MR. SWAZO: Sonny Swazo on behalf of the OCD.

8 MS. MUNDS-DRY: Ocean Munds-Dry with the law firm of
9 Holland and Hart here representing AmeriCo this morning. I
10 have one witness.

11 MR. BRUCE: And Mr. Examiner, Jim Bruce of Santa Fe,
12 representing Celero Energy II, LP. I have no witnesses.

13 MR. WARNELL: Very well. We will swear in both
14 witnesses at the time same. If the witnesses will please stand
15 and state your name and be sworn in.

16 MR. SANCHEZ: Daniel Sanchez.

17 MR. NOSRATI: Oscar Nosrati.

18 MR. WARNELL: Mr. Swazo, you may begin.

19 MR. SWAZO: Mr. Hearing Examiner, I'm just going to
20 give a brief introduction.

21 This case is for 12 inactive wells, and one of those
22 wells does require an additional financial assurance under OCD
23 rules. Please bear with me. I'm starting to come down with a
24 cold, so I may be a little soft-spoken. If you need me to
25 speak up, just tell me.

1 For over three-and-a-half years, OCD has tried to
2 work with AmeriCo to get it to address its inactive wells. In
3 May of 2005, OCD did an ACO with operator to address 11
4 inactive wells. Six of those wells are the subject of this
5 case, and those wells were acquired in March of 2004. Operator
6 failed to meet the conditions of the ACOI.

7 In March 2006, OCD did another ACOI with the operator
8 for the same six wells. Operator failed to meet the conditions
9 of the ACOI again. Operator's excuse each time was that it was
10 having difficulties obtaining a rig. OCD did the second ACOI
11 with operator after operator assured OCD it now had access to a
12 rig and could bring the wells into compliance within a short
13 time period.

14 Operator said it would be able to bring all six wells
15 into compliance within a six- to eight-month period. And this
16 was in March 2006. None of the six wells have been brought
17 into compliance. And since then, operator has acquired
18 additional wells which operator has not produced since
19 acquiring them, and these are the remaining six wells in this
20 case.

21 We are asking for an order requiring operator to
22 return the wells to compliance with Rule 201 by a date certain,
23 and if operator does not return the wells to compliance by that
24 set date, then we are asking for the authority to plug and
25 abandon the wells and forfeit the applicable financial

1 assurance.

2 One of the wells is in need of additional financial
3 assurance. OCD Rule 101 requires a State or fee well inactive
4 for more than two years to be covered by a single well
5 financial assurance. The State T Devonian B No. 009 is that
6 well. We are asking for an order requiring operator to post
7 the required financial assurance. Operator needs to post the
8 additional financial assurance even if the well is placed on
9 OCD-approved temporary abandonment status or plugged but not
10 released. Operator could avoid having to post the additional
11 financial assurance by simply returning the well to production.

12 And at this time, the amount of the required
13 additional financial assurance is \$17,800. I've given you an
14 exhibit packet. Exhibit No. 1 is my Affidavit of Notice of
15 publication in this case, and Exhibit No. 2 is the affidavit of
16 financial assurance concerning the financial assurance status
17 of AmeriCo.

18 And with that said, I'd like to go ahead and begin my
19 case.

20 MR. WARNELL: You may begin.

21 MR. SANCHEZ

22 after having been first duly sworn under oath,
23 was questioned and testified as follows:
24
25

1 DIRECT EXAMINATION

2 BY MR. SWAZO:

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

4 A. Daniel Sanchez.

5 Q. And Mr. Sanchez, with whom are you employed?

6 A. The Oil Conservation Division.

7 Q. And what is your title?

8 A. Compliance and Enforcement Manager.

9 Q. And as Compliance and Enforcement Manager, you
10 oversee enforcement and compliance efforts within the State of
11 New Mexico?

12 A. Yes, I do.

13 Q. And that includes the inactive well Agreed
14 Compliance Order or ACOI program?

15 A. Yes.

16 Q. Are you familiar with Rule 201?

17 A. Yes, I am.

18 Q. What are the general requirements of Rule 201?

19 A. Wells inactive for more than a year plus 90 days
20 must be plugged or TA'd, or they can be put back into
21 production and into injection.

22 Q. Are you familiar with Rule 101?

23 A. Yes.

24 Q. And what are the general requirements of that
25 rule?

1 A. A State or fee well inactive for more than two
2 years and not plugged and released must be covered by a single
3 well financial assurance, even if the well is covered by a
4 blanket financial assurance and even if that well is on
5 approved TA status.

6 Q. So under the rule, even if a well is plugged, but
7 it has not been released, the operator would still be required
8 to post the additional financial assurance?

9 A. Yes.

10 Q. And when would that financial assurance be
11 released?

12 A. Well, when the remediation of the site has been
13 completed and been turned loose by the District office.

14 Q. And an operator -- another way that an operator
15 can avoid the financial assurance requirements is by returning
16 the well to production?

17 A. Yes.

18 Q. Would you please identify Exhibit No. 3?

19 A. Exhibit No. 3 is the well list for AmeriCo Energy
20 Resources, and it shows that they currently operate 86 wells in
21 New Mexico.

22 Q. And when was the date of this list? When was
23 this list generated?

24 A. On September 30th, 2008.

25 Q. Have you checked the list since then?

1 A. Yes.

2 Q. Does AmeriCo still operate the same number of
3 wells?

4 A. Yes, it does.

5 Q. And does the list show the date of last reported
6 injection or production?

7 A. Yes, it does.

8 Q. And this list is available to the public?

9 A. Yes, it is.

10 Q. And would you identify Exhibit No. 4?

11 A. Exhibit No. 4 is the inactive well list for
12 AmeriCo, and it shows currently 12 inactive wells out of 86.

13 Q. And when was this list generated?

14 A. This one was generated yesterday,
15 October 29th, 2008.

16 Q. And what's the criteria for being on this list?

17 A. When a well has been inactive for more than a
18 year plus 90 days.

19 Q. And this list also shows the date of last
20 reported production or injection?

21 A. Yes, it does.

22 Q. What is Exhibit No. 5?

23 A. Exhibit No. 5 is the inactive well additional
24 financial assurance report for AmeriCo Energy.

25 Q. And this report shows the wells that are in or

1 out of compliance with the financial assurance requirements?

2 A. Yes, it does.

3 Q. And what does it show with regard to AmeriCo?

4 A. They have one well right now that's out of
5 compliance and that's the State T Devonian 009, and it shows
6 that they owe \$17,800 additional financial assurance on that
7 well.

8 Q. Now, with regard to Exhibit No. 4 and Exhibit
9 No. 5, both of those exhibits are available to the public?

10 A. Yes, they are.

11 Q. And the criteria for being on the financial
12 assurance report?

13 A. Is when a State or fee well has been inactive for
14 more than two years, even if that inactivity is on approved TA
15 status.

16 Q. Would you please identify Exhibit No. 6?

17 A. Exhibit No. 6 is an Agreed Compliance Order.
18 This was ACOI #70 that was made between the OCD and AmeriCo
19 Energy Resources.

20 Q. And if you look at the back page, who signed it
21 on AmeriCo's behalf, and what day was it signed?

22 A. It was signed by Mr. Oscar Nosrati, co-manager,
23 and was signed on April 28th, 2005.

24 Q. And who signed it on behalf of OCD and on what
25 date?

1 A. It was signed on May 27th, 2005, by Mark Fesmire,
2 the OCD Director.

3 Q. And how many wells were covered under this ACOI?

4 A. Eleven.

5 Q. And six of those wells are the wells that are the
6 subject of this application?

7 A. Yes. Those six were the B C Dickinson A-1
8 No. 001, the B C Dickinson A-1 No. 002, the B C Dickinson D
9 No. 005, Lee Whitman A No. 001, Lee Whitman B No. 007, and the
10 W T Mann A No. 002.

11 Q. Now, under this Agreed Compliance Order, what was
12 the rate of compliance for AmeriCo?

13 A. They were to return one well back to compliance
14 each month over an 11-month period.

15 Q. When was that to begin?

16 A. May 1st, 2005.

17 Q. And when was it to end?

18 A. March 31st, 2006.

19 Q. Does the Agreed Compliance Order explain how
20 AmeriCo can -- how a well can be brought back into compliance?

21 A. Yes, it did.

22 Q. And does the Agreed Compliance Order require the
23 filing of a compliance report?

24 A. Yes. In this case, it required a monthly report
25 to be filed with the district office.

1 Q. And did the Agreed Compliance Order provide for a
2 penalty in case AmeriCo did not meet the conditions of the
3 Agreed Compliance Order?

4 A. Yes, it did, and that was \$1,000 for each well
5 that they didn't bring back into compliance under the
6 agreement.

7 Q. Do you know when those -- the six wells that you
8 just testified about, did you happen to know the dates when
9 AmeriCo acquired those wells?

10 A. They acquired them in 2004, March of 2004.

11 Q. Would you please identify Exhibit No.7?

12 A. Exhibit No. 7 was a letter written by one of our
13 attorneys, Gail MacQuesten, to AmeriCo and was thanking AmeriCo
14 for entering into the Agreed Compliance Order.

15 Q. And this letter indicates that AmeriCo was being
16 provided with a copy of the executed Agreed Compliance Order?

17 A. Yes.

18 Q. Does it say anything regarding why the OCD began
19 the ACOI program?

20 A. Yes, it does. Part of that letter reads: "We
21 hope that the process of entering into these Agreed Compliance
22 Orders on wells that are currently out of compliance will
23 encourage operators to be aware of the status of all their
24 wells so they can keep other wells from falling out of
25 compliance."

1 Q. What about the sentence before that? Does it
2 give any further insight into the ACOI program as well?

3 A. Yes, it does. "The Oil Conservation Division
4 began its program of Agreed Compliance Orders on inactive wells
5 to bring the issue of inactive wells in New Mexico to the
6 attention of operators and obtain their cooperation in solving
7 the problem."

8 Q. So this was simply reminding the operator to
9 monitor his wells so as to prevent them from falling into
10 non-compliance?

11 A. Yes.

12 Q. And would you identify Exhibit No. 8? Well, I'm
13 sorry. Let me interrupt you.

14 Did AmeriCo successfully complete this ACOI?

15 A. No, they did not.

16 Q. What happened?

17 A. They contacted the OCD and said they were having
18 problems obtaining a rig to actually start the pluggings, and
19 they asked if we would be willing to amend the Agreed
20 Compliance Order and extend the time.

21 Q. When did this occur?

22 A. This was in, I believe, January of '05 --
23 December of '05.

24 Q. Had AmeriCo submitted compliance reports up to
25 that time?

1 A. No, they did not.

2 Q. Did AmeriCo give any indication what it would be
3 willing to do to come into compliance?

4 A. Yes. At the time they contacted the OCD to
5 request an amendment to the original Agreed Compliance Order,
6 they stated that they had access to a rig finally and that they
7 could possibly get the wells done within a six- to eight-month
8 period, so the OCD agreed to amend the Agreed Compliance Order.

9 Q. And the February 3rd -- Exhibit No. 8. Would you
10 identify that?

11 A. Yes. This is a letter to AmeriCo again from Gail
12 MacQuesten explaining the OCD's willingness to enter into
13 another agreement.

14 Q. And in this letter, does it also mention that OCD
15 also was sending a draft amended ACOI to AmeriCo for its
16 review?

17 A. Yes, it did.

18 Q. Does the letter explain what AmeriCo would have
19 to do to show its sincerity to comply with the amended ACOI?

20 A. Yes. It did require AmeriCo to pay a \$2,000
21 penalty on the Agree Compliance Order that it did not fulfill,
22 and it gave a time frame of July 31st, 2006, to bring seven
23 wells back into compliance.

24 Q. And this penalty amount, was this the original
25 penalty OCD considered for non-compliance with the failure to

1 comply with the prior ACOI?

2 A. No. Actually, it would have been \$4,000, if my
3 memory serves me right, but it was brought down.

4 Q. So the OCD actually reduced the penalty?

5 A. Yes.

6 Q. Does the letter explain why the penalty was
7 reduced?

8 A. Basically, it was that AmeriCo made the effort of
9 contacting the OCD and explaining what their problem was and
10 why they were unable to make that compliance order deadline.

11 Q. Does it also state that they had a plan for
12 compliance?

13 A. Yes.

14 Q. Did OCD eventually enter into another ACOI with
15 AmeriCo?

16 A. Yes.

17 Q. And is that ACOI Exhibit No. 9?

18 A. Yes, it is.

19 Q. Who was it signed by and on what date?

20 A. This one was also signed by Mr. Oscar Nosrati on
21 March 24th, 2006.

22 Q. And Mark Fesmire signed it on behalf of the OCD
23 on March 31st?

24 A. Yes, that's correct.

25 Q. Does the ACOI include findings that describe what

1 led to this new ACOI?

2 A. Yes, it does.

3 Q. And where is that information?

4 A. Under the Findings Section under No. 5 and No. 7.
5 It basically describes what happened.

6 Q. What about Findings No. 4?

7 A. Number 4 as well. Number 4 states: "On May
8 27, 2005, the OCD executed agreed compliance order ACO 01-05-70
9 with the operator" -- and it gets into a little bit more of the
10 information of what happened in the, you know, from the Agreed
11 Compliance Order.

12 Q. And what about Findings No. 6?

13 A. Number 6 says that the following wells originally
14 covered by the agreement remain out of compliance with
15 Rule 201, that is, the seven wells that would be required to be
16 brought back into compliance by AmeriCo.

17 Q. And what does this ACOI state concerning the
18 compliance report for the prior ACOI?

19 A. It reminds AmeriCo that reports must be turned
20 in, and it also set a date for another compliance report under
21 the new or the amended Agreed Compliance Order.

22 Q. I'm not sure exactly if you understood my
23 question. But what does it state with regard to the compliance
24 report for the prior ACOI?

25 A. Okay. That the compliance reports were not

1 turned in as required by the original Agreed Compliance Order.

2 Q. What was the rate of compliance under this Agreed
3 Compliance Order?

4 A. This one required AmeriCo to bring three more
5 wells into compliance within a six-month period. Are you
6 talking about the amended one or the current one?

7 Q. The amended ACOI.

8 A. It was three. And if they met the goals of that
9 first six months, then an extension would be granted for the
10 final four wells.

11 Q. And what was the compliance deadline for those
12 three wells?

13 A. September 25th, 2006.

14 Q. You had testified earlier that when the OCD sent
15 AmeriCo a draft amended ACOI, that OCD was asking AmeriCo to
16 bring all of their wells into compliance by July 31st, 2006?

17 A. That's correct.

18 Q. This amended ACOI actually extends the deadline?

19 A. Yes. We gave them two more months.

20 Q. And actually reduced the number of wells that
21 they would have to bring into compliance?

22 A. That's correct. We wanted to actually see them
23 succeed in this Agreed Compliance Order. And given the
24 information that they had given us, that they already had a rig
25 available, we believed that that was a fair amount of time to

1 bring those wells into compliance.

2 Q. And if AmeriCo would have met their compliance
3 goal by the September 25th, 2006, deadline, what would OCD have
4 done in this case?

5 A. We would have extended the Agreed Compliance
6 Order for another six months and required the final four wells
7 to be brought back into compliance during that time.

8 Q. And the deadline for that was?

9 A. I believe it was March 25th, 2007.

10 Q. So unlike the previous draft amended ACOI which
11 gave AmeriCo until July 31st, 2006, to bring all seven of the
12 wells into compliance, under this ACOI, they were given until
13 March 25th, 2007, to bring all of the wells into compliance?

14 A. No, September 25th, 2006. Well, yeah -- I'm
15 sorry, March 25th, 2007, for all seven wells if they would have
16 met the first six-month requirement.

17 Q. Does the letter explain -- I mean, does the
18 Agreed Compliance Order require the filing of compliance
19 reports?

20 A. Yes, it does.

21 Q. And does it explain how that is to happen?

22 A. Yes. Basically when the wells are brought into
23 compliance on September 25th, 2006, they are to file that
24 report with Santa Fe stating what was done to bring those three
25 wells into compliance.

1 Q. And again, I'm not exactly sure exactly if I
2 asked this question, but why exactly was AmeriCo given this
3 ACOI?

4 A. The amended ACOI?

5 Q. Yeah.

6 A. They were unable to meet the requirement for the
7 first Agreed Compliance Order, which was one well per month of
8 the monthly reporting requirements. The OCD changed their
9 format some time after that. It was a little more difficult
10 for operators to bring wells in that rate. So we spoke with
11 AmeriCo and asked what they felt comfortable with bringing
12 those wells back into compliance. Around that same time, we
13 had changed up the way we wrote the Agreed Compliance Orders to
14 make six-month reporting periods as opposed to monthly
15 reporting periods.

16 Q. Again, I don't think you understood my question.
17 Does the ACOI give grounds as far as why this ACOI was being
18 extended to AmeriCo?

19 A. Yes, it did.

20 Q. And what is it?

21 A. That well, for one, they didn't meet the
22 requirement of the first Agreed Compliance Order, but they did
23 make an effort to come to the OCD and explain why they were
24 unable to meet those requirements.

25 Q. Doesn't Findings Paragraph No. 7 state that

1 AmeriCo represented that it had a rig?

2 A. Yes. I thought I had mentioned that before. But
3 part of that was that AmeriCo told the OCD that they had the
4 rig available now, currently at that time, to bring the other
5 wells back into compliance. We felt that since there was a rig
6 available, we weren't going to run into the same problem again
7 with rig availability.

8 Q. Does the OCD give operators time to think about
9 the ACOIs that they're offered and to sign the ACOIs?

10 A. Yes. A draft is sent to the operator. They're
11 asked to review it and make any changes they think are
12 necessary and then return it with those changes, if there are
13 any, and we move forward from there.

14 Q. Does the ACOI explain what would happen if
15 operator allows additional wells to become inactive?

16 A. Yes, it does.

17 Q. And what does it state?

18 A. When other wells -- it tries to warn an operator
19 to keep up with their wells and not let them become inactive,
20 but that those wells would not be allowed in the next filing
21 period if they were unable to make the requirements of the
22 first six-month period.

23 Q. Does it warrant possible enforcement actions for
24 those wells?

25 A. Yes, it does.

1 Q. Would you identify Exhibit No. 10?

2 A. Exhibit No. 10 is a letter, again from Gail
3 MacQuesten, to AmeriCo thanking them for the returning of the
4 \$2,000 penalty and laying out requirements of the amended
5 Agreed Compliance Order.

6 Q. And this letter accompanies the final ACOI that's
7 sent to the operator?

8 A. Yes, it does.

9 Q. Does it mention -- does it say -- does it say
10 what AmeriCo should do with its wells in general?

11 A. Yes. Near the bottom it states: "AmeriCo works
12 to fulfill its obligations under the amended order; it should
13 also monitor the status of its other wells to ensure that wells
14 do not remain inactive for a period exceeding 15 months."

15 Q. Would you identify Exhibit No. 11 and explain
16 what this is?

17 A. Exhibit No. 11 is a courtesy letter that is sent
18 is month or two ahead of the deadline of an Agreed Compliance
19 Order, and it's sent just to let the operator know that time is
20 running out on that six-month period.

21 Q. And does it explain how a compliance report can
22 be filed or should be filed?

23 A. Yes, it does.

24 Q. In earlier documents, I've seen mention of an OCD
25 online or OCD web-based compliance reporting system. Did that

1 ever happen?

2 A. No. That still has not happened.

3 Q. Does this letter inform operator that that never
4 happened?

5 A. Yes, it does.

6 Q. Does it inform operator what it can do to still
7 be in compliance and file the compliance report with the OCD?

8 A. Yeah. It informs them to send the report to
9 myself by e-mail or by mail.

10 Q. And identify Exhibit No. 12.

11 A. Exhibit No. 12 was an e-mail sent by Don Gray of
12 AmeriCo to me. And this was sent the day after the end of that
13 Agreed Compliance Order, that first six-month period the Agreed
14 Compliance Order was due, and it was requesting a waiver of the
15 penalties and an amendment to the order extending that first
16 six-month period after October 13th, 2006.

17 Q. So if I understand you correctly, this letter is
18 requesting until October 13, 2006, to bring those three wells
19 that were supposed to be brought into compliance by
20 September 25h, 2006?

21 A. That's correct.

22 Q. And what is the reason that AmeriCo gives for its
23 failure not to comply?

24 A. That they were unable to obtain a rig to do the
25 work, and they finally were able to actually get a rig about a

1 week before that compliance report -- or before the end of the
2 Agreed Compliance Order deadline.

3 Q. Does the e-mail indicate whether they were able
4 to work on any wells?

5 A. Yeah, they had been working on two of the wells
6 at the time that they got the rig, which was still just a week
7 before the end of the deadline of that amended order.

8 Q. And were one of those wells the well which is the
9 subject of this case?

10 A. Yes.

11 Q. Does the letter indicate whether they would be
12 working on other wells?

13 A. Yes. They felt that they could have the three
14 wells that were required in the first six-month period done
15 before October 13th. And then they asked that we amend the
16 Agreed Compliance Order to the March 25th, 2007, date so they
17 could complete the other wells.

18 Q. And does it state whether AmeriCo filed the
19 necessary paperwork for these wells?

20 A. No, they did not.

21 Q. And requiring the paperwork to be filed by the
22 compliance deadline, that's a condition of these ACOIs?

23 A. Yes, it is.

24 Q. And did you respond to AmeriCo's request?

25 A. Yes, I did.

1 Q. And is that Exhibit No. 13?

2 A. Yes, it is.

3 Q. And could you explain this document?

4 A. It was a letter to AmeriCo letting them know that
5 we would not be extending the Agreed Compliance Order, that the
6 reason being they did not meet the deadline. I didn't receive
7 anything until the day after the deadline. They had originally
8 expressed to us that they had a rig available early on in that
9 agreement and that wouldn't be a problem. We weren't told
10 about the rig availability until after the six-month period was
11 already completed.

12 Q. Now, the prior exhibit that we saw, the e-mail
13 from Mr. Gray, that was also a request for a waiver of
14 penalties? Did you respond in this letter to AmeriCo's request
15 for a waiver of penalties as well?

16 A. Yes, we did. We would decline to waive the
17 penalties.

18 Q. In this letter, you mention several reasons why
19 the OCD was not going to offer AmeriCo another ACOI or waive
20 the penalties, correct?

21 A. That's correct, yes.

22 Q. One of the reasons is that they did not file
23 compliance reports for either ACOI?

24 A. Yes.

25 Q. And the compliance report in this case was filed

1 late?

2 A. Yes.

3 Q. No paperwork had been filed?

4 A. None.

5 Q. No wells had been returned to compliance for this
6 ACOI?

7 A. No.

8 Q. They had plenty of time to bring the wells into
9 compliance?

10 A. Yes, they did.

11 Q. You also mentioned that it did not appear to you
12 that AmeriCo seemed to understand what was required to bring a
13 well into compliance under the terms of the ACOI.

14 A. Yes, that's correct.

15 Q. Can you explain that?

16 A. Yes. It looked like from the letter, the e-mail
17 I got, that they performed an MIT on two of those wells, and
18 they felt that was sufficient. We had explained in the Agreed
19 Compliance Order and in the letters previous to that what was
20 required for an MIT was for the well to be put under temporary
21 abandonment status, was to complete the MIT and have it
22 witnessed by the district office, and have the appropriate
23 paperwork filed with the district office prior to the deadline
24 on the Agreed Compliance Order.

25 Q. And the district office would have to approve the

1 TA status?

2 A. Yes.

3 Q. Would you identify Exhibit 14?

4 A. Exhibit 14 is the application for hearing by the
5 OCD against AmeriCo Energy on the penalty issued from that
6 Agreed Compliance Order.

7 Q. Would you identify Exhibit No. 15?

8 A. Exhibit 15 is a letter from AmeriCo Energy
9 Resources dated November 10, 2006, to myself, and it's
10 explaining what they think they can do and the reasons for what
11 happened on not meeting those deadlines on the Agreed
12 Compliance Order, and it dealt with some issues they have with
13 the co-owner of those wells, Platinum Energy.

14 Q. And this letter was sent to you from Mr. Nosrati?

15 A. Yes, it was.

16 Q. And this was a response to your October 16th
17 letter?

18 A. Yes.

19 Q. And does it indicate whether wells -- whether
20 AmeriCo would be able to bring some wells into compliance?

21 A. Yes, it does. It talks about that three of them
22 should be eligible for temporary abandonment status, the
23 Dickinson A-1 No. 001, the Dickinson B No. 005 and the Whitman
24 B No. 007. They were successfully returned to production,
25 although there was another one that was returned to production,

1 and just an update on a couple of other wells that they were
2 working on.

3 Q. And some of those wells are the subject of this
4 compliance action?

5 A. Yes.

6 Q. Would you identify Exhibit No. 16?

7 A. Exhibit No. 16 is another letter. This one was
8 from AmeriCo Energy Resources dated September 18th, 2006, and
9 this was to Ms. MacQuesten, and it was explaining that they
10 had -- they were sending in the check for \$3,000 that was the
11 penalty from the Agreed Compliance Order.

12 Q. Does the letter state what AmeriCo has done with
13 respect to the wells?

14 A. Yes. They have completed its testing on
15 substantially all of the affected wells and is considering the
16 feasibility of conducting further operations in an effort to
17 bring them back into production.

18 Q. And the date of this letter is December
19 18th, 2006?

20 A. Yes.

21 Q. Would you identify Exhibit No. 17?

22 A. Exhibit No. 17 is the OCD order, Order
23 No. R-12685. This was issued on the 27th of December, 2006,
24 and this was the letter stating that AmeriCo was required to
25 pay the \$3,000 penalty.

1 Q. So AmeriCo's request to have the penalties waived
2 actually proceeded to hearing before the OCD?

3 A. Yes.

4 Q. Did you testify at the hearing?

5 A. Yes, I did.

6 Q. And was AmeriCo -- did AmeriCo appear at the
7 hearing?

8 A. No, they did not.

9 Q. And would you identify Exhibit No. 18?

10 A. Exhibit No. 18 is a letter dated February 21,
11 2008, to Ms. Ocean Munds-Dry, AmeriCo's attorney, and this was
12 from Gail MacQuesten. And it was a letter thanking her and
13 Mr. Nosrati for meeting with Ms. MacQuesten, myself and you,
14 and talking about the MIT issue.

15 Q. Specifically what?

16 A. What was required. Specifically, what was
17 required to put a well on temporary abandonment status and
18 proper paperwork that would be required to be filed with the
19 MIT tests --

20 Q. I'm sorry?

21 A. Mainly that's what the meeting was about.

22 Q. During this meeting, did OCD explain this to Mr.
23 Nosrati?

24 A. Yes, we did.

25 Q. And identify Exhibit No. 19.

1 A. Exhibit No. 19 is a letter of violation issued on
2 March 4th, 2008, for the Lee Whitman A No. 001 well. It's
3 still listed as an inactive well, idle well.

4 Q. And ACO -- it cites ACO-70. Is that the ACOI
5 that we're talking about in this case?

6 A. This was the original Agreed Compliance Order.
7 The amendment was ACOI 70-8, I believe.

8 Q. And identify Exhibit No. 20.

9 A. Exhibit No. 20 was another letter of violation.
10 This was issued on March 11, 2008, for the B C Dickinson D
11 No. 005, and it also talks about the Agreed Compliance
12 Order 70, and the well status was unchanged, showing it was
13 still inactive.

14 Q. Now, there are six additional wells -- well, in
15 addition to the wells that were covered under this ACOI, there
16 are six additional wells that are the subject of this
17 proceeding. Do you happen to know the date that AmeriCo
18 acquired those wells?

19 A. Yes. According to their change of operator, the
20 State T Devonian No. 009 well was obtained from Platinum
21 Exploration, and that was in February of '07. And the other
22 wells, all of them, East Shugart wells units No. 2, 3, 7 and
23 22, were purchased from Merit Energy Company, and that was in
24 October of 2006.

25 Q. Mr. Sanchez, what exactly are you requesting in

1 this case?

2 A. What we're asking for is an order with a date
3 certain, and what we're requesting is May 1st of 2009, to bring
4 these 12 wells into compliance and for the order also to state
5 that the additional financial assurance on that one well
6 brought up on the non-compliance report be paid, and that was
7 in the amount of \$17,800 or that well be brought back into
8 production. And have an order to allow the OCD to plug those
9 wells if that deadline is not met, and to be able to recover
10 that financial assurance on those wells -- the applicable
11 financial for those wells.

12 Q. So let me see if I understand this correctly:
13 You're asking for an order requiring AmeriCo to bring the 12
14 inactive wells in compliance with Rule 201 by May 1st, 2009?

15 A. Yes.

16 Q. And if they don't bring the wells into compliance
17 by that date, you're asking for authorization to plug and
18 abandon the wells and forfeit the applicable financial
19 assurance?

20 A. Yes.

21 Q. And with regard to the financial assurance,
22 you're asking that it be posted immediately?

23 A. Yes, the additional financial assurance be posted
24 immediately.

25 Q. Do you have anything else that you would like to

1 state?

2 A. Just that I feel that we've worked with AmeriCo,
3 and I think we've shown that through the testimony on several
4 occasions, and we've given them quite a bit of leeway, and
5 we've explained to them in detail what's required when you
6 enter into an Agreed Compliance Order for inactive wells. And
7 I believe that they're capable of meeting the May 1st deadline
8 that we're requesting.

9 They've already submitted some paperwork to the
10 district office with intent to TA some of these wells. So we
11 don't feel that it's an undue burden to meet the other wells on
12 that list if these wells actually get the TA status approved.

13 Q. Let me ask you one final question, since you
14 brought it up: The documents that AmeriCo has filed, were
15 those filed before or after the application in this case was
16 filed?

17 A. After the application.

18 MR. SWAZO: I don't have any other questions.

19 MR. WARNELL: Ms. Munds-Dry, would you like to cross?

20 MS. MUNDS-DRY: I have just a few questions,
21 Mr. Sanchez.

22 CROSS-EXAMINATION

23 BY MS. MUNDS-DRY:

24 Q. You said something I just found interesting, more
25 than anything. You were talking about the change that happened

1 between -- I think it's OCD Exhibit 6, which is the first ACOI,
2 and then the amended ACOI, which I think is your Exhibit No. 9.
3 You explained there was a change in the format of how the
4 Division went from essentially having to comply monthly to a
5 six-month period. Why was the change instituted by the
6 Division?

7 A. The monthly reporting seemed a little bit onerous
8 at the time, I guess. It made it easier for an operator to
9 keep track over the six-month period on those wells and just to
10 submit one report instead of being burdened with a monthly
11 report that on each one of those wells they would be bringing
12 back into compliance.

13 Q. Were you finding that a lot of operators were
14 having challenges complying with the monthly reporting?

15 A. We had just really started the program, so we
16 didn't have a lot of Agreed Compliance Orders out there, so we
17 were trying to refine it and make it a little bit easier.

18 Q. Sure. Could you turn to Exhibit No. 9, which is
19 the amended ACOI?

20 A. Okay.

21 Q. On Findings No. 5, AmeriCo did bring some wells
22 into compliance?

23 A. Yes, they did.

24 Q. They brought four wells into compliance, but they
25 were supposed to bring nine into compliance, which they did not

1 do, correct?

2 A. Eleven wells.

3 Q. Eleven wells, okay. Thank you. On
4 Exhibit No. 16, Mr. Sanchez, I don't know if you're going to
5 know the answer to this question, but it looks like
6 Exhibit No. 16 that's dated December 18th, 2006, and then
7 Exhibit 17 -- I'm sorry. Exhibit No. 18 is dated
8 February 21st, 2008. Were there any contacts with AmeriCo
9 between 2006 and 2008 from the Division that you're aware of?

10 A. Not that I'm aware of at this time.

11 Q. That's all the questions I have. Thank you,
12 Mr. Sanchez.

13 REDIRECT EXAMINATION

14 BY MR. SWAZO:

15 Q. I just have a few questions, Mr. Sanchez. Did
16 AmeriCo ever mention that the monthly reporting requirement was
17 too much of a problem for them?

18 A. That I don't remember -- if that was one of the
19 issues at the time, but it was something that we had been
20 looking at anyway.

21 Q. Is it mentioned at all in these Exhibits?

22 A. No, it isn't.

23 Q. Did they ever file a compliance report --

24 A. No.

25 Q. -- for that particular ACOI?

1 A. No, not that I recall.

2 Q. And Ms. Munds-Dry had asked you about contact
3 with AmeriCo between December 18th, 2006, and February
4 28, 2007. Didn't the OCD have contact with AmeriCo regarding
5 compliance-related matters?

6 A. Just off the top of my head, I don't remember.
7 There may have been. I just don't remember right now.

8 Q. Okay. What about the remediation case?

9 A. Okay. Other than Agreed Compliance Order on
10 inactive wells?

11 Q. Well compliance-related matters, period?

12 A. Yeah, there was. There was a remediation case
13 somewhere in there. I don't remember exactly what dates those
14 were, though.

15 Q. Do you recall if OCD ever, during this period, if
16 OCD ever talked to AmeriCo about its inactive well issues?

17 A. I'm sure we did, but I can't give you dates when
18 that happened.

19 MR. SWAZO: I don't have any other questions?

20 MR. WARNELL: Okay. Mr. Bruce, do you have any
21 questions?

22 MR. BRUCE: I have no questions.

23 MR. WARNELL: Mr. Brooks?

24 MR. BROOKS: No questions.

25 MR. WARNELL: Mr. Ezeanyim?

1 MR. EZEANYIM: No questions.

2 MR. WARNELL: I have no questions. You may step
3 down. Do you have a second witness?

4 MR. SWAZO: That's my only witness. At this time,
5 I'd like to move for admission of my exhibits, Exhibits 1
6 through 20.

7 MR. WARNELL: Exhibits 1 through 20 will be admitted.

8 MS. MUNDS-DRY: Mr. Examiner, I have an objection to
9 Exhibit No. 2. We've had this issue before. It's an affidavit
10 of Dorothy Phillips, and it's hearsay. I know Ms. Phillips to
11 be an honest woman, but I also know that she works in this
12 building, and I'd prefer that we have a chance to cross-examine
13 her rather than have her affidavit submitted as testimony.

14 MR. SWAZO: Mr. Hearing Examiner --

15 MR. BROOKS: I'm sorry. Go ahead.

16 MR. SWAZO: Mr. Hearing Examiner, this is the first
17 I've heard about this. There was no written objection
18 submitted in response to the pre-hearing statement. This has
19 been common practice, and if Ms. Phillips is available now, I'd
20 be more than happy to go ahead and call her to the stand.

21 That's my response.

22 MR. BROOKS: Does AmeriCo take issue with anything
23 that's in this affidavit? Are there are disputed facts?

24 MS. MUNDS-DRY: I haven't reviewed it real closely.
25 It's pretty long with attachments, Mr. Brooks.

1 MR. SWAZO: I mean, this information is a lot of
2 information that AmeriCo should have in its own records.

3 MS. MUNDS-DRY: Well, the attachments, maybe, but the
4 affidavit from Ms. Phillips is still hearsay.

5 MR. BROOKS: Well, the affidavit is hearsay, but at
6 the same time, the Division has the authority to accept hearsay
7 evidence within the discretion of the Examiners. And further,
8 most of it is simply identifying OCD documents of which we can
9 take administrative notice.

10 I'm going to overrule this objection in this
11 instance. And we'll announce in the future that if -- we'll
12 try to communicate this to as many -- we've got two of our
13 regular attorneys here -- we'll try to communicate this to as
14 many as we can as quickly as we can.

15 If the pre-hearing statement states that a witness is
16 to appear by affidavit, and if a person has an objection to
17 that procedure, they need to file that with the Division in
18 writing prior to the hearing. We have no problem with calling
19 the witnesses if there are matters that are legitimately
20 disputed, but we do not want to waste hearing time in having
21 witnesses cross-examined about matters that are not in dispute.

22 So that will be the Division's policy in the future.
23 But for the time being, we'll overrule this objection. Thank
24 you.

25 MR. WARNELL: So we'll accept Exhibits 1 through 20.

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

3 MR. WARNELL: And you have no other witnesses?

4 MR. SWAZO: I have no other witnesses.

5 MR. WARNELL: Ms. Munds-Dry?

6 MS. MUNDS-DRY: We'd like to call Mr. Nosrati.

7 OSCAR NOSRATI

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

10 DIRECT EXAMINATION

11 BY MS. MUNDS-DRY:

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

13 A. Oscar Nosrati.

14 Q. And by whom are employed, Mr. Nosrati?

15 A. AmeriCo Energy Resources, LLC.

16 Q. And what is your position with AmeriCo?

17 A. Vice president of operations.

18 Q. Mr. Nosrati, are you familiar with the
19 application that's been filed by the Division in this case?

20 A. Yes.

21 Q. Would you please turn to the packet of exhibits I
22 believe you have in front of you?

23 A. Exhibit 1?

24 Q. Yes. You're aware that there are 12 wells that
25 are the subject of this application?

1 A. Correct.

2 Q. And what is Exhibit No. 1? Could you please
3 identify this for the Examiners?

4 A. It's form C-103 filed by AmeriCo to procedure to
5 take care of East Shugart Unit No. 7 well brought back into
6 compliance.

7 Q. And what are AmeriCo's plans for this well?

8 A. This is a shut-in producer well and I think have
9 a hole in the tubing, so we are proposing to cool the well and
10 fix the hole in the tubing and put it back into production.

11 Q. And what is the second page of Exhibit No. 1, the
12 page right behind the one you just read from?

13 A. It's another form C-103 for East Shugart
14 Unit No. 22.

15 Q. And what are AmeriCo's plans for this well?

16 A. This is an injector in the East Shugart field,
17 and we're planning -- I believe this one has a hole in the
18 tubing as well. So we're proposing pull the well and fix the
19 problem and then test the casing and packer and put it back in
20 operation.

21 Q. This is an injector well?

22 A. Yes.

23 Q. And tell me the timing for both of these wells
24 that are part of Exhibit No. 1. How long do you think it will
25 take to get a rig to the No. 7 Shugart well?

1 A. Well, No. 7, as we speak, a rig moved on it day
2 before yesterday. And they probably should be done with it
3 today. Probably put it into operation by tomorrow. And then
4 that rig will move to East Shugart No. 22 and get that
5 completed probably by -- I'll say mid-next week we should be
6 done with No. 22, if everything goes okay.

7 Q. And these two wells are not subject of Exhibit
8 No. 1, but since we're talking about the Shugart field, tell me
9 the status of the East Shugart No. 2 well?

10 A. Okay. East Shugart No. 2 well, that was another
11 injector well that I guess for some reason we didn't know that
12 that was out of the compliance. But that is an injector, so we
13 went on and tested it to make sure we have integrity in the
14 casing and operation is in compliance with OCD requirement, so
15 that one did pass the test, and it was witnessed by the OCD
16 representative. So that one is in operation with compliance.

17 And then we were scheduling to test the No. 3. It
18 looks like the representative was out of town, but they wanted
19 to witness it. They didn't want to just provide them a chart.
20 So we're in the process of scheduling that to get that tested
21 so it will be in compliance with OCD requirement.

22 Q. And is your plan also to bring that well back
23 into production?

24 A. Yes, but back on injection.

25 Q. Okay. Would you please turn to what's been

1 marked as AmeriCo Exhibit No. 2, and identify this for the
2 Examiners?

3 A. Exhibit No. 2? Okay. I'm sorry.

4 Q. The labels are hard to find.

5 A. Yes. This is another form, C-103, filed with the
6 OCD for Lee Whitman A No. 001 to -- procedure to bring it back
7 into compliance.

8 Q. And what are your plans for this well? It looks
9 like you are planning to temporarily abandon it?

10 A. Yes. We're trying to obtain a TA status on this
11 well. And as we had approved C-103 we moved on the well -- I
12 don't remember exactly -- sometime last week, and we tested it.
13 We cleaned it and went over and put a bridge plug above the
14 highest formation, about 100-foot or so, and tested and it
15 seemed like it indicated that there was a pressure drop. And
16 that was done by wire line.

17 So we moved a rig on it two days ago. And we have
18 located the problem where it's leaking. And as we speak, they
19 are squeezing that leak with the cement and, hopefully by
20 tomorrow or Monday, it should be brought back into compliance
21 and show the casing integrity and then schedule a witness test
22 by an OCD representative.

23 Q. Okay. And what does the next page of
24 Exhibit No. 2 show?

25 A. It's another C-103 for Lee Whitman B No. 007.

1 It's another shut-in well, and we filed the procedure and
2 obtained approval. And right after we finish the Lee Whitman
3 No. 001, we're going to move the rig to Lee Whitman No. 007.
4 And we're going to, I guess, prove that casing integrity and
5 after witness testing and make sure it is in compliance, and
6 we're going to put this well back into production, install a
7 submersible, an electrical submersible pump, and put it back
8 into production.

9 Q. Okay. Mr. Nosrati, could you then turn to what's
10 been marked as AmeriCo Exhibit No. 3 and review this for the
11 Examiners?

12 A. Yes. It's another form C-103 for B C Dickinson
13 No. 005 well, which was filed a procedure to place a cast iron
14 bridge plug in the well above the highest formation and prove
15 the casing integrity and then test it. And then, I guess,
16 witness test it with OCD. And this was done, I believe, last
17 week, and OCD witnessed it, and it passed the test. So it
18 should be in compliance. We filed the charts and everything
19 with the OCD.

20 Q. Okay. And the next page of Exhibit No. 3?

21 A. Form C-103 for B C Dickinson, A-1 No. 1 well.
22 This was another shut-in well that we filed the procedure to
23 place a cement plug above the highest formation and then test
24 it and pull the casing integrity and obtain the TA status. And
25 this procedure was followed and performed and passed the test,

1 and we submitted the chart. And so this one should be in
2 compliance with the OCD requirements.

3 Q. Mr. Nosrati, I believe you said this for the
4 No. 005 as well, but I just wanted to make sure I heard you.
5 Did you say the MIT test and chart was submitted to the
6 Division, as far as you know?

7 A. Yes, correct. Yes, it has.

8 Q. Okay. And would you please turn to the next
9 document -- there's actually a set of documents here that deal
10 with the next well -- and review this for the Examiners?

11 A. Well, this was -- I guess, the first page is a
12 letter we received from OCD in response to C-103 we filed
13 for B C Dickinson A 1 No. 002 well. This is a shut-in well
14 with quite a bit of fish in it with tubing, cable, and ESP
15 pumps and so on.

16 I believe we were requesting that we go above the
17 fish and place a bridge plug and test the -- and prove the
18 casing integrity and TA it. OCD denied that, and they said
19 that we have to go try and make an effort and remove the fish
20 as deep as we can get to the top of the formation then put a
21 bridge plug, and then try to prove the case integrity.

22 So since then, we have revised it and filed another
23 C-103 to comply with their request. And that's what we're
24 planning to do right now.

25 Q. Mr. Nosrati, I'm sorry to interrupt you. The

1 second page is a copy of the C-103 that was denied by the
2 district office?

3 A. Yes.

4 Q. And then the third page is the C-103 that you've
5 now submitted as instructed by Mr. Hill?

6 A. Yes. Yes, ma'am.

7 Q. And you're waiting on approval of this C-103?

8 A. Yes. And behind that is an AFE that we have
9 prepared. Because in all these wells, we have a partner, which
10 is -- we don't know who the partner is on this one yet. We're
11 trying to find them because there's been so much -- this field
12 has been changed several hands that 50 percent was sold in
13 2006. Since then, there have been many different players.

14 I guess the last one being Celero, which they have
15 part of it, but not all of it. So that's been part of the
16 problem, really, with the issue with these wells, because of
17 different partners not being present and putting us in a
18 peculiar situation.

19 Q. Why has it been a challenge for you to keep track
20 of all the partners?

21 A. I'm sorry?

22 Q. Why has it been a challenge for you to keep track
23 of who the current partner is?

24 A. Well, when we sold the 50 percent to Platinum, we
25 turned over the operatorship on two fields, and the agreement

1 was they were supposed to rework each one of these shut-in
2 wells and put back in production every 60 days. And as they
3 finished them, then we turned over the other fields, or wells,
4 until they get them all done.

5 And Platinum, I guess, ran into financial
6 difficulties, and they quit communicating, they quit doing
7 anything. For nine months, we couldn't even get any kind of
8 information from them. And finally we started proceeding
9 legally after several months. We got the operatorship of some
10 of the wells that they had back. But then a company by the
11 name of Devonian Partners that formed, just took over ownership
12 of part of Platinum's obligations.

13 But they, themselves, didn't want to participate in
14 everything because it seemed like that wasn't a real company.
15 It was just an entity trying to clean up some of the mess. But
16 there was a lot of investors involved, including Lehman
17 Brothers and some others. So I guess they were trying to
18 minimize their liabilities.

19 So as we started working, giving them the AFE, trying
20 to bring these wells back into compliance, either put them on
21 production or plug them, they participated in a couple of AFEs,
22 which one of them is here, I believe -- you can see it on the
23 State T No. 009 -- and then they did not participate in the
24 rest of them. And that, again, put further financial burden on
25 us. And then finally about a couple of months ago, they

1 notified us that they have sold the field to some other
2 companies, one of them being Celero; other ones we have not
3 received the notice.

4 So because of all this, it has been kind of difficult
5 to keep up who's what and then even the partners, when we
6 identified some of them, it looks like they don't want to come
7 up to the table and take care of their financial obligations.

8 Q. Okay. Mr. Nosrati, would you turn, then, to
9 Exhibit No. 4 and review this with the Examiner?

10 A. Yes, ma'am. This is another form C-103 we filed
11 with OCD for the State T No. 007, and was approved to bring
12 this well back into compliance. Would you like me to go into
13 detail what we need to do?

14 Q. What are your plans for this well, ultimately?

15 A. This well ended up a little bit more complicated
16 well. It has fish in it, and I believe it has possibly -- it
17 could be a casing problem because there's a liner in it. So
18 our plan for this well is to attempt to remove all the fish and
19 clean the well and prove the casing integrity. If there's a
20 problem, correct it, and then put it back into production.

21 Q. Okay. What is the second page on Exhibit No. 4?

22 A. It's the well bore diagram of the well as it
23 exists today. And behind that is a letter and AFE that has
24 been sent to our partners, which in this case is Celero, for
25 them to approve this because they are a 50 percent partner on

1 this well.

2 Q. Has Celero approved this AFE?

3 A. They have not responded yet.

4 Q. Okay. Let's then turn to Exhibit No. 5.

5 A. Exhibit No. 5 is another form C-103 for State T
6 Devonian Well No. 009. We filed this recently because this
7 well -- we started working on this well back in February of
8 2008. There is a C-103 behind the one that I just mentioned
9 that we filed and got okayed and started working on it. And we
10 worked on this well about -- I don't know exactly -- possibly
11 two months, because Platinum left fish in it and didn't take
12 care of it with old tubing and so on.

13 And we worked on it over two months, and there's an
14 AFE and workover report that shows the last four or five days
15 of the final days of the work, and we have spent over \$439,000
16 on this well in trying to fish the equipment out of the well.
17 We did not succeed. So after -- I don't know -- two months and
18 \$440-some thousand, our partners and us decided that we're not
19 going to be able to retrieve the equipment and fish it. So we
20 gave up.

21 And right now we're planning to go and put a bridge
22 plug above the fish, which is about 11,000 -- I believe,
23 11,000-plus, close to 12,000 feet -- and TA the well.

24 Q. And if you would refer to the workover reports,
25 and behind that is your letter to the working interest owners

1 with the AFEs?

2 A. Yes.

3 Q. For the current work you're planning to do?

4 A. This is for the current work and the current
5 C-103 that we filed with the OCD. And this is the work that
6 we're proposing to do and go put a bridge plug and TA the well,
7 TA the Devonian part. There's still potential for Wolfcamp
8 formation, which we're studying that possibly come back --
9 after that study is finished, possibly put back on production
10 on Wolfcamp.

11 But at this point, we just want to TA the well and
12 prove that there's casing integrity and there's no pollution or
13 communication.

14 Q. Who are your partner or partners in this well?

15 A. For Devonian formation I believe is Celero.

16 Q. And have they approved this AFE?

17 A. No, not yet.

18 Q. Okay. Let's turn to the final Exhibit No. 6.
19 Please identify this for the Examiners.

20 A. Exhibit No. 6 is form C-103 for W T Mann A Well
21 No. 002. We filed this back on October 6th with the OCD and
22 got approval. And we performed the work and set a cast iron
23 bridge plug and tested it, and it passed. And then
24 subsequently was witnessed by OCD representative. And we have
25 a chart in it, so it is in compliance right now.

1 Q. Mr. Nosrati, now that we've marched through each
2 of the wells that are the subject of the application, how many
3 wells in total have you been able to bring back into compliance
4 at this point?

5 A. I believe we have brought back five of them at
6 this point.

7 Q. And --

8 A. And then we have reworked two of them at this
9 point, and one of them, I believe, should be okay. We just
10 need to schedule the witness test.

11 Q. So you really have two problem wells on this list
12 that may take a little longer?

13 A. Yes. The State T No. 007 and Lee Whitman -- I'm
14 sorry. The B C Dickinson 1-A 002, those are the two
15 problematic wells that might take us -- I don't know. It
16 really depends on the fish. You know, like No. 009 took us two
17 months. But I don't see we can afford to spend that much time.
18 We'll see how it is. Probably a couple weeks each, I would
19 say, minimum.

20 Q. Mr. Nosrati, Mr. Sanchez asked for a date to be
21 in compliance or they would have the power to plug these wells.
22 They asked for a date of May 1st, 2009. Do you foresee any
23 problems in complying with that date?

24 A. No, ma'am.

25 Q. Also a subject of this application is financial

1 assurance on the, I believe, the State T Devonian B No. 009.
2 Do you plan to come into compliance with that request as well?

3 A. We're going to come into compliance with OCD
4 requirement for that well, but if I understand, I believe
5 Mr. Sanchez was asking that even if we ask for a TA status, we
6 have to put additional bond; is that what it is?

7 Q. I believe that's correct.

8 A. I guess if that's the requirement, then we'll
9 comply with it.

10 Q. Okay.

11 MS. MUNDS-DRY: I believe that's all the questions I
12 have for Mr. Nosrati. Pass the witness.

13 MR. WARNELL: Okay. Mr. Swazo?

14 CROSS-EXAMINATION

15 BY MR. SWAZO:

16 Q. Mr. Nosrati, you said five wells are in
17 compliance with Rule 201?

18 A. Yes, sir.

19 Q. But if you look at OCD Exhibit No. 4, which is
20 the inactive well list for AmeriCo Energy Resources, it still
21 shows the same 12 wells that were part of the original
22 application. So it shows that there's been no change in either
23 well's status?

24 A. When was that Exhibit 4 taken?

25 Q. It was -- this list is from yesterday, October

1 29th, 2008.

2 A. Well --

3 Q. None of the wells have fallen off the inactive
4 well list.

5 A. Well, I don't know what's OCD procedure is as far
6 as the timing to, you know, posting wells in compliance, but we
7 submitted a C-103, and they approved it according to the
8 procedure. We went on and did this, and after the work was
9 done, we scheduled a witness test by OCD representative, and
10 they came and witnessed it, and we had a chart. And I believe
11 we have a chart here to show you proof that the wells passed
12 the test. And that's all we have to do.

13 I don't know what else we need to do to get them off
14 the list. If there's a procedure we're missing, if there's
15 something we haven't done, I'll be glad to take care of it.
16 But that's exactly -- we went according to approved procedure,
17 and we did the work, and we demonstrated that the well has
18 integrity. We placed a bridge plug where it was indicated, and
19 it should be complied with all the requirements.

20 Q. These five wells that you're talking about, are
21 those wells that AmeriCo intends to place on TA status,
22 temporary abandonment status?

23 A. Yes. Well, I'm sorry. The three is in TA
24 status, and one of them -- the 003 is in the Denton field. The
25 B C Dickinson 1-A 001, B C Dickinson, D No. 005, and W T Mann

1 No. 002. Those are the three wells in Denton field that have
2 been passed the test and requirement for a TA status, and we
3 have complied with it. And that should be all in compliance
4 for TA status.

5 Q. And what about the other two wells?

6 A. The other two wells are in Shugart field.

7 Q. Is it AmeriCo's intention to place those wells on
8 TA status?

9 A. No, no. The other two wells in Shugart field
10 is -- they are placed in operation. They are not on TA status.
11 We are not requesting TA status on them.

12 Q. Have you filed production reports for those two
13 wells?

14 A. Well, we just did this work, so, yes, they will
15 be filed as required in subsequent months and shown that they
16 are active. But we had to first prove that casing has
17 integrity because they inject the wells, and they want us to
18 test behind the packer and make sure the casing has no leaks,
19 and then we can place it back into production, and that's what
20 we have done.

21 Q. And are you familiar with OCD rules with regard
22 to returning a well to production or injection?

23 A. I think I am.

24 Q. And do you know that under OCD rules that part of
25 the requirement for returning a well to production or injection

1 is the filing of a C-115 production report?

2 A. Yes.

3 Q. And have C-115s been filed for these two wells?

4 A. Well, no. I don't think we have because we just
5 did the test, so we just passed it. So we do it every month.
6 I don't know if we can do it middle of the month. We just
7 started. For example, it just happened recently in October.
8 When we file October report, then we're going to show that
9 these are active injectors or producers, whichever the case may
10 be and prove the injection volume and production volume.

11 Q. Mr. Nosrati, have you filed the subsequent
12 C-103 -- the C-103 indicating the subject well -- a subsequent
13 report which would have been filed on the C-103 for the TA'd
14 wells?

15 A. Yes, sir, we have.

16 Q. And have you received OCD approval placing these
17 wells on TA status?

18 A. No, sir, we have not.

19 Q. Are you aware that until that's done, these wells
20 are not in compliance with OCD Rule 201?

21 A. Yes, sir. That is true. But in our mind, I
22 guess, is that we've done everything. It's just a matter of
23 time hopefully that we get approval because we've done exactly
24 what was required and did it according to the proper procedure.

25 Q. And you were provided with a copy of the

1 application last month, correct?

2 A. For these wells?

3 Q. For this case?

4 A. Yes. Yes, sir.

5 Q. And the application identifies the
6 compliance-related issues that -- the reason why we're here
7 today, correct?

8 A. Yes.

9 Q. And one of the compliance-related issues is the
10 additional financial assurance for the -- I think it's the
11 State T Devonian No. 009 well?

12 A. Yes.

13 Q. The financial assurance has not been filed as of
14 today. Why is that?

15 A. I guess because we felt like if we're going -- we
16 have a blanket bond with the OCD for all our wells that operate
17 in New Mexico. And further, we felt like we're going to
18 demonstrate that this well is, you know -- perform all the
19 required work to put on TA status. I thought that it might be
20 because of that, and there shouldn't be an additional financial
21 requirement.

22 Q. But are you -- I'm sorry to interrupt.

23 A. No. I'm just saying that today I find out that
24 that is not the case, even if we prove that well is in
25 compliance with the OCD requirement as a TA well, we still have

1 to come up with additional financial assurance.

2 Q. But don't you know that under OCD rules, a
3 blanket bond is not enough once a well becomes inactive after
4 two year?

5 A. No, sir. I wasn't aware of that.

6 Q. And didn't AmeriCo file individual financial
7 assurances for its other inactive wells?

8 A. I guess we filed it as we were required. We
9 never requested to file additional or individual financial
10 assurance for this well, unless we got this notice. Otherwise,
11 we would have to comply with it.

12 Q. And what is your intent with regard to posting
13 the financial assurance for this well?

14 A. We will definitely take care of it and provide
15 the financial assurance as soon as I get back to Houston and
16 get the paperwork on it.

17 Q. Now, for over three-and-a-half years, we've been
18 working with -- attempting to work with AmeriCo to try to get
19 at least six of the wells into compliance, and they haven't
20 been brought into compliance. Why the delay?

21 A. Well, I really appreciate OCD working with us,
22 but if you went through your exhibits, you notice that the
23 problem that we had and the explanation that we gave, when we
24 signed the first one, we had problem with a rig. And when we
25 signed the second one, that was the time that we sold

1 50 percent of the field to Platinum. And part of that
2 agreement was that Platinum had two rigs working in the field,
3 and they were going to take these wells and put them on
4 production every 60 days.

5 And so that was the reason we gave, and we assured
6 OCD that because they assured us that that's what they were
7 going to do. And we felt that hopefully within the six months,
8 we should have the majority of these wells taken care of or at
9 least most of it. And Platinum did start and worked on two
10 wells, State T No. 009 and Mann -- W T Mann No. 002.

11 But then somewhere in early 2006, which we weren't
12 aware of it until six or eight months later, they ran into
13 financial trouble, and that really created a big problem. We
14 did not have the operatorship of this field, which was the
15 State T and Mann, and they weren't responding to us. They
16 didn't want to return operatorship to us. So we had a big
17 legal battle. It's still going on. We still -- Platinum owes
18 us over \$4 million that we have spent on this field, and
19 obligations that they have and they have not taken care of it.

20 So it was just one of those unfortunate deals for us
21 that we had a partner that did not do what they were supposed
22 to and not even came back and try to give us operatorship. We
23 had to go to court and spend a lot of money to even get the
24 operatorship back to be able to take care of these wells. And
25 as soon as we did, we started working on it, and we have the

1 documentation to prove that, that we started working on this.
2 But we had also a partner in here too, that when you're a 50
3 percent partner, you can't just go and do things on your own.
4 You have to get the other people's approval.

5 And that wasn't a real company, so that created a
6 challenge. As soon as we got an agreement on a couple of wells
7 to start working on it, then they started non-consenting other
8 wells. And by the time we get a program together or
9 financially make a decision to go ahead and do it ourselves,
10 then the field sold again, and we have another partner to deal
11 with. One of them we still don't know what it is.

12 So these are some of the problems that really it just
13 created a stumbling block to us to take on our obligations the
14 way we like to. But if you look at it -- on the Shugart field,
15 we had 18 wells -- I don't remember -- back in early this year
16 that there was shut-in. They were shut-in wells. We brought
17 every one of those, I believe, except two of them back into
18 compliance within a two- or three-month period, because that
19 was our field and we were the only -- well, we were the major
20 owner in that field, and we had a full obligation. So we went
21 on and did it.

22 So we try to take care of our obligations seriously
23 and take care of it, but sometimes just -- unfortunately, we
24 can't do it as we wish.

25 Q. Well, the date of the second Agreed Compliance

1 Order was March 2006. But according to these documents, the
2 first time there's even a mention of a partnership issue is the
3 November 10, 2006, letter that you sent to us which was
4 after --

5 A. It was 2006 or 5?

6 Q. Well, it's Exhibit 15, and it's dated November
7 10, 2006, and that period would have been after the second ACOI
8 had already expired.

9 A. Honestly, I don't remember the exact date, but I
10 believe Platinum came in the picture in 2006 early. And that
11 was the time that we were starting signing the second Agree
12 Compliance Order and trying to take care of them.

13 Q. I'll also direct your attention to exhibit -- OCD
14 Exhibit No. 9, page 3.

15 A. Exhibit No. 9, page 3? Yes, sir.

16 Q. Conclusion No. 3, it states: "As operator of the
17 wells identified in Findings Paragraph No. 6, operator is
18 responsible for bringing those wells into compliance with
19 Rule 201." And this is the document that you signed, right?

20 A. I believe so.

21 Q. So it was AmeriCo's responsibility to make sure
22 that the wells were brought into compliance by the compliance
23 deadline?

24 A. Well, again, yes. As an operator, we know that's
25 our obligation. But when you have 50 percent partner, you have

1 to get their consent as well. And the work that, you know, is
2 going to cost two, three hundred, half a million dollars, you
3 can't just do as you wish. So we had to get agreements from
4 our partners to do the work that needed to be done. And some
5 of this work is not really cheap and just go do the work, some
6 of them requires a tremendous amount of work to fish it and
7 bring them into compliance.

8 Q. And a lot of the -- well, the exhibits that you
9 presented, these documents were filed after this application
10 had been filed.

11 A. Yes.

12 Q. And your testimony today is that you can have all
13 12 wells into compliance by the May 1st, 2009 deadline?

14 A. Yes, sir.

15 MR. SWAZO: I have no further questions.

16 MR. WARNELL: Thank you, Mr. Swazo. Mr. Bruce?

17 MR. BRUCE: No questions, Mr. Examiner.

18 MR. WARNELL: Mr. Brooks?

19 MR. BROOKS: No questions.

20 MR. WARNELL: Mr. Ezeanyim?

21 MR. EZEANYIM: No questions.

22 EXAMINATION

23 BY MR. WARNELL:

24 Q. Mr. Nosrati, is it your understanding -- who's
25 the operator of these 12 wells we've been talking about here

1 this morning?

2 A. AmeriCo Energy Resources right now, sir.

3 Q. Your company?

4 A. Yes, sir.

5 Q. All right. And we're talking basically about two
6 fields, the Shugart field and the Denton field?

7 A. Yes, sir.

8 Q. And these wells were drilled back in the mid-50s,
9 I believe?

10 A. I believe the Denton fields are mid-50s.
11 Honestly, I don't remember the vintage on the Shugart field.

12 Q. Would you guess that the Shugart field is older
13 or newer?

14 A. Possibly newer. It's a shallower field, too.
15 Those are about -- we produce them from 3,000 to 4500. Denton
16 is deep, as deep as 12,000 plus.

17 Q. Okay. And you say you have a rig out working on
18 two wells right now?

19 A. Yes, sir.

20 Q. Which rig do you have under contract?

21 A. Rig company?

22 Q. Yes.

23 A. I believe -- don't quote me -- I'll be glad to
24 call the field to get the information. But, I believe, Fever
25 Rig is working in both the fields, Denton and the Shugart

1 field.

2 Q. Could you verify that, please, and let
3 Ms. Munds-Dry know?

4 A. Sure. I'll be glad to. Right after I can call
5 and get you both of them. Who should I give the information?

6 Q. Your counselor.

7 A. Okay.

8 Q. And you testified that now that you're aware of
9 an additional bond of \$17,800 on one particular well --

10 A. Yes, sir.

11 Q. -- that you'll take care of that in short order?

12 A. Yes, sir. We will take care of that immediately.

13 MR. WARNELL: I have no further questions. Are we
14 finished with the witness?

15 MS. MUNDS-DRY: I believe so. I'd like to move the
16 admission of Exhibits 1 through 6 into evidence.

17 MR. WARNELL: We will accept Exhibits 1 through 6, if
18 there are no objections.

19 [Respondent's Exhibits 1 through 6 admitted into
20 evidence.]

21 MR. WARNELL: You may step down. Thank you very
22 much.

23 And do you wish to close?

24 MS. MUNDS-DRY: I don't have anything. Mr. Swazo
25 might.

1 MR. SWAZO: I have nothing that hasn't already been
2 said.

3 MR. BRUCE: I just have a brief statement, just so
4 you know why in the heck I'm here, Mr. Examiner.

5 MR. WARNELL: Very good.

6 MR. BRUCE: Mr. Examiner, Celero Energy recently
7 acquired working interest in five of the wells, the B C
8 Dickinson D No. 005, the Lee Whitman A No. 001, the State T No.
9 007, State T Devonian B No. 009, and W T Mann A No. 002.

10 It just acquired these working interests several
11 weeks ago, and it became aware of this case, and it's here
12 because it supports the efforts of AmeriCo Energy to bring
13 these wells back into compliance. I was informed yesterday
14 that the AFEs that AmeriCo Energy has submitted to Celero have
15 been signed, so they should be forwarded back to Mr. Nosrati
16 shortly.

17 And we do not want these wells plugged. These -- if
18 you look at these Denton wells, they are in an area where they
19 immediately adjoin acreage where Cimarex Energy has drilled a
20 number of horizontal Wolfcamp wells and is still drilling
21 horizontal Wolfcamp wells. So there may be value in doing that
22 even in the older developed parts of the Wolfcamp, Denton
23 Wolfcamp pool, so certainly supports the efforts of AmeriCo in
24 this case.

25 Thank you.

1 MR. WARNELL: If there's nothing else, then we'll
2 take Case No. 14189 under advisement.

3 And we will break for lunch and be back here at 1:15.

4 * * *

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13 I do hereby certify that the foregoing is
14 a correct report of the proceedings in
15 the trial and hearing of Case No. _____,
16 heard by me on _____.

17 _____, Examiner
18 Oil Conservation Division
19
20
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1

2 **REPORTER'S CERTIFICATE**

3

4 I, JOYCE D. CALVERT, Provisional Court Reporter for
5 the State of New Mexico, do hereby certify that I reported the
6 foregoing proceedings in stenographic shorthand and that the
7 foregoing pages are a true and correct transcript of those
8 proceedings and was reduced to printed form under my direct
9 supervision.

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

14 DATED this 30th of October, 2008.

15


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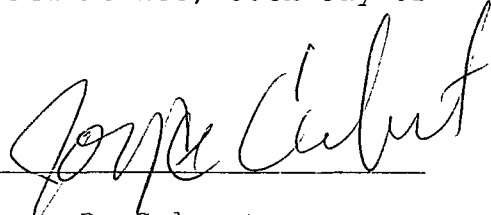
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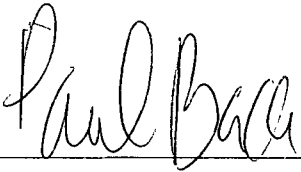
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5 Reporter, working under the direction and direct supervision of
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7 that I reported the attached proceedings; that pages numbered
8 1-62 inclusive, are a true and correct transcript of my
9 stenographic notes. On the date I reported these proceedings,
10 I was the holder of Provisional License Number P-03.

11 Dated at Albuquerque, New Mexico, 30th day of
12 October, 2008.

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1 STATE OF NEW MEXICO

2 ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

3 OIL CONSERVATION DIVISION

4
5 IN THE MATTER OF THE HEARING CALLED
6 BY THE OIL CONSERVATION DIVISION FOR
7 THE PURPOSE OF CONSIDERING:

CASE NO. 14189

8 APPLICATION OF THE NEW MEXICO OIL
9 CONSERVATION DIVISION, THROUGH THE
10 ENFORCEMENT AND COMPLIANCE MANAGER, FOR
11 A COMPLIANCE ORDER AGAINST AMERICO
12 ENERGY RESOURCES, LLC, EDDY AND LEA
13 COUNTIES, NEW MEXICO14 REPORTER'S TRANSCRIPT OF PROCEEDINGS15 EXAMINER HEARING16 BEFORE: DAVID K. BROOKS, Legal Examiner
17 TERRY G. WARNELL, Technical Examiner
18 RICHARD EZEANYIM, Technical Examiner

19 October 30, 2008

20 Santa Fe, New Mexico

21 This matter came on for hearing before the New Mexico
22 Oil Conservation Division, DAVID K. BROOKS, Legal Examiner,
23 TERRY G. WARNELL, Technical Examiner, and RICHARD EZEANYIM,
24 Technical Examiner, on Thursday, October 30, 2008, at the
25 New Mexico Energy, Minerals and Natural Resources Department,
1220 South Saint Francis Drive, Room 102, Santa Fe, New Mexico.26 REPORTED BY: JOYCE D. CALVERT, P-03
Paul Baca Court Reporters
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Albuquerque, New Mexico 87102