

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

IN THE MATTER OF THE HEARING CALLED BY)
THE OIL CONSERVATION DIVISION FOR THE)
PURPOSE OF CONSIDERING:) CASE NO. 12,811
)
APPLICATION OF THE NEW MEXICO OIL)
CONSERVATION DIVISION FILED FOR AN)
ORDER REQUIRING OPERATORS TO BRING)
388 WELLS INTO COMPLIANCE WITH RULE)
201.B AND ASSESSING APPROPRIATE CIVIL)
PENALTIES, EDDY, CHAVES AND OTERO)
COUNTIES, NEW MEXICO)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

BEFORE: MICHAEL E. STOGNER, Hearing Examiner

VOLUME II - March 22nd, 2002

Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Division, MICHAEL E. STOGNER, Hearing Examiner, on Thursday and Friday, March 21st and 22nd, 2002, at the New Mexico Energy, Minerals and Natural Resources Department, 1220 South Saint Francis Drive, Room 102, Santa Fe, New Mexico, Steven T. Brenner, Certified Court Reporter No. 7 for the State of New Mexico.

* * *

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* * *

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A P P E A R A N C E S

FOR THE DIVISION:

DAVID K. BROOKS
Attorney at Law
Energy, Minerals and Natural Resources Department
Assistant General Counsel
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

CHERYL BADA
Attorney at Law
Energy, Minerals and Natural Resources Department
Assistant General Counsel
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

FOR DOMINION OKLAHOMA TEXAS EXPLORATION AND PRODUCTION,
INC. (FORMERLY LOUIS DREYFUS NATURAL GAS CORPORATION);
NADEL AND GUSSMAN PERMIAN, LLC; STRATA PRODUCTION COMPANY;
BASS ENTERPRISES PRODUCTION COMPANY; BEACH EXPLORATION,
INC.; CHI OPERATING, INC.; EGL RESOURCES, INC.; MEWBOURNE
OIL COMPANY; DEVON ENERGY PRODUCTION COMPANY, LP (FORMERLY
MITCHELL ENERGY CORPORATION); OCEAN ENERGY, INC.; POGO
PRODUCING COMPANY; AND ST. MARY LAND AND EXPLORATION
COMPANY:

JAMES G. BRUCE, Attorney at Law
324 McKenzie
Santa Fe, New Mexico 87501
P.O. Box 1056
Santa Fe, New Mexico 87504

(Continued...)

A P P E A R A N C E S (Continued)

ALSO PRESENT:

H. DWANE PARRISH, JR.
EDDIE LARUE, LaRue Oil
LEWIS FULTON, CFM Oil Company
JUDY FULTON
JOHN SMITHERMAN, Bass Enterprises Production Company
SONNY HOPE, Vintage Drilling, LLC
DAN GIRAND, Mack Energy Corporation
C.M. BLOODWORTH, Southwest Royalties
G.A. BABER, Pronghorn Management Corporation
JACKIE BREWER, Sandlott Energy
RUSSELL WHITED, MEW Enterprises
JIM PIERCE, McQuadrangle, LLC and Prairie Sun, Inc.

LORI WROTENBERY, Director, OCD
TIM GUM, District Supervisor, Artesia District Office
(District 2), NMOCD
JANE PROUTY, Computer Operations Specialist, NMOCD
WILL JONES, NMOCD Engineer

* * *

1 WHEREUPON, the following proceedings were had at
2 8:20 a.m.:

3 EXAMINER STOGNER: This hearing will come to
4 order. This is a continuation of Docket Number 08-02.
5 Please note today's date, it's March 22nd.

6 Case Number 12,811 was called yesterday and was
7 continued through last night until today. A gentleman by
8 the name of Dalton Bell appeared and made a statement at
9 that time, and there was some exhibits given him, but those
10 will be offered today by the Division.

11 At this time Case 12,811, and for the record,
12 it's the Application of the New Mexico Oil Conservation
13 Division for an order requiring operators to bring 388
14 wells into compliance with Rule 201.B and assessing
15 appropriate civil penalties in Eddy, Chaves and Otero
16 counties, New Mexico.

17 At this time I will call for appearances.

18 MR. BROOKS: May it please the Examiner, I'm
19 David Brooks, assistant general counsel, Energy, Minerals
20 and Natural Resources Department of the State of New
21 Mexico, appearing for the New Mexico Oil Conservation
22 Division.

23 EXAMINER STOGNER: Any other appearances?

24 MR. BRUCE: Mr. Examiner, bear with me for a
25 minute. Jim Bruce of Santa Fe. I'm representing Louis

1 Dreyfus Natural Gas Corporation, which is now known as
2 Dominion Oklahoma Texas Exploration and Production, Inc.
3 I'm also representing Nadel and Gussman Permian, LLC;
4 Strata Production Company -- I'm appearing here today on
5 behalf of Sealy Cavin, their regular attorney -- Bass
6 Enterprises Production Company; Beach Exploration, Inc. --

7 (Cell phone beep)

8 EXAMINER STOGNER: Thank you. Before we get
9 going, that reminds me, if you have a cell phone, I would
10 ask you to turn it off at this time. Thank you.

11 Mr. Bruce?

12 MR. BRUCE: Chi Operating, Inc.; EGL Resources,
13 Inc.; Mewbourne Oil Company; Mitchell Energy Corporation,
14 which by merger is now Devon Energy Production Company, LP;
15 Ocean Energy, Inc.; Pogo Producing Company; and finally St.
16 Mary Land and Exploration Company.

17 And I have one witness on behalf of Bass
18 Enterprises.

19 EXAMINER STOGNER: Okay. Mr. Brooks, how many
20 witnesses do you have today?

21 MR. BROOKS: Mr. Examiner, the Division has two
22 witnesses.

23 EXAMINER STOGNER: Two witnesses.

24 Okay, other appearances?

25 MS. BADA: Cheryl Bada of the New Mexico Energy

1 Minerals and Natural Resources Department for the Oil
2 Conservation Division.

3 EXAMINER STOGNER: So I have two representatives
4 from the OCD?

5 MR. BROOKS: I will explain that situation, Mr.
6 Examiner. There is one operator, EGL Resources, Inc., with
7 regard to whom I have a conflict of interest because they
8 have one well remaining on the program which is not in
9 compliance, and I unfortunately own a one-quarter of one
10 percent working interest in that well. And therefore, I
11 asked the Department General Counsel to find someone else
12 to represent the Department as to EGL Resources.

13 EXAMINER STOGNER: Very well, thank you for that
14 explanation.

15 At this time I'm going to call for other
16 appearances. I'll start with this front row here.

17 MR. PARRISH: I'm Dwane Parrish, representing
18 myself.

19 EXAMINER STOGNER: Dwane -- I'm sorry, who?

20 MR. PARRISH: Parrish.

21 EXAMINER STOGNER: Now, are you representing --
22 are you listed as operator, Dwane Parrish?

23 MR. PARRISH: Yes, sir.

24 EXAMINER STOGNER: Okay. Yes, sir.

25 MR. LARUE: And I'm Eddie LaRue, and I'm

1 representing LaRue Oil.

2 MR. FULTON: I'm Lewis Fulton, I represent CFM
3 Oil Company.

4 EXAMINER STOGNER: Okay, next row?

5 MR. SMITHERMAN: I'm John Smitherman. I'm a
6 witness for Bass Enterprises Production Company.

7 EXAMINER STOGNER: Okay.

8 MR. HOPE: Sonny Hope, Vintage Drilling, LLC

9 MR. GIRAND: Dan Girand, Mack Energy. I don't
10 think we have anything, but I'm just here in case.

11 MR. BABER: G.A. Baber, Pronghorn Management
12 Corporation.

13 EXAMINER STOGNER: Mr. Baber --

14 MR. BABER: Hello, Mr. Stogner.

15 EXAMINER STOGNER: -- you went to school in
16 Hobbs, didn't you?

17 MR. BABER: Yes, sir.

18 EXAMINER STOGNER: Hobbs High. Graduated when?

19 MR. BABER: A long time ago.

20 (Laughter)

21 MR. BABER: No, 1972.

22 EXAMINER STOGNER: Yes, it was a long time ago,
23 wasn't it?

24 (Laughter)

25 MR. BABER: Yes.

1 EXAMINER STOGNER: Next?

2 MR. BLOODWORTH: Marty Bloodworth, Southwest
3 Royalties.

4 EXAMINER STOGNER: Okay, on this side?

5 MR. BREWER: Jackie Brewer, Sandlott Energy.

6 EXAMINER STOGNER: I'm sorry, who?

7 MR. BREWER: Sandlott Energy.

8 EXAMINER STOGNER: And your last name is -- ?

9 MR. BREWER: Brewer, B-r-e-w-e-r. It's easier
10 just to spell it.

11 EXAMINER STOGNER: Okay, other than the witnesses
12 over here on this side?

13 MR. WHITED: Russell Whited, MEW Enterprise.

14 MR. PIERCE: Jim Pierce, McQuadrangle, LLC, and
15 Prairie Sun, Inc.

16 EXAMINER STOGNER: Okay, and the other people, I
17 recognize, are either here as witnesses for the OCD or
18 employees of the OCD as nonparticipants.

19 Okay, at this time -- Let's see, Jim Bruce left
20 the room. I don't know what this was about.

21 MR. BROOKS: I don't know either.

22 The first thing I want to do, Mr. Examiner, is to
23 announce dismissals.

24 EXAMINER STOGNER: Okay, we can do that.

25 MR. BROOKS: Okay. Your Honor, you have been

1 notified of a number of these, but it's anecdotal. I will
2 give you a list that -- when I finish. I have this list
3 here, and I'm going to give it to you when I finish reading
4 it for the record.

5 At this time the Division would move to dismiss
6 Cause Number 12,811 as to 30 of the 67 operators that were
7 originally named. The Artesia District Office is satisfied
8 that these operators have brought all of their wells into
9 compliance as of the cutoff date, which was 8:00 a.m.
10 Mountain Standard Time this morning.

11 AROC (Texas), Inc.; Brothers Production Company;
12 Cibola Energy Corp.; Dakota Resources, Inc., I; Dennis
13 Langlitz; Dorothy Boyce; Elk Oil Company; Hanson Energy;
14 Harvey E. Yates Company; Jalapeno Corporation; Jenkins
15 Brothers Drilling Company; Judah Oil; KC Resources, Inc.;
16 Kimball Oil Company of Texas; Lamarck Corporation; Mack
17 Energy Corp.; Marr Oil and Gas; Matador Operating Company;
18 Mewbourne Oil Company; Mitchell Energy Corporation; Nadel
19 and Gussman Permian, Inc.; Nearburg Producing Company;
20 Ocean Energy, Inc.; Quality Production Corp.; Petroleum
21 Development Corp.; Ralph E. Williamson; Shackelford Oil
22 Company; Tom Brown, Inc.; Western Reserves Oil Company; and
23 Yates Drilling Company.

24 EXAMINER STOGNER: Have you made this list
25 available to --

1 MR. BROOKS: No, I don't have any copies of that
2 list, I'm sorry to say.

3 EXAMINER STOGNER: At a break, I will see that a
4 copy of this is made if anybody wants it.

5 Okay, Mr. Bruce, I saw that you had left. What
6 Mr. Brooks has just presented was the announicals of the
7 dismissals of 30 companies in this matter.

8 MR. BRUCE: Okay.

9 EXAMINER STOGNER: I'd like for all the witnesses
10 to please stand to be sworn at this time.

11 And any of the other parties here that's
12 representing yourself, if you're going to be making a
13 statement, let's go ahead and get you sworn in. I'm going
14 to stand, raise your right hands.

15 (Thereupon, the witnesses were sworn)

16 EXAMINER STOGNER: Okay, Mr. Brooks?

17 MR. BROOKS: Thank you, Mr. Examiner. Before I
18 call my first witness, I will call your attention to two
19 exhibits that appear at the beginning of your exhibit
20 folders. They are spreadsheets. Now, that one you're
21 looking in is only Exhibit 1. These are Exhibits 2 and 3,
22 and they should be on top of the large exhibit folder.
23 They're both labeled by the computer Exhibit 2, but one of
24 them is stamped Exhibit 2 and the other one is stamped
25 Exhibit 3.

1 These will not be identified by witness. They
2 are merely demonstrative aids that are intended to assist
3 people in following the presentation. I've supplied Mr.
4 Bruce with copies.

5 Exhibit 2 is a list of all the operators. In the
6 next column beside the operator it lists by number the
7 exhibits that pertain specifically to that particular
8 operator.

9 Then the next four columns show the notices that
10 have been given as a part of the inactive well program to
11 that particular operator, identified by date, by the
12 evidence of receipt that we have, and by the exhibit number
13 in this proceeding.

14 On the far right-hand side, section, the first
15 page of Exhibit 2, there are three columns showing the
16 number of wells, first the number of inactive wells that
17 operator had at the beginning of the inactive well project
18 in May of 2000.

19 Second, the number of wells that operator had
20 inactive at the time this proceeding was filed in January
21 of 2002.

22 The third, although it's a moving target, we
23 believe to be the number of inactive wells that operator
24 currently has.

25 The fourth column has to do with penalties we're

1 asking for, and I will let Mr. Gum explain how he computed
2 the penalties.

3 On the second page, which is where the
4 spreadsheet continues -- it will be the even-numbered pages
5 in the spreadsheet -- the operators again are identified.
6 And those who have submitted plans since the filing of this
7 proceeding, those plans are identified with some
8 description plus an exhibit number in that column. Then
9 the remaining portion of the spreadsheet has to do with the
10 computation of the penalties the Division will be
11 requesting.

12 The second spreadsheet, that is identified as
13 Exhibit 3, identifies each well that is currently a part of
14 this proceeding. It does a few that are not because, as I
15 say, it's a moving target, and some of these wells have
16 been brought into compliance since this exhibit was made up
17 yesterday.

18 But this simply shows the wells, and beside the
19 wells it shows the specific notices that reference those
20 wells particularly, by date, evidence of receipt and
21 exhibit number.

22 Okay, at this time the Division would call Jane
23 Prouty.

24 Okay, I believe that's the only exhibit you'll be
25 called on to identify, Ms. Prouty.

1 JANE E. PROUTY,
2 the witness herein, after having been first duly sworn upon
3 her oath, was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MR. BROOKS:

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

7 A. Jane Prouty.

8 Q. And how are you employed?

9 A. By the Oil Conservation Division.

10 Q. In what capacity?

11 A. I'm the manager of the staff that processes the
12 C-115s and --

13 Q. And I suppose everybody in this room knows it,
14 but what is a C-115?

15 A. The monthly production report from the operators.

16 Q. Now, under the rules of the New Mexico Oil
17 Conservation Division, each operator must report production
18 of oil, water and gas from each well each month to the Oil
19 Conservation Division, correct?

20 A. And injection.

21 Q. And injection, correct. And the Division staff
22 under your direction causes those reports to be maintained
23 in the ONGARD computer system, correct?

24 A. Yes.

25 Q. Did you at any time cause to be generated a

1 report on certain wells that are a part of this Cause
2 Number 12,811 at my request?

3 A. Yes.

4 Q. And would you look at Exhibit 1, which is in
5 front of you, and tell me if that is a copy of the report
6 you caused to be generated?

7 A. Yes, it is.

8 Q. Now, the way the ONGARD system works, it can
9 generate a report that shows each well, each month, and the
10 production reported. I notice in just looking through this
11 that in most of these wells there are months listed from
12 1997, January, 1997, through various dates, at least
13 through December of 2001, some of them going on into 2002.
14 What does the inclusion of a month beside a well on this
15 particular well signify?

16 A. It means that they reported -- the operator
17 reported either gas, oil, water or injection, that
18 particular well was reported on a C-115, and it passed the
19 edit checks, it was in our records, owned by the proper
20 operator who submitted it, and that the well and the well
21 completion existed. So it made it through, but there were
22 zero volumes reported.

23 Q. Okay. So if there's no volume reported, does
24 that mean the operator did not report any production or
25 injection from that well for that month?

1 A. Correct, or didn't send in a C-115.

2 Q. Well now, if they didn't send in a C-115 would
3 the month even appear?

4 A. No, it would not.

5 Q. But if the month appears, that means they sent in
6 a C-115?

7 A. For that well, yes.

8 Q. And their C-115 included that well?

9 A. Yes.

10 Q. But they didn't report any production or
11 injection occurring during that month for that --

12 A. Correct.

13 Q. Very good. Now, if the month does not show, once
14 again, what does that indicate?

15 A. They either did not send in a C-115 for that
16 month, or that well was not on their C-115 for that month,
17 or it didn't pass our edit checks. It might have been on
18 the C-115, but not a well we showed owned by that operator
19 at that time or whatever.

20 Q. Okay, thank you. Now, before we look in detail
21 at this exhibit, I will ask you a few questions about the
22 inactive well project of the Oil Conservation Division.
23 Are you familiar with the inactive well project?

24 A. Yes.

25 Q. Were you engaged in this project from its

1 inception in early 2000?

2 A. Yes.

3 Q. And did -- Well, what was the first step that was
4 taken by the Oil Conservation Division in preparation for
5 the inactive well proceeding?

6 A. The first step for the May, 2000, part of the
7 project was, we analyzed any wells that we hadn't received
8 either production or injection volumes for, that did appear
9 to have completions, and we mailed letters to all the
10 operators who own those wells asking them to tell us the
11 status of the well, if we had it correctly if they owned
12 and that sort of information --

13 Q. Correct. Did you generate a list of wells by
14 submitting an inquiry to the ONGARD system?

15 A. Yes.

16 Q. And what were the criteria that you used to
17 establish that list of wells?

18 A. In general, it was a well that appeared to have a
19 completion, an active completion based on our data
20 indicators, but it had not had production or injection
21 volumes reported for -- oh, at that time I believe we were
22 looking for anything older than one year.

23 Q. And then when you got that list, you caused the
24 computer to generate letters to each of the operators
25 listing the wells that were shown as nonproductive as a

1 result of that inquiry, correct?

2 A. Yes.

3 MR. BROOKS: Okay, I will go into those letters
4 with my next witness.

5 Q. (By Mr. Brooks) Now tell us what the criteria
6 were that were used in generating Exhibit 1.

7 A. Every well by API number that was on the
8 spreadsheet that probably are Exhibits 1 and 2 was queried
9 for all production and injection or zero volumes, anything
10 we received for any one of those wells, from January, 1997,
11 forward.

12 And I would like to say, let's say if we're
13 looking at the first page, if Aghorn did not own that
14 particular well in January, 1997, that's not indicated on
15 this report. It's a report of who owns the well at this
16 time, which would be Aghorn for this particular well who
17 operates it, and all the production or injection received.
18 So it --

19 Q. Right. So the wells are identified by the
20 current operator, not by the person who was operator either
21 in January of 1997 when the report begins, or in May of
22 2000 when the inactive well project --

23 A. Correct.

24 Q. But if there has been a change of operator
25 recently, then the well would be reported under the new

1 operator --

2 A. Correct.

3 Q. -- not under the current operator as shown by the
4 OCD records?

5 A. Yes.

6 Q. So if there's a pending C-104, then the old
7 operator would still be shown, correct?

8 A. Yes.

9 Q. If it hasn't been approved by the District
10 Office?

11 A. Right.

12 Q. Okay. Now, in the process of doing this we found
13 that there were a few wells that were on this list that
14 actually had produced in recent months, correct?

15 A. Yes.

16 Q. So I will call your attention to Smith and Marrs,
17 Inc. This would be on page one hundred and --

18 A. -- eighty --

19 Q. -- eighty-one of the report, the Smith and Marrs,
20 Inc., Yates Number 1 well. It appears that there's
21 production reported of oil in December, 2001, and January,
22 2001, correct?

23 A. Yes.

24 Q. Okay. And paging over to page 183, the Smith and
25 Marrs, Inc., Yates Number 5, the same thing appears,

1 correct?

2 A. Yes.

3 MR. BROOKS: Okay. And there are two others
4 here, and I seem to have lost my cheat sheet here
5 somewhere. We'll get those -- I'll supply those to the
6 Examiner later on. I know we don't want to page through
7 this 210-page exhibit to find two wells that show
8 production, but I will get those when I have a chance to
9 run back upstairs and find my missing cheat sheet.

10 Okay, now -- I think that is really all the
11 questions I have. I believe I have identified this exhibit
12 sufficiently, and I thank you very much.

13 Pass the witness.

14 EXAMINER STOGNER: Mr. Bruce?

15 MR. BRUCE: I have no questions.

16 EXAMINER STOGNER: Are there any questions of
17 this witness?

18 EXAMINATION

19 BY EXAMINER STOGNER:

20 Q. Ms. Prouty, I just wanted to -- the information
21 shown on this listing, it's going to have an OGRID code
22 number. Now, that number corresponds with the operator; is
23 that correct?

24 A. Yes.

25 Q. And you've got the operator, and you have the

1 well name. That's identified by the lease name and the
2 well number. And then you have an API number and then our
3 ULSTR -- that's the unit, section, township and range --
4 that would denote the location by quarter-quarter section?

5 A. Yes.

6 Q. And what's the next code, OCD code unit?

7 A. In nonstandard -- non-40-acre lots, our land
8 system typically uses numbers, whereas the operators in OCD
9 typically use like W or letters past P, past the 16th
10 letter.

11 So it's just to settle any confusion over exactly
12 which quarter-quarter we're talking about.

13 Q. And as was mentioned, the next column is
14 production year, production month, and then you have gas,
15 oil, water and injection, so that's the information
16 provided.

17 Now, there is a denotation down on the lower
18 left-hand corner of the page. What does this denote?

19 A. One it says as of March 15th, and what that
20 means, I actually ran the report yesterday, but our data
21 generally goes into ONGARD every Friday. So it was from
22 the prior Friday that all the data was captured.

23 And then as David had discussed earlier, if you
24 -- as on the first page where you see January, 1997, but
25 nothing next to it, that means the operator did report, so

1 they were in compliance from a C-115 point of view. But it
2 -- just no volumes were reported.

3 So after a period of time they were out of
4 compliance on the inactive side.

5 I didn't look at any samples, but there may be --
6 let's see if I -- I don't see any missing months in just a
7 quick look through, so I could show you an example of how
8 it will skip a month, and what that means is -- or the
9 months will stop in 1998 or so.

10 That must means we haven't received C-115s for
11 that well since that month.

12 Q. But this is just a denotation of -- This is a
13 sentence, essentially, that you had put in that
14 corresponds with your testimony just now and your --

15 A. Right.

16 Q. -- earlier testimony? And the size of this
17 document goes from page 1 to --

18 A. -- 210.

19 Q. -- 210. And also, if there is oil or gas
20 production, you have it totaled out per well, and I'm
21 referring to page 210 where there is a summary or -- it
22 looks like a summation down on the bottom?

23 A. Right.

24 Q. Okay, so I just wanted to clarify that.

25 A. That summation is for that particular well.

1 Q. For that particular well --

2 A. Yeah.

3 Q. -- for the period --

4 A. Right, not forever, just from January, 1997,
5 forward.

6 EXAMINER STOGNER: If there's no other questions
7 of Ms. Prouty at this time, you may be excused.

8 Mr. Brooks, do you need to take a short recess to
9 go upstairs and get your notes at this time?

10 MR. BROOKS: That's probably a good idea, thank
11 you.

12 EXAMINER STOGNER: Okay, we will take a short
13 five-minute recess.

14 (Thereupon, a recess was taken at 8:45 a.m.)

15 (The following proceedings had at 8:54 a.m.)

16 EXAMINER STOGNER: Let's go back on the record.

17 MR. BROOKS: Mr. Examiner, I could not find the
18 sheet that summarized the wells that show production here,
19 but Jane has another copy and she's going to get that,
20 so...

21 EXAMINER STOGNER: Okay.

22 MR. BROOKS: Okay. With that I will call Mr. Tim
23 Gum.

24 Good morning.

25 MR. GUM: Good morning.

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TIM W. GUM,

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

DIRECT EXAMINATION

BY MR. BROOKS:

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

A. My name is Tim W. Gum.

Q. And how are you employed?

A. I'm employed by the State of New Mexico through the Oil Conservation Division. I currently work in Artesia, New Mexico.

Q. And what is your title there?

A. District Supervisor.

Q. In that capacity, are you the person who is in charge of overseeing the regulation of oil and gas operators within the Artesia District?

A. That's correct.

Q. And what area is included in the Artesia District?

A. Mainly it's the ten southernmost counties in the State, excepting Lea and Roosevelt County. Mainly the operations are major in Eddy and Chaves County.

Q. Okay, this proceeding was filed in regard to Eddy and Chaves and Otero Counties, however the one well in Otero County is now off, so we're dealing only with Eddy

1 and Chaves Counties?

2 A. Yes, correct.

3 Q. Would you -- Well, first of all, you have
4 testified before the Oil Conservation Division Examiners
5 before, have you not?

6 A. I have.

7 Q. Would you briefly state your background and
8 experience?

9 A. Basically, I have some 30-odd years' experience
10 in the oil and gas industry. I've been employed with the
11 State of New Mexico approximately eight years as District
12 Supervisor. I graduated from Texas Tech in 1967 with an
13 engineering degree, electrical engineering major.

14 I worked for Amoco Production and gained my
15 oilfield experience from them, worked for a small
16 independent; Energy Reserves Group; BHP Petroleum,
17 Incorporated, as an engineer and supervisor, and then also
18 worked for Harvey E. Yates Company in Roswell.

19 MR. BROOKS: Very good. Although most of my
20 questions of this witness will be factual, to the extent we
21 ask opinion questions we will tender Mr. Gum as an expert
22 witness in oilfield operations.

23 EXAMINER STOGNER: Mr. Gum is so qualified.

24 Q. (By Mr. Brooks) Okay, Mr. Gum, I will ask you to
25 look at the exhibits in the large exhibit folder, that

1 numbered 4 through 204. And there are some irregularities
2 in the tally of exhibits. I went through and numbered them
3 in pencil and did not have a chance to check my numbering,
4 and when someone else stamped them I found some
5 irregularities, but we'll bring those up as they arise.

6 Let me go through a bit of background first,
7 before I start into the exhibits.

8 You are familiar with the inactive well project?

9 A. Yes, I am.

10 Q. And you've been involved in it from the
11 beginning?

12 A. Yes.

13 Q. Now, Ms. Prouty testified that a letter was
14 generated to each of the operators listing the wells which
15 that operator had that were inactive as of May of 2000, and
16 I'm going to have you identify a specimen of that letter in
17 a minute, but do you recall that letter?

18 A. Yes, I do.

19 Q. Now, that was generated in the Santa Fe Office by
20 Ms. Prouty's group; is that correct?

21 A. That's correct.

22 Q. And was it sent out from the Santa Fe Office, or
23 was it sent out from the District Office?

24 A. It was sent out from the Santa Fe Office.

25 Q. Okay. Now, that letter was in the form of a

1 questionnaire, correct?

2 A. It served two purposes, basically. One, it
3 listed at that point in time at which the OCD records
4 indicated that an oil well was inactive for the period of
5 time stated.

6 Also, incorporation with that particular letter,
7 a request was made if the operator had records that
8 indicated that that well was active, or any other
9 documentation, we requested that to be submitted.

10 Q. Okay, and also requested the operator to correct
11 the records in the event they were not actually the
12 operator of that well?

13 A. That's correct.

14 Q. Now, the instructions with that letter were that
15 they were to be returned to the District Office?

16 A. That's correct.

17 Q. Now, are there many of those returned letters in
18 your files?

19 A. Yes.

20 Q. Now, did the District Office generate subsequent
21 follow-up letters to these operators?

22 A. That's correct.

23 Q. Now, was there a set of letters generated
24 approximately September 8th of 2000?

25 A. Yes.

1 Q. And to whom did those -- How were the operators
2 selected to whom those September 8th letters were sent?

3 A. This went to all of the operators that were
4 issued the May, 2000, letter. However, the terminology was
5 somewhat different if an operator responded to the May
6 mailout, versus the operators that did not respond.

7 Q. Now, the purpose of this proceeding is to address
8 operators that did respond in some way, correct?

9 A. That's correct.

10 Q. And the operators that never responded to the
11 May, 2000, according to your records never responded to the
12 May, 2000, mailing, the intention was to include them in
13 the previous Case Number 12,733, which was heard back last
14 October, correct?

15 A. That's correct.

16 Q. Now, not in every instance did we have a copy of
17 the returned May, 2000, questionnaire for each operator
18 that's included in that proceeding. Do you know why that
19 would be?

20 A. No, I do not. Just a misfile.

21 Q. Okay. But you are confident, are you not --
22 Well, let me ask it this way. Given the way the system was
23 done, the way the inactive well project was conducted, can
24 you state with a reasonable degree of confidence that every
25 operator for whom these subsequent letters appear in the

1 file, that either they or their predecessor as operator of
2 that well received the May, 2000, letter?

3 A. That's correct.

4 Q. Okay. Now, does the September 8th, 2000, letter
5 specifically refer to the May, 2000, letter?

6 A. Yes.

7 Q. Okay. When you sent the September 8th letters
8 did you include a well list, or did you simply refer back
9 to the May letter?

10 A. Just referenced the May letter.

11 Q. So generally the September 8th letters -- there
12 may be a few exceptions, but generally they did not include
13 reference to specific wells?

14 A. That's correct.

15 Q. Now, the September 8th letters, however, were
16 sent by certified mail, return receipt requested, were they
17 not?

18 A. If the operator did not respond to the May letter
19 that was sent certified. The ones that did respond was
20 just normal mail.

21 Q. Well, I think if you'll look through these files
22 you'll find out that that was not necessarily consistently
23 done, because most of these September 8th letters appear to
24 have certified receipts with them, but I will --

25 A. My mistake.

1 Q. Okay. Now, did you send a third letter in the
2 December, 2000-January, 2001, time frame?

3 A. Yes, sir.

4 Q. And that letter again was sent certified mail in
5 many instances, wasn't it?

6 A. In all instances.

7 Q. In all instances, okay. Now the December -- this
8 third notice, what we're calling the third notice, the
9 December -- in most instances dated December 26th, 2000,
10 that included a well list, did it not?

11 A. That's correct. That was the list of wells that
12 were inactive at that particular time.

13 Q. So did you have the Santa Fe office run another
14 computer run to generate those new lists in December of
15 2000?

16 A. Yes, sir.

17 Q. And they were clipped for each operator included
18 with the mailing to that operator?

19 A. That's correct.

20 Q. Okay. Now, was the next letter that was sent to
21 all of the operators in this group July 25, 2001?

22 A. That's correct.

23 Q. The July 25, 2001, letter -- Well, first of all,
24 there were some individual operators to whom other letters
25 were sent, correct?

1 A. Yes, sir.

2 Q. Principally in response to things that they wrote
3 to you?

4 A. That's correct.

5 Q. Now, did you say anything particularly important,
6 that you regard as particularly significant and important
7 to the operators in this July 25th, 2001, letter?

8 A. Yes, I thought one thing that was of major
9 importance was that a deadline of having all wells brought
10 into compliance by November 1st was a deadline set to have
11 the wells brought into compliance.

12 But also incorporated within this particular
13 letter was a statement of the rules and the statutes which
14 we were operating under, and trying to again inform and
15 encourage the operators to bring the wells into compliance
16 and why we were taking this approach.

17 One option that we did offer in this particular
18 letter that was hopefully of benefit to the operators,
19 realizing that at the time equipment and personnel was hard
20 to get because of the high level of activity, we offered
21 the operators an opportunity to have a single well bond for
22 any inactive well for a period of one-year extension, just
23 to get by this November deadline.

24 Out of the 126 plus or minus mailouts, only four
25 operators took advantage of this option.

1 Q. Okay. These operators that are the subject of
2 these proceedings, all of them you have had various
3 correspondence, telephone calls and meetings with, correct?

4 A. That's correct.

5 Q. And all of them prior to July 25th of 2001 had
6 indicated to you either in writing or verbally that they
7 would bring their wells into compliance, correct?

8 A. Yes.

9 Q. And the purpose, then, of the 2001 letter was to
10 set the ground rules and establish firm deadlines?

11 A. That's correct.

12 Q. Now, without going through all 200 exhibits one
13 by one to establish this regimen and show examples of each
14 of these letters, did you and I select one operator for
15 whom we had copies of each of these letters?

16 A. Yes.

17 Q. Okay, and that is C.E. LaRue and B.M. Muncy,
18 correct?

19 A. Right.

20 Q. I'll call your attention to and ask you to get
21 from the folder Exhibits 38 through 48 inclusive.

22 Okay, is Exhibit 38 an example of the May 11,
23 2000, letter that was returned to the District Office by
24 the operator?

25 A. Yes, it was. And also, if you will note our

1 office stamp date on this particular letter.

2 Q. Okay. Do the markings on the letter, the ink
3 markings where various boxes are checked and things written
4 in, was that done by the OCD or was that done by the
5 operator?

6 A. Where the boxes are checked, that was done by the
7 operator. The miscellaneous writing underneath those
8 particular boxes was done by the OCD staff.

9 Q. Okay. The fact that this was returned with these
10 boxes checked, does that, in your mind, given your
11 knowledge of the way this proceeding was done, does that
12 lead to a reasonable inference that this letter was
13 actually received by the operators to whom it was
14 addressed?

15 A. Yes.

16 Q. If it had been sent back by somebody else, there
17 probably would either be nothing checked on it, or there
18 would be some indication of the fact that --

19 A. To the wrong operator, that's correct.

20 Q. Okay. Is this Exhibit 38 a true copy of the May
21 11th letter that was sent to and returned by C.E. LaRue and
22 B.M. Muncy?

23 A. Yes.

24 Q. Now call your attention to Exhibit Number 39. Is
25 that a copy of the September 8th, 2000, letter or second

1 notice that we've been discussing?

2 A. That's correct.

3 Q. And is this a file copy of that letter that was
4 sent to C.E. LaRue and B.M. Muncy, Jr.?

5 A. That's correct.

6 Q. And copied on the same page here is a postal
7 receipt indicating receipt by C.E. LaRue, correct?

8 A. Yes, sir.

9 Q. Now, Exhibit Number 40 is a copy of a letter that
10 was sent to your office by Mr. LaRue, correct?

11 A. Yes, sir.

12 Q. And Exhibit Number 41, this is one of the
13 instances I was mentioning where there is an additional
14 letter that was not a part of the general scheme, correct?

15 A. Yes, sir.

16 Q. Is Exhibit Number 41 a copy of your reply to Mr.
17 LaRue's letter?

18 A. That's correct.

19 Q. And that's your signature?

20 A. Yes, sir.

21 Q. And then Exhibit Number 42, it is captioned
22 "FINAL NOTICE", but that is not actually the final notice,
23 correct?

24 A. No. At the time of this mailout, the January
25 4th, 2000, date is also corresponding to the reference,

1 December 22nd. Actually, that's the wrong --

2 Q. Yeah --

3 A. -- the wrong year. It's January 4th, 2001.

4 Q. Yeah, I was going to call your attention to the
5 fact that Exhibit 42 is dated January 4, 2000, but the
6 first sentence starts, "During our meeting December 4th of
7 2000..." --

8 A. Right.

9 Q. -- so that would indicate that this letter, in
10 fact, should have been dated 2001?

11 A. Yes, sir.

12 Q. Now, is this letter the same form letter that to
13 most of the operators is dated December 26th, 2000?

14 A. No.

15 Q. It's not?

16 A. No. The form letter that normally went out in
17 January -- December 26th, had a statement of the fact in
18 there -- let's see, actually had a -- more detail of the
19 Rules and Statues in there.

20 Q. Well, let me call your attention to Exhibit
21 Number 59 in the exhibit folder, which is -- well, that
22 appears to be a copy of the letter to Chi Operating
23 Company, dated December 26th, 2000, and ask you to compare
24 it with Exhibit Number 42.

25 A. They're the same format, yes.

1 Q. There are certain additions to Exhibit Number 42
2 by virtue of the fact that they refer to specific contacts
3 with C.E. LaRue and B.M. Muncy, correct?

4 A. That's correct.

5 Q. But otherwise it's the same?

6 A. Same form, yes, sir.

7 Q. Okay. I won't ask you to go through these
8 others, but I think if you'll look at the other -- at this
9 time because of the timing, and there are many of them, but
10 I think -- I did that for the purpose of refreshing your
11 recollection. And based on that, is it not accurate that
12 the Exhibit Number 42 is basically the same as the form
13 letter that was sent out December 26, 2000, to most of the
14 operators?

15 A. Yes.

16 Q. Okay, very good. Then Exhibit Number 43, is that
17 a copy of a letter you received from C.E. LaRue?

18 A. Yes, sir.

19 Q. And Exhibit Number 44, is that a copy of your
20 reply to C.E. LaRue and B.M. Muncie to a letter that you
21 received -- to Exhibit Number 43?

22 A. That's correct.

23 Q. And Exhibit Number 45, is that another letter
24 that you sent -- Is that a file copy of another letter that
25 you sent to C.E. LaRue and B.M. Muncie about February 6th,

1 2001?

2 A. Yes, sir.

3 Q. And Exhibit 46, is that a copy of another letter
4 that you sent to C.E. LaRue and B.M. Muncie about February
5 26th, 2001?

6 A. Yes, sir.

7 Q. Which brings us to Exhibit Number 47. Is Exhibit
8 Number 47 a copy of the July 25th, 2001, letter that has
9 been discussed in previous testimony?

10 A. That's correct.

11 Q. And this is a copy of the specific letter that
12 was sent to C.E. LaRue and B.M. Muncie, Jr., correct?

13 A. Yes, sir.

14 Q. However, this letter was not sent by certified
15 mail?

16 A. No.

17 Q. Now I will ask you to look at Exhibit Number 43
18 and compare the address shown on C.E. LaRue's stationery,
19 on the letterhead on Exhibit 43, with the address to which
20 Exhibit Number 47 is directed.

21 A. They appear to be the same.

22 MR. BROOKS: Thank you. At this point, Mr.
23 Examiner, I want to proceed somewhat globally, because if
24 we go through each operator in the same degree of detail
25 that we have with C.E. LaRue and B.M. Muncie, we will be

1 facing a very long proceeding.

2 What I would like to do is to go through each
3 operator and just ask Mr. Gum to look at Exhibits, say --
4 in this case it would be 38 through 47 -- and say, Is this
5 the correspondence with operator such-and-such, and let him
6 identify it if it is and then offer that in evidence,
7 rather than going through each letter one by one, if that's
8 acceptable to your Honor.

9 EXAMINER STOGNER: I think for the expediency of
10 today's case, that will be permissible. However, should
11 the case arise that we need to refer back to a particular
12 company, Mr. Gum will be available, is that correct, to
13 maybe perhaps go into that set of exhibits?

14 MR. BROOKS: That is correct.

15 Now, let me ask you, as we did in 12,733, how
16 would you prefer that I do it? Would you prefer that I
17 have him identify the exhibits for each operator and then,
18 if that operator or their counsel is here, allow them to
19 respond immediately afterwards? Or do you want me to go
20 through and have him identify all the exhibits, offer them
21 in evidence and then pass the witness -- and then rest the
22 Division's case as a whole before we call for responses
23 from operators?

24 EXAMINER STOGNER: I'm going to ask Mr. Counsel,
25 Jim Bruce, if there's a preference at this point, as he

1 sees --

2 MR. BRUCE: I think if Mr. Brooks is going to go
3 through it quickly with Mr. Gum, it might be best to get
4 them out of the way and then start --

5 EXAMINER STOGNER: That was my thinking precisely
6 at this very good point, so let's proceed in that manner.

7 MR. BROOKS: Very good, okay.

8 Q. (By Mr. Brooks) Mr. Gum, at this time I will
9 call your attention to Exhibits 4, 5, 6, 7, 8, 9 -- and I
10 will note that Exhibit 10 is missing, and that is my fault,
11 so I will -- there is no Exhibit 10. So I will call your
12 attention to Exhibits 4 through 9 inclusive.

13 Mr. Gum, are Exhibits 4 through 9 inclusive file
14 copies of all correspondence relating to inactive wells --
15 the inactive well project between the Artesia Division
16 Office and Aghorn Operating, Inc.?

17 A. That's correct.

18 EXAMINER STOGNER: Okay, let's go back a little
19 bit, because it looks like there's an Exhibit Number 11A.

20 MR. BROOKS: There is, and I was going to get to
21 that.

22 EXAMINER STOGNER: I am sorry, okay.

23 MR. BROOKS: Quite all right.

24 Now, before I get to Exhibit 11A, let me explain
25 another thing that has gone on in this project.

1 Since I filed this Application, many operators
2 have written to me. Some of them have provided copies to
3 Mr. Gum, some of them have not, and it's been necessary for
4 me to provide copies for Mr. Gum. A large volume of
5 correspondence has poured in, in the last few days.

6 I have represented to the operators that anything
7 they submitted to this proceeding would be put into
8 evidence. The reason I have made that representation, your
9 Honor, is that many of them have represented to me that it
10 would be a hardship to attend this hearing. And because I
11 was not in a position to make any agreements with them,
12 since that would not be fair to all operators if we made
13 agreements with specific operators, I simply represented to
14 them that whatever they submitted would be offered in
15 evidence.

16 We cannot authenticate it, but since it was
17 offered by the operators, it's merely offered as being what
18 they sent us.

19 Exhibit 11A is in that category, so I will not
20 ask Mr. Gum to identify it because I'm not sure if -- This
21 was received yesterday, and I'm not sure if he's seen it
22 before.

23 Q. (By Mr. Brooks) But I will ask you, Mr. Gum, to
24 look at this, and -- Well, let's see. Yes, this was
25 received yesterday, you'll see the fax stamp on -- if you

1 turn Exhibit 11A upside down, you'll see the fax stamp
2 Thursday, March 21, 2002.

3 Would you look at Exhibit 11A, which I believe
4 you've probably not seen before, and ask you if that has
5 any impact on what ought to be done in this proceeding?

6 A. I do not have a copy of --

7 Q. You don't have one in that file?

8 A. No, I jump from 9 to 12.

9 Q. I don't know how that happened, but I'll give you
10 my copy.

11 A. This looks like it is official documentation that
12 this well should be removed.

13 Q. Which well is that?

14 A. This is Aghorn Northeast Square Lake Premier
15 Unit, and it does not have --

16 Q. Well Number 25?

17 A. It's not identified on this form, but -- Number
18 25, a cover sheet.

19 Q. Number 20?

20 A. Number 20, but on the cover sheet -- Yeah, it's
21 also labeled here on the form as Number 20.

22 Q. Okay. Well, apparently I have taken that well
23 off already, because the only Aghorn well I have here is
24 Number 25. So I assume they probably sent a copy of that
25 exhibit to your office.

1 A. Since I was out of the office the last two days,
2 I'm sure that Megan did correspond with you on that.

3 MR. BROOKS: Okay, thank you very much.

4 Exhibit 11A appears to be irrelevant at this
5 time. I'm sorry for the confusion, Mr. Examiner, but we've
6 been receiving so much stuff in the last few hours of
7 yesterday that it got to be somewhat confusing.

8 At this time I will offer Exhibits 4 through 9 in
9 evidence.

10 EXAMINER STOGNER: Exhibits 4 through 9 -- as
11 they relate to Aghorn?

12 MR. BROOKS: As they relate to Aghorn.

13 EXAMINER STOGNER: I'm sorry, what?

14 MR. BROOKS: As they relate to Aghorn.

15 EXAMINER STOGNER: -- Aghorn, are hereby
16 accepted.

17 MR. BROOKS: Very good. There is no Exhibit 10,
18 there is no Exhibit 11, and we are at this time withdrawing
19 Exhibit 11A, because that apparently has been handled
20 administratively.

21 Q. (By Mr. Brooks) I will now call your attention,
22 Mr. Gum, to Exhibits 12, 13, 14, 15 -- well, no, the only
23 ones that are background correspondence here, it appears,
24 are -- no, they are -- 12, 13, 14, 15 and 16 and 17, and
25 ask you to identify them.

1 A. These represent correspondence between the OCD
2 and Bass, Incorporated.

3 Q. Between the Artesia Division Office, correct?

4 A. Yes, right.

5 MR. BROOKS: Okay, we will tender in evidence
6 Exhibits 12 through 17, inclusive, as they relate to Bass
7 Enterprises Production.

8 EXAMINER STOGNER: Okay, we've got a little
9 glitch here. I've got 12 through 18 --

10 THE WITNESS: 18.

11 EXAMINER STOGNER: -- and no 15, I think.

12 MR. BROOKS: 15 is missing?

13 EXAMINER STOGNER: Whoa, we do have 15, 16, 17 --

14 MR. BROOKS: 18, again, is --

15 EXAMINER STOGNER: -- and an 18, okay.

16 MR. BROOKS: 18 is in a special category.

17 EXAMINER STOGNER: All right, so Exhibits 12
18 through 17 are admitted into evidence at this time.

19 MR. BROOKS: Okay. Exhibit 18 is a letter to me
20 from Mr. John Smitherman of Bass Enterprises. It would
21 have been covered by that agreement, except that Bass is
22 represented here, and they presumably can introduce their
23 own evidence, so I will withdraw Exhibit 18 at this time as
24 a Division Exhibit.

25 Q. (By Mr. Brooks) Next, call your attention, Mr.

1 Gum, to Exhibits 19, 20, 21, 22 and 23 and ask you if these
2 represent the correspondence between the Artesia Division
3 Office of OCD and BC Development, LP?

4 A. Yes, sir, that is correct.

5 MR. BROOKS: We tender into evidence Exhibits 19
6 through 23 inclusive, insofar as they relate to BC
7 Development, LP.

8 EXAMINER STOGNER: Exhibits 19 through 23 are
9 hereby accepted.

10 Q. (By Mr. Brooks) Now, call your attention to
11 Exhibits 24, 25, 26, 27, 28 and ask you to identify
12 Exhibits 24 through 28, Mr. Gum.

13 A. This is correspondence related to the inactive
14 well project between the OCD Office in Artesia and Beach
15 Exploration.

16 MR. BROOKS: And Mr. Bruce, are you representing
17 Beach?

18 MR. BRUCE: Yes, sir.

19 MR. BROOKS: I thought so. So we will at this
20 time tender Exhibits 24 through 28, as they relate to Beach
21 Exploration, Inc., and the Division will withdraw Exhibit
22 Number 29 and allow Beach to offer it if they choose to do
23 so.

24 EXAMINER STOGNER: Exhibits 24 through 28 are
25 hereby admitted into evidence, and Exhibit 29 is withdrawn.

1 Q. (By Mr. Brooks) We will next call your attention
2 to Exhibits 30, 31, 32, and I'm missing 33, and I don't --
3 34 -- 30, 31, 32, 34, 35 and 36, and ask you to identify
4 those exhibits.

5 A. This is correspondence between the OCD Office in
6 Artesia and Bill and Patsy Rich concerning the inactive
7 well project.

8 Q. Okay. Is Mr. Rich present today?

9 A. No.

10 Q. No, okay. Well, then I will ask you to look at
11 Exhibit 37, which again you probably have not seen before,
12 and this was another fax that was sent to me. I will ask
13 you to look at it and see if there's anything relevant here
14 to this proceeding as far as this exhibit is concerned.

15 A. As far as the proceedings today, this would not
16 be relevant, other than the special consideration that you
17 had offered earlier to allow the evidence to come before
18 the Examiner.

19 MR. BROOKS: Okay. With that in mind, Mr.
20 Examiner -- First of all, does anyone have an Exhibit 33 in
21 their package? I do not.

22 EXAMINER STOGNER: I do not.

23 THE WITNESS: I do not.

24 MR. BROOKS: It was probably a numbering error,
25 then. Exhibits 30, 31, 32, 34, 35 and 36 will be tendered

1 in evidence as to Bill and Patsy Rich.

2 EXAMINER STOGNER: Those exhibits will be
3 admitted into evidence.

4 MR. BROOKS: Exhibit Number 37 will be presented
5 as a copy of a fax received by the Division and believed by
6 it to be genuine, not to establish its case but for
7 whatever consideration it may be given as far as mitigation
8 for Bill and Patsy Rich.

9 EXAMINER STOGNER: Exhibit 37 is admitted as part
10 of the record in this matter.

11 Q. (By Mr. Brooks) Very good. You have already
12 identified in detail Exhibits 38 through 47 inclusive,
13 correct?

14 A. That's correct.

15 MR. BROOKS: We will tender Exhibits 38 through
16 47 inclusive, insofar as they relate to C.E. LaRue and B.M.
17 Muncie, Jr.

18 EXAMINER STOGNER: 38 through 47 is admitted.

19 MR. BROOKS: Exhibit 48 we request to be made
20 part of the record for purposes of mitigation as a document
21 that was received by the Division from C.E. LaRue and
22 believed genuine, not offered to support the Division's
23 case.

24 EXAMINER STOGNER: Exhibit 48 is accepted for the
25 record.

1 Q. (By Mr. Brooks) I'll call your attention now to
2 Exhibits 49, 50, 51, 51A, 52, 53, 54 and 55 and ask you to
3 identify them.

4 A. This is additional correspondence between the OCD
5 Office in Artesia and CFM Oil Company, dated 1997 through
6 the latest correspondence we had, which was in July 25th,
7 2001.

8 MR. BROOKS: Okay, we tender Exhibits 49, 50, 51,
9 51A, 52, 53, 54 and 55 into evidence.

10 EXAMINER STOGNER: So admitted.

11 MR. BROOKS: Exhibit 56 is requested to be made
12 part of the record as a communication received by the
13 Division from CFM.

14 EXAMINER STOGNER: I believe a representative
15 from CFM is here today.

16 MR. FULTON: Yes, sir.

17 MR. BROOKS: Okay, very good. We'll allow you to
18 offer that into evidence if you choose to do so when you
19 present your case.

20 Exhibits 49 through 55 are being offered as to
21 both CFM and C.O. Fulton.

22 EXAMINER STOGNER: What was the numbers again?

23 MR. BROOKS: 49 through 55.

24 EXAMINER STOGNER: So admitted.

25 Q. (By Mr. Brooks) Now, we'll call your attention

1 to Exhibit 57 and ask you to identify it.

2 A. This is a letter generated in the Artesia
3 District Office under my signature, dated July 25th, 2001,
4 to a Calvin F. Tennison.

5 Q. Now, is this the only correspondence that you had
6 with Calvin F. Tennison --

7 A. Yes.

8 Q. -- as far as your file reflects?

9 A. That's correct.

10 MR. BROOKS: We'll offer Exhibit 57.

11 EXAMINER STOGNER: Exhibit 57 is admitted.

12 Q. (By Mr. Brooks) Exhibit 57A, I will ask you to
13 look at. This is another fax received yesterday. Does
14 this have any bearing on this proceeding, other than for
15 purposes of mitigation?

16 A. This appears to be a documentation to place the
17 well, the Malaga Unit Number 2, into a TA status, but it is
18 missing a chart that was witnessed, and it has not been
19 approved by our office, but I will accept this as being
20 valid test data if the chart can be provided.

21 Q. Very good. So at this point it will be offered
22 only as a communication received, but if it's supplemented
23 then we may be in a position to dismiss as to Calvin F.
24 Tennison, correct?

25 A. (Nods)

1 EXAMINER STOGNER: 57A Exhibit is made part of
2 the record.

3 Q. (By Mr. Brooks) Call your attention to Exhibits
4 Numbers 58, 59, 60 and 61 and ask you to identify them.

5 A. These again are correspondence between the OCD
6 Office in Artesia and Chi Operating.

7 MR. BROOKS: Tender Exhibits 58 through 61
8 inclusive as to Chi Operating.

9 EXAMINER STOGNER: So admitted.

10 Q. (By Mr. Brooks) Now call your attention to
11 Exhibits 62 through 65 inclusive.

12 A. These are correspondence between the OCD Office
13 in Artesia and David G. Hammond.

14 MR. BROOKS: Tender Exhibits 62 through 65 as to
15 David G. Hammond.

16 EXAMINER STOGNER: Exhibits 62 through 65 so
17 admitted.

18 Q. (By Mr. Brooks) Call your attention to Exhibits
19 66 through 71 inclusive and ask you to identify them.

20 A. Again, this is correspondence between the OCD
21 Office in Artesia and Fi-Ro Corporation.

22 MR. BROOKS: Tender Exhibits 66 through 71 as to
23 Fi-Ro Corporation.

24 EXAMINER STOGNER: So admitted.

25 Q. (By Mr. Brooks) Call your attention to Exhibits

1 72 and 73 and ask you to identify them.

2 A. This is correspondence between the OCD and GP II
3 Energy.

4 MR. BROOKS: Tender Exhibits 72 and 73 as to GP
5 II Energy, Inc.

6 EXAMINER STOGNER: Exhibits 72 and 73 are hereby
7 admitted.

8 Q. (By Mr. Brooks) Call your attention to Exhibit
9 74.

10 A. This is a correspondence between the OCD Office
11 in Artesia and Great Western Drilling Company.

12 MR. BROOKS: Tender Exhibit 74 as to Great
13 Western Drilling Company.

14 EXAMINER STOGNER: Exhibit 74 is admitted.

15 Q. (By Mr. Brooks) Call your attention to Exhibits
16 75 through 81 inclusive, and ask you to identify them.

17 A. This is correspondence between the OCD Office in
18 Artesia and Dalton Bell, but you will note there are three
19 different company names on there, with Dalton Bell
20 representing all three companies.

21 MR. BROOKS: And at this time I -- I'm sorry, did
22 I cut you off?

23 THE WITNESS: No.

24 MR. BROOKS: Okay, at this time, Mr. Examiner, I
25 will ask you in this connection to take notice of the fact

1 that Mr. Bell testified in his testimony yesterday that he
2 represented Happy Oil Company; JDR, Ltd.; and Smith and
3 Marrs.

4 EXAMINER STOGNER: The record shall reflect.

5 MR. BROOKS: Tender Exhibits 75 through 81 as to
6 Happy Oil Company, JDR, Ltd.; and Smith and Marrs, Inc.

7 EXAMINER STOGNER: Exhibits 75 through 81 is
8 hereby admitted.

9 MR. BROOKS: Exhibits 82 and 83 are again being
10 made a part of the record pursuant to the agreement I
11 mentioned. However, these exhibits were identified, I
12 believe, yesterday by Mr. Bell in his testimony. So we
13 will tender Exhibits 82 and 83 into evidence.

14 EXAMINER STOGNER: 82 and 83 are hereby admitted
15 at this time, and the record shall reflect Mr. Bell's
16 testimony yesterday.

17 Q. (By Mr. Brooks) Call your attention to Exhibits
18 84 through 87, inclusive and ask you to identify them.

19 A. Again, this is typical correspondence with the
20 inactive well project between the OCD and J. Cleo Thompson.

21 MR. BROOKS: Tender Exhibits 84 through 87 as to
22 J. Cleo Thompson.

23 EXAMINER STOGNER: Exhibits 84 through 87 are
24 hereby admitted.

25 MR. BROOKS: Okay. Got to go to another page on

1 my spreadsheet.

2 Now, Exhibits 88 and 89 will require some special
3 attention, because these are directed to Yates Petroleum
4 Corporation, who is not a party to this proceeding.

5 THE WITNESS: May I offer some clarification?

6 MR. BROOKS: Please do.

7 THE WITNESS: The next operator on the list will
8 be John A. Yates, Jr. Randy Patterson, who the previous
9 two letters were written to, represents John A. Yates, Jr.,
10 and that's why these two particular letters were addressed
11 to Randy Patterson, to Yates Petroleum Corporation.

12 Q. (By Mr. Brooks) Okay. Now, if you will look at
13 the second page of each of these letters, does that
14 notation on there, John A. Yates, Jr. -- does that indicate
15 that a copy of this letter was sent to Mr. John A. Yates,
16 Jr.?

17 A. Yes.

18 MR. BROOKS: Okay, Exhibits 88 and 89 are
19 submitted for evidence.

20 EXAMINER STOGNER: Exhibits 88 and 89 are
21 admitted.

22 Q. (By Mr. Brooks) Okay, call your attention to
23 Exhibits 90 through 93 inclusive and ask you to identify
24 them -- 90 through 92 inclusive.

25 A. Again, these are typical correspondence with OCD

1 and John A. Yates, Jr.

2 MR. BROOKS: Offer 90 through 92 as to John A.
3 Yates, Jr.

4 EXAMINER STOGNER: So admitted.

5 MR. BROOKS: Exhibit 92A is another instance of
6 something that was submitted by the operator directly to
7 counsel and is not being offered as part of the Division's
8 case but is being offered in evidence pursuant to the
9 agreement I spoke of.

10 EXAMINER STOGNER: So accepted.

11 MR. BROOKS: Since the Division has now dismissed
12 as to KC Resources, Exhibits 93, 94, 95, 96 and 97 and --
13 sorry, let's be sure I've got the right numbers. I'm
14 missing 98 and 99 from my sequence. Does anybody have a 98
15 and 99?

16 THE WITNESS: Yes.

17 EXAMINER STOGNER: I have a 98 but no 99.

18 THE WITNESS: 99 is attached to 98.

19 EXAMINER STOGNER: Yup, there it is.

20 MR. BROOKS: Oh, okay, so I have 99 also. I have
21 them all, also. I'm sorry.

22 Okay, Exhibits 93 through 100 inclusive are
23 withdrawn.

24 EXAMINER STOGNER: Exhibits 93 through 100 are
25 hereby withdrawn.

1 Q. (By Mr. Brooks) Call your attention to Exhibits
2 101, 102, 103, 104, 105, and that's all, 101 through 105
3 and ask you to identify them.

4 A. Again, these are typical correspondence between
5 the OCD and Kersey and Company.

6 Q. Now, is Kersey and Company, and Kersey and
7 Donohue, are they -- manage -- consolidated management,
8 same --

9 A. Yes, those are the same entity.

10 MR. BROOKS: Okay, we'll offer Exhibits 101
11 through 105 as to Kersey and Co. and Kersey and Donohue.

12 EXAMINER STOGNER: Exhibits 101 through 105 are
13 hereby admitted.

14 MR. BROOKS: Is there someone here representing
15 Kersey and Company?

16 THE WITNESS: No.

17 MR. BROOKS: Okay. Then Exhibits Number 106 and
18 106A will be tendered to be part of the record pursuant to
19 the agreement I mentioned.

20 EXAMINER STOGNER: So noted.

21 Q. (By Mr. Brooks) Call your attention to Exhibit
22 107 and ask you to identify it.

23 A. This is correspondence between the OCD and
24 Klabzuba Oil and Gas, Incorporated.

25 MR. BROOKS: Exhibit 107 is tendered in evidence

1 as to Klabzuba Oil and Gas, Inc.

2 EXAMINER STOGNER: Exhibit 107 is hereby
3 admitted.

4 Q. (By Mr. Brooks) Call your attention to Exhibit
5 Number 108 through 112 and ask you to identify them.

6 A. Again -- Let's see, through 112?

7 Q. Through 112, correct.

8 A. I believe 112 is separate than the Louis Dreyfus.

9 Q. Maybe there's an error in marking.

10 A. Okay, they've got two 112s.

11 Q. No, this is 111. It looks like 112, but it's
12 actually -- sorry about that.

13 A. Okay, Exhibits 108 through 112 are miscellaneous
14 correspondence between the OCD and Louis Dreyfus Natural
15 Gas Corporation.

16 MR. BROOKS: Okay, and because there was an error
17 in marking here, for the record, to clarify, the Exhibit
18 112 referred to is a letter dated July 25th, 2001, directed
19 to Louis Dreyfus Natural Gas Corp. Anything else that's
20 marked as Exhibit 112 is incorrect.

21 EXAMINER STOGNER: What was the date again?

22 MR. BROOKS: July 25, 2001.

23 EXAMINER STOGNER: That matches mine.

24 MR. BROOKS: Okay. Exhibits 108 through 112 are
25 offered in evidence as to Louis Dreyfus.

1 EXAMINER STOGNER: 108 through 112 hereby
2 admitted.

3 MR. BROOKS: And I believe you represent
4 Dominion, Mr. Bruce?

5 MR. BRUCE: Yes.

6 MR. BROOKS: Very good. Exhibit 113 will be
7 withdrawn.

8 EXAMINER STOGNER: Exhibit 113 withdrawn at this
9 time.

10 Q. (By Mr. Brooks) Call your attention to Exhibits
11 114, 115, 116, 117 and 118 and 119 inclusive. Well, also
12 120, 121. It's Exhibit 114 through 121 inclusive.

13 A. Again, this is correspondence between the OCD and
14 MEW.

15 MR. BROOKS: Exhibits 114 through 121 are offered
16 in evidence as to MEW Enterprises.

17 EXAMINER STOGNER: So admitted.

18 MR. BROOKS: I believe Mr. Pierce is present?

19 MR. PIERCE: Yes, sir.

20 MR. BROOKS: Okay, Mr. Pierce, since you're
21 present I will not offer the letters that you have sent to
22 me, but you may offer them if you wish.

23 MR. PIERCE: Thank you, sir.

24 MR. BROOKS: Since Marr Oil and Gas Corporation
25 is being dismissed from this proceeding, Exhibits 123 and

1 124 are now withdrawn.

2 EXAMINER STOGNER: 123, 124 withdrawn.

3 Q. (By Mr. Brooks) Call your attention to Exhibits
4 125, 126, 127 and 128.

5 A. Again, this is correspondence between the OCD and
6 McQuadrangle, Incorporated.

7 MR. BROOKS: Tender Exhibits 125 through 128 as
8 to McQuadrangle.

9 EXAMINER STOGNER: Exhibits 125 through 128 are
10 hereby admitted.

11 MR. BROOKS: 129 again I will return to Mr.
12 Pierce, and he may offer it if he wishes.

13 Q. (By Mr. Brooks) Call your attention to Exhibits
14 130 through 134 inclusive.

15 A. This is correspondence between the OCD and
16 Mineral Technologies, Incorporated.

17 MR. BROOKS: Offer 130 through 134 as to Mineral
18 Technologies, Inc..

19 EXAMINER STOGNER: 130 through 134 are hereby
20 admitted.

21 Q. (By Mr. Brooks) Call your attention to 137
22 through 138 inclusive.

23 A. 137 through 138?

24 Q. Yes.

25 A. This is correspondence between the OCD and Dwane

1 and Rhonda Parrish.

2 MR. BROOKS: Offer 135 through 138 as to Dwane
3 and Rhonda Parrish.

4 EXAMINER STOGNER: Okay, so that's 135, 136, 137
5 and 138, is correspondence with Dwane Parrish?

6 THE WITNESS: Yes, sir.

7 EXAMINER STOGNER: Hereby accepted.

8 MR. BROOKS: While we're on Dwane Parrish and
9 Rhonda Parrish, if you will look at Exhibit Number 3, back
10 to the spreadsheet, Mr. Examiner, this was the announcement
11 that I did not make because I didn't have the requisite
12 information, but the Parrishes' wells Toomey Allen Number 4
13 and Toomey Allen Number 9 are, in fact, reporting
14 production on Exhibit 1 and therefore should be withdrawn
15 from this proceeding.

16 EXAMINER STOGNER: Okay, that is the Toomey Allen
17 Number 4 and the Toomey Allen Number 9.

18 MR. BROOKS: Correct.

19 EXAMINER STOGNER: So noted.

20 Q. (By Mr. Brooks) Okay. Mr. Gum, again we'll call
21 your attention at this time to Exhibit Number 139 and ask
22 you to identify it.

23 A. This is correspondence between the OCD Office and
24 Permian Resources.

25 MR. BROOKS: Exhibit Number 139 is offered as to

1 Permian Resources, Inc.

2 EXAMINER STOGNER: Exhibit 139 admitted into
3 evidence.

4 MR. BROOKS: Is there anyone representing
5 Permian?

6 (No response)

7 MR. BROOKS: Very good, Exhibits 140 and 140A
8 will be tendered today as part of the record pursuant to
9 the agreement I mentioned as to Permian.

10 EXAMINER STOGNER: So noted.

11 MR. BROOKS: Call your attention to -- Well, I'm
12 sorry, we are dismissing as to Petroleum Development Corp.,
13 so Exhibits 141 through 145 inclusive are hereby withdrawn.

14 EXAMINER STOGNER: So noted.

15 Q. (By Mr. Brooks) Call your attention to Exhibits
16 146 through 148 inclusive -- I'm sorry, also 149 and 150,
17 Exhibits 146 through 150 inclusive, Mr. Gum.

18 A. This is correspondence again between the OCD
19 Office and Pogo Producing Company.

20 Q. Tender Exhibits 146 through 150 inclusive as Pogo
21 Producing Company.

22 EXAMINER STOGNER: 146 through 150 are hereby
23 admitted.

24 Q. (By Mr. Brooks) Call your attention to Exhibits
25 151 through 154 inclusive.

1 A. This is correspondence between the OCD and
2 Prairie Sun, Incorporated.

3 MR. BROOKS: Offer 151 through 154 as to Prairie
4 Sun, Inc.

5 EXAMINER STOGNER: 151 through 154 are hereby
6 admitted.

7 Q. (By Mr. Brooks) Call your attention to Exhibits
8 155 through 162 inclusive.

9 A. Again, this is correspondence between the OCD and
10 Pronghorn Management Corporation.

11 MR. BROOKS: Exhibits 155 through 162 are offered
12 as to Pronghorn Management Corp.

13 EXAMINER STOGNER: 155 through 162 are hereby
14 admitted.

15 Q. (By Mr. Brooks) Exhibit 163 -- Well, is there
16 anyone representing Pronghorn?

17 A. Yes.

18 MR. BABER: Yes, sir.

19 MR. BROOKS: Okay. I will return this letter to
20 you, then, and you may offer it later in substance at your
21 discretion.

22 MR. BABER: Thank you.

23 MR. BROOKS: That's 163 that is being withdrawn.

24 EXAMINER STOGNER: So noted.

25 Q. (By Mr. Brooks) Call your attention to Exhibits

1 164, 165, 166, 167, 168, 169 and 170.

2 A. Again, this is correspondence between the OCD and
3 Ray Westall, Incorporated.

4 Q. Tender Exhibits 164 through 170 as to Ray
5 Westall.

6 EXAMINER STOGNER: 164 through 170 are hereby
7 admitted.

8 Q. (By Mr. Brooks) Call your attention to Exhibits
9 171, 172, 173, 174, 175 inclusive.

10 A. This is correspondence between the OCD and
11 Sandlott Energy.

12 MR. BROOKS: Offer 171 through 175 as to Jackie
13 Brewer, d/b/a Sandlott Energy.

14 EXAMINER STOGNER: Exhibits 171 through 175 are
15 hereby admitted.

16 THE WITNESS: Mr. Counsel and Examiner, I'd like
17 to move that the hearing for Southwest Royalties be
18 dismissed. I was given a piece of information at the break
19 that indicates that their last well is in compliance.

20 MR. BROOKS: Very good. With that motion, we'll
21 add Southwest Royalties, Inc., to the list of dismissals,
22 and Exhibits 176, 176A, 176B, 176C, 176D will be withdrawn.

23 EXAMINER STOGNER: So noted.

24 Q. (By Mr. Brooks) Call your attention to Exhibits
25 177, 178, 179 and 180 inclusive.

1 A. This is correspondence between the OCD and St.
2 Mary Land and Exploration Company. It also should be noted
3 that there is some letterheads with Nance Petroleum. They
4 do represent St. Mary's.

5 MR. BROOKS: Tender Exhibits 177 through 180
6 inclusive as to St. Mary Land and Exploration Company.

7 EXAMINER STOGNER: 177 through 180 hereby
8 admitted.

9 MR. BROOKS: You represent St. Mary's. We will
10 accordingly withdraw 181.

11 EXAMINER STOGNER: 181, so noted.

12 Q. (By Mr. Brooks) Call your attention, Mr. Gum, to
13 Exhibits 182, 183, 184, 185, 186 and 187.

14 A. Again, this is correspondence between the OCD and
15 Stevens and Johnson Operating.

16 MR. BROOKS: Exhibits 182 through 187 offered as
17 to Stevens and Johnson Operating Company.

18 EXAMINER STOGNER: 182 through 187 hereby
19 admitted.

20 Q. (By Mr. Brooks) Call your attention to Exhibits
21 188, 189, 190, 191, 192, 193, 194 and -- well, I'm sorry,
22 I've got two operators combined here. Hold on a second,
23 I'll get them straightened out. 188, 189, 190, 191, 192
24 and 193.

25 A. This again is correspondence between the OCD and

1 Strata Production Company.

2 MR. BROOKS: 188 through 193 inclusive offered as
3 to Strata Production Company.

4 EXAMINER STOGNER: 188 through 193 are hereby
5 admitted.

6 Q. (By Mr. Brooks) Call your attention to Exhibits
7 194, 195, 196 and 197.

8 A. Again this is correspondence between the OCD and
9 United Oil and Minerals, Incorporated.

10 MR. BROOKS: 194 through 197 are offered as to
11 United Minerals, Inc.

12 EXAMINER STOGNER: 194 through 197 hereby
13 admitted.

14 Q. (By Mr. Brooks) I call your attention to
15 Exhibits 198, 199, 200, 201, 202 and -- well, we'll stop
16 there for the moment.

17 A. Again, this is correspondence between the OCD and
18 Vintage Drilling, Incorporated.

19 MR. BROOKS: Okay, we'll tender 109 [sic] through
20 202 as to Vintage Drilling, LLC.

21 EXAMINER STOGNER: Exhibits 198 through 202
22 hereby admitted.

23 MR. BROOKS: Mr. Examiner, and Mr. Counsel, it
24 has come to my attention prior to this proceeding that the
25 Falgout Federal Number 2 is now in compliance and should be

1 withdrawn from the hearing. The High Lonesome Penrose Unit
2 Number 1 is also in compliance.

3 I believe that since Mr. Hope is here he may
4 present evidence under the special condition of this
5 hearing to state that he has performed some work on the
6 High Lonesome Number 4, he's currently working on the High
7 Lonesome Number 5, with plans to proceed to the High
8 Lonesome Number 6. I do not believe that this is in
9 written form, but I believe he will offer that as verbal
10 testimony.

11 MR. BROOKS: Okay. In view of the presence of a
12 representative of Vintage, the Division will withdraw
13 Exhibits 203 and 204.

14 EXAMINER STOGNER: 203 and 204 are withdrawn.

15 MR. BROOKS: That will complete the offering of
16 exhibits.

17 Now, I did wish to question Mr. Gum about one
18 other matter.

19 Q. (By Mr. Brooks) Mr. Gum, you are recommending
20 that penalties be assessed against those operators whose
21 wells are not in compliance as of today, correct?

22 A. That's correct.

23 Q. Now, would you state briefly for the Examiner the
24 reasons why you believe that a penalty should be assessed
25 against these operators, particularly those who may be now

1 engaged in compliance-related activities?

2 A. Once again, I just kind of would like to back up
3 just a moment, Mr. Examiner, and state that this is a
4 statewide project. It began in May of 2000 with a mailout
5 to each individual operator that had inactive wells.

6 At that point in time we asked for the operators
7 to agree or disagree with our records. If they disagreed,
8 to go ahead and to provide documentation that they did have
9 wells that were in compliance.

10 At that point in time it was also mentioned in
11 that particular mailout that the OCD would take actions to
12 bring wells into compliance for wells that were inactive
13 more than one year. And follow-up correspondence, the
14 September group of letters, actually stated a date to have
15 wells brought into compliance of receipt of the letter.

16 Again in December of 2000, the Rules pertaining
17 to this particular issue, which was this 201 series, stated
18 the Rules and the Statutes and said that a hearing would be
19 called and penalties would be assessed for wells that were
20 not in compliance.

21 More specifically, in the July 25th, 2001, letter
22 the rules again were specifically stated, and a specific
23 deadline of November 1st, 2001, was set as a cutoff date.

24 And again, I would like to offer that the OCD,
25 recognizing the fact of the timeliness of the high activity

1 level in the oilfield, we offered an option that we thought
2 would be beneficial to the operators.

3 Like I previously stated, of the 126, plus or
4 minus, mailouts, only four operators took benefit of that
5 option to get a single well bond to extend their time frame
6 for a period of one year.

7 And then the hearing process was -- the notice of
8 the first hearing was scheduled for February of this year,
9 and it was extended to March 22nd.

10 Q. And we are not recommending any penalties for
11 operators as to any wells that are in compliance as of
12 today, correct?

13 A. No, and the operators were given the opportunity
14 to bring wells into compliance, total physical compliance,
15 as of this date. And that's why we're having some add-ons,
16 having proper documentation to the Examiner to state these
17 wells are in compliance. Information has been flowing to
18 the last minute this morning.

19 Q. Now, as of about six weeks from now it will have
20 been two years since this first notice went out --

21 A. That's correct.

22 Q. -- on this project?

23 Now, did you and I discuss a formula that we
24 thought was appropriate for penalties in this case?

25 A. Yes.

1 Q. And basically was that \$1000 per year for
2 noncompliance prior to November 1, 2001?

3 A. Yes.

4 Q. And what then was the formula from November 1st,
5 2001, to date?

6 A. \$1000 per well, per month of inactivity.

7 MR. BROOKS: Okay. And Mr. Examiner, if you will
8 look at the even-numbered pages of Exhibit Number 2, my
9 first spreadsheet, there is a column entitled "Penalty
10 Amount Regular", and that is computed for those wells that
11 were a part of the original inactive well proceeding and
12 that are still inactive at \$6000 per well, which is \$1000
13 for the period of time from May of 2000 to November 1 of
14 2001 -- which is actually a year and a half, so it's
15 cutting them a little slack in that sense -- and \$1000 per
16 month for the months of November, December, January,
17 February, which brings us up to the month of March, which
18 we're now in. So that's \$1000 for up to November 1, 19- --
19 I'm sorry.

20 The regular penalty amount is \$6000 per well,
21 \$1000 for the period May, 2000, to November 1, 2001, and
22 \$5000 for the period November 1, 2001, to the present.

23 The additional penalty amount is those wells as
24 to which the exhibits that have been identified show that
25 specific notice was given to the Operator before May, 2000,

1 as to those wells, and it as the rate of \$1000 per year or
2 part of a year from the time the original notice was given
3 until May of 2000.

4 And the "Total Penalty" column sums the two.

5 Q. (By Mr. Brooks) Mr. Gum, in many instances, at
6 least some instances, perhaps many instances in here, did
7 these operators make promises that they would get their
8 wells into compliance by dates earlier than November 1,
9 2001?

10 A. Yes.

11 Q. And does the continuing noncompliance indicate
12 that those promises were not wholly kept?

13 A. That's correct.

14 Q. And in some instances, were promises made at
15 different times for extended periods?

16 A. Yes.

17 Q. Okay. Most of that is reflected in the
18 correspondence that's been admitted in evidence, correct?

19 A. That's correct.

20 Q. Rather than trying to go through and talk about
21 what each operator has done, then, would it be fair to say
22 that with perhaps one or two exceptions each of the
23 operators in this proceeding falls in that category that
24 they had made representations that they were going to get
25 their wells in compliance prior to November 1 --

1 A. Yes.

2 Q. -- last year?

3 A. Also, Mr. Counsel, I would like to make one other
4 statement.

5 Q. Proceed.

6 A. Again, the OCD is carrying this out as a
7 statewide project. It began back in May of 2000. Up until
8 the time that the hearing letter went out for January 22nd
9 of this year, I had very little activity of wells being
10 brought into compliance. Once the letter or the official
11 hearing date was received by the operators, there was a
12 tremendous amount of activity going on over the last 35, 40
13 days. And that activity continued.

14 Q. In fact, about 200 wells out of this list have
15 been brought into compliance?

16 A. That's correct, a very large -- but the biggest
17 activity period has occurred in the last 35 to 40 days,
18 versus the year and a half that these activities should
19 have been carried out.

20 Q. Very good. And is it not the goal of the OCD to
21 have all inactive wells either plugged or in temporary
22 abandonment status by June 30th, 2002?

23 A. Yes. Now, there's one other statement I would
24 like -- There has been in the past some confusion that the
25 OCD was mandating that the wells be plugged and abandoned.

1 This is not our case at all. We just are asking that the
2 wells be brought into compliance with the current OCD rules
3 and regulations.

4 Q. Now, one of the options that the operator has as
5 to any of these wells is to put them in temporary
6 abandonment status, correct?

7 A. That's correct.

8 Q. Now, what does that require?

9 A. That requires a mechanical integrity test in
10 which it's witnessed that the casing is pressure-tested,
11 and then it's approved for a period of time that it can be
12 held in that particular status.

13 Q. And it also requires that a bridge plug be set?

14 A. Oh, yeah, that's part of the testing process.

15 Q. Now, the purpose of those requirements is to
16 ensure that this well will not provide a conduit for the
17 flowing of fluids up into freshwater formations or to the
18 surface, correct?

19 A. That's correct.

20 Q. It is not the intention of the OCD to require
21 that wells be plugged and abandoned that are capable of
22 production, is it?

23 A. That's correct.

24 MR. BROOKS: Okay. I believe that is all I have,
25 Mr. Examiner, with this witness.

1 EXAMINER STOGNER: Okay, at this time I'm going
2 to take a 20-minute recess. We've been going on quite a
3 while now. That will give our reporter time to recoup.

4 (Thereupon, a recess was taken at 10:06 a.m.)

5 (The following proceedings had at 10:36. a.m.)

6 EXAMINER STOGNER: This hearing will come back to
7 order. I took a recess, and I'm insistent on those
8 recesses because Steve over here is fast going, so that's
9 the reason there's a need for a break during these times.
10 And it's still somewhat formal.

11 Mr. Brooks, do you have anything further to
12 present?

13 MR. BROOKS: Two things, your Honor. First of
14 all, the Division Rules require an affidavit of notice, and
15 I have done those in some past proceedings. However it
16 does proliferate paper, and that seems somewhat unnecessary
17 in the case of Division proceedings because the notices
18 that were sent out, the return receipts and return mail is
19 in the Division files.

20 Therefore, at this time in lieu of submitting an
21 affidavit of notice, I will ask the Examiner to take
22 administrative notice of the return receipts, certified
23 mail receipts, return receipts and returned correspondence
24 that's contained in the file.

25 EXAMINER STOGNER: The file is here, and

1 administrative notice will be taken of the return receipts.

2 MR. BROOKS: I will now, then, at this time ask
3 my colleague, Cheryl Bada, to describe the situation with
4 regard to EGL Resources, Inc.

5 EXAMINER STOGNER: Thank you.

6 MS. BADA: I'd like to call Tim Gum back to
7 testify briefly.

8 EXAMINER STOGNER: Mr. Gum, you're still under
9 oath.

10 EXAMINATION

11 BY MS. BADA:

12 Q. Mr. Gum, have you reviewed your correspondence
13 files for EGL Resources, notices for the inactive well
14 project?

15 A. Yes, I have.

16 Q. Is there any notice for the Baldrige Federal
17 Well Number 2?

18 A. Not in my files, no.

19 MS. BADA: Given that there's no notice on the
20 Baldrige Federal Well Number 2, the EGL Resources, we'd
21 like to dismiss that matter at this time.

22 EXAMINER STOGNER: Was there a corresponding
23 exhibit with this particular well?

24 MS. BADA: No, there is not.

25 EXAMINER STOGNER: Okay, so EGL -- Is it EGL as

1 an operator, or just this well?

2 THE WITNESS: Not as an operator.

3 MS. BADA: There's only that well at issue.

4 EXAMINER STOGNER: I'm sorry?

5 MS. BADA: I said there's only the Well Number 2
6 at issue, so it's only that well.

7 EXAMINER STOGNER: Okay, so EGL can be --

8 THE WITNESS: Mr. Examiner, they have brought
9 other wells into compliance that were on the original
10 notice.

11 EXAMINER STOGNER: So noted. EGL is hereby
12 dismissed from this proceeding.

13 MS. BADA: I have no further questions, I'll turn
14 it back over to David.

15 MR. BROOKS: Thank you. Subject to rebuttal, the
16 Division rests.

17 EXAMINER STOGNER: Thank you. At this time I'm
18 going to allow Mr. Jim Bruce to cross-examine this witness.

19 MR. BRUCE: I think I really have no questions of
20 Mr. Gum at this time. As I present my own case, I may ask
21 a few questions of Mr. Gum. Maybe that would make it
22 simpler.

23 EXAMINER STOGNER: Usually in a proceeding such
24 as this, the witness is open for cross-examination, and the
25 posture that Mr. Bruce has taken I believe is a good one at

1 this point, because I want to allow anybody here that wants
2 to either make a statement and/or present some testimony --
3 I'd like to hear that, like I'm going to hear Mr. Bruce's
4 side, and then allow, if need be, Mr. Gum to be cross-
5 examined.

6 At that time you also as a witness can be cross-
7 examined by the attorneys here and by me. So I think
8 that's the procedure which we'll follow at this point.

9 And Mr. Gum, you may be excused. However, if
10 need be, we'll bring you back up for cross-examination.

11 And at this point I'm going to -- Now are you at
12 rest, Mr. Brooks?

13 MR. BROOKS: Yes, the Division has rested.

14 EXAMINER STOGNER: Okay, at this time I'm going
15 to open the hearing up for Mr. Bruce to present testimony.

16 MR. BRUCE: And one point of clarification, Mr.
17 Examiner. I've got, as you know, a number of clients and
18 I'm probably going to be here until the bitter end. I've
19 got some presentations without witnesses, just some
20 documents on certain cases. I do have one witness.

21 Do you prefer to go alphabetically, the way Mr.
22 Brooks has listed his exhibits?

23 EXAMINER STOGNER: Oh, at this point it's up to
24 you. Do you have any preference, Mr. Brooks?

25 MR. BROOKS: No, I have this exhibit laid out, so

1 I think I can find what pertains to any operator that we're
2 dealing with.

3 EXAMINER STOGNER: So whatever is better with
4 you.

5 MR. BRUCE: Okay. Well, I'd like to start, since
6 it's alphabetical, I'll start with Bass Enterprises
7 Production Company.

8 EXAMINER STOGNER: Okay, if the witness will
9 please sit up here in the witness stand.

10 MR. SMITHERMAN: Up here?

11 EXAMINER STOGNER: That is you, yes.

12 MR. BRUCE: Mr. Examiner, I didn't notice the
13 exhibit marker, so Bass's exhibits are just noted up in the
14 upper right-hand corner as Bass Exhibits 1 through 5.

15 JOHN SMITHERMAN,
16 the witness herein, after having been first duly sworn upon
17 his oath, was examined and testified as follows:

18 DIRECT EXAMINATION

19 BY MR. BRUCE:

20 Q. Would you please state your name and city of
21 residence for the record?

22 A. My name is John Smitherman. I live in Midland,
23 Texas.

24 Q. Who do you work for and in what capacity?

25 A. I work for Bass Enterprises Production Company.

1 I'm the division manager for the west Texas Division.

2 Q. Have you previously testified before the
3 Division?

4 A. I have not testified before the Division,
5 although I've testified at the Texas Railroad Commission
6 and in some court cases as well.

7 Q. Would you just summarize your educational and
8 employment background for the Examiner?

9 A. I've got a petroleum engineering degree from the
10 University of Texas at Austin, and I have worked for Bass
11 Enterprises Production Company since January of 1981.

12 Q. And you are the manager of the west Texas Permian
13 Basin division?

14 A. That's correct.

15 Q. Okay, and are you familiar with the wells
16 involved in this Application?

17 A. Yes, I am.

18 MR. BRUCE: Mr. Examiner, I'd tender Mr.
19 Smitherman as an expert petroleum engineer.

20 EXAMINER STOGNER: Mr. Smitherman is so
21 qualified.

22 Q. (By Mr. Bruce) Mr. Smitherman, could you -- and
23 I'll try not to interrupt very much -- could you go through
24 your exhibits for the Examiner, but start out with when
25 Bass first started taking action on these wells and what

1 its procedure was?

2 A. Certainly. If I may kind of do this in kind of a
3 story form, that might help everybody.

4 Bass Enterprises has been cited for violation of
5 Rule 201.B, specifically on 14 wells that we operate in
6 southeast New Mexico where we have quite a bit of ongoing
7 activity and operations.

8 As of today, 11 of those 14 wells have been
9 addressed. Three were paperwork issues that we resolved,
10 four were plugged and abandoned, three had successful
11 mechanical integrity tests and TA status has either been
12 approved or has been requested, and one was returned to
13 production.

14 Bass, as a significant operator in southeast New
15 Mexico, certainly did not intend to get behind in
16 compliance, not only with idle wellbore management but
17 across the board. In fact, we took the action in getting
18 and staying ahead of the compliance in late year 2000,
19 certainly after we were receiving notice from not only
20 state but also the BLM. We operate many wells that are on
21 federal acreage. It was then that we started a concerted
22 effort to get all of our wells on shape.

23 I'd like to offer Exhibit 1, which is a
24 spreadsheet. This is a spreadsheet that shows all of the
25 wells that we believe to be out of compliance as of

1 November of 2000. We prepared this spreadsheet for a
2 meeting with the BLM. I know Mr. Gum had been sending us
3 some correspondence for the State. We also had some
4 correspondence in conversations with the BLM, and they
5 requested a personal meeting with us to review the wells
6 and see what kind of plan we had for getting them into
7 compliance.

8 So we prepared this and met with them on November
9 the 8th of year 2000.

10 We sent a copy of this by e-mail to the BLM
11 office and also included in that e-mail -- as you'll see on
12 Exhibit 2, we sent a copy of this same spreadsheet to some
13 of the state officials as well.

14 This was a plan that we put together to try to
15 get all of our wells in shape, in full compliance,
16 prioritizing the oldest wellbores first. We felt like they
17 are probably the ones that may have the most risk for some
18 kind of environmental problem, and so we started there.
19 Our intent was to have all wells in full compliance over a
20 three-year period.

21 We actually exceeded that pace. We took action
22 immediately. We had 18 wells that we ran mechanical
23 integrity tests on in December of 2000. Most of those
24 passed and paperwork was filed.

25 Problems really began as oil and gas prices

1 reached high levels in 2000 and 2001, and two things really
2 happened. With those high oil prices and gas prices, the
3 whole infrastructure of the industry -- I'm sure you all
4 saw it as well with paper filings -- became strained. The
5 strain on the resources that came from drilling of new
6 wells and all the activity that was required of us and --
7 that we wanted to do, plus an unplanned an difficult
8 personnel change within our office caused us to slip and
9 get behind on our idle well management goals.

10 You may wonder why I'm telling you this long sob
11 story, but what I'm trying to convey to you is that the
12 story or the picture of an operator that received
13 notification in May of 2000 and didn't react until a
14 hearing was looming is not a picture that depicts us very
15 accurately.

16 Our goal is to maintain wells that we think have
17 value to us and that do not pose any significant risk to
18 citizens of New Mexico or the environment. With that type
19 of principal goals, we should be able to get all of our
20 wells into compliance and keep them in compliance.

21 Getting to that point, though, is not
22 inexpensive, as I'm sure many operators will tell you.

23 And that's why we're asking for some
24 consideration in bringing the last three wells of the 14
25 wells that we were cited on into compliance this year.

1 They are not in compliance now. We believe that they have
2 -- some of the wells have some potential for the
3 production.

4 We have spent approximately \$100,000 this quarter
5 on bringing wells into compliance, and we believe these
6 last three wells could cost in the neighborhood of \$100,000
7 each to bring them in compliance, and we would like to, I
8 guess, reduce the impact on our company by spreading that
9 out within the remaining three quarters of the year.

10 Let me back up a little bit. I'll give you some
11 verbiage on our Exhibit Number 3. That is the same -- this
12 spreadsheet is built from the same spreadsheet that I
13 showed you in Exhibit 1, but it shows you the actual
14 action, the results that were actually taken on the wells.
15 And as you can see, there is virtually no well on the list
16 that we haven't taken at least some action on. That action
17 could be paperwork filing, or it could actually be as much
18 as plugging the well. But I want to show you this because
19 I think it conveys to you the fact that we have taken
20 action, and we intend to take action in good faith.

21 I have made a proposal to the State, and that
22 proposal was given to you in a copy form that is Exhibit 4.
23 That letter asks formally for some consideration on
24 allowing us some additional time on those last three wells.

25 Starting on page 3 of that exhibit, you'll see

1 what I've entitled a well management -- Idle Well
2 Management Plan. This lists all 14 wells that we recited
3 on, and in fact plus one additional one, as you can see
4 most of the way down the first page, the Bass 3 Federal
5 Number 1. We went ahead and took action on that as well,
6 although we were not cited for that well.

7 It shows you that all 11 -- actually now 12 wells
8 have had some action taken on them. They should be in full
9 compliance, assuming that paperwork is accepted and some of
10 the TA wells that we requested TA status on are approved.
11 And it shows you a plan by which we will get the last three
12 wells into compliance, James Ranch Unit 10, James Ranch
13 Unit 11 and the Big Eddy Unit Number 92. We've asked
14 specifically for dates of May the 1st for James Ranch 10,
15 August the 1st for the 11, and November for the Big Eddy
16 92.

17 Behind that you will find paperwork documenting
18 much of the action we took to get those 11 wells into
19 compliance. We have done quite a bit of work since that
20 letter was sent on March the 8th, and I have included
21 paperwork for the rest of our actions in our Exhibit Number
22 5.

23 Q. And again, the three wells you request additional
24 time for are the James Ranch Unit Numbers 10 and 11 and the
25 Big Eddy Unit Number 92?

1 A. That's correct.

2 Q. Now, all of the other wells, according to your
3 records, are now in compliance?

4 A. Every one is either in compliance, or we have
5 filed for TA status and the State has not yet responded.

6 Q. Okay. And if you comply with the program
7 proposed in your Exhibit 4, do you request that no
8 penalties be assessed against Bass?

9 A. Yes. I believe we have shown and will continue
10 to show good faith in bringing all of our wells into
11 compliance, and we would prefer to not have to pay a
12 penalty on top of our actions that we've already taken.

13 Q. Do you happen to have the Division's Exhibit 2 in
14 front of you --

15 A. Yes, I do.

16 Q. -- Mr. Smitherman? If you'll look under Bass, up
17 at the top, in May of 2000 the Division listed 37 wells
18 that were not in compliance, and then by January 2, the
19 number was down to 14. So Bass had been taking action over
20 that year-and-a-half period to bring what, almost two dozen
21 wells into compliance?

22 A. That's correct. In fact, that action started in
23 December of 2000.

24 Q. Okay. And really, there's only one other
25 operator I notice on this list which has brought more wells

1 into compliance?

2 A. That's true. Actually, if you add on the wells
3 that we've brought into compliance or at least taken action
4 on, up until today, we have actually brought the same
5 amount of wells into compliance.

6 So we -- there's no one that has brought more
7 wells into compliance, according to these records and our
8 records, as Bass Enterprises.

9 Q. Almost three dozen wells?

10 A. (Nods)

11 Q. Okay. And do you have the Division's Exhibit 3
12 in front of you?

13 A. I do.

14 Q. Okay, and that lists the wells the Division at
15 this time said were not in compliance. Could you just --
16 just to summarize so we make sure we've got the same wells
17 that we're looking at here, could you tell the Examiner
18 what the status is of those seven wells?

19 A. Yes. The first well is the Bass Federal Number
20 2. That well is now plugged and abandoned.

21 The second well is the Big Eddy 64. An MIT,
22 mechanical integrity test, was run yesterday on that well,
23 and paperwork is being filed either yesterday late or
24 today. That was a successful mechanical integrity test.
25 We're requesting TA status.

1 Big Eddy 92 is one of the three wells that we're
2 requesting additional time.

3 The Hopeful Federal Number 1 has now been plugged
4 and abandoned.

5 The James Ranch Unit 10 and 11 are the next two
6 wells, and we're requesting additional time on those two.

7 Poker Lake Unit 42, mechanical integrity test has
8 been run and TA status has been requested.

9 And the Poker Lake Unit 60 has now been plugged
10 and abandoned.

11 All of that paperwork can either be found in my
12 Exhibit 4 or 5.

13 Q. Okay.

14 A. And let me -- one more thing.

15 Q. Go ahead.

16 A. Since I didn't have the filing on Big Eddy 64, I
17 included our standard morning report, activity report,
18 showing that we had activity going on. I got a verbal
19 message from my staff yesterday evening that that
20 mechanical integrity test had, in fact, passed.

21 Q. Okay. And then as to the three wells you're
22 requesting special consideration of again, the James Ranch
23 Unit wells you hope to bring back to production?

24 A. The James Ranch Unit Wells 10 and 11 both, we'd
25 like to bring back to production. 92, Big Eddy 92, we

1 might be able to bring it back to production, but it may be
2 that we have to plug the well.

3 Q. Okay. But certainly bringing the wells back on
4 production will require a greater cash expenditure than
5 simply temporarily abandoning them?

6 A. That's correct. And all three of these are deep
7 wells that tend to have more potential than shallow wells.

8 Q. Morrow tests?

9 A. These were all originally Morrow tests, and
10 they've either produced from the Morrow or the Atoka.

11 Q. Okay. Do you have anything further on your
12 exhibits at this time, Mr. Smitherman?

13 A. No, sir.

14 MR. BRUCE: Mr. Examiner, I'd move the admission
15 of Bass Exhibits 1 through 5.

16 EXAMINER STOGNER: Exhibits 1 through 5 of Bass
17 Enterprises Production Company will be admitted into
18 evidence at this time.

19 Q. (By Mr. Bruce) And finally, Mr. Smitherman, in
20 your opinion is granting Bass's request in the interests of
21 conservation?

22 A. It is. We will certainly do all that we can to
23 not only keep these wells as safe assets -- safe in the
24 sense of not only personal safety but environmental safety
25 -- but also we believe that we can return these wells to

1 production and be an addition to New Mexico rather than a
2 liability.

3 MR. BRUCE: Thank you. I'd pass the witness, Mr.
4 Brooks.

5 EXAMINATION

6 BY MR. BROOKS:

7 Q. Okay, there's a lot of paperwork here, but I
8 believe you went through each of the eight wells on Exhibit
9 Number 3, so that's the way I will call your attention to
10 the Division's Exhibit Number 3 and address those wells
11 specifically.

12 The first one is the Bass 10 Federal Number 2,
13 and referring to your Exhibit -- Bass's Exhibit Number 3, I
14 find that Bass's Exhibit Number 3 states that this well was
15 plugged and abandoned on March the 13th. My question is,
16 do you have a copy of a report of plugging and abandonment
17 that has been filed with either the OCD or I suppose it
18 would be the BLM, since this is a federal well, for that
19 well?

20 A. Yes, I do.

21 Q. Okay, and where is that in the exhibit structure
22 here?

23 MR. BRUCE: It would be in Exhibit 5, Mr. Brooks,
24 part of Exhibit 5.

25 THE WITNESS: Yes, it is in Exhibit 5. It is a

1 sundry to the BLM, a subsequent report of plugging that was
2 filed on the 19th of March.

3 MR. BROOKS: Okay, we have located that in
4 Exhibit Number 5 at this point, and we believe that Exhibit
5 Number -- We believe the Bass 10 Federal is in compliance,
6 so you can take that off, Mr. Examiner.

7 EXAMINER STOGNER: Okay, I do have that sundry
8 notice in front of me, and noted office is satisfied.

9 Q. (By Mr. Brooks) Now, the Big Eddy Federal Number
10 64, I understood your testimony to state the mechanical
11 integrity test was run on that well yesterday. That would
12 be 3-21?

13 A. Yes, sir.

14 Q. And do you have a report on that?

15 A. I do. that's also -- I think it's probably the
16 last page or near to the last page. It's a legal-length
17 sheet of paper in Exhibit 5. All I have here is our actual
18 morning report showing activity on the well., and all I
19 have for you is a verbal pledge that the well did pass, it
20 was witnessed by a state representative.

21 Q. You don't have the graph though, yet?

22 MR. GUM: It's not here.

23 THE WITNESS: It's not here. It actually was
24 faxed to me last night and I might have it. But I might
25 not, I might have left it --

1 Q. (By Mr. Brooks) Okay. My client here has
2 advised me that based on your representation that you
3 actually do have the graph and that it's passed, we'll go
4 ahead and accept the Big Eddy Unit Number 64 as being in
5 compliance.

6 Now, we'll pass over the Number 92, because
7 that's the one you've requested an extension of time on.

8 Okay, the Hopeful Federal Number 1, your notation
9 on Exhibit 3 states, "P&A work to begin on 3/18". Did I
10 understand you to testify that that one has been plugged
11 and abandoned?

12 A. It has been plugged and abandoned, and in Exhibit
13 5 you'll find morning-report information showing you that
14 on the 20th of March, we were still working on that well
15 and that plugging operation was ongoing. The actual sundry
16 notice has not been filed on that well.

17 Q. Okay. And what is the status as of the last
18 report that you have for that well, as to what is --

19 A. The last report, which is in Exhibit 5, that's --
20 We had prepared to set a cast iron bridge plug at plus or
21 minus 1900 feet. The bottom of the hole had been
22 abandoned, but the 5-1/2 casing had been cut and the well
23 was well on its way to being plugged.

24 Q. Okay, so that one is in process of being plugged?

25 A. Yes.

1 Q. Now, the James Ranch 10 and 11, again you've
2 requested extensions on those wells.

3 The Poker Lake Number 42, your Exhibit Number 3
4 says TA work begun, and I understood you to say that a
5 mechanical integrity test has been run on that well; is
6 that correct?

7 A. That's correct, and again in Exhibit 5, this one
8 you will find the actual sundry notice to the BLM, and it
9 does have the chart on the back of the page.

10 Q. Now, where would --

11 A. Hopefully that was copied correctly.

12 Q. That is the back of the exhibit?

13 A. You know, I may not have copied the back. You
14 may have mine.

15 MR. GUM: That's fine.

16 Q. (By Mr. Brooks) Okay. Based on your
17 representations, then, the Division will accept the Poker
18 Lake Number 42 as being in compliance.

19 Now, the Poker Lake Number 60 is also in process
20 of being temporarily abandoned?

21 A. No, sir, that's been plugged, and you have --

22 Q. Poker Lake Number 60 is being plugged?

23 A. It is plugged.

24 Q. Do you have a --

25 A. Should have that.

1 Q. -- report of plugging, sundry notice?

2 A. Yes, I do, I just need to find it. Yes, that is
3 actually part of the Exhibit 4.

4 Q. Exhibit 4.

5 A. It is a subsequent report of plugging that was
6 filed on March the 8th.

7 Q. This is for the Poker Lake Number 60?

8 A. That's correct.

9 MR. BROOKS: Okay, that was our mistake when we
10 went through Exhibit 4. The Division will accept the Poker
11 Lake Number 60 as being in compliance.

12 Thank you, I believe that's all I have of the
13 witness.

14 EXAMINER STOGNER: Let's go back to that Hopeful
15 Federal Number 1. Was that satisfactory to the Division?

16 MR. GUM: Yes.

17 EXAMINER STOGNER: Okay.

18 MR. BROOKS: Hopeful Federal Number 1 will be
19 accepted as in compliance.

20 EXAMINER STOGNER: Okay. So let me get this
21 straight, Mr. Brooks. So we're down to three wells for
22 Bass, the Big Eddy Number 92 and this James Ranch Unit
23 Numbers 10 and 11?

24 MR. BROOKS: That would appear to be the case.

25 EXAMINER STOGNER: Okay. Any redirect, Mr.

1 Bruce?

2 MR. BRUCE: I have no further questions of the
3 witness, Mr. Examiner.

4 EXAMINER STOGNER: I d have a couple of questions
5 here.

6 EXAMINATION

7 BY EXAMINER STOGNER:

8 Q. Okay, the three wells that we're talking about
9 that are still outstanding, James Ranch Unit Number 10 and
10 11, let's talk about the James Ranch Unit. What is the
11 status of that unit? Is it producing? What's the activity
12 going on out there with Bass now?

13 A. We have somewhere north of 20 wells that are
14 producing on the unit.

15 Q. Are there any other inactive wells -- I want to
16 say inactive at this point, I'm talking wells that are not
17 producing, that's not subject to this proceedings at this
18 time, may be produced as recently as a few months ago to a
19 year ago.

20 A. Not to my knowledge.

21 Q. Okay, any proposed wells to be drilled out on the
22 James Ranch?

23 A. Not this year, but we have some ideas for in the
24 future.

25 Q. Okay. Now, these two particular wells in the

1 James Ranch, will they be -- I believe it was your
2 testimony they were deep gas?

3 A. They were originally drilled as deep gas wells.
4 We think we have potential in the Atoka, in the James Ranch
5 Unit 10. And if not, we've got some potential in the
6 Morrow, deeper than the Atoka, in that same well. The well
7 has a tubing leak, the best we can tell, and we simply need
8 to do a workover to repair that.

9 The James Ranch Unit 11 probably does not have
10 potential below the Bone Spring, but we believe it has
11 potential in the Bone Spring and the Delaware.

12 Q. Would that be gas or oil?

13 A. Those are both oil.

14 Q. Are there any producing Bone Springs or Delaware
15 oil in the James Ranch currently?

16 A. Yes, several.

17 Q. Okay, what's magical about the May date and the
18 August date?

19 A. What I tried to do is to split up the total cost
20 of compliance, to spread it out across the year. So I
21 simply -- We took care of 11 wells, and that was about
22 \$100,000 in the first quarter, and I just moved \$100,000 in
23 each of the other subsequent quarters, but I didn't want to
24 ask for too much. I thought November 1st would be a
25 reasonable fourth quarter date, rather than December 31st.

1 So I chose the end of the first month of each subsequent
2 quarter.

3 Q. What other activity does Bass have going on in
4 New Mexico?

5 A. Of course a lot of production operations. We've
6 got -- in fact, it's probably our -- it is our largest
7 producing district. We have a number of wells we drilled
8 last year that we are producing, and of course many more
9 wells we've had for years that we produce there.

10 Q. Are there any new drills planned in New Mexico?

11 A. We have no plans for drilling any new wells in
12 New Mexico this year.

13 Q. Now, you've come up with this May and August date
14 prior to the Artesia District Office agreeing to accept the
15 five wells, the five previous wells that have been taken
16 off. Does that change the dates any?

17 A. No, sir.

18 Q. How come?

19 A. It's really a cash-flow issue. We've got a
20 substantially reduced budget for this year. I'm trying
21 hard to prioritize where we spend the few dollars that we
22 have this year. Our drilling program has been cut pretty
23 severely, not only in New Mexico but also in Texas. And so
24 I'm trying to, I guess, smooth out the cost to get these
25 three wells into compliance.

1 Q. I have similar questions for that Big Eddy Unit
2 Number 92, Big Eddy Unit, there's another large area that
3 has quite a few wells. How many producing wells are in
4 that unit?

5 A. Many. I don't have the number in my head.

6 Q. Is that mostly deep gas, is there any shallow
7 oil?

8 A. It's both. Actually, we do have some oil
9 producers in that same geographic region that are not
10 actually in the unit. The unit in many places there starts
11 at 5000 feet, so -- We have oil production but not a lot of
12 it in the unit, I guess, per se. It's within the
13 geographical confines of the unit, but not proper depth.
14 So most of the production from the unit is in gas.

15 Q. How long has that well been shut in, do you know?

16 A. Yes. The James Ranch Unit 10 -- or is it Big
17 Eddy 92?

18 Q. 92.

19 A. Big Eddy 92. May of 1997.

20 Q. And that's when it last produced?

21 A. Yes.

22 Q. Is the tubing still in the hole?

23 A. Yes -- well, no, we have a bridge plug set at
24 approximately 2600 feet. It was tested -- it was not an
25 official MIT, but it was tested as part of a workover. The

1 tubing has parted, and the stub is just below 2600 feet.
2 So the challenge that we have is to remove the retrievable
3 bridge plug, fish the tubing, and either return it to
4 production in the Morrow or plug and abandon the well.

5 EXAMINER STOGNER: Any other questions of this
6 witness at this time?

7 MR. BROOKS: I don't believe so. Thank you.

8 EXAMINER STOGNER: Okay, I'd like to ask Mr. --
9 This is going to be a little bit unorthodox, but I think
10 this is an unorthodox case today.

11 Mr. Gum, how does this change the penalty
12 profile?

13 MR. GUM: Mr. Examiner, the Division's position
14 will be that our previous recommendation will still be
15 recommended.

16 EXAMINER STOGNER: For these three wells on
17 the --

18 MR. GUM: Yes, for these three wells on the --

19 EXAMINER STOGNER: So that would be a total of
20 \$6000 per well?

21 MR. GUM: Yes, sir.

22 EXAMINER STOGNER: So for a total of \$18,000.

23 MR. GUM: (Nods)

24 Q. (By Examiner Stogner) Well, Mr. Smitherman, does
25 \$18,000, the threat of that, kind of promote some activity

1 on these three wells?

2 A. The threat of penalties always has an incentive
3 quality, doesn't it? It would certainly induce me to move
4 up the dates from the dates that we've proposed. I would
5 still ask for some consideration beyond today --

6 Q. Okay.

7 A. -- but we would certainly be willing to comply
8 with whatever order that you see fit to apply.

9 EXAMINER STOGNER: With that in mind, is there
10 any other questions of this witness? Or Mr. Tim Gum for
11 that matter?

12 MR. BRUCE: No, sir.

13 EXAMINER STOGNER: You may be excused.
14 Anything further for Bass's position at this
15 time?

16 MR. BRUCE: No, sir.

17 EXAMINER STOGNER: Okay, Mr. Bruce? Now, that is
18 your only witness?

19 MR. BRUCE: That is my only witness. If I can,
20 I've just got some paperwork to run through. I think it
21 will be fairly brief.

22 EXAMINER STOGNER: All right.

23 MR. BRUCE: Next, I'd like to address Beach
24 Exploration, Incorporated, Mr. Examiner.

25 Mr. Brooks had been submitted some documents from

1 Beach in February 11th. I think what I have updates this.
2 If you look at Exhibit -- There were originally, I think,
3 12 wells, Mr. Examiner, and at the top of Exhibit 1 is a
4 spreadsheet, pages 1 and 2, listing what has been done on
5 these wells, and together with the paperwork that has been
6 provided to me by my client on these wells and that has
7 been or will be submitted or filed with the Division.

8 I notice that on Exhibit 3, the Division Exhibit
9 3, it lists four wells that are not now in compliance:

10 The Brainard Federal well, which according to
11 Beach they have submitted a procedure to plug and abandon
12 it, and they are waiting for a crew to do that;

13 The Red Lake Unit Number 14. Again, they're
14 awaiting a crew to plug and abandon that well;

15 And the Red Lake Unit Number 18, the same status.

16 They should be -- I've had discussions with them,
17 and they hope to have those done within a matter of days,
18 but I don't have any updates since Tuesday morning, I
19 believe.

20 They do request special consideration of one
21 well, the Ryan Federal Number 2, Mr. Examiner, on the
22 spreadsheet. They request that they be given until June 1,
23 2002, to bring this well on line. For your information,
24 the Ryan Federal Number 2 is part of the newly approved
25 West High Lonesome Unit. I didn't bring all of the file,

1 but the hearing was approved -- There was a hearing in July
2 on this unit. The unit was approved in October. The
3 injection -- or the waterflood order is R-11,674.

4 After that order was issued, the paperwork was
5 done to put that unit -- to make it effective December 1,
6 2001. And since then, they have been working to bring
7 their wells on line, either as producers or injectors into
8 that unit. And this is one of the wells that is going to
9 be brought on line as a producer, and they would request
10 permission until June 1, 2002, to bring that onto
11 production.

12 EXAMINER STOGNER: Anything else for Beach?

13 MR. BRUCE: I have no evidence on that. With
14 respect to several of these, I'll just make one statement
15 at the end of my presentation.

16 EXAMINER STOGNER: Are you going to want -- or do
17 you need to cross-examine Mr. Gum as far as the different
18 companies as we go through, that you're representing?

19 MR. BRUCE: I may do it on a case-by-case issue,
20 but I think at this point I'm just going to submit what has
21 been done by these companies, or proposed by these
22 companies, and if Mr. Gum has a problem with any of it
23 would appreciate him informing me.

24 EXAMINER STOGNER: Okay. With that, then, I'm
25 going to let you just proceed --

1 MR. BRUCE: Okay.

2 EXAMINER STOGNER: -- and if you find it
3 necessary to --

4 MR. BRUCE: And I would move the admission of
5 Beach Exhibit 1.

6 MR. BROOKS: No objection.

7 EXAMINER STOGNER: Beach Exhibit Number 1 will be
8 admitted into evidence at this time.

9 MR. BROOKS: May I ask Mr. Bruce one question
10 here?

11 EXAMINER STOGNER: Oh, please.

12 MR. BROOKS: Did you say that Beach had taken
13 over this Ryan Federal from some other operator?

14 MR. BRUCE: I can't remember if they were the
15 operator before unitization or not, Mr. Brooks. I think it
16 was a Beach well before.

17 MR. GUM: Right, before unitization.

18 MR. BRUCE: Before unitization.

19 MR. GUM: Right, thank you.

20 MR. BRUCE: Yes, it was. That's what my file in
21 this matter shows. And the unitization order, Mr.
22 Examiner, is -- the last digit is 3, 11,673.

23 EXAMINER STOGNER: I'll take administrative
24 notice of this case file that both those orders were issued
25 in.

1 MR. BRUCE: Mr. Examiner, I'm representing Chi.
2 I have no data on that well.

3 With respect to Louis Dreyfus Natural Gas
4 Corporation, I'd note that the Division's Exhibit 3 lists
5 only the Ram Ewe Federal Com Number 1 as now being out of
6 compliance.

7 EXAMINER STOGNER: I'm sorry, which company?

8 MR. BRUCE: Louis Dreyfus Natural Gas
9 Corporation.

10 Mr. Examiner, I hand you what's been marked
11 Dominion Exhibit Number 1. When I had gotten it, I had all
12 of the wells that were in the notice, but in particular the
13 page I've turned your exhibit to, just the over -- that one
14 well which the Division says is now out of compliance.
15 Dreyfus, or now Dominion, has submitted a plugging
16 procedure to the BLM. The last I heard, they were awaiting
17 approval on that, and at such time they will plug and
18 abandon the well.

19 MR. BROOKS: I would like to make a statement
20 with regard to Louis Dreyfus, Mr. Examiner.

21 EXAMINER STOGNER: Is that proper at this point,
22 Mr. Bruce?

23 MR. BRUCE: I have no problem.

24 EXAMINER STOGNER: Please.

25 MR. BROOKS: Mr. Examiner, we had a number of

1 wells for Louis Dreyfus originally involved in this
2 proceeding. They were eight wells, as reflected on Exhibit
3 Number 3.

4 During the pendency of this proceeding, Louis
5 Dreyfus has merged with -- or shortly before, I don't have
6 the exact date -- Louis Dreyfus merged into Dominion Texas
7 Oklahoma. Again, I don't have the exact name, but anyway
8 Louis Dreyfus merged into Dominion.

9 In connection with the change of operator name
10 from Louis Dreyfus to Dominion, that was originally
11 processed by the Division as a change of operator. And in
12 connection with that change of operator, Louis Dreyfus
13 tendered one-well bonds on seven of those eight wells, that
14 was all except the Ram Ewe, as well as a number of other
15 wells that were not involved in this proceeding.

16 Now, at some point a few weeks ago, I determined
17 that the Louis Dreyfus merger was properly treated not as a
18 change of operator but as a change of operator name, and
19 single-well bonds are not required for a change of operator
20 name.

21 So I had a telephone conversation with someone at
22 Louis Dreyfus, whose name I could bring back from my phone
23 log but I don't have it here, as stating that we had taken
24 seven of these wells off of this proceeding because they
25 were under one-well bonds and that if they were going to

1 withdraw all of those one-well bonds, then we would re-
2 evaluate the status of those wells, which we did not do
3 specifically.

4 As of yesterday I didn't have a response to that
5 proposal. Those bonds are still in the possession of the
6 Division, so at this time we're not proceeding on any of
7 those other wells.

8 Since this proceeding is the hearing, we will not
9 proceed in this proceeding on any of those other wells, but
10 this is subject to a continuing re-evaluation, and if Louis
11 Dreyfus wants to withdraw those bonds on those other wells
12 and not bring them into compliance, then we may bring
13 another proceeding on those. If they bring them into
14 compliance or if they leave the bonds posted for one year,
15 as Mr. Gum has offered, then there won't be a problem.

16 MR. BRUCE: Okay.

17 MR. BROOKS: Thank you.

18 MR. BRUCE: And Mr. Examiner, Exhibit 1 which
19 I've submitted to you does contain proposed operations on
20 all of those wells except for one of them, which I believe
21 they submit data on the Northcott well, which is a
22 saltwater disposal well, which they show as being active.

23 And Mr. Examiner, I just found in the exhibit,
24 which I've marked Dominion Exhibit Number 2, which Mr.
25 Brooks had returned to me, there is an approved sundry

1 notice for a plugging procedure on the Ram Ewe well, so I'd
2 submit both of those exhibits with respect to the Ram Ewe
3 well and simply request that they be allowed to proceed to
4 plug and abandon them.

5 EXAMINER STOGNER: Okay, Dominion, or Louis
6 Dreyfus's, Exhibits Numbers 1 and 2 will be admitted into
7 evidence.

8 Anything further, Mr. Brooks?

9 MR. BROOKS: No, sir.

10 EXAMINER STOGNER: Do you have idea what date
11 this has commenced, Mr. Bruce?

12 MR. BRUCE: I do not know. I can find out today,
13 and I can let the Division, both you -- the Division and
14 Mr. Brooks know this afternoon.

15 MR. BROOKS: Thank you.

16 EXAMINER STOGNER: Mr. Brooks, so this well is to
17 remain on the list; is that correct?

18 MR. BROOKS: The Ram Ewe is to remain on the
19 list. They have declared their intention to plug it, but
20 they have not done so.

21 MR. BRUCE: Mr. Examiner, I'll move on to Pogo
22 Producing Company.

23 Mr. Examiner, I've handed you Pogo Exhibits 1, 2
24 and 3. They originally received a notice regarding several
25 wells.

1 Exhibit 1 is regarding the Lightfoot Number 1.
2 This well is to be TA'd. I learned late yesterday that the
3 work is being done on that well this afternoon and should
4 be completed by then. I believe a mechanical integrity
5 test has been done on that well. I don't have that data
6 with me. So that should be done today.

7 Exhibit Number 2 is regarding the Pure Gold "B"
8 Federal Number 20. That well has been -- I don't know how
9 -- apparently that's been withdrawn by the Division, but
10 that well has been on injection, I believe, for most of the
11 last year.

12 And the final well I'd like to point out is
13 Exhibit 3, the Sam Federal Number 2. Pogo began a
14 reworking operation on that well in January which continues
15 to this day. They have tested the Morrow, and they're
16 going to do further testing to see if it may be economic.
17 They intend to complete it in the Morrow, and if it's not
18 successful they'll complete it in an uphole zone.

19 And I'd ask that, providing the work is done as
20 it's supposed to be done today on the Lightfoot Number 1,
21 that Pogo be dismissed from this matter.

22 EXAMINER STOGNER: Any comments, Mr. Brooks?

23 MR. BROOKS: Yes, in view of the fact that the
24 test has not been completed, we would like to leave the
25 Lightfoot -- the wells other than the Lightfoot have

1 already been accepted as in compliance -- we would like to
2 leave the Lightfoot in this proceeding until the test is
3 actually conducted, then we'll get the report.

4 EXAMINER STOGNER: Okay, a clarification or, if
5 necessary, Mr. Gum could answer this question.

6 In referring to OCD's Exhibit Number 2, this
7 Lightfoot well shows up -- actually on Exhibits 2 and 3 of
8 the OCD's exhibits, but there is no penalty. What's -- Can
9 you enlighten me a little bit here on this, Mr. Brooks?

10 MR. BROOKS: Yes, sir. If you'll look at the
11 Exhibit 2 of our -- well, and Exhibit 3 on page 7 where the
12 Lightfoot well is listed, you will find that there are no
13 notices shown, and we were unable to document with regard
14 to this well that any notice was given which specifically
15 included this well as being out of compliance.

16 We have given notices to them to bring various
17 wells into compliance, but none of those notices listed
18 this particular well specifically.

19 And because this particular well has not been the
20 subject of a specific notice, we did not -- we ask only
21 that it be brought into compliance and not that any penalty
22 be assessed for its not being in compliance.

23 EXAMINER STOGNER: Thanks for clarifying that.

24 Let's see, did we accept Exhibits 1, 2 and 3 for
25 Pogo?

1 MR. BRUCE: I move their admission.

2 MR. BROOKS: No objection.

3 EXAMINER STOGNER: Accepted.

4 MR. BRUCE: Mr. Examiner, Mr. Brooks had received
5 a letter from -- The next one on the list is St. Mary Land
6 and Exploration Company. Mr. Brooks had received a letter
7 from Nance Petroleum Corporation, which operates St. Mary's
8 wells. I would simply -- They make a request in there. I
9 would just re-submit that --

10 MR. BROOKS: You may do so.

11 MR. BRUCE: -- as St. Mary Exhibit Number 1, and
12 re-submit that for the Division's consideration.

13 EXAMINER STOGNER: Any objection?

14 MR. BROOKS: No objection, your Honor.

15 EXAMINER STOGNER: St. Mary's Exhibit Number 1
16 will be admitted into evidence.

17 Do you have anything to add, Mr. Brooks?

18 MR. BROOKS: Your Honor, they have requested an
19 extension of time to bring the Osage Federal Well Number 17
20 into compliance. Their reasons are set forth in that
21 letter.

22 The Division's position is that they've already
23 had almost two years since we started this proceeding, and
24 the Division doesn't recommend any further extension.

25 MR. BRUCE: And finally, Mr. Examiner, for Strata

1 Production Company, I submit Exhibit Number 1, which is a
2 letter from Bruce Stubbs, petroleum engineer.

3 EXAMINER STOGNER: This is for Strata?

4 MR. BRUCE: This is for Strata, Mr. Examiner.

5 EXAMINER STOGNER: Okay.

6 MR. BRUCE: They are proposing to -- and attached
7 is paperwork which I presume is at least on its way to the
8 Division Office in Artesia. And they are proposing to plug
9 and abandon the wells, I believe, except for the Remuda
10 Basin Number 20, on which they plan to seek to convert that
11 well to a saltwater disposal well.

12 And I'd move the admission of this exhibit.

13 EXAMINER STOGNER: Any objection?

14 MR. BROOKS: No objection.

15 EXAMINER STOGNER: Exhibit Number 1 of Strata
16 will be admitted into evidence at this time.

17 Anything to add, Mr. Brooks?

18 MR. BROOKS: Well, the conversion to a saltwater
19 disposal well would presumably require an administrative
20 application. Has there been such an application filed?

21 MR. BRUCE: To the best of my knowledge, there
22 has not been an application filed, Mr. Brooks.

23 MR. BROOKS: Thank you, nothing further.

24 MR. BRUCE: With that, Mr. Examiner, I would
25 simply -- Bass has already stated its position.

1 With respect to Beach I would request that,
2 providing the work has or is being done, that Beach not be
3 assessed any penalty if it brings its wells -- if it does
4 the plugging work it has said it is planning on doing, and
5 if the Division is amenable to granting on the Ryan
6 Federal well until June 1 to bring that well on to
7 production.

8 With respect to Dreyfus, they are in the
9 procedure of plugging that well, and if they do do it -- if
10 it has been done, say, within a reasonable time either
11 before or after the entry of the order, I request no
12 penalty. As Mr. Brooks had said, no penalty has been
13 requested against Pogo Producing Company, and we believe
14 that as of this afternoon that well will be compliant --
15 will be in compliance.

16 With respect to St. Mary, I've submitted their
17 request, and the same thing with Strata, their request. We
18 know what the Division's position is, and their positions
19 are stated in their letters.

20 EXAMINER STOGNER: So noted. Do you have
21 anything further?

22 MR. BRUCE: I have nothing further, Mr. Examiner.

23 EXAMINER STOGNER: Mr. Bruce, along the lines of
24 what you have heard in Bass, Beach, Pogo, St. Mary's and
25 Strata, is that the only ones that you have either

1 presented a witness -- Mr. Bruce, Strata, St. Mary's, Pogo,
2 Beach and Bass?

3 MR. BRUCE: And Dominion.

4 EXAMINER STOGNER: And Dominion/Louis Dreyfus.

5 MR. BRUCE: Yes.

6 EXAMINER STOGNER: Bear with me here for just a
7 little bit.

8 MR. BROOKS: Certainly.

9 EXAMINER STOGNER: I'm looking for something.

10 Okay, let's take a 10-minute recess. During this
11 10-minute recess, Mr. Brooks --

12 MR. BROOKS: Yes, sir.

13 EXAMINER STOGNER: -- if you'd like to get with
14 these people and come up with a plan about how to present
15 or what might be, I'd appreciate your help in this matter.

16 MR. BROOKS: Okay.

17 EXAMINER STOGNER: And my plan at this point --
18 or my plan was at this point, was to proceed with the
19 people that have showed up in a similar manner in which you
20 saw Mr. Bruce, and that may be acceptable. But if there's
21 another way to proceed, then let's talk to Mr. Brooks on
22 this during the recess, and...

23 Now, each one of you will have an opportunity to
24 make a statement. There are some people here, I guess,
25 that would like to make a statement but not present

1 anything; is that correct? So if that be, I'm going to
2 take a 10-minute recess, and then I'll return.

3 (Thereupon, a recess was taken at 11:40 a.m.)

4 (The following proceedings had at 12:05 p.m.)

5 EXAMINER STOGNER: Okay, this hearing is back in
6 session.

7 Mr. Brooks?

8 MR. BROOKS: Okay, we have managed to take a few
9 additional wells off. No more operators are coming off.

10 Looking at Exhibit Number 2, on page 2, C.E.
11 LaRue and B.M. Muncy McClay Federal Number 2 goes off;
12 CFM's Blake State Number 1 goes off.

13 On page number 5 -- well, I think we'd already
14 done this, but Kersey and Company's Texaco State Number 2
15 goes off.

16 Page 6, Enterprise's Federal Number 1 goes off.

17 Page 7, Prairie Sun Dalton Federal Number 1 goes
18 off.

19 And on page 9, I believe we'd already mentioned
20 that the Vintage Falgout Federal Number 2 and High Lonesome
21 Penrose Number 1 go off.

22 And Prairie Sun has submitted a large volume of
23 production reports here which Mr. Gum is analyzing.
24 They're quite voluminous, so that may take some time to
25 determine exactly what they show.

1 But I believe the other operators have given us
2 all the paperwork that they have that reflects completed
3 operations, and the ones that I listed on the scratch-pad
4 sheet I put it in front of you there want to make
5 statements.

6 EXAMINER STOGNER: The way I plan to proceed at
7 this particular point, let's maybe run for 30 to 45 minutes
8 and then maybe take a lunch recess, and that will allow Mr.
9 Gum to review the large sheet there.

10 And I believe at this point the first name -- is
11 in order, any particular order, Mr. Brooks?

12 MR. BROOKS: Just in the order that I talked to
13 them.

14 EXAMINER STOGNER: Okay. Eddie LaRue with LaRue
15 and Muncy. Why don't you come up here and sit over here?

16 I'll ask you to identify yourself, where you
17 live, who you're here with, and maybe a little bit about
18 yourself, experience, any education.

19 EDDIE LARUE,
20 the witness herein, after having been first duly sworn upon
21 his oath, testified as follows:

22 DIRECT TESTIMONY

23 BY MR. LARUE:

24 THE WITNESS: Okay. My name is Eddie LaRue. I
25 work with C.E. LaRue Operating, that is my dad. I live in

1 Artesia, New Mexico. I'm vice president of the
2 corporation. Basically, the company is owned by my dad,
3 C.E. LaRue Operating, Inc., and he couldn't be here today,
4 so I got elected.

5 We've been working on these wells, we have been.
6 And what we want to do is just make a statement. I don't
7 know how you want to do this, being as I'm first of all the
8 operators.

9 EXAMINER STOGNER: However you would like to do
10 it at this point, Mr. LaRue.

11 THE WITNESS: Okay. We've been working
12 diligently on this. Mr. LaRue has spent the last 60 days
13 diligently working on it. And I realize that two years
14 prior to that -- and we realize that these wells need to be
15 put into compliance, and that's what we've been trying to
16 do.

17 We never received the letter that says that we
18 could put individual bonds on wells. That never crossed
19 our desk. I just called again to make sure that it didn't,
20 I talked to my dad to make sure. So he says it never come
21 across his desk, it didn't mine. We open all the mail, so
22 if it would have come in we would have gotten it.

23 One thing that I would like to say is, we were
24 putting these wells back on and we were doing the integrity
25 test. We blowed a hole in the casing on one. We feel like

1 -- they made us go to 500 pounds, we feel like that is
2 probably what caused the hole in the casing. And on
3 injection wells it's only required to put 300, but they
4 required us to put 500 that day. That's one thing that
5 we're looking at. That well we feel like is problematic
6 because of that.

7 We've got two others that failed integrity tests.
8 We feel like we worked on those wells, we brought new
9 packers in, we feel like all we need to do is pull up
10 against the packer. We haven't had time to do that, to
11 move back to those wells to catch those, our operator.

12 I'm going to tell you my sad story. Our operator
13 quit on our pulling unit as of Monday, probably because
14 we've been working seven days a week for two months, and --
15 but he quit Monday. And we thought we'd have two or three
16 more of these wells on by today, but with losing that we
17 don't have that.

18 There's two wells that we have not attempted
19 anything on yet. One of them has 2-7/8 tubing in it,
20 cemented in the hole, and we left that well for last
21 because we figure there's going to be problems with that.

22 And the other well, we know there is -- from the
23 records -- we've never done anything with this, but from
24 the records we have, indicate that there is cable tool left
25 in the hole whenever we bought the lease. We haven't done

1 anything with that because we don't know how far we're
2 going to be able to get into that well. It was one of the
3 last ones we were going to do.

4 We feel like we've tried to comply, we feel like
5 that we've really got diligent on this, and we feel like
6 that all we need is time.

7 And we feel like that if you guys would give us
8 the time, we think that probably by the end of 30 to 45
9 days we'll have everything in compliance.

10 EXAMINER STOGNER: Mr. Brooks?

11 MR. BROOKS: Yeah, Mr. LaRue, which well was it
12 where you had the problem that you thought was the result
13 of excessive pressure?

14 THE WITNESS: Excessive pressure was the Leonard
15 Number 1.

16 MR. BROOKS: The Leonard Number 1. And could you
17 tell us in a little more detail what happened?

18 THE WITNESS: Well, we pressured up on it and
19 when we got up to right at 500 pounds, it blowed a hole in
20 it. It seems to be very shallow. What our proposal is to
21 do on that, is to dig down beside the casing with a backhoe
22 and see if we can't find it and repair the casing.

23 MR. BROOKS: Okay.

24 THE WITNESS: We also have two wells that we want
25 to take and put back to production, flowing them back -- to

1 flow them down where we could work on them. There was a
2 lot of oil coming out of the hole, and he wants to put
3 those two wells back on production.

4 MR. BROOKS: Now, which are those wells?

5 THE WITNESS: The Etz Federal Number 1 and also
6 the Etz Federal Number 4. And we've got the packer and
7 tubing out of the Etz Number 1 waiting, and that's all
8 we're waiting to do, is pull the packer and tubing out, to
9 get clearance to do this, then we're going to put these two
10 wells back on production.

11 MR. BROOKS: Okay. Do you plan to plug and
12 abandon the remaining -- There are seven wells listed. Do
13 you plan to plug and abandon the remaining five?

14 THE WITNESS: No, we're going to get the
15 integrity test on the three that we have.

16 The DeKalb Number 3, we feel like all we have to
17 do is pull up on the packer and reset the packer.

18 And also the Leonard Number 9, the same thing.

19 We're going to try to fix the casing on the
20 Leonard Number 2.

21 And I think that probably the last two wells,
22 which is the Gates Federal Number 2 and also the -- what's
23 the other one?

24 EXAMINER STOGNER: DeKalb?

25 THE WITNESS: Maybe it's the Leonard 9. The

1 Leonard 9 is the one that -- The Leonard 1 and 2 are the
2 two that failed the integrity. Leonard 9 is the one we
3 want to plug.

4 MR. BROOKS: Okay, let me go through and be sure
5 that I have the appropriate information on each well.

6 The DeKalb Federal Number 3 you plan to
7 temporarily abandon, correct?

8 THE WITNESS: Well, we're going to -- we feel
9 like all we need to do is just pull up on the packer and
10 then go reinject it in the --

11 MR. GUM: It failed the integrity test.

12 MR. BROOKS: Okay, but you're going to repair it?

13 THE WITNESS: Yes.

14 MR. BROOKS: Okay, failed MIT. And what are your
15 plans for that after your repair it? Are you going to put
16 it on TA status?

17 THE WITNESS: We're going to put it back to
18 injector.

19 MR. BROOKS: Oh, restore to injection. Okay.

20 The Etz Federal Numbers 1 and 4 you intend to put
21 back on production?

22 THE WITNESS: Back on production.

23 MR. BROOKS: Okay. Now, the Gates Federal Number
24 2, what do you plan to do with that one?

25 THE WITNESS: The Gates Federal Number is one I'm

1 going to plan to plug. I think that's the well that has
2 the 2-7/8 tubing in it, cemented in for casing.

3 MR. BROOKS: Okay. The Leonard Number 1, what is
4 your plan with that?

5 THE WITNESS: That's the one we blew the hole
6 in the casing. We plan to fix the casing.

7 MR. BROOKS: And once you get it repaired, what
8 are you going to do with it?

9 THE WITNESS: We'll put it back to injection.

10 MR. BROOKS: Restore injection, okay. Leonard
11 Number 2, what's your plan with that one?

12 THE WITNESS: We feel like all it needs is a
13 packer reset in it to restore it to injection.

14 MR. BROOKS: Restore injection. And the Leonard
15 Number 9?

16 THE WITNESS: It's the one that has cable tools
17 at the bottom of it, and we're going to plug it.

18 MR. BROOKS: So you plan to P-and-A.

19 And the McClay Federal you have plugged and
20 abandoned, okay.

21 Do you think 45 days is sufficient to get all
22 this work done?

23 THE WITNESS: I think that if we had 45 days, I
24 think we'd be where we could have everything in compliance.

25 MR. BROOKS: And that would run from today?

1 THE WITNESS: From today.

2 MR. BROOKS: Okay. Very good, I think that's all
3 I have for this witness. Mr. Gum does want to offer some
4 rebuttal testimony with regard to this Leonard Number 1.

5 EXAMINER STOGNER: Are you prepared to at that
6 time?

7 MR. BROOKS: Pardon me?

8 EXAMINER STOGNER: Are you prepared to present
9 that at this time?

10 MR. BROOKS: Yes, whenever it meets the
11 convenience of the Examiner.

12 EXAMINER STOGNER: Let's go ahead and hear the
13 rebuttal. I want you to stay up here, Mr. LaRue, until we
14 get through with your side.

15 MR. GUM: In regard to this requirement to go to
16 500 pounds, in the interest of time, we have no paperwork
17 indicating what type of test that you wanted to perform,
18 whether it was going to be an MIT or an injection well or
19 test for temporary abandonment. The two tests are entirely
20 different. If it's an intent for MIT of an injection well,
21 the requirements are 30 minutes, no leakoff, at 300 pounds.
22 For TA purposes, it is 500 pounds, no leakoff in 30
23 minutes.

24 The representative that was on location did not
25 know what test that you were requesting when we were

1 notified. Our field rep took the responsibility to
2 hopefully save you some time by making the requirement be
3 so it would cover both cases, either the MIT and/or the TA
4 status. And so that's why the requirement was for 500
5 pounds.

6 MR. BROOKS: Okay, is there anything else you
7 wanted to -- in Mr. LaRue's testimony that you --

8 MR. GUM: Right, yes, sir.

9 MR. BROOKS: -- wanted to comment on?

10 MR. GUM: Right, on the letter presented as
11 Exhibit Number 47 to the OCD, dated July 25th, 2001, this
12 letter stated the option of the one-well bonding. Granted
13 this letter was not sent by certified mail, but it was sent
14 to the same address which appears to be on your letterhead,
15 P.O. Box 1370, Artesia. And we had no return of a letter
16 or anything, so it's my assumption that it did get to your
17 office. Whether you personally saw it, I do not know.

18 MR. BROOKS: What is the exhibit number for the
19 letterhead that --

20 MR. GUM: The letterhead is 48, Exhibit Number
21 48.

22 MR. BROOKS: Thank you. Anything further?

23 MR. GUM: No.

24 MR. BROOKS: Very good. Pass the witness.

25 THE WITNESS: We just never received it. It

would go across our desk. Like I say, we open all mail,

and here I would have gotten it, because we would have been interested at least on two of these wells for sure.

EXAMINER STOGNER: Okay, is there anything further for LaRue and Muncy Corporation?

MR. BROOKS: No, sir.

EXAMINER STOGNER: Okay. Thank you, sir.

Let's see, the next on my list is Mr. C.O. Fulton, CFM. C.O. Fulton?

MR. FULTON: It's Lewis Fulton.

EXAMINER STOGNER: Lewis Fulton. I wish I could talk for C.O. Fulton, we'd have a long, hard talk. That was my dad. He passed away in 1990.

EXAMINER STOGNER: Hang on just a sec here. I just wanted to say, Mr. LaRue, if you wanted to stick around for the end of proceedings today, feel free. You don't have to run off.

MR. LARUE: I don't have to?

EXAMINER STOGNER: I'm not stopping you, but you might be interested -- I'm going to have to do something today, either take it under advisement or making some considerations, and -- that might affect you.

Now, my plan is to probably shut down about 12:45 and take about an hour recess, 45-minute break, for lunch and then reconvene. But after this is over, I'm going to

1 have to make a decision on what to do with some of these
2 requests, and of course the OCD's probable request to take
3 this under advisement. So I'd suggest you stick around.

4 Okay, at this point -- Okay, again, please state
5 your name, where you live, who you're representing and your
6 function with the company and, if you feel appropriate, any
7 education or experience background.

8 LEWIS FULTON,

9 the witness herein, after having been first duly sworn upon
10 his oath, testified as follows:

11 DIRECT TESTIMONY

12 BY MR. FULTON:

13 THE WITNESS: Okay, I'm Lewis Fulton, I live in
14 Artesia, New Mexico. I'm the owner of CFM Oil Company and
15 a representative of C.O. Fulton. I've been in the oilfield
16 close to 35 years. I have high school, two years of
17 college education.

18 I feel like -- I wrote a letter when this all
19 started to Tim Gum, stating that I would plug or get one
20 well a month back in compliance, along with trying to keep
21 the other wells I was operating going, keep the revenue
22 coming in, which I have exceeded that.

23 This letter I got dated January the 22nd came as
24 quite a surprise. I thought I was doing everything fine.
25 He comes up and says this letter states that I had so many

1 days to get these wells in compliance, which I have been
2 working very diligently at doing. I feel like -- Four of
3 them, I think, or five at this time.

4 I'm just kind of like Mr. LaRue, need a little
5 more time.

6 EXAMINER STOGNER: How much more time?

7 THE WITNESS: 45 days would be good.

8 EXAMINER STOGNER: If this 45 days was given to
9 you, do you have the means and the operations, the rigs,
10 the pulling unit available?

11 THE WITNESS: I've got one cable tool, a drill
12 rig, and two pulling units working right now. I can't keep
13 employees for some reason. I guess I want to work too
14 hard. That's another thing that got me a little behind is,
15 I had two hands walk off and leave me in November, cold
16 weather, and I was just, I'm going to wait till after
17 Christmas to hire anybody, which I -- I finally hired
18 somebody last week. I've been running the rig pretty much
19 by myself for the last month.

20 EXAMINER STOGNER: And you said you had five
21 wells. What are the plans on these wells? Are they going
22 to be P-and-A'd, brought back on production?

23 THE WITNESS: What I want to do is go in and test
24 them. If the make oil, produce them. If not, plug them.
25 I just told Tim a while ago, I'm going to go through and

1 re-evaluate some of these wells I have that's not making
2 much and -- takes less time to go by them if they're not
3 pumping, if they're plugged.

4 EXAMINER STOGNER: How many wells do you operate
5 in New Mexico?

6 THE WITNESS: 106.

7 EXAMINER STOGNER: How would you classify these,
8 shallow oil, stripper oil --

9 THE WITNESS: Most of them are less than 2500
10 feet. They're all strippers.

11 EXAMINER STOGNER: In Eddy County or southeast
12 New Mexico?

13 THE WITNESS: I've got two wells in Lea County,
14 two wells in Chaves County.

15 EXAMINER STOGNER: The rest in Eddy?

16 THE WITNESS: The rest in Eddy.

17 EXAMINER STOGNER: Now, your 35 years' experience
18 has been with Fulton, your dad, and --

19 THE WITNESS: Right. Those two C.O. Fulton wells
20 were two wells he bought from Kersey and Company. I didn't
21 even know we had bought them. And along in 1994, 1995, Ken
22 Wade from Kersey Company comes in and says, Your dad bought
23 these two wells, we need to get a change of operator.
24 Which it didn't surprise me, because it's right in where we
25 have all the rest of our wells, it's right in the middle of

1 it. And I had no well records or anything on these wells.

2 I have a pulling unit on one of them and have the
3 tubing out of it, rods and tubing out of it, right now.

4 EXAMINER STOGNER: What's the most wells that you
5 have operated in New Mexico with these two companies or
6 with your dad?

7 THE WITNESS: What's the most?

8 EXAMINER STOGNER: Yeah, at any one time?

9 THE WITNESS: A hundred and six.

10 EXAMINER STOGNER: A hundred and six. Okay, so
11 you're at your peak?

12 THE WITNESS: Right.

13 EXAMINER STOGNER: Okay. Over the last five
14 years, how many wells do you think you have plugged and
15 abandoned?

16 THE WITNESS: I haven't plugged and abandoned any
17 of them. I've put a bunch of them back on, put small
18 pumps, rods, pumpjacks, built tank batteries. Some of them
19 don't make but 20 barrels a month, but in my situation, 20
20 barrels a month, every nickel helps.

21 EXAMINER STOGNER: Is this your first time up
22 here before the OCD on any kind of official --

23 THE WITNESS: Yes, sir.

24 EXAMINER STOGNER: How does that feel? Because I
25 haven't been on that side yet.

1 THE WITNESS: Not real comfortable.

2 EXAMINER STOGNER: Mr. LaRue, Mr. Fulton, I want
3 you to know I appreciate, I know the Division appreciates,
4 your time that you're bringing, putting in and coming up
5 here. That shows something, and I think it will mean
6 something.

7 And I know this is not easy coming up here --

8 THE WITNESS: Well, I understand the situation
9 you all are in on these wells. There needs to be something
10 done on them. Like those two Kersey wells, there's nothing
11 been done on them since 1952. That's 50 years ago, because
12 that's the year I was born. So I agree something needs to
13 be done.

14 EXAMINER STOGNER: Mr. Brooks, do you have any
15 questions?

16 MR. BROOKS: I believe that you asked all the
17 questions that I was going to ask. You say each of these
18 wells you're going to test for production capability --

19 THE WITNESS: Right.

20 MR. BROOKS: -- and if you conclude that it's
21 not capable of production, then you will go ahead and plug
22 and abandon them?

23 THE WITNESS: Right.

24 MR. BROOKS: And you think you can get all that
25 done within 45 days?

1 THE WITNESS: I'll either have them pumping or
2 have them in the process -- I can probably have them
3 plugged.

4 MR. BROOKS: Okay, and that's 45 days from today?

5 THE WITNESS: Right. Well, 45 working days. I'd
6 like to have a day off. I haven't had one in two months.

7 MR. BROOKS: Okay. Very good, so 45 working days
8 would be about --

9 THE WITNESS: -- 60.

10 MR. BROOKS: -- 60 days, okay. We'll take it or
11 leave it. We'll say you're asking for 60 days, okay.
12 Thanks.

13 Anything further?

14 EXAMINER STOGNER: I have nothing further, unless
15 you have anything, Mr. Fulton. Again, we appreciate you
16 coming up.

17 THE WITNESS: Okay, thank you.

18 EXAMINER STOGNER: Thank you. And again, I'd
19 suggest you stick around.

20 Okay, next one I have Sonny Hope with Vintage
21 Drilling.

22 MR. HOPE: Guilty.

23 (Laughter)

24 EXAMINER STOGNER: This is not that kind of
25 proceeding.

1 SONNY HOPE,

2 the witness herein, after having been first duly sworn upon
3 his oath, testified as follows:

4 DIRECT TESTIMONY

5 BY MR. HOPE:

6 THE WITNESS: My name is Sonny Hope, I own
7 Vintage Drilling, LLC. There's me, my son and my son-in-
8 law, and we're the whole company.

9 I came back to New Mexico in 1970, started as a
10 roustabout. I went to work in a pump shop, worked there
11 for about four years and then opened my own pump shop, had
12 it for about eight years and sold out to Trico Industries.
13 And along that time I was buying some small productions
14 from little stripper wells. Ended up, when I left Trico, I
15 sold those. We had an opportunity to buy a pretty good
16 flood and started from there. So...

17 At one point in time we had a cable tool rig, we
18 did drill some of our own wells. But pretty much self-
19 taught as far as the oil and gas industry goes.

20 EXAMINER STOGNER: Where do you reside at, Mr.
21 Hope?

22 THE WITNESS: Artesia, New Mexico.

23 EXAMINER STOGNER: What do you have for me today?

24 THE WITNESS: Well, first let's go with what I
25 have left on the list. And I think Mr. Gum just dismissed

1 some of them. I don't have it right in front of me.

2 But the ones we have a problem left with are the
3 High Lonesome Penrose wells. We had four wells there. I
4 actually -- in the process of plugging five. We purchased
5 some wells last August, and it's better to go ahead and
6 plug this first one and use that tubing to plug these other
7 four with, and then I'm going to take all that equipment
8 down and put this other state well back on, which Mr. Gum
9 has already given us a little time on that.

10 As far as the wells left on the list, we just got
11 the Falgout dismissed today and the Number 1 and the Number
12 3.

13 The ones that we have left, we moved on our High
14 Lonesome Penrose Number 4 three days ago, wasn't supposed
15 to have any tubing in it according to our records, we got
16 in there and we had tubing and a packer.

17 I won't bore you with all the details, but we had
18 lots of problems, had the BLM out there, worked with them
19 daily. As of yesterday, they gave me an extension on that
20 one, so that -- We have the tools, we have a completion rig
21 and the ability to go in and do that ourselves if we just
22 have the time.

23 And with what we're looking at on that well, we
24 could very easily spend \$40,000, \$50,000 on that one well,
25 where we can do it ourself for a whole lot less than that.

1 So we went ahead and moved over the Penrose
2 Number 5. They set the bottom plug on it last night, set
3 the cement plug this morning. If we don't run into what we
4 ran into on the other two, they'll have it finished plugged
5 tomorrow and be going to the Number 6.

6 That should satisfy everything we have on the
7 list.

8 I'll also tell you, though, both the first two
9 that we did, we had these scheduled with the pluggers for
10 two and a half days. The first one took seven and the
11 second one took five. We had some unexpected holes and had
12 to pump some extra cement and wait on time to tag cement
13 and so forth.

14 But that is what we have on this list, and I
15 think, you know, that should satisfy what we're looking at
16 there at this time.

17 MR. GUM: Mr. Examiner, I'd like to --

18 EXAMINER STOGNER: No --

19 MR. GUM: Okay, excuse me.

20 EXAMINER STOGNER: Anything else to say, Mr.
21 Hope?

22 THE WITNESS: I've got some questions, but I'd
23 like to find out if I need anything else on this first,
24 so...

25 EXAMINER STOGNER: If you don't mind, let me ask

1 you some questions here.

2 THE WITNESS: Sure.

3 EXAMINER STOGNER: Do you operate any other wells
4 in New Mexico?

5 THE WITNESS: Yes, we do. We own a little over
6 100 ourself, and then we contract out right at 90 for Gruy
7 Petroleum, mainly because at \$14, \$15, \$16 oil we've got to
8 have some help. Hopefully once we get the bank paid off
9 and these things are all paid for, we'll be in good shape.
10 But for right now to make ends meet, we have to do some
11 contracting.

12 EXAMINER STOGNER: Now, according to my schedule,
13 I've got three wells, or there's three wells pending.

14 THE WITNESS: Right.

15 EXAMINER STOGNER: There was five coming in, but
16 I understand two of them have been taken off.

17 THE WITNESS: Right.

18 EXAMINER STOGNER: How many days would you need?

19 THE WITNESS: As far as those, they should be
20 through by next week. Possibly even this week, but the way
21 it's been going I'd say next week.

22 And I might add, like I say, the BLM has been on
23 location every day. They've been right there with us, they
24 know what we're doing, and as long as we don't let the rig
25 go, they're very satisfied.

1 EXAMINER STOGNER: Okay, what is the BLM doing
2 out there? Is their main concern with the water or what?

3 THE WITNESS: No, just their federal wells, and I
4 think that drilling slowed down, and they've got some
5 people that need a place to be and --

6 (Laughter)

7 THE WITNESS: That's my personal opinion.
8 Because I can tell you the two we plugged last year, they
9 never did show up, but there's a lot of drilling going on.

10 EXAMINER STOGNER: Is there fresh water in the
11 area of these High Lonesome wells?

12 THE WITNESS: No, absolutely not.

13 EXAMINER STOGNER: No groundwater?

14 THE WITNESS: No.

15 EXAMINER STOGNER: These are Penrose producers, I
16 assume?

17 THE WITNESS: Queen, yeah.

18 EXAMINER STOGNER: Queen.

19 THE WITNESS: Yeah, 1800, 2000 feet.

20 EXAMINER STOGNER: Now, were these wells drilled
21 to that zone, or were they drilled deeper?

22 THE WITNESS: No, they were drilled to that zone.
23 And many, many years ago. None of these have produced
24 since -- except the Penrose 3, which we plugged first to
25 get the tubing out of, none of them have produced. And I

1 used to contract pump them from the last operator that we
2 bought them from, and they didn't produce while he had them
3 either.

4 EXAMINER STOGNER: How old are these wells?

5 THE WITNESS: Oh, some of them go back -- I don't
6 have the record in front of me, but at least 1960s or 40 or
7 50 years.

8 And that brings up a point, and I put it in one
9 of my letters but I really feel very strongly about that.
10 We have tried very, very hard to be compliant on this deal.
11 I know when we got our first letter back in 2000 -- and Mr.
12 Gum and I have talked about this several times -- where I
13 screwed up, as a technical point, on my first letter that I
14 wrote Mr. Gum back in 2000, I told him that starting in
15 January, I would do one well every three months.

16 Wording fouled me up. I said until we have
17 addressed every well on the list. Well, what I did is
18 started working on TA'd and shut-in wells. And naturally
19 we went to the ones that we could produce and get some
20 money back, because cash flow is a sever problem with us.
21 I let these Penrose go to till the end. Well, they were on
22 that first list. And that's, I think, basically where I
23 got in trouble with Mr. Gum.

24 But I can also tell you that all through 2001 we
25 restored pretty close to 20 shut-in and TA'd wells back to

1 production. Keep in mind that that was right on the heels
2 of \$8, \$10, \$12, \$14, \$15 oil. We put all those back on.
3 We plugged two wells.

4 If you can score brownie points, I even plugged a
5 well here last month that legally I didn't even have to
6 plug. And it's a long story and Mr. Gum knows about it,
7 but my name was associated with it, so rather than have to
8 go through all that, we went ahead and plugged it and got
9 that taken care of, and that was that Jenkins Brothers
10 Boling State.

11 But we're trying extremely hard. We want to be
12 good operators, we're going to be here the rest of my life
13 and hopefully my boys' lives, and I sure don't want them --
14 This is my first and, I hope, my last time up here, other
15 than maybe doing an injection well, and I sure don't want
16 them to have to go through this. I've lost a lot of sleep
17 over this.

18 Cash flow for us is a major thing and, you know,
19 we went out and I set up a line of credit to plug these
20 wells with. Well, when you start going from an estimated
21 \$9000 plugging to about \$15,000 on each well -- And that's
22 another reason we don't have them done.

23 Our first well, we were supposed to have got a
24 rig -- the last well they were on they had a water flow, so
25 we were a week late in getting our plugging rig. When they

1 did show up we had two and a half days planned for a well,
2 we spent seven days on the first one, we spent five days on
3 the second one. But we're not going to leave till they're
4 done.

5 With the exception of the Number 4. We had
6 tubing problems on that just yesterday, and that's one
7 reason I apologize, Mr. Brooks, for not getting that
8 information to you quicker, but I've been out on that
9 plugging rig for the last week, day and night.

10 And they ran into some major tubing problems.
11 And I got with the BLM, and they have approved a sundry
12 notice to give us some time on that, based on the fact that
13 I already have some commitments with the OCD that I have to
14 do first. So that was one reason they gave me longer than
15 they normally would have on it, and they granted me six
16 months on it.

17 EXAMINER STOGNER: Now, this waterflow that you
18 talked about --

19 THE WITNESS: No, that wasn't our well. That was
20 where the rig was --

21 EXAMINER STOGNER: Okay.

22 THE WITNESS: -- and I had to wait on them to get
23 through. No, not me.

24 EXAMINER STOGNER: There's no waterflow out
25 there?

1 THE WITNESS: No, there's no water out there.

2 EXAMINER STOGNER: Okay. Mr. Brooks, do you have
3 any questions?

4 MR. BROOKS: You plan to plug and abandon all
5 three of these wells, permanently plug all three of these
6 wells?

7 THE WITNESS: The High Lonesome?

8 MR. BROOKS: Yes.

9 THE WITNESS: Yes, sir.

10 MR. BROOKS: Okay. I don't believe I have
11 anything else.

12 MR. GUM: Yeah, I just wanted to make one
13 comment.

14 MR. BROOKS: Mr. Gum wants to present some
15 rebuttal.

16 MR. GUM: Just comment.

17 MR. BROOKS: Wants to make a comment.

18 EXAMINER STOGNER: Okay, comment I will allow.
19 If any rebuttal, though, I'd like the questions to come
20 through you, Mr. Brooks.

21 MR. GUM: No, just based on Mr. Hope's verbal
22 conversation with me this morning, I'd like to recommend to
23 the Examiner that you do consider his commitment to have an
24 ongoing plan to plug these wells in a continuous manner.

25 THE WITNESS: Appreciate that. One or two more

1 little comments?

2 EXAMINER STOGNER: Sure.

3 THE WITNESS: On this letter you all are talking
4 about -- and I know there's been a lot of conflict -- on
5 the July 25th letter, I open all the mail, as do some of
6 these other guys. But I can tell you -- I don't know about
7 their post office boxes, but Loco Hills, there's not a week
8 goes by I don't get somebody else's mail. Somebody else
9 gets my mail, I get it several days later.

10 But one reason I can tell you for a fact that I
11 didn't get that letter is, that was in July. In August, I
12 believe -- isn't August when we went to IPPA [sic]? In
13 August, I was up at the Independent Petroleum Association,
14 and Ms. Wrotenbery was up there, and I remember her getting
15 up and stating that they were going to be sending some
16 hearings out for people that hadn't been complying and
17 hadn't answered their letters.

18 And I didn't even think twice about it because
19 we've been working our butts off. And, you know, I
20 thought, well, you know, they probably deserve it, but we
21 don't have to worry about this.

22 (Laughter)

23 THE WITNESS: So I'm really surprised to be here.
24 We really have been working, and we hope to be good
25 operators for the State of New Mexico for many years to

1 come.

2 One other question. And Tim, this is not against
3 you, I've just asked everybody I can, and I can't get a
4 definitive answer. I've got some other things coming up,
5 and one of our deals is, I have some little shallow gas
6 wells that were on the list originally that Mr. Gum gave me
7 an extension for a couple months.

8 I still feel like I need a little longer than
9 that to evaluate these things. And what they are are
10 little shallow gas wells that we bought about a year and a
11 half ago, and ever since we've had them, we've been
12 fighting Conoco with high line pressure.

13 Technically, I don't know where you put them.
14 They're not shut in, but they're not producing. It's just
15 they won't produce against 60 to 100 pounds of line
16 pressure.

17 Conoco is in the process of putting on some more
18 compressors right now. As a matter of fact, one of those
19 wells has started flowing as of last month. We need a
20 little more work to do on those other two.

21 But my question is, I had sundry notices from the
22 BLM dated December of the end of last year, 2001, where we
23 had just addressed these. And then I get the notice from
24 the OCD. And I went in and talked to Mr. Gum and he tells
25 me, Oh, yeah, we've got authority over that federal lease.

1 Well, I go down and talk to the BLM and they say, Oh, no,
2 they don't have authority over that; our sundry notice
3 rules.

4 Is there a statute out there or something that
5 tells us who -- I mean, it's bad enough dealing with one
6 regulatory agency, but when you get two of them that are
7 fighting themselves, it appears, and we're caught in the
8 middle, it's kind of the pits.

9 EXAMINER STOGNER: Tell you what, at this
10 particular point -- You have a good point, and you have a
11 good question. That's kind of beyond what we're here today
12 for. I would like for you to respond outside of this to
13 his questions on that, by letter, written comment, and you
14 two get together. You can understand that we need to keep
15 it to this.

16 It's very much related, but at the same time --

17 THE WITNESS: And that was really my reasons.
18 And I do appreciate the extended time, but I had asked Mr.
19 Gum to give me till August. He gave me till May.

20 I honestly feel -- And Conoco has brought the
21 line pressure down, by the way, they're getting it down.
22 They've finally got their compressor on.

23 But not just that, we'd also like to evaluate
24 these wells. Like I say, one came on by itself. The other
25 two, we may want to go in there and stimulate with some

1 acid or do some little things like that. And rather than
2 just plug and destroy something that could make both the
3 State and us a little money, I think three more months is
4 not unreasonable at all.

5 EXAMINER STOGNER: Now, you're talking three
6 months on these wells that there's not a topic here; is
7 that correct?

8 THE WITNESS: No, we've got an extension on them.
9 They're on the previous list.

10 EXAMINER STOGNER: They're on the previous --

11 THE WITNESS: Yeah.

12 EXAMINER STOGNER: -- okay.

13 THE WITNESS: Right.

14 EXAMINER STOGNER: I'll tell you, I'd like to
15 keep it focused sort of on this today, but if you respond
16 to him outside of this, and Mr. Brooks, any input that you
17 feel is appropriate from the Santa Fe Office --

18 MR. BROOKS: Okay.

19 EXAMINER STOGNER: -- in helping this.

20 One question. How big is Loco Hills?

21 THE WITNESS: I happen to be the fire chief of
22 Loco Hills, and if you count our dogs and cats we have 175
23 residents.

24 EXAMINER STOGNER: 175 residents.

25 THE WITNESS: That's residents, but during the

1 day it grows to several thousand.

2 EXAMINER STOGNER: Why do you have a post office
3 box in Loco Hills when you're a resident of Artesia?

4 THE WITNESS: Well, I lived in Loco Hills for 12
5 years, and that's where all of our leases are, and that's
6 where we do most of our work.

7 EXAMINER STOGNER: And all the -- So you're out
8 there every day?

9 THE WITNESS: Oh yeah, definitely.

10 EXAMINER STOGNER: Well, let's see, I live at
11 P.O. Box 158, Estancia, New Mexico, so if you get any of my
12 mail --

13 (Laughter)

14 EXAMINER STOGNER: -- you know where to send it.

15 THE WITNESS: Do you have a similar problem?

16 EXAMINER STOGNER: Yes, I have.

17 THE WITNESS: I've got a check a few months ago
18 that hasn't shown up yet, so...

19 EXAMINER STOGNER: I get Box 158 out of Espanola,
20 158 out of Cubero, New Mexico, and 158 out of several
21 others.

22 Anyway, so you'll know which mail to send it to.

23 THE WITNESS: I understand.

24 EXAMINER STOGNER: Is there anything further as
25 far as Vintage Drilling by the Division or by you at this

1 point?

2 MR. BROOKS: No, your Honor.

3 EXAMINER STOGNER: Mr. Hope, do you have anything
4 at this time?

5 THE WITNESS: I don't think I've got anything
6 else that Mr. Gum and I can't talk about.

7 EXAMINER STOGNER: Okay, I'm going to call for
8 a --

9 THE WITNESS: Oh --

10 EXAMINER STOGNER: I'm sorry.

11 THE WITNESS: -- there is. I just noticed this
12 morning that -- and hopefully, I feel like we've got enough
13 to be excused. But just in case we're not, \$24,000 would
14 be a severe handicap right now, big time. Like I say, we
15 had to go borrow money to plug these wells, and every one
16 of them is extended beyond what I set up. So I'd really
17 appreciate some help at the bank, if you all want to give
18 it to me.

19 EXAMINER STOGNER: Anything along those lines,
20 Mr. Brooks?

21 MR. BROOKS: No, your Honor, we've got a number
22 of people here who are asking for additional time, and
23 there are various ways to treat that, but we need to hear
24 from all and we need to treat them all in a similar matter.
25 So we won't have anything further to add at this moment.

1 EXAMINER STOGNER: Do you have anything?

2 THE WITNESS: No.

3 EXAMINER STOGNER: Okay, thank you, sir.

4 THE WITNESS: Thank you.

5 EXAMINER STOGNER: At this time, let's take a 45-
6 minute lunch break and reconvene here at -- that would be
7 1:30, wouldn't it. 1:30.

8 (Thereupon, a recess was taken at 12:44 p.m.)

9 (The following proceedings had at 1:33 p.m.)

10 EXAMINER STOGNER: Okay, this hearing will come
11 to order.

12 Let's see, proceeding down our list I have next
13 Sandlott Energy, Jackie Brewer. Is Mr. Brewer here?

14 MR. BROOKS: Doesn't appear to be in the room.

15 EXAMINER STOGNER: All righty, so -- I won't take
16 him off.

17 How about Mr. Guy Baber?

18 MR. LARUE: He isn't back yet either.

19 EXAMINER STOGNER: Okay, how about Jim Pierce?

20 JIM PIERCE,
21 the witness herein, after having been first duly sworn upon
22 his oath, testified as follows:

23 DIRECT TESTIMONY

24 BY MR. PIERCE:

25 THE WITNESS: Yes, sir, my name is Jim Pierce,

1 and I have testified before the Commission before. Do you
2 still need some background?

3 EXAMINER STOGNER: Where do you reside and --

4 THE WITNESS: Roswell, New Mexico.

5 EXAMINER STOGNER: Pardon?

6 THE WITNESS: Roswell.

7 EXAMINER STOGNER: Roswell, New Mexico.

8 THE WITNESS: Independent oil and gas landman.

9 EXAMINER STOGNER: And you -- Okay, as a landman.
10 Okay.

11 THE WITNESS: I'm representing MEW this morning,
12 just as a -- just to provide some information.

13 Back -- I believe there's -- there were 11 wells
14 prior to this morning, and there's nine wells that are
15 posted as noncompliant. These wells are a part of a 15-
16 well package that MEW assigned to another company back in
17 August of 2000.

18 It has been MEW's contention that -- and he's
19 been told and led to believe that the entity in which he
20 made these assignments back in August of 2000 was going to
21 acquire the necessary bonding in order to become approved
22 and take over the plugging liability and so forth, the
23 operations of these wells.

24 When it became apparent to MEW back in January
25 that this was not going to happen, at that point he decided

1 -- he was told by the BLM that he needed to go ahead and
2 act and do something according to the wishes of the OCD and
3 has since begun a plugging program on these wells.

4 Again, he was for the last two years of the
5 opinion that these wells belonged to another company,
6 because he had made an assignment which was formally
7 recorded in the county. A transfer of operating rights
8 were presented to the BLM for approval, and C-104-A forms
9 were provided to the OCD for approval for commencement of
10 operations and change of operator.

11 EXAMINER STOGNER: Okay. Now, let's see. Did
12 you say nine wells or 11 wells?

13 THE WITNESS: There's nine now, yes, sir.

14 EXAMINER STOGNER: Mr. Brooks, I only show 11.

15 MR. BROOKS: Well, we took one off, the Federal
16 Number 1.

17 That's the only one I show that we've taken off.
18 So that would leave us 10.

19 THE WITNESS: Is it 10 wells? Excuse me.

20 MR. BROOKS: May I ask some questions?

21 EXAMINER STOGNER: No, I've got 11, I've got the
22 Federal Number 1 off, but that's the only one I have off.

23 MR. BROOKS: Okay -- Well, that's right, we
24 started with 12, so --

25 EXAMINER STOGNER: Okay.

1 MR. BROOKS: -- that leaves us with 11.

2 EXAMINER STOGNER: Okay, I just want to -- Okay,
3 Mr. Pierce, the way I understand, all of these 11 wells --
4 and I'm now referring to the list on OCD's Exhibit Number
5 3, the SB Federal, Dale Federal -- there's several Dale
6 Federal wells.

7 THE WITNESS: Yes, sir.

8 EXAMINER STOGNER: And then just the Federal
9 Number 4, Federal Number 5, and then there's two Worley
10 Federals, 1 and 2.

11 Now, all of these wells were acquired -- Is that
12 what I'm hearing?

13 THE WITNESS: They were conveyed out of MEW into
14 another company, effective August 1st, 2000.

15 EXAMINER STOGNER: Okay, so MEW Enterprises took
16 over those wells from somebody in -- around August?

17 THE WITNESS: No, they sold them --

18 EXAMINER STOGNER: They sold them?

19 THE WITNESS: -- in August. Yes, sir.

20 EXAMINER STOGNER: Now, how did MEW acquire the
21 wells again, and when?

22 THE WITNESS: Well, they owned the wells prior to
23 the August 1st, 2000, conveyance into another company.

24 EXAMINER STOGNER: What other company? You keep
25 telling about another company --

1 THE WITNESS: They made a --

2 EXAMINER STOGNER: -- I wasn't --

3 THE WITNESS: -- the company -- the conveyance
4 was made in -- Ready Oil and Gas Management was the name of
5 the company.

6 EXAMINER STOGNER: And where are they out of?

7 THE WITNESS: They're out of Artesia, I believe.

8 EXAMINER STOGNER: Where's MEW?

9 THE WITNESS: They're out of Roswell.

10 EXAMINER STOGNER: Roswell.

11 THE WITNESS: Yes, sir. And as the landman, I
12 prepared all the conveyance documents, for the BLM and the
13 OCD and for the county records.

14 EXAMINER STOGNER: So there was a change of
15 operators --

16 THE WITNESS: It was --

17 EXAMINER STOGNER: -- on this?

18 THE WITNESS: -- submitted -- yes, sir.

19 EXAMINER STOGNER: What was Ready supposed to do
20 with these wells?

21 THE WITNESS: They were the ones -- They
22 approached MEW and said that they wanted them. They were
23 supposed to -- They were going to take them over.

24 I believe that the only reason that they were
25 never approved -- what we found out recently was that they

1 were never able to acquire the additional bonding that was
2 required.

3 EXAMINER STOGNER: So they never had a bond, as
4 your -- is what I'm hearing from you?

5 THE WITNESS: Apparently. They had a bond, but
6 it had to do with a single lease on another -- on another
7 lease in Eddy County.

8 It was a single lease bond, and they -- some
9 additional bonding was required on these wells that were
10 conveyed out of MEW.

11 EXAMINER STOGNER: Okay, what is MEW seeking
12 today?

13 THE WITNESS: In fact, I'd like Mr. Russell
14 Whited, who is the sole proprietor and owner of MEW, to
15 give you a rundown, an update, as to what he's been able to
16 accomplish here just over the last 30 days.

17 EXAMINER STOGNER: Is he here? Is somebody
18 else --

19 THE WITNESS: Yes, sir.

20 EXAMINER STOGNER: Oh, okay.

21 THE WITNESS: Yes, sir.

22 EXAMINER STOGNER: Then let's hear from -- I'm
23 sorry, I thought you were the only one.

24 THE WITNESS: No, sir.

25 EXAMINER STOGNER: Okay.

1 RUSSELL WHITED,
2 the witness herein, after having been first duly sworn upon
3 his oath, testified as follows:

4 DIRECT TESTIMONY

5 BY MR. WHITED:

6 THE WITNESS: My name is Russell Whited. I'm
7 the --

8 EXAMINER STOGNER: Okay, before we get started,
9 now, I may call you back if they have any questions, so
10 don't leave the room.

11 MR. PIERCE: Yes, sir.

12 EXAMINER STOGNER: In fact, if you would, why
13 don't you sit over here?

14 MR. PIERCE: Certainly.

15 EXAMINER STOGNER: Okay. Now, you sir, what's
16 your name, where do you reside --

17 THE WITNESS: Russell Whited, owner/operator, MEW
18 Enterprise. I live in Roswell, I've been there since 1998,
19 come from Midland. I've been in the oilfield practically
20 all my life. I started roustabouting when I was 13 and
21 just worked my way up the ranks and started buying
22 production for myself in 1996.

23 I operate a little over 200 wells in the State of
24 New Mexico as of today, all of them in Chaves County.

25 EXAMINER STOGNER: Okay.

1 THE WITNESS: And what Mr. Pierce was talking
2 about was on these Federals and Dale Federal wells, you
3 know, in 1998 when I purchased those wells I filed for SWD
4 permits and was refused because of some wells drilled in
5 the area that did not protect the zone, even though there
6 was a SWD permit, an old permit, in place out there. And I
7 was going to re-file under that, and basically was refused
8 because the zone wasn't protected and the offset wells that
9 were drilled in the 1990s out there.

10 So at that time I deemed it uneconomical for me
11 to produce them because of the length of the water haul.
12 You know, it's 45 miles to the nearest disposal.

13 Ready Oil and Gas approached me about buying the
14 wells. I said sure. You know, Mr. Pierce did all the
15 paperwork on it, and I thought it was a done deal and
16 forgot about it.

17 In January I was basically told by the BLM, you
18 know, after correspondence between me and Tim, that I
19 really needed to do something, you know, that they wasn't
20 going to be able -- you know, even though they recognized
21 Ready Oil and Gas, the State had control over it.

22 So I submitted plans to plug and abandon all the
23 wells, and the well count is actually down to 10. There
24 was 11 on this list, and the Federal Number 1 was removed
25 earlier -- it had been done -- and we're rigged up on the

1 Federal Number 5 right now.

2 You know, and basically the deal was, I didn't
3 think I owned the wells.

4 EXAMINER STOGNER: And when did BLM contact you?
5 When did you find out that you owned the wells?

6 THE WITNESS: Well, in January when I got the
7 letter for the February hearing, you know, I went out to
8 the BLM's office and said, What's going on, you know, we
9 discussed it?

10 And they said, you know, really that it wasn't --
11 that the OCD had, I guess, priority over, so that, you
12 know, I needed to be in compliance with them.

13 So I submitted plug-and-abandon procedures. They
14 approved them, I got a copy to OCD's office there in
15 Artesia and immediately started to work -- well, after
16 contacting everybody in the country, trying to find
17 somebody to plug them. That was just -- I couldn't get it
18 done, so I ended up just getting my own equipment --
19 building equipment to get it done.

20 EXAMINER STOGNER: Okay, I'm referring now to
21 Exhibit Number 2 of the OCD's exhibits. It shows here that
22 the number of wells out of compliance or inactive as of May
23 of 2000 was 46 --

24 THE WITNESS: Yes, sir.

25 EXAMINER STOGNER: -- and then it dwindled down

1 to 21 in January of '02, so now we're down to what you say
2 is 10 --

3 THE WITNESS: Yes, sir.

4 EXAMINER STOGNER: -- so there's been 11 wells
5 plugged out there since January?

6 THE WITNESS: Well, not particularly in that
7 area. Some wells I put back on, other wells I've plugged,
8 and I'm working on this one area, this -- These wells right
9 here are actually wells I thought I had sold.

10 EXAMINER STOGNER: But you have had a proposal to
11 P-and-A them since January; is that correct?

12 THE WITNESS: Yes, sir, January the 26th is when
13 I got final approval on everything, and we plugged -- let's
14 see, we've plugged five wells, and I have the 10 left.

15 EXAMINER STOGNER: How long will it take you to
16 finish plugging?

17 THE WITNESS: If I can keep hands, I can have
18 them all done in 45 to 60 days.

19 EXAMINER STOGNER: What are the depths of these
20 wells?

21 THE WITNESS: They're ranging from 900 foot to
22 2000. And of the five that I've plugged in the area so far
23 I've only had really any trouble with one. I couldn't get
24 it to circulate to surface. BLM requires us to circulate
25 everything to surface, so I had to one-inch it. But other

1 than that, I haven't had any other troubles.

2 EXAMINER STOGNER: How old are these wells? When
3 were they drilled?

4 THE WITNESS: They were drilled in the 1950s.

5 EXAMINER STOGNER: Now, were they all drilled to
6 this 900-to-2000-foot depth, or have they been drilled
7 deeper and plugged back up to --

8 THE WITNESS: No, this is the base of them. Now,
9 a couple of them were drilled in the early 1980s, but they
10 have never produced.

11 EXAMINER STOGNER: Mr. Brooks, any questions of
12 either one of these gentlemen?

13 MR. BROOKS: You plan to plug all 11 of these
14 wells, right?

15 THE WITNESS: Yes, sir.

16 MR. BROOKS: Okay. On that Ready Oil and Gas
17 transaction, do you have any personal knowledge as to
18 whether or not the C-104-A's were filed with the Oil
19 Conservation Division?

20 THE WITNESS: No, sir. I know it was supposed to
21 have been done, and I know there was a bonding problem, and
22 that was --

23 MR. BROOKS: You were assuming --

24 THE WITNESS: -- and that's where I was left
25 hanging.

1 MR. BROOKS: You were assuming that Ready Oil
2 would file those --

3 THE WITNESS: Yes, sir.

4 MR. BROOKS: -- documents with the OCD?

5 THE WITNESS: Yes, sir.

6 MR. BROOKS: I think that's all I have.

7 EXAMINER STOGNER: Okay. Do you have anything
8 either, gentlemen?

9 MR. PIERCE: I'd like to reiterate, Mr. Examiner,
10 that MEW applied for -- when they acquired these wells in
11 1997, they originally intended to produce all of these
12 federal wells, naturally. They applied for an application
13 for approval to dispose of water.

14 They were denied by the State to dispose of water
15 on three different water disposal wells that they had
16 chosen, because five wells had been drilled to the Abo
17 formation through the San Andres, within the AOR, without
18 cementing across the San Andres zone.

19 So therefore he was denied -- These wells would
20 be in compliance, just like every other well that MEW owns
21 and operates, had he been given the opportunity to produce
22 these wells.

23 EXAMINER STOGNER: Now, was MEW denied, or was
24 there a clause in the approval that these Abo wells be
25 fixed?

1 MR. PIERCE: It was that clause in the Abo --
2 that the operators of these wells could be contacted and it
3 requested that they go re-enter these producing gas wells
4 and cement the San Andres formation, which was -- it fell
5 on deaf ears.

6 EXAMINER STOGNER: Okay, so it really wasn't
7 denied?

8 MR. PIERCE: No, sir, excuse me. No, sir, it was
9 approved by -- contingent.

10 EXAMINER STOGNER: Contingent.

11 MR. PIERCE: Yes, sir.

12 EXAMINER STOGNER: And what was the intended
13 injection interval?

14 MR. PIERCE: San Andres.

15 EXAMINER STOGNER: In the San Andres.

16 MR. BROOKS: Mr. Examiner, when you're finished I
17 would like to call Mr. Gum on one point relative to this
18 operation.

19 EXAMINER STOGNER: Okay, please do at this point.

20 MR. BROOKS: Mr. Gum, you are familiar with this
21 Ready Oil transaction, are you not?

22 MR. GUM: I knew that Russell intended to
23 transfer to Ready Oil and Gas.

24 MR. BROOKS: Okay. Were the C-104-A's to
25 transfer operations, were those ever filed with the OCD?

1 MR. GUM: To my recollection, no, they were not.

2 MR. BROOKS: Okay. That's all, I pass the
3 witness.

4 EXAMINER STOGNER: Okay. Do either of you
5 gentlemen have any questions of Mr. Tim Gum at this point?

6 MR. WHITED: No, sir.

7 MR. PIERCE: (No response)

8 EXAMINER STOGNER: Let's see, in referring to
9 Exhibit Number 2 of the OCD I see that they've asked for a
10 \$66,000 penalty at this point. What would that do to you
11 and MEW?

12 MR. WHITED: It would basically shut me down,
13 sir.

14 EXAMINER STOGNER: And you say you operate -- How
15 many wells do you operate in this state?

16 MR. WHITED: Around 200, sir.

17 EXAMINER STOGNER: Around 200.

18 MR. WHITED: All stripper production.

19 EXAMINER STOGNER: Now, were these wells -- Both
20 of these wells, I guess, are in the same general area?

21 MR. WHITED: Yes, sir, same area.

22 EXAMINER STOGNER: What's the freshwater
23 situation out there?

24 MR. WHITED: There is no potable water in the
25 area, sir.

1 EXAMINER STOGNER: And no producing intervals
2 above the San Andres?

3 MR. WHITED: No, sir.

4 EXAMINER STOGNER: But the Abo is productive
5 below the San Andres?

6 MR. WHITED: Correct. And the wells I have is
7 only to the base of the San Andres.

8 EXAMINER STOGNER: Are any of the wells out there
9 around this Dale Federal, Worley Federal area, are they
10 producing? How many producing wells do you have in this
11 general field?

12 MR. WHITED: None because of the distance of the
13 water haul, sir. It's 45, 46 miles from the nearest
14 disposal well.

15 EXAMINER STOGNER: Who's got the Abo production?

16 MR. WHITED: Mainly Yates.

17 EXAMINER STOGNER: Is that oil or gas production?

18 MR. WHITED: Gas.

19 EXAMINER STOGNER: And are all those Abo wells
20 producing gas?

21 MR. WHITED: As far as I know, sir. I don't know
22 of any shut-in wells. I know Yates is currently north of
23 that area, drilling some more.

24 EXAMINER STOGNER: Okay.

25 MR. WHITED: And I did look into the area, you

1 know, of deeper production wellbores for disposals, but
2 there was none available.

3 EXAMINER STOGNER: Is there anything further in
4 the matter concerning MEW by the party at this time?

5 MR. BROOKS: No, sir.

6 EXAMINER STOGNER: Again, thank you gentlemen for
7 coming up. I invite you to stick around.

8 Let's see, I have -- I'll go back up to the top
9 here. Sandlott Energy, Jackie Brewer. Come forward. And
10 again, if you'll introduce yourself, where you reside, your
11 affiliation with Sandlott Energy and, if you'd like, your
12 experience and educational background.

13 JACKIE BREWER,
14 the witness herein, after having been first duly sworn upon
15 his oath, testified as follows:

16 DIRECT TESTIMONY

17 BY MR. BREWER:

18 THE WITNESS: Okay, I'm Jackie Brewer. I live in
19 Lovington, New Mexico. I'm the owner/operator of Sandlott
20 Energy. I've been in the oilfield about 30 years and
21 mainly in the drilling department. And I've got, I guess,
22 about 89 or something that went into the production
23 department. And basically, that's all the information
24 there.

25 And with the wells being down, I've got two of

1 them that are ready to be tested, the Levers 7 and the
2 Resler Yates 55. They're both ready for MIT test.

3 And I'd probably have finished them but I got
4 kind of a -- I caught pneumonia. That's why I've been back
5 there coughing for you. I caught pneumonia and I had, I
6 guess, pleurisy in my back and I couldn't hardly get out.
7 So I had to shut down there for about -- it's been about
8 two weeks now, about -- yeah, about two weeks. So I'd have
9 probably ended up finishing what I'd started.

10 And we've been working on these wells constantly,
11 but when the price of oil went up you couldn't get any
12 hands, you couldn't get any rigs.

13 EXAMINER STOGNER: Let's see, I show that you
14 received, I guess, first notice in September of 1980 [sic];
15 is that correct?

16 THE WITNESS: Yes, sir.

17 EXAMINER STOGNER: And also I look over, there
18 was as many as 21 wells that were inactive --

19 THE WITNESS: Uh-huh.

20 EXAMINER STOGNER: -- and you have five now.
21 Tell me about those --

22 THE WITNESS: Well, I hired a company up in
23 Denver City. It's the only one I could get out, like I
24 say, because the oil was good and, you know, money was up
25 and you couldn't get a good crew. You couldn't even get a

1 crew out of Lovington or Hobbs or -- you know, it seemed
2 whereas they put you on a list, they put you on a backlist,
3 and every time you went up to the top they'd drop back
4 down, because they've got majors they work for, you know.

5 And I got a crew out of -- Denver City is
6 supposed to be where they was out of. I think they was out
7 of Levelland, driving out there. And they were just more
8 or less tearing up more than they could fix, but we did
9 accomplish a little bit. And I finally had to let them go,
10 you know, get all the wells back in shape.

11 EXAMINER STOGNER: Looks like you might have done
12 some significant because --

13 THE WITNESS: Well, I did, but --

14 EXAMINER STOGNER: -- you --

15 THE WITNESS: -- but then again, they were taking
16 two days to pull one well. They were always -- When I'd
17 get there, they was working on their equipment and stealing
18 stuff off of mine. Well, you know, they were taking stuff
19 off of mine, I can't say they were taking stuff, but it was
20 ending up missing. And I just had to let them go. And
21 then, you know, I just went on my own after that, and I
22 couldn't get any hands at that time to complete those other
23 wells.

24 EXAMINER STOGNER: Okay, I want to make sure, on
25 these 16 wells that have been taken off this list since May

1 of 2000, have they been brought back on production?

2 THE WITNESS: Oh, yes, sir.

3 EXAMINER STOGNER: How many were plugged?

4 THE WITNESS: None of them was plugged, it was
5 all brought back on production.

6 EXAMINER STOGNER: And what are they producing,
7 at what rates?

8 THE WITNESS: They're like -- some are like a
9 barrel a day, and some I only produce -- you know, I pump
10 them about once a week and get maybe a couple barrels off
11 of them. But they make a little more water than they do
12 oil. And what I'm doing is just keeping them, you know, in
13 compliance.

14 That's why I'm going there and -- get these other
15 wells back in compliance and go back in to work on these to
16 get the production up on them.

17 EXAMINER STOGNER: Now, are these wells in the
18 same general area?

19 THE WITNESS: Yes, sir, they're all right there
20 in the same area, Queens.

21 EXAMINER STOGNER: And -- Okay, I'm not familiar
22 with the section, township and range. How far out of
23 Artesia, where exactly are they?

24 THE WITNESS: In between Carlsbad and Artesia --
25 Oh, mercy. It's outside of Loco Hills, more or less. You

1 go to Loco Hills like you're going to Carlsbad, and it's in
2 between Loco Hills and Carlsbad there.

3 EXAMINER STOGNER: Okay, sort of right there in
4 the middle -- middle of nowhere.

5 THE WITNESS: Uh-huh.

6 EXAMINER STOGNER: How old are these wells?

7 THE WITNESS: They vary. Some of them was
8 drilled, you know, like in the 1950s, some of them drilled
9 in the 1960s, 1970s.

10 EXAMINER STOGNER: So you've got a little bit of
11 everything.

12 THE WITNESS: Some of them was drilled in 1990, I
13 think, the last three was drilled in 1990.

14 EXAMINER STOGNER: And what's the depth of them?

15 THE WITNESS: 1800 to about 2200. The vary.

16 EXAMINER STOGNER: Is this near the potash area?

17 THE WITNESS: No, it's not that close to the
18 potash area. It's not way, way from it, but it's not, you
19 know --

20 EXAMINER STOGNER: It's not in the potash --

21 THE WITNESS: No --

22 EXAMINER STOGNER: -- area --

23 THE WITNESS: -- huh-uh.

24 EXAMINER STOGNER: How about the surface water?

25 Not the surface water, but the potable water situation out

1 there?

2 THE WITNESS: There's none.

3 EXAMINER STOGNER: There is none. And these are
4 Yates producers, Yates formation?

5 THE WITNESS: Grayburg-San Andres.

6 EXAMINER STOGNER: There's nothing above the
7 Grayburg-San Andres?

8 THE WITNESS: Not that I'm producing?

9 EXAMINER STOGNER: How about anything below?

10 THE WITNESS: There's one well that my rights go
11 to 500 feet, but I'm not sure about what all consists
12 there, and that's the only one well that I know of.

13 EXAMINER STOGNER: Okay. What kind of time would
14 you need --

15 THE WITNESS: Well --

16 EXAMINER STOGNER: -- are you looking at?

17 THE WITNESS: -- probably 60 days would give me
18 leeway, you know. I don't want to crowd myself, because
19 you can get hands and they can quit the next day on you.
20 Right now I've got a couple guys that are ready to work,
21 and as a matter of fact that's what I was going to do, but
22 we ended up coming down here. And you know, I could have
23 tested those two wells and probably had those, you know,
24 off the record.

25 But I came down here and we had to shut down,

1 because I can't really walk off and leave it with them
2 operating, you know, the equipment, because it would be
3 like the other stuff, you get stuff tore up and -- somebody
4 get hurt out there, and then we'll really be in a bind.

5 EXAMINER STOGNER: What made you come up today,
6 decide to come up here?

7 THE WITNESS: Well, I called and asked, you know,
8 is this pretty important, I should be here, or do I need to
9 fax papers or whatever? It was more or less, it was more
10 -- you know, it was important to come up here, so...

11 EXAMINER STOGNER: And who did you talk to?

12 THE WITNESS: David, is it --

13 MR. BROOKS: Brooks.

14 THE WITNESS: Brooks.

15 EXAMINER STOGNER: So you were in contact with
16 Mr. Brooks.

17 THE WITNESS: Yes, I called him.

18 EXAMINER STOGNER: And after his conversation?

19 THE WITNESS: He kind of explained that it would
20 be best to come up. You know, you could fax it and tell
21 him, you know, your situation and everything, but it would
22 be best to come up. So that's what I did.

23 EXAMINER STOGNER: And how long have you had
24 these wells out in this area?

25 THE WITNESS: Oh, let's see, I took them over

1 in -- actually, I personally -- I think it was in 1994 when
2 I actually took them over.

3 EXAMINER STOGNER: How many did you take over?

4 THE WITNESS: 42.

5 EXAMINER STOGNER: What's the average production,
6 did you say, out here?

7 THE WITNESS: Out there it varies. You know, it
8 depends on how long you pump, what they're making at the
9 time. You can make anywheres from 50 to 75 barrels if
10 you've got them all going in good shape, you know. But
11 right now they're down probably 20, 30 barrels a day.

12 EXAMINER STOGNER: How about water? Any
13 associated water production?

14 THE WITNESS: Yeah, we -- it makes about a -- oh,
15 I'd say anywheres from 50 barrels a day. But like I say, I
16 pumped some for about a week, I pump them about a day, you
17 know, one or two days out of a week, and then I shut them
18 in and let them build up a little more oil, keep the water
19 down.

20 EXAMINER STOGNER: I see that the Division is
21 seeking a \$10,000 penalty. What have you got to say about
22 that?

23 THE WITNESS: I'd say that would put me in a heck
24 of a bind. I mean, I -- probably put me mostly out of
25 business, because you put \$10,000 -- if I had that much

1 money, I'd have them all in compliance already.

2 EXAMINER STOGNER: Mr. Brooks?

3 MR. BROOKS: Yes, Mr. Brewer, you told us that
4 the Lever State Number 7 and the Russell Yates State Number
5 55 are ready for mechanical integrity tests. Is that a
6 test for a temporary abandonment?

7 THE WITNESS: No, sir, that's to put them back in
8 as injection wells.

9 MR. BROOKS: Okay, so that is your plan with
10 those wells --

11 THE WITNESS: Yes, sir.

12 MR. BROOKS: -- to put them back to injection?

13 Now, what about the McNutt State Number 16?
14 What's your plan --

15 THE WITNESS: That's a producing well. I'm going
16 to go in there and rework it and just clean it out and see
17 if I can get it -- well, you know, it's a producer, and it
18 evidently is supposed to be, you know, a fairly good
19 producer. I mean, you know, not -- for a stripper well.

20 MR. BROOKS: Okay, but it's not producing, you
21 don't --

22 THE WITNESS: No, it's not producing right now,
23 no.

24 MR. BROOKS: But your plan is to put it back on
25 production?

1 THE WITNESS: Yes, sir.

2 MR. BROOKS: What about the Resler Yates Number
3 349?

4 THE WITNESS: Put it back in as injection.

5 MR. BROOKS: And that will require a rework?

6 THE WITNESS: Yes, it's either a packer or tubing
7 leak, one of the two on that one.

8 MR. BROOKS: Okay, what about the Resler Yates
9 Number 380?

10 THE WITNESS: The same.

11 MR. BROOKS: Same situation, it's also an
12 injection well?

13 THE WITNESS: Yes, sir.

14 MR. BROOKS: And you've estimated that you should
15 be able to get this done in 60 days?

16 THE WITNESS: Yes, sir.

17 MR. BROOKS: Okay. I believe that's all I have.

18 EXAMINER STOGNER: Do you have any questions for
19 Mr. Gum?

20 THE WITNESS: No. No, sir.

21 EXAMINER STOGNER: Okay, if there's nothing
22 further for Sandlott, again Mr. Brewer, thank you for
23 coming up today. I invite you to stick around.

24 THE WITNESS: Okay, thank you.

25 EXAMINER STOGNER: Thank you.

1 Mr. Guy Baber, are you back?

2 Mr. Baber, if you would introduce yourself, where
3 you reside at, your affiliation with Longhorn -- Is that
4 Pronghorn Management?

5 MR. BABER: Yes, sir.

6 EXAMINER STOGNER: And any education or
7 experience background.

8 GUY BABER,
9 the witness herein, after having been first duly sworn upon
10 his oath, testified as follows:

11 DIRECT TESTIMONY

12 BY MR. BABER:

13 THE WITNESS: My name is Guy Baber from Hobbs,
14 New Mexico. I'm with Pronghorn Management Corporation, I'm
15 a partner in Pronghorn Management, managing partner.

16 I went to New Mexico State, graduated from New
17 Mexico State in 1976.

18 I went to work for Conoco in July of 1976 and
19 worked for Conoco approximately three and a half years and
20 then went into the family well servicing business and oil
21 and gas business, and have been involved in the oil and gas
22 business ever since.

23 EXAMINER STOGNER: What have you got for me
24 today?

25 THE WITNESS: Do I need to submit this to Mike?

1 MR. BROOKS: If you like, yes.

2 THE WITNESS: Yes.

3 EXAMINER STOGNER: Make it part of the record --

4 THE WITNESS: Yes, sir.

5 EXAMINER STOGNER: -- and make it more
6 official --

7 THE WITNESS: Yes, sir, this is a letter that I
8 put together and tried to summarize our position, and just
9 wanted to let you guys know that certainly we want to be in
10 compliance with the rules and regulations.

11 And we're just a very, very small independent,
12 and we also have experienced tremendous timing problems,
13 cash-flow problems, constraints on just overall operations.
14 I certainly haven't been ignoring this situation. Last
15 year, last couple years, we've had other wells that we've
16 worked on and have done work on and spent some money on
17 that, you know, we were trying to increase our cash flow
18 and be able to project and take care of everything in a
19 timely manner and weren't able to do so.

20 Like I say, I've lived in New Mexico all my life
21 and obviously established my hope here and want to continue
22 to try to make a living here. The NMOCD has been good to
23 us through the years. We've had a long, good working
24 relationship with them, and always been very reasonable to
25 us.

1 Going through the list, I know that it doesn't
2 look good, but I know that we've made some progress.
3 Timing has always been a problem.

4 Initially, we bought these wells back -- Oh,
5 seems like our timing was, again, absolutely wonderful. We
6 bought them in 1985 when the price of oil was \$25, and
7 about six months later in 1986 it was \$12. But anyway, we
8 did some work on them then.

9 And then I sold them, oh, it seems like in the
10 early 1990s, and then we had to take them back, we had to
11 foreclose on the properties and take the properties back.

12 But I think we have made some progress, and need
13 some more time to be in compliance. And it is our desire
14 to be in compliance and to continue to operate in the State
15 of New Mexico.

16 We've had some priority work that we've done over
17 the last few years that it just seems like you're busy and
18 you can't get to everything at one time because of time
19 and, you know, cash-flow constraints.

20 EXAMINER STOGNER: Now, you handed me --
21 actually, it was first offered and withdrawn, OCD Exhibit
22 Number 163. I believe -- You did withdraw it, didn't you,
23 Mr. Brooks?

24 MR. BROOKS: We did withdraw it because Mr. Baber
25 was here present.

1 EXAMINER STOGNER: Okay, I have made some
2 adjustments to it and marked it Pronghorn Exhibit Number 1,
3 if that's okay with you, Mr. Baber?

4 THE WITNESS: That's fine.

5 EXAMINER STOGNER: Any objection.

6 MR. BROOKS: No objection.

7 EXAMINER STOGNER: Pronghorn Exhibit Number 1
8 will be admitted into evidence.

9 And from this letter to Mr. Brooks dated March
10 20th, you're asking for a 180-day extension?

11 THE WITNESS: Yes, sir.

12 EXAMINER STOGNER: What would you do in 180 days?

13 THE WITNESS: Well, we could go through our list
14 here. And I believe I have all the intents submitted for
15 these wells.

16 On the Acrey 2, we plan on putting it on
17 production.

18 On the Artesia State, I have a pending -- or I
19 thought I had it sold -- I mean, I've got it sold, I've
20 taken the money and the assignments, signed the
21 assignments, but apparently the change of operator has not
22 been processed for maybe bonding purposes and so forth.
23 But I do have a letter to that effect, Mr. Stogner, if
24 you'd be interested in --

25 EXAMINER STOGNER: Let's see what you're --

1 THE WITNESS: I'm just trying to show that, you
2 know, I have made some progress, not all of it we wanted to
3 make, of course, but...

4 EXAMINER STOGNER: Let's see, what you've handed
5 me is a facsimile letter from Mr. Gene --

6 THE WITNESS: -- Shumate.

7 EXAMINER STOGNER: -- Shumate.

8 THE WITNESS: He's the landman for Thunder- -- Is
9 it Thunderbolt, Mr. Gum? Thunderbolt Petroleum?

10 MR. GUM: (Nods)

11 EXAMINER STOGNER: Why don't you describe what it
12 is --

13 THE WITNESS: Okay.

14 EXAMINER STOGNER: -- and then after you describe
15 it, hand it to Mr. Brooks, and then I'll mark it.

16 THE WITNESS: Okay, it's just a fax from Gene
17 Shumate, who is the landman who took care of the
18 transaction between the owners of the Artesia State Number
19 1, which is a well we operate, and the operator that was
20 going to buy -- or bought this lease. Robert Lee, I
21 believe is his name. And he's redoing his bonding, and
22 he's talking about going to a statewide bond for the NMOCD.

23 And he believes that he can have all this work
24 completed in two to three weeks. And they're going to keep
25 us posted on that, if you all would like to look at that.

1 EXAMINER STOGNER: Now, this is just referring to
2 that Acrey Number 2 well?

3 THE WITNESS: No, the Acrey Number 2, we will try
4 to put it on production. The Artesia State Number 1 is the
5 one that we have a pending sale on.

6 EXAMINER STOGNER: Okay, how about the others?

7 THE WITNESS: Okay, the Aston and Fair, what we
8 need there is, we need some production surface equipment.
9 We need some tanks, and we'll put those on pump.

10 The Brainard Number 1, I have a rig on the
11 Brainard Number 1 today. Hopefully we'll have it on pump
12 this afternoon.

13 I plan on putting the Conklin Number 1 back on
14 production.

15 The Delhi Number 1 and 7, we have a proposal to
16 plug and abandon it.

17 The Hastie Number 3, I think, Mr. Gum, didn't we
18 get to take that off the list? We've got it on production
19 and turned in a production report.

20 EXAMINER STOGNER: I'm sorry, which one is this
21 one?

22 THE WITNESS: Hastie Number 3.

23 EXAMINER STOGNER: I still show it on the list,
24 but you say it's back on production?

25 THE WITNESS: Yes.

1 And then Number 8 is -- we're going to plug it.
2 It's an injection well, disposal well on the lease that we
3 were going to try -- well, we're going to plug it.

4 The Homan Number 1 is -- we're going to return it
5 to production.

6 And then on our Long Box Com Number 1 I've got a
7 work intent on a workover proposed, a recompletion in the
8 Cisco/Canyon. This is a deeper well that we had an
9 unsuccessful recompletion attempt in the Atoka, spent quite
10 a bit of money on it, and this might be a good candidate
11 for an MIT if I can't get the funds ready for the workover,
12 recompletion in the Cisco/Canyon.

13 The State A 1, the State A 2 and the State E
14 Number 1 are all plug and abandonments.

15 The State M would be a recompletion.

16 And the Sunray State Number 2 is on production
17 now, and I think we have the proper documentation on it
18 to...

19 But all of these wells except for the Long Box
20 and the Artesia State are pretty much in the same area, and
21 they're shallow, they're 500 feet, and the pool is the
22 Empire-Yates-Seven Rivers. So they're not the deep wells,
23 but they are the 500-foot stuff, like I say. And that
24 presents another problem with the type of equipment you can
25 get or -- to work on these wells.

1 EXAMINER STOGNER: What do you mean by that?

2 THE WITNESS: Well, it's just a different area.
3 These bigger rigs and so forth, the locations are so small
4 that -- I mean, obviously, it's a lot different working on
5 a 500-foot well than it is a 5000-foot well or a 10,000-
6 foot well.

7 EXAMINER STOGNER: Now, you mentioned, I think,
8 in introducing yourself today -- Are you still in the
9 workover business?

10 THE WITNESS: No. No, we're not.

11 EXAMINER STOGNER: Oh, okay.

12 THE WITNESS: Yes, we -- I certainly wish we had
13 some rigs or some equipment available at this point in
14 time, but we don't.

15 And again, I thought I had a deal put together in
16 the fall, Abo workover, combination drilling/workover rig,
17 but that deal fell through. And like you say, when things
18 are busy and prices are good, everybody's busy and it's
19 hard to get equipment. And then when it's down, it's just
20 -- you can't hardly afford to do anything.

21 EXAMINER STOGNER: Do you have any questions, Mr.
22 Brooks.

23 MR. BROOKS: Well, you've gone over what he plans
24 to do with the wells. I just had one question, and my
25 memory may not be serving me correctly, but does Pronghorn

1 have some inactive wells in Chris Williams' District over
2 in Lea County?

3 THE WITNESS: Yes, sir.

4 MR. BROOKS: I had thought we had run into that
5 name in another inactive well project. Do you know how
6 many wells you have on Chris's list?

7 THE WITNESS: We've whittled on that a little bit
8 also. I don't -- Well, I think we started off with around
9 16, and I've sold like four of those wells. And I've got a
10 rig on the State T lease, which was a plugging deal.
11 There's already been one plugged, and the rig will wipe out
12 three wells right there, so that's four. And then another
13 four, that's eight.

14 And then the majority of these other wells, the
15 wells that I have left, will be the MIT or the TA status,
16 because those wells have some potential, and I feel very
17 comfortable that the integrity of the casing will test, and
18 I'll be in good shape on those.

19 MR. BROOKS: Okay, I think that's all I have.

20 EXAMINER STOGNER: Do you have any questions, Mr.
21 Baber, of Mr. Gum?

22 THE WITNESS: No. I mean, they've been --
23 everybody's been more than fair. And I know timing is a
24 problem, it's a problem for everybody. These are old wells
25 that were drilled in the late -- probably 1940s and 1950s

1 on these Eddy County -- on these shallow wells. And I
2 don't -- as far as a water problem, I don't think there's
3 any water problem out there.

4 I'm sure there's a lot more I'd like to say, but
5 I can't really -- I'd be very interested in -- of course,
6 on this penalty, you know, I'd respectfully make a request
7 for no penalty, and I'll certainly make every effort to get
8 everything in compliance. And I didn't know at this point
9 in time if the single well bond for one year might be a
10 possibility for -- you know, if that might still be
11 available to me.

12 EXAMINER STOGNER: I see you're referring -- And
13 you did receive the July 25th letter?

14 THE WITNESS: Mr. Stogner, I don't know if I did
15 or not. I never did see that. I didn't see it, and it was
16 a surprise to me the other day when -- I was visiting with
17 Mr. Gum and he mentioned this single well bond, and I
18 didn't really understand what they were talking about until
19 today, about what we could do with that.

20 And we've been bonded in New Mexico for quite a
21 long time and, you know, we have a blanket bond, and I
22 thought maybe that that fell under that. But I guess I
23 learned today that this would be in addition to the blanket
24 bond.

25 EXAMINER STOGNER: When did you decide to come up

1 here today?

2 THE WITNESS: Oh, I decided -- Let me see. I was
3 -- If I needed to be here, I was going to be here all
4 along, but I talked with Mr. Gum and I talked with Mr.
5 Brooks and I felt like that I just needed to be here to
6 state my case and let you guys know that -- you know, the
7 timing is very important to me, and to be in compliance
8 with rules and regulations.

9 And you know, you live with it every day and it's
10 been a hardship on us. And we're limited with what we can
11 do as far as being a very small independent. And you know,
12 it's just like these men out here. I mean, the effort is
13 there. You know, you don't get away from it. You know,
14 you wake up at night, you're not sleeping. You know,
15 you're just trying to figure out a way to get it done, and
16 sometimes it's just hard to figure out and understand.

17 And I don't -- I don't mean to be shying away
18 from my responsibilities but, you know, we certainly want
19 to be in compliance and we want to, like I said before,
20 continue to operate in the State of New Mexico and generate
21 revenue for New Mexico.

22 EXAMINER STOGNER: Mr. Baber, just the fact that
23 you're here today, I think, has some statement in itself.
24 And I again want to say thank you for coming up today --

25 THE WITNESS: Well, I appreciate you guys --

1 EXAMINER STOGNER: -- and taking the time.

2 THE WITNESS: -- and like I said before, you all
3 have been more than fair in the past. And you know, with
4 the civil penalty, I just -- you know, I just -- you know,
5 please don't compound my problems.

6 EXAMINER STOGNER: It will be taken under
7 consideration.

8 Anything further for -- as far as Pronghorn?

9 MR. BROOKS: No, sir.

10 EXAMINER STOGNER: Thank you, sir. Thank you,
11 Mr. Baber.

12 I have one more name, Russell -- Okay, we already
13 heard from Russell.

14 Is there anybody else here? I've gone through
15 the list that Mr. Brooks had given me during one of the
16 recesses.

17 Why don't you come on up, come over here and sit
18 down and introduce yourself, who you're affiliated with and
19 where you reside from.

20 DWANE PARRISH,
21 the witness herein, after having been first duly sworn upon
22 his oath, testified as follows:

23 DIRECT TESTIMONY

24 BY MR. PARRISH:

25 THE WITNESS: My name is Dwane Parrish, I reside

1 in Artesia. Most of my experience has been in the refinery
2 part of the oil business. I did pump for a year for
3 another company.

4 I saw an opportunity to buy some wells in 1993,
5 and that's what put me in this predicament that I'm in.

6 EXAMINER STOGNER: Who are you with? I mean,
7 who --

8 THE WITNESS: It's just under my name --

9 EXAMINER STOGNER: Oh, okay.

10 THE WITNESS: -- Dwane Parrish.

11 EXAMINER STOGNER: Let me find that first.

12 MR. BROOKS: It's listed, Parrish Dwane and
13 Rhonda. It's on page 7 of Exhibit 3, page 3 of Exhibit 2.

14 EXAMINER STOGNER: Okay, I just -- I wanted to be
15 on the right page here, Mr. Parrish.

16 Is this your first time up here?

17 THE WITNESS: Oh, yes.

18 EXAMINER STOGNER: How long have you been in the
19 oil business?

20 THE WITNESS: Well, like I said, mostly in the
21 refining part since 1976.

22 EXAMINER STOGNER: Now -- refinery down in
23 Artesia?

24 THE WITNESS: Well, I worked for Phillips for
25 five years and the refinery for 11.

1 EXAMINER STOGNER: Where were you with Phillips?

2 THE WITNESS: At the Artesia plant.

3 EXAMINER STOGNER: At the Artesia plant.

4 THE WITNESS: Yes, sir.

5 EXAMINER STOGNER: And you've been there in
6 Artesia the whole time?

7 THE WITNESS: Born and raised there.

8 EXAMINER STOGNER: And never left New Mexico?

9 THE WITNESS: Never left New Mexico.

10 EXAMINER STOGNER: So you had an opportunity to
11 buy some production?

12 THE WITNESS: Yes, sir, I bought most of my wells
13 in April of 1993. And three weeks later, after this
14 purchase, I dissected my left vertebral artery and I had a
15 stroke from that dissection. Because of that, I've had to
16 hire all the work that I had planned on doing myself. I
17 had a double pulling unit and had the whole ball of wax and
18 had to sell, sold out, because I couldn't operate it.

19 So by hiring all the work and up and down oil
20 prices, I acquired a tremendous amount of debt, in addition
21 to all the hospital and doctor fees that I had.

22 I was aware of the bond that Mr. Gum has brought
23 up. He told me in his office about -- you know, I could
24 get an additional bond and extend it for a year. But the
25 bonding company wanted not just cash to pay for the bond,

1 but they wanted cash to guarantee the bond also. I told
2 them I just couldn't afford it, and that's where I was at
3 the time.

4 So since then, I have contacted David Hammond
5 that he's going to -- an agreement to -- I'm going to give
6 him the Caroline lease, and he would get the two wells on
7 the Mary Lou for me. And we have it in writing that he
8 will have all that work done no later than May, in May.
9 That will take care of the biggest part, all but five of my
10 wells. All those wells are in the 1280-foot, they're all
11 Seven Rivers wells. So it ought to be quite easy to put
12 on.

13 That leaves me with the other five. Two of those
14 five is on the Sunray, that I have. When I bought these
15 leases they were being operated. A few months later, I get
16 a letter from the State Land Office telling me to vacate
17 the property immediately, that it was an expired lease that
18 I was operating at the time.

19 So since then I had to pay the fines for all the
20 oil that was extracted during all the time that that was
21 being operated by the various operators, and...

22 But I've been trying to acquire that lease,
23 because there's no work that needs to be done on them, just
24 is a matter of -- you know, one of them needs a pumpjack,
25 and I have one of those in the yard, and the other one

1 needs a motor, and they're ready to pump. I was pumping
2 them at the time.

3 The lease has been -- changed hands through, I
4 guess, the bidding process to the State three different
5 times.

6 I just found out three weeks ago that Murchison
7 Oil has it now, so I hope to work out a deal with them
8 where I can acquire those two wells back. If I can't, the
9 State tells me I'm obligated to plug those two wells.

10 And trying to change from capital cash flow, like
11 everybody else, has been my problem.

12 This past month I borrowed some money against the
13 equity in my house to pay off some old oilfield bills, to
14 open up some cash flow to start doing some work on more of
15 my wells.

16 My other option for these other five wells is,
17 there's enough equipment on the ground where I think I
18 could possibly work out a deal with the plugging company,
19 just go ahead and plug them for the equipment on the
20 ground.

21 And those other five wells, I'm just asking for
22 another 120 days to have that taken care of, and they'll
23 either be plugged or producing within that time limit.

24 EXAMINER STOGNER: Are these wells in the same
25 general area?

1 THE WITNESS: Yes, sir.

2 EXAMINER STOGNER: And what is the producing
3 formation? Are they --

4 THE WITNESS: Well, the ones with the Caroline
5 and the Mary Lou are Seven Rivers wells. The rest -- most
6 of my wells, the rest of them, are the Grayburg-San Andres.

7 EXAMINER STOGNER: And are they all on -- It
8 sounds like they're all on State lands; is that correct?

9 THE WITNESS: Yes, sir.

10 EXAMINER STOGNER: Mr. Brooks, I believe you
11 covered earlier the Toomey Allen Number 4 and the Toomey
12 Allen Number 9.

13 MR. BROOKS: Those are back on production,
14 according to our production reports.

15 EXAMINER STOGNER: And so those have been taken
16 off?

17 MR. BROOKS: That's correct.

18 EXAMINER STOGNER: Now, the Toomey Allen Number 1
19 and 3 -- I'm sorry, I missed what you were going to do with
20 those.

21 THE WITNESS: Okay, the Toomey Allen Number 3, it
22 needs to be plugged. I guess the operator that I bought
23 the lease from was in the process of, and they had
24 perforated the casing, or the State told them to, and then
25 it was right during the changeover, so they pulled their

1 rig off and -- So that well needs to be plugged.

2 I would like -- you know, my intentions is
3 putting the Number 1 on production. But if the -- if I
4 work out a deal with a plugging company I'll just have
5 these five wells taken care of and I won't have to worry
6 about it.

7 EXAMINER STOGNER: How much time do you think
8 you're going to need?

9 THE WITNESS: Well, with the contract that me and
10 David has on the Caroline and the Mary Lou wells, in May is
11 when he would have all those wells completed and back on
12 production.

13 The other five, giving me time to locate somebody
14 to work with and whatever I can, you know, work out, I'll
15 -- within 120 days I'd like to have that all taken care of.

16 EXAMINER STOGNER: Mr. Brooks, do you have any
17 questions?

18 MR. BROOKS: What about the Schoonmaker State
19 Number 4? I missed the --

20 THE WITNESS: Okay, I didn't address that. The
21 Schoonmaker Number 4, I want to plug that one. That well
22 has a bunch of investors with a half of one percent, so
23 I'll probably end up just plugging that. But it has a lot
24 of retrievable casing that I think the plugging company
25 would probably retrieve it for.

1 MR. BROOKS: So that leaves you with two wells
2 you're going to plug, other than the ones that Hammond is
3 working --

4 THE WITNESS: Right.

5 MR. BROOKS: -- going to work on, leaves you with
6 two wells you're going to plug and -- let's see, the two --

7 THE WITNESS: The two --

8 MR. BROOKS: -- put back on production --

9 THE WITNESS: But like -- if I can work out a
10 deal with the plugging company where they'll just take
11 equipment on the ground, I'll just have those five wells
12 plugged.

13 MR. BROOKS: Okay. And you think you need 120
14 days to get that done?

15 THE WITNESS: Yes, sir.

16 MR. BROOKS: Okay, thank you.

17 EXAMINER STOGNER: Do you have any questions of
18 Mr. Gum?

19 THE WITNESS: No.

20 EXAMINER STOGNER: Again, appreciate your coming
21 up today. I know it was a hardship for you. But I invite
22 you to stick around until I hear from everybody.

23 And is there anybody else out there?

24 Mr. Girand? You came all this way, a man who is
25 not slow on words or -- is not going to say anything I'm

1 giving you every opportunity to?

2 MR. GIRAND: I appreciate it, Mr. Examiner, but
3 no thank you.

4 EXAMINER STOGNER: Now, that's a first. Mr. Dan
5 Girand has never appreciated me for anything. So we've got
6 that on the record.

7 (Laughter)

8 EXAMINER STOGNER: Is there anybody else here
9 that would like to say anything or make a statement?

10 MR. PIERCE: Mr. Examiner, I need to represent
11 one more client if I could, please, McQuadrangle, LLC.

12 EXAMINER STOGNER: Why don't you come on up?

13 And let's see, back to the Baber thing, I had
14 given you a piece of paper that he had given me. Let's
15 mark that Exhibit Number 2 and make that a part of the
16 record.

17 MR. BROOKS: MEW?

18 EXAMINER STOGNER: No, Pronghorn.

19 MR. BROOKS: Oh, Pronghorn, right.

20 EXAMINER STOGNER: I'm going to mark it Pronghorn
21 Exhibit Number 2 in Case 12,811.

22 And if I haven't done it already, Exhibits 1 and
23 2 of Pronghorn will be admitted into evidence.

24 Okay, again for the record, state your name and
25 who you're here for.

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JIM PIERCE,

the witness herein, after having been first duly sworn upon his oath, testified as follows:

DIRECT TESTIMONY

BY MR. PIERCE:

THE WITNESS: Yes, sir, Jim Pierce, and I'm here for McQuadrangle, LLC, out of Lubbock, Texas. I am an independent landman out of Roswell, New Mexico.

I had supplied both the District and State offices with some information over the last 10 to 14 days regarding, I believe it's five wells that were on the noncompliant list. To date, I believe all of the information has been provided, again, to both the District and State Offices that was requested and necessary to bring these wells into compliance.

EXAMINER STOGNER: Okay. Now, are you representing McQuadrangle, or do you have a -- I probably got that name messed up.

THE WITNESS: No, that's it. I did a lot of the land work on this.

Just for some history basis, McQuadrangle is a company that was put together -- There's three investors out of Lubbock, Texas, that owned a production payment out of what was known as the South Red Lake-Grayburg Unit. It was a federal unit that was terminated in September of

1 1998. These gentlemen realized that if they didn't do
2 something, they were about to lose a half-million-dollar
3 production payment.

4 They put together the operating company. They
5 acquired this field through a judgment in District Court in
6 Eddy County, put together a company to take over these
7 wells. These wells and these leases were -- I think there
8 was 50 wells and 21 leases, state and federal leases
9 combined in this old unit, and the leases were expiring
10 because of nonproduction. It was just a -- it was a mess.

11 They went in there and since they have taken over
12 this field in late 1999 have spent an amazing amount of
13 time, effort and money to get these wells up and producing.

14 They themselves, about two months ago, were not
15 pleased with the progress that the field operator that they
16 had -- and they have since replaced him with another field
17 operator by the name of Morexco, out of Roswell, New
18 Mexico.

19 And again, I have supplied both the District and
20 State Offices, I believe -- we've submitted C-103s, charts,
21 production reports thus far for the five wells that are on
22 this list.

23 EXAMINER STOGNER: Okay, in looking at --
24 referring now to OCD Exhibit Number 2, now as of -- well,
25 back in May of 2000 there were 28 wells on the inactive

1 list, and then it dwindled down to eight and now five. Are
2 you familiar with what happened to what, those other 23
3 wells? Did they plug them, did they bring them back on
4 production, injection?

5 THE WITNESS: I believe most of the work done has
6 been bringing back to production. Off the top of my head,
7 I believe out of the 50 wells you've got right at 20
8 producers, and the rest are injectors.

9 EXAMINER STOGNER: Okay, how much time is needed
10 to bring these wells back in production or plugging?

11 THE WITNESS: Again, sir, I believe that that's
12 been presented to the District Offices. I don't see any
13 problem with them being able to get anything done within
14 the next 45, 60 days. They've been working diligently
15 since -- for the last two and a half years.

16 EXAMINER STOGNER: Well, forget about asking the
17 District. What are you asking me for? You're here today.

18 THE WITNESS: Yes, sir. Their field foreman did
19 not give me any time-frame idea. Again, I don't think that
20 there's anything wrong with 45 days, from the information
21 that I've seen and submitted to the District Offices.

22 EXAMINER STOGNER: Do you know what their
23 equipment needs are out there or how they're doing on
24 equipment and rigs and --

25 THE WITNESS: It's like everybody else, sir,

1 they're on the list.

2 EXAMINER STOGNER: Mr. Brooks?

3 MR. BROOKS: Yeah, the five wells that are
4 involved in this proceeding, the South Red Lake Grayburg
5 Number 5, 16, 22, 23 and 24, has there been any work done
6 on those wells to bring them into compliance?

7 THE WITNESS: Yes, sir.

8 MR. BROOKS: What has been done?

9 THE WITNESS: Again, from the information that's
10 been provided to the State and the District Offices, the
11 federal sundry notices -- let me see, we can start with the
12 Number 40. Excuse me, that's been taken off the list,
13 great.

14 Number 22 is -- operator proposes to plug and
15 abandon. This was submitted and approved by the BLM 3-19-
16 02.

17 MR. BROOKS: Has there been any work done on
18 that?

19 THE WITNESS: They're out there as we speak, yes,
20 sir, on all of these wells.

21 MR. BROOKS: Go ahead.

22 THE WITNESS: Yes, sir. The Number 10 -- that's
23 right, it's been taken off this lease, that was back in --
24 that was back in service in December, 2001, Number 32 was
25 back in service February, 2002.

1 MR. BROOKS: That's also not on this list?

2 THE WITNESS: Right, okay.

3 The Number 5 well -- Yes, sir, I have an approved
4 -- it was approved March 1st by the BLM, a copy of a sundry
5 notice here that the Number 5 -- plan to clean out to oil
6 TD, then deepen to a total depth of 2400 feet.

7 MR. BROOKS: Okay, that's a proposal to work
8 over?

9 THE WITNESS: Yes, sir.

10 MR. BROOKS: But that's a proposal. When you say
11 approved, that means the workover -- the proposed workover
12 has been approved --

13 THE WITNESS: Yes, sir, by the BLM.

14 MR. BROOKS: -- it doesn't mean the work has been
15 done?

16 THE WITNESS: No, sir.

17 MR. BROOKS: Okay, go ahead.

18 THE WITNESS: The Number 16 is also a deepen. I
19 believe the work report that was handed in to the District
20 and State Offices was to -- plan to deepen to the San
21 Andres formation, moved in with backhoe March 13th, 2002,
22 to dig out, repair casing three days later with backhoe and
23 jackhammer at 12 feet, casing not good enough to weld to,
24 plan to move in track hole, to dig to 20 feet, to attempt
25 to repair casing.

1 MR. BROOKS: So there has been some work done on
2 that, but as of now it's not completed, and they're --

3 THE WITNESS: No, sir.

4 MR. BROOKS: -- essentially starting over again
5 because of the casing problem?

6 THE WITNESS: Yes, sir.

7 MR. BROOKS: Okay, go ahead.

8 THE WITNESS: Number 22 and Number 40 are both
9 planned plug-and-abandon procedures sent to Basic Well
10 Service for quotes. I believe I've provided you, Mr.
11 Counsel, with copies of the -- yesterday of the C-103s.

12 MR. BROOKS: You did. All of the ones that you
13 provided to us, however, were notices of intent. They
14 didn't reflect any work that had been done, so far as I
15 could tell.

16 THE WITNESS: Okay. Again, I just forwarded on
17 to you what was provided to me.

18 MR. BROOKS: Correct, okay. But you don't know
19 of any well -- of any of these five wells on which work has
20 been done or any subsequent report has been filed?

21 THE WITNESS: I believe the Number 22 has been
22 P-and-A'd. Let me look here. No, sir, again it's just an
23 intent.

24 MR. BROOKS: Okay, that's what I thought.

25 THE WITNESS: Right. I've got a copy of a C-103

1 here, yes, and it's sent to the OCD District Office.

2 MR. BROOKS: Okay, I believe that's all I have.

3 Oh, no, go back. I didn't get what you propose
4 to do to the 23 and 24.

5 THE WITNESS: Number 23, I believe, is a rework.
6 I have no paperwork on the 23.

7 MR. BROOKS: On the 23?

8 THE WITNESS: Yes, sir. It is in the field
9 operator's notes that it was sent to you under fax, March
10 18th, that after completion of Well Number 16, we'll remove
11 tubing to Number 23. There is a tubing fish below 1100
12 feet, and we'll fish tubing and run pump to TD and use
13 pumpjack purchased for Well Number 24.

14 MR. BROOKS: Okay. What about the Number 24?
15 What do you propose to do with the 24?

16 THE WITNESS: Yes, sir, that's again attempted to
17 return to service. That's when they spent three days out
18 -- over three days out there, trying to get past the
19 collapsed casing at 120 feet.

20 MR. BROOKS: Okay.

21 THE WITNESS: Will return to production within 90
22 days.

23 MR. BROOKS: Okay. That's 90 days, you --

24 THE WITNESS: Yes, sir.

25 MR. BROOKS: -- you had said 60 days. Earlier

1 you had said you were going to -- as I understood you in
2 response to the Examiner's question, you said you'd get all
3 this done in 45 to 60 days.

4 THE WITNESS: Again, no time frame was given to
5 me specifically about the -- all of these wells, but from
6 what I've seen throughout the day, I think 45 to 60 days
7 has been the --

8 MR. BROOKS: Very good.

9 THE WITNESS: -- requested amount of time.

10 MR. BROOKS: But your client has not given you a
11 specific representation that they can get this done in 45
12 days?

13 THE WITNESS: No, sir, as I mentioned earlier,
14 no.

15 MR. BROOKS: Thank you. Nothing further.

16 EXAMINER STOGNER: Do you have any questions of
17 Mr. Gum?

18 THE WITNESS: No, sir.

19 EXAMINER STOGNER: Anything further as far as
20 McQuadrangle?

21 MR. BROOKS: No, sir.

22 EXAMINER STOGNER: Thank you.

23 Anybody else?

24 Okay, Mr. Brooks, I do have some questions for
25 Mr. Gum --

1 MR. BROOKS: Okay, Mr. Gum --

2 EXAMINER STOGNER: -- and I'm going to remind you
3 that --

4 MR. BROOKS: -- would you move back over to the
5 witness stand?

6 EXAMINER STOGNER: Yes, why don't you come on
7 back up here?

8 MR. GUM: Will I need my exhibits, sir?

9 EXAMINER STOGNER: No.

10 TIM GUM (Recalled),
11 the witness herein, having been previously duly sworn upon
12 his oath, was examined and testified as follows:

13 DIRECT EXAMINATION

14 BY EXAMINER STOGNER:

15 Q. Now, you've proposed some fines here today.
16 What's the Division's intent, do you feel -- is getting
17 these wells into compliance or handing out a penalty? Do
18 you have any feelings on that, or any concerns?

19 A. Yes, sir, I have feelings, I have concerns, and I
20 also think that this is a reasonable request. This is not
21 a means for the Division to penalize operators just for the
22 sake of getting a penalty.

23 Once again, I'd like to call the Examiner's
24 attention to the fact that these wells have been in
25 noncompliance with the OCD Rules and Regulations for a long

1 period of time.

2 The overall statewide project for bringing the
3 wells into compliance began in May of 2000. There have
4 been several different correspondences issued stating our
5 rules and regulations, that there would be hearings
6 scheduled, that the penalties would be assessed during this
7 period of almost two years.

8 So I do believe that this is an appropriate
9 action for us to take, and the planning as such is a means
10 in which I have tried, as being one of my responsibilities,
11 in order to bring the wells into compliance with the OCD
12 Rules and Regulations, to establish a level playing field
13 for all operators within my district. That's been my goal
14 and that's been my policy and procedure since I've been in
15 that position, is to establish that kind of playing field.

16 Q. Now, you've said many times that this was a
17 statewide project. From what I'm hearing now, it was your
18 policy and project. How do these two fit together?

19 A. The statewide project is bringing all inactive
20 wells into compliance. This began in May of 2000, with the
21 mass mailout. It just so happens that my district is now
22 in this current phase of bringing operators that have not
23 brought wells into compliance. The other districts will
24 follow with a similar-type hearing.

25 Q. What is your understanding of what happens to the

1 fines that are assessed and paid to the State? Do you know
2 where that money goes?

3 A. It's my understanding that it goes to the general
4 fund. I may be under misinterpretation, but it goes to the
5 general fund, is my understand.

6 Q. Okay, it doesn't come to the Division, don't go
7 to your District --

8 A. No.

9 Q. -- don't go to me --

10 A. No.

11 Q. -- don't go to Mr. Brooks?

12 A. No.

13 Q. Now, you've heard, and you've been in a situation
14 probably in the last -- since May of 2000, of hearing the
15 stories and people coming in, excuses, reasons, whatever
16 the case may be. Have you not?

17 A. Yes, I have.

18 Q. At what point -- Do you think that a fine in some
19 instances would be counterproductive, or do you find that
20 in some instances perhaps a fine would be counterproductive
21 if the company goes out of business?

22 A. It would be counterproductive if that company did
23 actually go out of business. But Mr. Examiner, in order to
24 establish a level playing field for all operators, the same
25 set of guidelines and steps has to be established and

1 maintained.

2 Now, I have been in the steps of these particular
3 operators that have come before you today, I understand
4 their particular position.

5 At the same time, I hope they understand my
6 position now, and my particular function as the supervisor
7 of the District, in order to bring operators into
8 compliance with OCD Rules and Regulations.

9 Also, I would like to be the second one to make a
10 comment that I appreciate those people coming before you
11 today in order to express their concerns and make
12 statements. I think this is a -- very much a positive
13 statement with their attitude as being operators in the
14 State of New Mexico.

15 But on the same token, I would hope that they
16 appreciate my current position, where I am actually
17 standing.

18 Q. One question on procedure. The July 25th, 2001,
19 letter, why wasn't that certified or sent out certified?

20 A. No particular reason why it was not, other than
21 the fact that there were other letters sent out prior to
22 that, mainly the December-January letters were all
23 certified.

24 Q. Do you think in the future you might send them
25 out certified?

1 A. I'm learning quite a lot from this hearing
2 process and the previous ones that I have been through,
3 yes, sir.

4 EXAMINER STOGNER: It is an education, not only
5 for the people who come up. Believe you me, it's an
6 education for me. I've been sitting here 18 years, and I
7 still learn something after every hearing.

8 I have no other questions for Mr. Gum. I
9 appreciate you sticking around and coming back up here.

10 Mr. Brooks, in light of additional testimony
11 today, does the Division have anything to state at this
12 point?

13 MR. BROOKS: Well, your position is not a
14 particularly enviable one, to have to make a decision in
15 this case, Mr. Examiner.

16 There are two considerations that we need to bear
17 in mind. One is -- and they both have to do with fairness
18 in applying our procedures.

19 Whatever policy we strike needs to be struck, I
20 think, across the board, because if there are people who
21 are given some lenient treatment or people who are given
22 strict treatment and somebody else, they feel, has been
23 treated differently, then that is not the way we want to
24 enforce the laws.

25 It's particularly difficult in a case like this,

1 because we have some majors for whom a few thousand dollars
2 is probably just a pinprick, we have some independents for
3 whom it's a fairly disastrous situation.

4 We also have the problem today of the equity
5 between the people who did not get the work completed by
6 the date given, which was today, and the people who
7 resorted to fairly heroic efforts and did get their work
8 done by today.

9 On the other hand, we have three districts that
10 you -- and I'm representing today -- this proceeding was
11 filed in the name of the District Supervisor of District 2,
12 and I'm here representing the District Supervisor for
13 District 2. But of course, you also have to take into
14 consideration that there's also District 1 and there's also
15 District 3, there's also the major operators that are being
16 handled out of the Santa Fe Office, and we need some
17 equality of the way we're treating people across the State.

18 Mr. Gum's position that we're presenting to you
19 today, and the District's position, is that we have worked
20 with these people for two years, and if we are to maintain
21 credibility as a Division, at some point we have to put
22 some bite in with our bark, or we're likely to be ignored.
23 So I do not recommend that any of these people be allowed
24 to escape penalties entirely.

25 For the purposes of enforcement, your Honor might

1 want to consider the possibility of remitting some of the
2 penalties if compliance is achieved. Now, we are asking --
3 we're not recommending that, but I'm stating it from a
4 legal standpoint as something that might be feasible to do
5 if your Honor is so inclined.

6 We are asking that the compliance date, the time
7 that these people be given to comply, will be 30 days from
8 the date an order is entered in this proceeding. And I
9 don't expect that -- I expect these people that have been
10 given 45 to 60 days -- They haven't been given that, let me
11 amend it. Nobody's been given anything today -- I don't
12 want anybody to misunderstand -- until you so state.

13 But these people that have requested 45 to 60
14 days and said they will be in compliance, given the time
15 frames that would normally exist on orders, I would assume
16 that if they do what they've said they're going to do, that
17 they will have all their wells in compliance by 30 days
18 after a final order is entered in this proceeding. And if
19 that is true, then you may have to consider, do you want to
20 term the order such that there's some remission of the fine
21 that you might otherwise be disposed to impose if that is
22 the case? And we'll leave that to your discretion. We
23 don't really recommend you doing it, just suggest it as an
24 approach that might be feasible.

25 The others who have requested longer time frames

1 than that, we don't really believe that they need those
2 longer time frames. We think that the people who -- some
3 of the people that have made some of the most persuasive
4 hardship presentations here today have indicated they can
5 get their work done in 45 to 60 days. We think everybody
6 ought to be wrapped up within 30 days after this final
7 order, so we can put this part of the proceeding to bed and
8 proceed to enforcement against those people who didn't come
9 here today and who have inactive wells that something needs
10 to be done about.

11 Thank you very much.

12 EXAMINER STOGNER: I'm going to take a 10-minute
13 recess at this time, and I'm going to come back and make an
14 announcement of what I plan to do on this.

15 One more time for any statement? Come on
16 forward.

17 MR. HOPE: It won't take me long. I've just
18 got --

19 EXAMINER STOGNER: Again, what's your name, so --
20 we've had a lot of people today -- just for the record.

21 MR. HOPE: Okay, I'm Sonny Hope with Vintage
22 Drilling, LLC. I've just got two points that I think are
23 extremely important in this deal, and from where I think
24 we're going, I honestly don't think it's going to affect me
25 at this time, but I do think they're very important.

1 One is the letter that's in question and the
2 extra \$5000 bond. Is that just on state wells, or is it on
3 state and federal wells?

4 MR. BROOKS: My understanding is that that is on
5 any well. Now, this is a source of considerable confusion
6 with the OCD, because we do not require a blanket bond for
7 people who are operating only on federal leases. However,
8 we do, under our bonding for inactive wells, when a well is
9 transferred -- and that's the only time we currently
10 require bonding on the inactive wells -- one company
11 transfers a well to another and if the well is inactive,
12 then we require that a single well bond be put on that
13 well. And that applies even if it's on federal land.

14 So my understanding of what Mr. Gum proposed was
15 that the wells -- that this bond be pursuant to our
16 authority to require bonds on inactive wells, which applies
17 on federal land, as well as on state or private.

18 MR. HOPE: See, that's, you know, the question I
19 brought up earlier, and I think we need some clarification.
20 But I think if you get into putting out some major
21 financial penalties -- I'm sure not a lawyer, but it looks
22 to me like where we don't even know for sure yet,
23 apparently, who has authority in some of these deals, that
24 that's going to be awful hard to enforce.

25 But my second point is -- and I feel very

1 strongly about this and I put it in my letter, and I know
2 you addressed it a little bit in your return letter to me
3 -- is, we've got a unique situation here, which this whole
4 hearing has been unique. But this has been going on for
5 30, 40, 50 years. I mean, I've been off and on buying
6 small wells and selling wells now for a little over 30
7 years.

8 We all knew that regulation was there. I mean,
9 the OCD knew it, the operators knew it. But it was just
10 ignored, basically. I mean, I have bought and sold a lot
11 of leases with wells that haven't had anything done to them
12 in 20 years. That's the ones I'm fixing now. I'm spending
13 nearly \$70,000 on five wells that have been shut-in through
14 the last three operators.

15 I agree, we need to take some responsibility.
16 You know, I mean, as operators that needs to be done. And
17 I think we're setting a precedent here where down the road
18 that's going to be something that's addressed, and I think
19 it needs to be. You know, I think it's a concern that we
20 have down the road that there could be a real problem
21 there.

22 But I also feel very strongly that the Division
23 needs to take some responsibility here. I mean for us,
24 we're out a lot of money. For the Division, they're out a
25 little bit of time. I really don't feel like this first

1 go-around that it would hurt them to give a little time and
2 save us a whole bunch of money that we could put into
3 getting these wells into compliance and get this problem
4 solved, and then go from there down the road.

5 That's all I have.

6 EXAMINER STOGNER: Thank you. Anything else?
7 Anybody else?

8 We'll reconvene at ten after.

9 (Thereupon, a recess was taken at 2:55 p.m.)

10 (The following proceedings had at 3:12 p.m.)

11 EXAMINER STOGNER: This hearing will come to
12 order. I appreciate everybody staying around. Today has
13 not been one of my easier days as a Hearing Examiner. And
14 I appreciate everybody coming up again and the comments
15 that have been made.

16 What I am going to ask the Division to do, the
17 counsel, is to provide me a rough draft order. I'm not
18 going to sever anybody's companies or anybody's wells out
19 of this particular order; I want one order for this case.

20 And what this order will provide is essentially
21 what he had stated, with one exception, the remission
22 statement that Mr. Brooks had mentioned. And what this
23 remission statement is essentially going to say is, from
24 the date of the order -- that order will be the date of the
25 order, it's not going to be made retroactive or anything,

1 so when an order is issued by the Division it will add --
2 and he proposed 30 days -- I'm going to ask Mr. Brooks to
3 leave that blank -- in which between the time of the order
4 and whatever that date is, 30, 60, 90, whatever the case
5 may be, operators still have an opportunity.

6 So from today's date, from the time an order is
7 issued, that I can't say, I'm going to ask Mr. Brooks at
8 his leisure, I'm not going to give him a date, and then
9 additional time that's on that order, there's additional
10 time in here for the work to be done. Take advantage of
11 it.

12 I can almost guarantee it's not going to be 45
13 days from today's date. It will probably be longer. But
14 don't put your hopes on it. So we're working in sort of a
15 vacuum here, but more than likely you're going to have 45
16 days from today to get things done, and possibly longer.
17 That's all I'll say at this particular time.

18 Also, I'd like that from today's date to the date
19 of the order and then past that, the possibility of this
20 bond issue that has come up, and you'll need to contact Mr.
21 Brooks about the additional bonding that has been offered,
22 and that's the July 25th letter I'm referring to.

23 So you people have told me today that you -- what
24 I've heard is that you can plug your wells, get them back
25 on production, get your mechanical integrity tests done,

1 sell the wells, and there's some of you that has mentioned
2 the possibility of that one well bond. That one well bond,
3 I feel, and so does Mr. Gum, is an adequate means to meet
4 the requirements necessary. I don't know the answer
5 offhand about the federal. There again, talk to Mr.
6 Brooks. There's nothing that says we can't issue a bond on
7 a federal well.

8 This has been an issue many times when we have
9 had a federal well on a UIC that had an injection policy or
10 had a -- was an injection well, drilled as an injection
11 well, my understanding. So this is not a new issue in the
12 industry, but this is a possibility.

13 I hope everybody's clear on it. Again, a rough
14 draft order from the Division essentially stating what is
15 being requested, and then there will be an additional date,
16 and that's up to me and I'm still pondering it. And the
17 reason I'm still pondering it is because of the different
18 dates that have been given to me.

19 And also it's going to depend upon when an order
20 gets issued. That also plays in my decision on this. I
21 feel 60 days is not unreasonable, that you guys have
22 requested today. There's a consideration I'll have to
23 contend with as far as the up to 180 days. That's six
24 months. But I will take that under advisement at this
25 point. You've made very good arguments for that, but so

1 has the Division. And we're starting on a new era in the
2 oil and gas industry, and hopefully we can all work
3 together.

4 I would also ask between the time that -- from
5 today until an order is issued, that you -- and you will
6 submit your paperwork, but in addition to that, if you do
7 finish a well, bring it on production, get a successful
8 MIT, take the time to send a copy of that form with a
9 letter to Mr. Brooks for this file.

10 We can gauge -- I should say "we"; I'm a little
11 bit different in this instance; I'm supposed to be an
12 umpire -- but so the Division when I say "we" in this
13 instance, so the Division at the Santa Fe level can keep
14 track of what you're doing, and that way the communications
15 between you, the Santa Fe Office and of course the Artesia
16 Office is well established in this particular instance.

17 That's all I have at this particular point, and
18 with this proceeding, it's closed, adjourned, and the law
19 will not require me to discuss any of this subsequent to
20 today. So don't be contacting me. Me.

21 Anything you have to say to Mr. Brooks, that's
22 admissible because he is representing attorney at OCD.
23 He's not representing me, he's representing the Division in
24 this instance. I have nobody up here today, so I'm a loose
25 cannon.

1 I hope that's clear to everybody. Good luck to
2 you. Go out there and get those wells taken care of.
3 That's what I heard today. Lori was here all day, Ms.
4 Wrotenbery, the Director, was here all day. She heard that
5 also, and so did Mr. Gum.

6 I hope you continue success out there, and I
7 appreciate any future communications with the districts.
8 That's one thing we have here in New Mexico. You deal over
9 in Texas, you know that here at our Division levels and our
10 district levels, there's more one on one between you and
11 me. Keep that up, that's very important.

12 So with that, this hearing is adjourned.

13 And Mr. Brooks, are you clear on what I'm asking
14 from you today?

15 MR. BROOKS: I believe so, Mr. Examiner, and I
16 will be happy to submit an order.

17 For the record, do I understand that this case is
18 being taken under advisement by the Division.

19 EXAMINER STOGNER: Yes, it is. And thank you for
20 not severing it. That entered into my mind, but I feel --

21 MR. BROOKS: Well, it entered into ours too, but
22 we decided we didn't want to do it this time.

23 MR. FULTON: So there is no penalty or anything
24 at this time?

25 EXAMINER STOGNER: It will be in the order.

1 You're still subject, I'm not going to change that.

2 With that, we're under adjournment. This will be
3 taken under advisement.

4 Please continue your work.

5 Thank you.

6 (Thereupon, these proceedings were concluded at
7 3:20 p.m.)

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22 March 2002
Michael Kelly
Oil Conservation Director

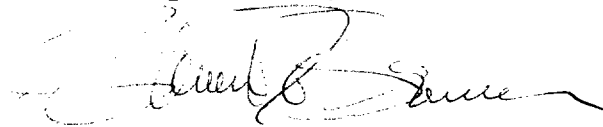
CERTIFICATE OF REPORTER

STATE OF NEW MEXICO)
) ss.
COUNTY OF SANTA FE)

I, Steven T. Brenner, Certified Court Reporter and Notary Public, HEREBY CERTIFY that the foregoing transcript of proceedings before the Oil Conservation Division was reported by me; that I transcribed my notes; and that the foregoing is a true and accurate record of the proceedings.

I FURTHER CERTIFY that I am not a relative or employee of any of the parties or attorneys involved in this matter and that I have no personal interest in the final disposition of this matter.

WITNESS MY HAND AND SEAL April 3rd, 2002.



STEVEN T. BRENNER
CCR No. 7

My commission expires: October 14, 2002