

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

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

) CASE NO. 13,268

THE OIL CONSERVATION COMMISSION WILL)
CONSIDER AN AMENDMENT TO 19.15.5.307)
NMAC ALLOWING THE OPERATION OF WELLS)
AND GATHERING SYSTEMS AT BELOW)
ATMOSPHERIC PRESSURE)

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

COMMISSION HEARING

BEFORE: MARK E. FESMIRE, CHAIRMAN
JAMI BAILEY, COMMISSIONER
FRANK T. CHAVEZ, COMMISSIONER

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July 15th 2004

Santa Fe, New Mexico

This matter came on for hearing before the Oil Conservation Commission, MARK E. FESMIRE, Chairman, on Thursday, July 15th, 2004, 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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July 15th, 2004
 Commission Hearing
 CASE NO. 13,268

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A P P E A R A N C E S

FOR THE COMMISSION:

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

FOR THE DIVISION:

GAIL MacQUESTEN
Deputy General Counsel
Energy, Minerals and Natural Resources Department
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

FOR NEW MEXICO OIL AND GAS ASSOCIATION:

RICK FOPPIANO

FOR BP:

BILL HAWKINS

FOR BURLINGTON RESOURCES:

ALAN ALEXANDER

* * *

1 WHEREUPON, the following proceedings were had at
2 9:34 a.m.:

3 CHAIRMAN FESMIRE: The next case before the
4 Commission is Case Number 13,268, an amendment to
5 19.15.5.307 NMAC allowing the operation of wells and
6 gathering systems at below atmospheric pressure.

7 Are there -- I'm going to call for appearances at
8 this time. Is there anyone present?

9 MS. MacQUESTEN: Gail MacQuesten, appearing for
10 the Oil Conservation Division. I have two witnesses.

11 CHAIRMAN FESMIRE: Are there any other
12 appearances in this matter?

13 MR. FOPPIANO: Rick Foppiano, appearing on behalf
14 of the New Mexico Oil and Gas Association.

15 MR. HAWKINS: Bill Hawkins, representing BP.

16 CHAIRMAN FESMIRE: Any others?

17 MR. ALEXANDER: Alan Alexander, representing
18 Burlington Resources.

19 CHAIRMAN FESMIRE: Anyone else?

20 Gail, are you prepared to continue?

21 MS. MacQUESTEN: Yes, I am. Before I do, though,
22 I would ask that Ms. Davidson review the notice and
23 advertisement actions in this case.

24 CHAIRMAN FESMIRE: Please.

25 MS. DAVIDSON: The Division complied with the

1 notice and advertisement requirements of Rule 1201.B NMAC
2 by:

3 Publishing notice of the proposed rule in *The*
4 *Albuquerque Journal*, a newspaper of general circulation in
5 the State, no less than 20 days before the hearing date;

6 Publishing notice on the Commission docket and
7 sending the docket to all those who have requested such
8 notice more than 20 days before the hearing date;

9 Publishing notice in *The New Mexico Register* no
10 less than 10 days prior to the public hearing;

11 And posting notice on the Division's website no
12 less than 20 days prior to the public hearing.

13 The Commission has not received an affidavit of
14 publication from *The Albuquerque Journal*. The Division
15 sent the advertisement to the *Journal* on June 14th, 2004.

16 CHAIRMAN FESMIRE: Ms. MacQuesten, you said you
17 had two witnesses. Would you identify those witnesses and
18 tell them to be sworn, please?

19 MS. MacQUESTEN: Yes, my witnesses are Bruce
20 Gantner and Richard Ezeanyim.

21 CHAIRMAN FESMIRE: Bruce and Richard, would you
22 please stand?

23 (Thereupon, the witnesses were sworn.)

24 MS. MacQUESTEN: The Division calls Bruce
25 Gantner.

1 CHAIRMAN FESMIRE: Mr. Gantner?

2 MS. MacQUESTEN: Mr. Chairman, if I may approach,
3 I have exhibit packets for the Commission.

4 CHAIRMAN FESMIRE: Thank you.

5 MS. MacQUESTEN: I have a few extra copies.

6 BRUCE A. GANTNER,

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

9 DIRECT EXAMINATION

10 BY MS. MacQUESTEN:

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

12 A. Yes, my name is Bruce Gantner.

13 Q. Where are you employed?

14 A. I'm employed with Burlington Resources as a
15 manager of environmental health and safety.

16 Q. In what region or location?

17 A. In Farmington, New Mexico.

18 Q. Are you affiliated with NMOGA?

19 A. Yes, I am.

20 Q. In what capacity?

21 A. I co-chair the Environmental Health and Safety
22 Committee for the New Mexico Oil and Gas Association.

23 Q. Have you previously served on similar committees?

24 A. Yes, I've served on similar committees in Texas
25 and Louisiana.

1 Q. Would you please give a brief outline of your
2 relevant education and work experience?

3 A. I have a bachelor of science degree in mechanical
4 engineering from General Motors Institute, now known as
5 Kettering University, and a master of science in
6 environmental engineering from the University of North
7 Carolina in Chapel Hill.

8 Q. Are you a registered professional engineer?

9 A. Yes, I'm registered in the States of New Mexico,
10 Texas and North Carolina.

11 Q. And do you hold any certifications?

12 A. I have a certification as a safety professional
13 from the Board of Certified Safety Professionals, and a
14 Registered Industrial Hygienist from the ABIH, American
15 Board of Industrial Hygiene.

16 Q. Were you involved in the development of the
17 proposed amendment to Rule 307?

18 A. Yes, I was.

19 Q. Are you testifying today on behalf of your
20 employer Burlington or on behalf of NMOGA?

21 A. I'm here testifying on behalf of NMOGA.

22 MS. MacQUESTEN: I would offer Mr. Gantner as an
23 expert safety engineer.

24 CHAIRMAN FESMIRE: Is there any objection from
25 the Commission?

1 COMMISSIONER CHAVEZ: No objection.

2 CHAIRMAN FESMIRE: He's so accepted.

3 Q. (By Ms. MacQuesten) Mr. Gantner, have you
4 prepared a PowerPoint for your presentation today?

5 A. Yes, I have.

6 Q. Could we turn to Slide 2 of that presentation?
7 Can you tell us what the agenda will be for this hearing?

8 A. Well, the first issue we'll discuss is just the
9 need for the Rule change, and then we'll discuss a NMOGA
10 committee that was organized to research and make a
11 recommendation with respect to this vacuum or operating
12 below atmospheric pressure.

13 And then we'll discuss that -- really a second
14 work group that formed once that recommendation was made to
15 further work on the proposed Rule that's before us.

16 And then that will conclude my portion, and then
17 Richard will be going through the real Rule description and
18 then a discussion of the Rule.

19 Q. If we could go to Slide 3, please? Mr. Gantner,
20 could you discuss why there is a need for this rule change?

21 A. Well, fundamentally the present Rule language is
22 unclear on whether or not vacuum operations or operating
23 below atmospheric pressure is allowed.

24 Q. Let me ask you, does the OCD share your opinion
25 on whether this Rule is unclear?

1 A. I believe the OCD would say that it is clear in
2 their minds that it is prohibited. From an industrial, or
3 from an industry perspective, we felt that it was, so that
4 disagreement created the impasse or basically unclarity.

5 Q. What was industry's interpretation of the current
6 Rule?

7 A. Well, our interpretation of the Rule was that it
8 said that a vacuum operation was prohibited from creating a
9 partial vacuum in any stratum containing oil or gas. And
10 so our opinion would be that the vacuum issue would be in
11 the stratum, the actual reservoir. That was industry's
12 opinion.

13 Q. All right. What was the second reason for
14 proposing a rule change?

15 A. Well, Commissioner Chavez in his capacity as the
16 District Supervisor raised to me back in December of 2000
17 the issue of safety and compliance with the current Rule,
18 because with the maturity of the San Juan Basin,
19 particularly the Fruitland Coal, certain reservoirs were
20 reaching that maturity and we were approaching vacuum
21 operations. And so that initiated the spark that we needed
22 to be doing something about it.

23 Q. And I take it, it would soon become a critical
24 issue which interpretation was correct?

25 A. Yes, that's correct.

1 Q. Now, what are the safety issues that were raised
2 by the District Supervisor?

3 A. Well, particularly what Mr. Chavez was raising
4 was the safety issue, with introduction of oxygen into a
5 gathering system, which, particularly if it's in the right
6 portions, could cause an explosion. That's certainly a
7 recognizable issue that we would all like to prevent.

8 Q. What is the third reason for a rule change?

9 A. Well, the third real, you know, fundamental
10 reason is that if we were not allowed to operate under a
11 vacuum, then there would be significant reserves left in
12 place and not recovered. And so we, from an industry
13 standpoint, as well as the OCD, would like to surely
14 recover those reserves, which benefit certainly the State
15 and the industry as well.

16 Q. Have you been able to quantify how much reserves
17 would be left in place?

18 A. Not precisely. I mean, we did ask our reservoir
19 engineers, and one of them is here today and maybe for
20 Burlington can testify, but the reserves are significant,
21 in the hundreds of B's of gas would be left in place if we
22 were not allowed to operate under a vacuum.

23 Q. Can we turn to Slide 4, please?

24 A. Could you discuss NMOGA's Regulatory Practices
25 Committee and their review of this issue?

1 A. Well, we put it on the agenda in February of
2 2001, and Mr. Foppiano, who will later testify on behalf of
3 NMOGA, chairs that committee. So that was where it was
4 first raised.

5 What I had brought to that meeting was, I had
6 done a summary of the rules of various states that deal
7 with vacuum operations, and I brought that to that meeting,
8 and we discussed it as a committee, and as a result of
9 that, it was the consensus of that committee to form a work
10 group to study the issue.

11 Q. Let me ask you, was that summary of other states'
12 rules, is that in the exhibit packet as Exhibit Number 4?

13 A. Yes, it is.

14 Q. Could you summarize what you found in rules of
15 other states?

16 A. Glad to. What those other state rules said is
17 that vacuum operations were prohibited unless basically the
18 operator made an application to the respective commissions
19 or divisions to allow for it. Some of them required
20 approval, some of them required more just notice. They
21 often required notice to other operators, which would be
22 offset operators. They also required showing, in some of
23 the cases, that the field was partially depleted or nearly
24 depleted.

25 Q. We'll go into some of those issues later with Mr.

1 Ezeanyim's testimony, but let me go on at this point and
2 ask you what other issues were discussed by NMOGA's work
3 group.

4 A. Okay, well, foremost, which was raised by Mr.
5 Chavez, is the safety issue, and the safety issue we
6 initially looked at that time was the explosion potential.
7 And so we researched that and found pretty consistently
8 with experts that it was not an issue unless there was
9 significant integrity breach, allowed oxygen above 12
10 percent. In other words, you had to have a pretty sizeable
11 infiltration to allow enough oxygen to be there that you
12 had an explosion potential. So that was a critical issue
13 that we had researched and basically put that issue to
14 rest.

15 Q. Can you tell us about your field visit?

16 A. Right, another thing we discussed and found is
17 that we weren't the first, obviously, to be proposing
18 vacuum operations, and so we were aware that a sizeable
19 field, the Hugoton field, which is in the States of Kansas,
20 Oklahoma and Texas, had been operating for some time on a
21 vacuum. So we thought it would be good as a NMOGA group to
22 examine that industry experience and go visit their
23 operations, which we did in December of 2001.

24 Q. What did you find during that visit?

25 A. We found that like -- and I guess any -- what

1 I'll call new territory, that they delved into vacuum
2 operations and found early on they had some problems,
3 particularly the problems being that as they put operations
4 that were on pressure on the vacuum, they found leaks, I
5 mean because that field had been in existence since the
6 1920s, so the infrastructure was dated to that period of
7 time.

8 But they had resolved those issues and
9 successfully been able to operate under a vacuum for over
10 12 years, so that was real enlightening, as well as that
11 the safety record there had been very good. There had not
12 been any serious significant incident associated with
13 vacuum operations.

14 The only issue that really came to light, which
15 is what we face as well under positive pressure, was that
16 the lack of adequate purging sometimes caused an issue.
17 And we face that issue today as we purge wells and systems,
18 even under pressure.

19 Q. How did they deal with the issues they saw, such
20 as leaking and purging problems?

21 A. The most critical, obviously, is getting their
22 people trained and educated on how they needed to just
23 button things up. Leaks under a pressure system could go
24 by and you wouldn't notice it from day to day, but on a
25 vacuum side you couldn't argue with -- if oxygen was

1 showing up in the line, and they had measurement that was
2 done downstream at the central gathering points, showed
3 oxygen, then you had to work your way back up the system to
4 find out where the leak was.

5 So they got better at it as they went, but
6 initially it just took a lot of education with their field
7 people about how they needed to tighten things up and
8 maintain that kind of integrity.

9 Q. Could we go to Slide 5? As a result of the
10 research and investigation done by the NMOGA committee,
11 what did NMOGA propose?

12 A. Well, we -- after came up with -- you know,
13 researched the issues, visited the field, we came up with a
14 proposed rule change which we submitted to the NMOCD by
15 letter, and that letter was signed by Bob Gallagher, to the
16 OCD, in May of 2002. So we actually wrote a proposed rule
17 that we had discussed among our members that would agree
18 that that rule, at least at that point in time, was
19 acceptable to our members, and we would propose that to the
20 agency.

21 Q. Is letter to the OCD from NMOGA Exhibit 3 in your
22 package?

23 A. Yes, it is.

24 Q. Could you summarize what rule NMOGA was proposing
25 at that time?

1 A. Right, what we proposed at that time is that the
2 use of vacuum pumps would be allowed, based upon the
3 applicant, which would primarily be the producer, but it
4 could be a gatherer, based upon the applicant filing a
5 sundry notice to the agency, and with that notice would
6 contain information that -- who the gathering or operating-
7 the-pipeline side would be, and a statement that notice had
8 been provided to that gatherer of the proposed vacuum
9 operations, and then any other information that the
10 District Supervisor would require.

11 Q. So the focus of this proposal was notice from the
12 operator to the gatherer?

13 A. That is correct, and then a sundry submitted to
14 the OCD, not for approval, but for information purposes.

15 Q. Were any concerns raised about this proposal?

16 A. Once this proposal made its way to OCD, then
17 subsequent concerns were raised with an issue that we
18 really hadn't addressed which dealt with pipeline safety,
19 pipeline integrity, which deals more with the corrosion
20 aspect, as opposed to what we discussed earlier, which was
21 the explosion.

22 Q. Who raised those concerns?

23 A. The gathering companies who are represented
24 within NMOGA, which would be companies like El Paso,
25 Williams, Duke Energy.

1 Q. How did they suggest those concerns be addressed?

2 A. Well, initially there was some saying that --
3 just ban it completely, we don't think there should be any
4 vacuum operation, which would then mean that those reserves
5 couldn't be produced. But then there were other issues
6 raised that maybe there should be an oxygen limit allowed
7 in the line, and then some were also suggesting that some
8 agreement be reached as to -- between that operator and the
9 gatherer.

10 Q. Could we go to Slide 6, please?

11 What happened as a result of the letter that
12 NMOGA sent to OCD?

13 A. As a result of that letter, and then the
14 objections that were subsequently submitted, a work group
15 was now formed within OCD and industry, basically a
16 collaborative approach that -- let's sit down together and
17 work on this in a collaborative fashion to see if we
18 couldn't come to a rule that met everybody's needs.
19 Industry representatives shown there, you see on the
20 producer side, myself and Alan Alexander with Burlington
21 Resources, Bill Hawkins with BP; gathering side, Dave Bays
22 and Greg Hale with El Paso Field Services; Debbie Beaver,
23 and I forget Mr. Smith's first name, but with Williams.
24 Those were the committee representatives from industry.

25 And then of course Richard, Mr. Brooks, Mr.

1 Chavez and Charlie Perrin out of the Aztec Field Office
2 with OCD, were the OCD representatives.

3 Q. Could we go to Slide 7, please? Can you tell us
4 about the work done by this work group?

5 A. Okay, we had our first meeting in -- a year ago
6 August, and the issues of pipeline integrity and safety
7 were raised by the gatherers. Certainly, that was an
8 additional point that we all agreed needed to be addressed.
9 The producers as well believing that vacuum operations can
10 be done safely with minimal notice.

11 And with the discussion -- Again, there was a lot
12 of discussion, and we appeared to just not be reaching a
13 very good ground. There was -- I say the lines were
14 drawn. But we agreed as a group that, Hey, let's go to the
15 Hugoton field, which a smaller group went, but it didn't
16 have all the representatives at that field trip, and let's
17 schedule another field trip of the work group to Hugoton,
18 let's learn a bit more, and then let's re-gather back after
19 that field trip, see if we couldn't craft a rule.

20 Q. Is that the same field that the NMOGA group had
21 visited?

22 A. Yes, it's the very same field, but I would say
23 more extensive because we spent two days there, as well as
24 made sure that we visited producing areas, pipeline areas,
25 with everybody being there.

1 Q. All right. We'll go into what you found during
2 that field visit in more detail in the next slide, but can
3 you tell us what the next act was from the work group?

4 A. Okay. Well, subsequent to the field trip and
5 what we learned, we had a second meeting, which I will call
6 really the resolution meeting where -- in October of 2003,
7 and further discussion on the issues with pipeline
8 integrity. And basically, after a good bit of discussion
9 and negotiation and just working -- everybody was committed
10 to come up with an agreement -- we reached an agreement by
11 the producers and gatherers and -- as well satisfactory to
12 the Division to meet its obligation to assure protecting
13 public safety and the environment.

14 Q. How were the issues of pipeline integrity
15 resolved?

16 A. The way they were resolved is what we have in the
17 amendment presently before us, basically that not only
18 notice would need to be provided to those gatherers as was
19 originally proposed by NMOGA, but that an agreement must be
20 reached. In other words, that the producer and the
21 pipeline or gathering operator would have to sit down and
22 negotiate an agreement that the gatherer then would be
23 satisfied could protect their pipeline system and yet allow
24 the producer to operate under a vacuum.

25 Q. So the gatherers could set whatever terms they

1 felt were necessary to protect safety and integrity?

2 A. That's correct, for their asset, which is the
3 gathering system and the pipeline.

4 Q. Was the language that the work group came up with
5 at that time endorsed by small producers, as well as the
6 major producers?

7 A. Yes. Now, admittedly the representation was what
8 was shown in the previous slide, but as we reached this
9 agreed language, the NMOGA Regulatory Practices Committee
10 sent that out for all of the various companies which
11 represent large producers, small -- large gatherers, small
12 gatherers, and basically all supported that revised
13 language.

14 Q. Why allow the gatherers and pipelines to put
15 terms in the agreement? Why not set out specific
16 requirements in the Rule for safety and pipeline integrity?

17 A. That's a good question. Right now under a
18 nonvacuum environment, which is what we have by and large,
19 that's the way we do business now. I mean, the agency
20 doesn't intervene nor really have jurisdiction over
21 contractual matters which deal with the quality of gas that
22 we deliver and that. That's historically been -- and very
23 successfully been done by those operators and gatherers
24 negotiating contracts, which are in place right now. So it
25 seemed only logical that the same sort of process would

1 carry over to a vacuum operating, letting the producers and
2 the gatherers negotiate, reach that agreed language. And
3 OCD would be satisfied that -- with that agreement being
4 reached, that the protection of public safety and the
5 environment would be assured.

6 Q. If OCD decided to take -- or if the Commission
7 decided to take a different approach and set out standards
8 to protect safety and protect the lines, would they be able
9 to set out one standard that would apply to all situations?

10 A. No, because as companies that have the gathering
11 systems could tell you, that they differ widely in terms of
12 design. Some were put in in the 1920s, some were put in in
13 the 1980s and 1990s. And so those design features, as well
14 as how moisture is removed, would be different for those
15 various systems. So a one-size-fits-all type of contract
16 wouldn't fit every situation between an operator and a
17 gatherer.

18 Q. So allowing the terms to be set in the agreement
19 between, say, the operator and the gatherer would allow the
20 gatherer to impose those specific terms that are necessary
21 for his system?

22 A. Right, absolutely. In fact, the gatherer is very
23 insistent on that, that they be allowed to negotiate those
24 terms that would fit their system for the situation.

25 Q. So it's your understanding that the gatherers

1 prefer this approach to an approach that would impose
2 requirements by rule?

3 A. Yes, to my knowledge that's correct.

4 Q. Are there any benefits, any enforcement benefits
5 by having the terms set by agreement rather than by rule?

6 A. Well, I think it's a very big benefit in that the
7 OCD then would basically have a more -- an easier approach
8 that as long as that sundry notice had been filed and they
9 know that an agreement has been reached, as they go out to
10 well areas and they see a vacuum, it would be easy just to
11 check, has a sundry been filed and an agreement been
12 reached? And they could ask to see that agreement at the
13 point, rather than have their files cluttered with huge
14 amounts of agreements or that. This approach allows the
15 notice so they know where to look, and if they come upon
16 wells that are on vacuum, they can check their files to see
17 if proper notice has been filed.

18 Q. And from the gatherer's perspective, if an
19 operator was not operating according to the agreement,
20 would the gatherer have to wait until OCD did something, or
21 would the gatherer have an enforcement mechanism?

22 A. Well, the gatherer always has an enforcement
23 mechanism by contract, and if they find a system is out
24 there that is operating on vacuum that they have not
25 reached an agreement, they have the right contractually to

1 shut that production in. So that mechanism exists already
2 in their contract.

3 Q. Thank you. Let's go to Slide 8 and step back a
4 moment and go through what you discovered during the
5 Hugoton field tour that led to this agreement.

6 A. Well, this obviously provides the highlights.
7 There's a lot of things we learned that -- From the
8 production operation side, we learned from the BP
9 operations that we toured there, vacuum operations have
10 been existent since 1991. So this is an area that has
11 worked through the issues very satisfactorily and operated
12 safely within the three-state area of Kansas, Texas and
13 Oklahoma.

14 Initial problems obviously when initiated, fewer
15 problems today. What we heard is, they had to put a lot
16 more focus on their field people and that of chasing down
17 problems early on, but now what we heard is, it's routine.
18 They know how to operate in that way, and it doesn't come
19 at a great cost of manpower and expense.

20 No explosions at the wellhead, none of those
21 issues that we originally were looking for.

22 Some gathering line failures, and as they had
23 those failures they traditionally were replacing those
24 lines with poly-type pipe, which is again good information
25 for us to know that potentially there could be, you know,

1 failures in the State of New Mexico with these, and
2 certainly that we want to go and, as vacuum systems become
3 more prevalent, use that same sort of lessons they learned
4 and the type of pipe to use.

5 They also mentioned they have agreements with the
6 gatherer, so that just supported kind of this Rule
7 amendment that we're talking about. And those agreements
8 set oxygen limits, and that was again negotiated
9 specifically between the operator.

10 And no significant incidents other than, as I
11 mentioned, purging issues on the production site.

12 For the pipeline operations, we looked at Duke
13 operations, which were previously part of the Phillips
14 petroleum organization. Vacuum operations for nearly 20
15 years, and the way they've dealt with knowing that vacuum
16 was going to be present is having continuous monitoring
17 systems in the plants and at CDPs, central delivery points,
18 where they could check and monitor compliance.

19 They had a program of corrosion inhibitors at
20 strategic points to prevent oxygen and other types of
21 corrosion.

22 The original pipeline system placed in the 1920s.
23 By and large, what we have in the northwest area is
24 pipelines in the ground since the 1950s, I think, is when
25 some of those initial systems were put in place.

1 No significant incidents from vacuum operations.
2 And obviously a key from their perspective is, they do
3 enforce the agreements with the producers, meaning if the
4 producer doesn't adhere to those agreed-upon limits, that
5 they will shut that production in.

6 Q. If we could go to Slide 9, please. Now, this is
7 the language of the proposed Rule. It's also in your
8 packet as Exhibit Number 1. Mr. Ezeanyim will be going
9 through the language of the Rule in more detail, but while
10 I have you on the witness stand, Mr. Gantner, I'd like to
11 ask you a few questions about the Rule.

12 First, does NMOGA believe that the proposed Rule
13 addresses the issues found by your work group's research of
14 other states' rules and concerns raised by the work group
15 members?

16 A. Yes, we believe it does, and we support this
17 Rule.

18 Q. Let me ask you about a few of those specific
19 issues. How does this Rule address the safety concerns?

20 A. Well, the key -- again, the two safety issues we
21 discussed were explosion potential and the corrosion. And
22 since we researched and found that the explosion potential
23 wasn't there, then that is set aside.

24 But the corrosion issue is an issue, and we all
25 agreed to that. And so requiring not only notification to

1 that gatherer, as well as requiring an agreement between
2 the operator and the gatherer assures that the corrosion
3 aspects are dealt with, that the pipeline operator isn't
4 just surprised that a vacuum is occurring here. They know
5 about it, they negotiate an agreement. And then between
6 that agreement and contract, they have the ability to
7 enforce it by shutting in production if it's not adhered
8 to.

9 Q. What happens if the gatherer refuses to enter
10 into an agreement?

11 A. That's a possibility, and we have that
12 possibility now under our pressurized system too, that a
13 gatherer might not want to take gas of a certain quality.
14 And they have that right now.

15 And so just as our rights under present
16 operations with the gatherers, we have to dedicate gas to a
17 company; let's call it company X. And so when we say when
18 we have a well we want turned on, we say we want them to
19 accept that gas.

20 If they will not accept it, then we have the
21 right to have them release that gas that we can pursue
22 another gatherer, or we have the right to put in our system
23 if we choose to do that.

24 But generally, from my experience, the gatherer
25 and the producer are able to work out the terms and

1 conditions to where that gas can be promptly accepted and
2 delivered.

3 Q. If it happens that a gatherer refuses to enter
4 into an agreement and the operator has to find another
5 gatherer to carry the gas, are there any concerns that
6 gatherers will sacrifice issues of safety and integrity in
7 order to get the business?

8 A. I don't believe that would be the case, because
9 any gatherer out there has a -- huge investments in their
10 pipeline infrastructure and gathering systems, and they all
11 have an equal interest of protecting their system. That's
12 what brings their revenues. If they don't have the
13 integrity of that system to bring gas, then they lose and
14 we lose, together.

15 So there's a mutual interest of keeping that
16 integrity there, and so I can't envision any of the
17 gatherers that I know that would sacrifice safety of our
18 system to accept gas.

19 Q. Reading into some of the requirements of other
20 states for notice, I'm interpreting that as a concern for
21 correlative rights. What did the work group -- Did the
22 work group see correlative rights as an issue?

23 A. We discussed it extensively and agreed as a NMOGA
24 work group that we did not see correlative rights as an
25 issue, and I believe Mr. Foppiano, when he testifies on

1 behalf of NMOGA will confirm that. But we as a group
2 discussed that among all the producers. There were no
3 producers that objected and felt that correlative rights
4 should be an issue in this Rule.

5 Q. Many of the other states have rules that contain
6 a requirement for public hearing on applications. Now, the
7 proposed Rule before the Commission today does not require
8 public hearings.

9 A. Right.

10 Q. Was that issue addressed?

11 A. It was discussed, and really we felt kind of a
12 benefit to New Mexico in this regard, that having been
13 later coming into this period of time to be under vacuum
14 operations, we could benefit from what others had learned
15 from their rules. And that was an area that -- felt was
16 not necessary, that public safety and the environment are
17 assured and protected by what we've proposed in this Rule.

18 So we've taken out some of the encumbrances of
19 what other states have, because they were earlier in the
20 process of developing their rules, so they didn't know.

21 Q. One other issue that came up in the other states'
22 rules was that some of them limited the use of vacuum pumps
23 or the operation at below atmospheric pressure to areas
24 that reached a certain level of depletion.

25 A. Right.

1 Q. What was the work group's view on that?

2 A. By nature, we know that vacuum operations,
3 operating below vacuum pressure, will be more likely in
4 those areas of, you know, partially or nearly depleted
5 reservoirs.

6 But we felt that that wasn't really a pre-
7 requisite to operating under a vacuum, that you could have
8 an area such as the northwest area, where you have infill
9 drilling occurring now that pressures will not be at
10 vacuum, yet an adjacent well that was drilled, maybe an
11 offset well that was drilled maybe 30 years ago, will be on
12 a vacuum.

13 So it was important to not just limit it to
14 partially depleted, nearly depleted, because in our world
15 we have a mixture of newer development wells with older
16 ones, and it makes sense that it could be done together, as
17 long as proper notice and agreement is reached.

18 Q. Would it be economical for an operator to operate
19 at below atmospheric pressure in a field that was not
20 depleted?

21 A. No, based on my experience and the research we
22 did, to place a field that is at near virgin pressures on a
23 vacuum would be such enormous costs, it wouldn't be nearly
24 as economic and profitable as to produce that at its native
25 pressure. So it would just really put us at an economic

1 disadvantage to place a field like that on vacuum, versus
2 one that's nearly depleted, now you're dealing with the
3 necessity of maintaining volumes, and you're still going to
4 look at economics, but it won't take near the size of
5 systems and that to place that system on vacuum.

6 Q. Does NMOGA endorse the proposed Rule?

7 A. Yes, and I believe Mr. Foppiano will give the
8 official testimony, but yes, we do endorse the present Rule
9 before us.

10 Q. Does that endorsement come from both producers
11 and gatherers?

12 A. Yes, the producers and gatherers represented
13 within that regulatory practices committee and all endorsed
14 this Rule.

15 Q. Does that include majors and minors?

16 A. It includes majors and minors.

17 Q. Let me ask you to step out of your role as a
18 spokesperson for NMOGA and ask you to step into your role
19 as an employee of Burlington Resources. Does Burlington
20 endorse this Rule?

21 A. Yes, Burlington endorses this Rule, and Mr. Alan
22 Alexander will provide further testimony for that, but we
23 do support this rule change.

24 MS. MacQUESTEN: I have no other direct questions
25 of Mr. Gantner.

1 ever much concern from representatives from the
2 southeastern part of the state, or when you're talking
3 about the representation there were they just as supportive
4 of this Application?

5 A. That's a good question, Commissioner Chavez. As
6 we formed our initial NMOGA committee, obviously the RPC,
7 that regulatory practices committee, represents producers
8 and gatherers from all areas of the state. Mr. Hawkins,
9 who you see represents BP, has operations both in the
10 northwest and the southeast. So we did get corroboration
11 and acceptance from both areas of the state. Everybody
12 recognized that the northwest was where this was going to
13 appear first, eventually work its way into the southeast.
14 So although they didn't see the immanent need for it, they
15 understood the eventual need for it.

16 Q. Okay, on the proposed Rule, part B, it looks like
17 a cascading effect. The moment that an operator has an
18 agreement with a gatherer to use a vacuum, or to operate
19 below atmospheric pressure, then that particular gatherer
20 has to also get an agreement with the gatherer that they
21 shipped to? Is that what you're looking at here?

22 A. Well, I think -- Yeah, it was written in two
23 parts, and I'm aware that testimony will be given by BP,
24 which Burlington supports and will even propose an
25 amendment of this. But let's deal with your question on

1 Section B.

2 Once that operator has filed that notice and
3 basically sought an agreement and obtained an agreement
4 with the gatherer -- it could be it's the only gatherer
5 between there and the plant, you know. And then, as you're
6 aware, once you're beyond the plant you're now into DOT
7 jurisdiction, which is outside of the OCD's. So that was
8 the section that we were particularly wanting to make sure
9 within OCD's jurisdiction that that -- every gatherer that
10 was in that line was notified and an agreement would be
11 reached.

12 Generally it's just a single gatherer, but it is
13 possible that there could be a downstream gatherer that's
14 before that gas plant, before there is DOT jurisdiction.
15 And so yes, if there was a subsequent gatherer, the way
16 this is written, an agreement would be sought by that
17 upstream gatherer.

18 Q. Okay, and I notice specifically, you mentioned
19 also the gas plant, but the gas plant operators is not
20 included in this type of a notification. Was that
21 intentional?

22 A. It was pretty much our understanding, and just
23 knowing the systems, that the gatherers, by and large, are
24 the ones that operate the plants in our area. It's quite
25 possible that it's -- that somebody could buy a plant and

1 it would be not, but it was our discussion and agreement
2 that if the pipeline -- who in turn, had to have an
3 agreement with the plants contractually on the gas they
4 delivered. Every plant has a contract with the upstream
5 gatherers as to what degree and quality of gas is coming
6 in, so those contracts are already in place. So we felt
7 that it wasn't particularly needed to include the plants.

8 COMMISSIONER CHAVEZ: Okay, that's all I have.

9 CHAIRMAN FESMIRE: Any redirect, Ms. MacQuesten?

10 MS. MacQUESTEN: Just a few questions.

11 REDIRECT EXAMINATION

12 BY MS. MacQUESTEN:

13 Q. Why did the work group think it was important
14 that if an operator operated at below atmospheric pressure,
15 that all of the gatherers along the line have agreements in
16 place? What was the concern?

17 A. Well, a gathering system doesn't know ownership,
18 I guess, is what I would say. So if a vacuum is introduced
19 at a wellhead and then subsequently that gas is going to
20 get merged with other gas going into downstream pipelines,
21 that every gatherer associated with their asset needed to
22 protect their asset and would want to be notified.

23 Q. Is it your recollection of the work group
24 discussions that the gatherers wanted to have agreements in
25 place all along the line?

1 A. The gatherers that were a part of our work group
2 definitely did. And generally, those are the -- what I
3 call the immediate gatherers, those that are coming
4 directly into our well systems. But several of them raised
5 that they deliver as well to gatherers downstream of them,
6 and yet -- so they felt that notification for sure and
7 possibly agreement was needed.

8 MS. MacQUESTEN: Okay, thank you.

9 CHAIRMAN FESMIRE: Are there any further
10 questions of this witness?

11 MS. MacQUESTEN: Not of this witness.

12 CHAIRMAN FESMIRE: Mr. Gantner, thank you very
13 much.

14 At this time, let's take a short break and
15 reconvene at 10:30.

16 (Thereupon, a recess was taken at 10:19 a.m.)

17 (The following proceedings had at 10:33 a.m.)

18 CHAIRMAN FESMIRE: Okay, let's go back in
19 session, back on the record.

20 Ms. MacQuesten, you had another witness?

21 MS. MacQUESTEN: Yes, I'd like to call Richard
22 Ezeanyim.

23 CHAIRMAN FESMIRE: Richard, you've been sworn
24 previously?

25 MR. EZEANYIM: Yes.

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CHAIRMAN FESMIRE: Okay, proceed.

RICHARD EZEANYIM,

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

DIRECT EXAMINATION

BY MS. MacQUESTEN:

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

A. My name is Richard Ezeanyim.

Q. And where are you employed?

A. With the New Mexico Oil Conservation Division.

Q. What is your title?

A. Chief Engineer.

Q. How long have you been Chief Engineer?

A. Three years.

Q. Would you please give us a brief outline of your relevant education and work experience?

A. Yes, I obtained a BS degree in chemical engineering from Texas A&M University -- calling it now Texas A&M -- in 1979. I also obtained a BS degree in natural gas engineering from Texas A&M in 1979. I also obtained an MS degree in petroleum engineering from the University of Wyoming and a master of business administration, MBA, from the same University of Wyoming in 1982.

Over the 24 years I have worked as a petroleum

1 engineer with the Exxon Oil Company, drilling and reservoir
2 engineer with Agip Oil Company. I worked also as an
3 environmental engineer with the New Mexico Environment
4 Department.

5 I have served in many management positions over
6 these years. I am a registered professional engineer in
7 New Mexico and Colorado.

8 Q. Were you involved in the development of the
9 proposed Rule?

10 A. Yes, actually I chaired the -- I was the chairman
11 of the combined industry work group and the NMOCD
12 personnel.

13 MS. MacQUESTEN: I would offer Mr. Ezeanyim as an
14 expert petroleum engineer.

15 CHAIRMAN FESMIRE: Any objection?

16 COMMISSIONER BAILEY: No objection.

17 COMMISSIONER CHAVEZ: No.

18 CHAIRMAN FESMIRE: He's so accepted.

19 MS. MacQUESTEN: Thank you.

20 Q. (By Ms. MacQuesten) Mr. Ezeanyim, I would like
21 to ask you some questions, going through the language of
22 the proposed Rule, and I'd like to start with the title.

23 We're changing the title of the Rule from "Use of
24 Vacuum Pumps" to "Operation at Below Atmospheric Pressure".
25 Why are we proposing this change?

1 A. Yeah, that's true. The Rule applies to more than
2 the use of vacuum pumps. It also applies to operation at
3 below atmospheric pressure by the use of other devices like
4 compressors and all that, that you might use to create a
5 vacuum. That's why we changed the title from "Use of Vacuum
6 Pumps" to "Operation at Below Atmospheric Pressure".

7 Q. What does "below atmospheric pressure" mean?

8 A. Yes, atmospheric pressure is the ambient pressure
9 of the atmosphere that can range in value from 14.7
10 p.s.i.a. to about 15.06 p.s.i.a., depending on temperature
11 and the elevation. And --

12 Q. Could you move to the next slide for this?

13 A. We can define pressure simply as force per unit
14 area. In simple engineering terms pressure is defined as
15 force per unit area, and it is directly related to a
16 measure of energy.

17 Therefore fluids will flow from a point of higher
18 energy to a point of lower energy, drive from -- maybe from
19 the formation away from the higher energy to the wellbore
20 where you are creating a vacuum. Therefore when you are
21 below atmospheric pressure what you are essentially doing
22 is creating a vacuum at the wellhead and pulling the gases
23 from the formation to the wellbore.

24 And I have created this simple linear scale as a
25 concept to show what we are talking about here, operation

1 at below atmospheric pressure.

2 If you look at that diagram, you can see
3 pressures are measured either in p.s.i.g. or p.s.i.a., the
4 absolute pressure. You can see that zero p.s.i.g., I just
5 took 15 p.s.i.a. depending on temperature and elevation, as
6 a simple -- instead of taking 14.3 or 14.7, I took 15 to
7 demonstrate what we mean by operations at below atmospheric
8 pressure.

9 You can see the left side is the negative
10 pressure and the right side is the positive pressure.
11 We're dealing with the left side now, when we're talking
12 about vacuums.

13 As I demonstrated there, you can see, you just
14 add the ambient pressure, which is atmospheric pressure, to
15 any pressure. For example, 5 p.s.i.g. is equivalent to 10
16 p.s.i.a., adding minus 5 to 15 and so forth. 10 p.s.i.g.
17 would give you 5 p.s.i.a. on this negative side.

18 And you can design your vacuum pumps or anything
19 to operate within this range. If you want to go to minus
20 15 p.s.i.g. that's okay, you are going to have zero
21 p.s.i.a., and that's what we define as a perfect vacuum.
22 And I don't think anybody can design the perfect vacuum,
23 but you can operate in that range to be able to recover
24 some of your gas.

25 And on the right side is where you have your

1 positive pressure, where you might install your compressors
2 and everything.

3 So conceptually, when you're operating at this
4 atmospheric pressure, you employ a vacuum at the wellhead,
5 and that vacuum is transmitting information and trying to
6 move your gas to the wellbore so you can recover more gas
7 that you would otherwise not recover if you don't use the
8 vacuum.

9 And I want to point out here too that the way you
10 are treating that vacuum, we don't have a perfect system at
11 the wellhead, and that's when you can introduce some air.
12 If the system is leaking, you can introduce some air. I
13 know Mr. Gantner testified about introduction of air into
14 the system, and that's why we need to address that issue in
15 our next slide.

16 But if you are on compression, there is no issue
17 there, because you are operating at positive pressure.

18 So I want to talk about the introduction of air
19 and why the gas gatherers worried about introducing air
20 into the system to, you know, avoid that, pipeline
21 integrity.

22 Q. Putting it in its most simple terms, if someone
23 is operating at below atmospheric pressure, they're
24 creating a vacuum that will pull oil or gas --

25 A. Uh-huh.

1 Q. -- is that correct?

2 A. That's correct.

3 Q. And if you're operating at above atmospheric
4 pressure, you're using the pressure to push --

5 A. That's correct.

6 Q. -- something?

7 A. That's correct.

8 Q. Okay. Is the definition of below atmospheric
9 pressure something that is commonly understood by petroleum
10 engineers?

11 A. Oh, yeah, it's very common understanding in the
12 industry, they all understand it --

13 Q. So --

14 A. -- and that's why they are desirous of using it,
15 yes, that's correct.

16 Q. And industry understands that term as well?

17 A. That's true.

18 Q. So is there any need that you see for a
19 definition of the term "below atmospheric pressure"?

20 A. Yeah, there's no need to -- This is just a simple
21 concept. There's no need to define that in this Rule.

22 Q. Okay. If we could go to the next slide, please,
23 Mr. Ezeanyim, the Rule is divided into two sections, and if
24 you can have Exhibit 1 in front of you, it will set out the
25 proposed Rule itself. There's two sections. Section A

1 applies to well operators and Section B applies to
2 gathering system operators.

3 I'd like you to explain the Rule to the
4 Commission, first in general terms, and then we'll go
5 through A and B.

6 A. Yes, as you know, use of vacuum pumps, I know we
7 all depended on this, whether vacuum pumps are supposed to
8 be used in New Mexico or not. And we as regulators think
9 that the present Rule 307 forbids the use of vacuum pumps
10 in New Mexico, and that's why NMOGA came up with the idea
11 of revising the Rule.

12 But the new rule which -- or the rule by the work
13 group that we did last year, we considered the issues of
14 safety, the issues of correlative rights, and the issues of
15 waste in developing this Rule.

16 Now, the way it's written, it allows the use of
17 vacuum if it's adopted by the Commission in New Mexico
18 under certain conditions.

19 I developed this simple linear diagram here, in
20 Slide 11, to try to demonstrate what Section A of that Rule
21 -- the Rule is in slide -- I think it's Slide 9 a bit too.

22 X, Y and Z are the variables that I chose, saying
23 that X is a gas producer and Y is first gas gatherer; Z,
24 second gas gatherer or pipeline.

25 Section A applies to X, and if you read the Rule

1 you can see X has to execute a written agreement with Y if
2 you are using vacuum on your wells or a part of your
3 gathering system is on vacuum, you must do that. We've
4 talked about it, how important it is to do that.

5 Then number 2, X files notice, Form C-103, for
6 each well that is on vacuum with the appropriate district
7 office of the Division, to know that certain wells are
8 placed on vacuum. This is the job of X under this Rule.

9 If we turn to Slide 12, then we can continue with
10 the gas gatherers, and recall the Slide 11 where you have Y
11 between X and Z.

12 If Z now is a gas gatherer, or a pipeline for
13 that matter, Y must execute a written agreement with Z. I
14 think we all agree with it, you know, the provision, under
15 three conditions.

16 If Y operates at below atmospheric pressure, he
17 has to have a written agreement with Z; if Y accepts gas
18 from a well operator at below atmospheric pressure, Y has
19 to have a written agreement with Z; or if any upstream
20 gatherer operated at below atmospheric pressure, under
21 these three circumstances we discussed it in our meeting
22 that Y has to have an agreement with Z, so that Z has to
23 protect himself on his pipeline integrity.

24 I can even summarize -- you can summarize by
25 reading what the summary says at the bottom there: If the

1 gatherer or anyone upstream of the gatherer operates at
2 below atmospheric pressure, the gatherer must execute an
3 agreement with the next downstream gatherer, and the --
4 carries on that way.

5 Q. Is the intent of this to ensure that if anyone on
6 the line operates at below atmospheric pressure, everyone
7 else on the line is aware of that?

8 A. That's correct, that's exactly what we decided at
9 the work group, Gail, that anyone on that line, on that
10 simple diagram, must know that oxygen has been introduced
11 at any point, so they can protect the --

12 Q. And it's more than just notice. Each gatherer
13 also will be entering into an agreement setting the terms
14 under which the gatherer will accept such gas; is that
15 correct?

16 A. Yes, it's more than the notice. You have to do
17 an agreement with anybody downstream of your gathering
18 system. So it's not just the notice, you have to also do
19 an agreement.

20 Q. And just to back up a little bit, let's use an
21 example in which there is only X, the producer, and Y, a
22 gatherer, and then the gas goes to a gas plant.

23 A. Okay.

24 Q. There will be an agreement between the producer
25 and the gatherer, and that will be the only agreement,

1 right?

2 A. That's correct.

3 Q. So it only becomes more complicated if there are
4 more gatherers in the line?

5 A. Yeah, that's right.

6 Q. Okay. Let me ask you about some of the key
7 elements of the Rule. And some of these questions were
8 already addressed by Mr. Gantner, but I would like your
9 opinion on these issues as well.

10 How does the Rule address the issues of safety
11 and the protection of the public?

12 A. That's a good question, and I know Mr. Gantner
13 has touched on that, but I'm going to read through it and
14 bolster his argument here.

15 You know the gas producer has an economic
16 incentive to be able to produce his gas and sell his gas.
17 The gas gatherer has also an economic incentive to gather
18 the gas and sell.

19 However, he also has the -- he must have the
20 ability to be able to protect his assets, which is the
21 pipeline, so he must take all steps necessary to make sure
22 there are no catastrophic failures on the pipeline.

23 So we think that if -- Let's say, for example, if
24 you go back to Slide 11 and the gas agreement between X and
25 Y, and X refuses to comply with the terms of the agreement

1 that was executed, Y has the right to shut the gas coming
2 from X until they come into compliance with the terms of
3 those agreements.

4 And that was one of the things we learned when we
5 went to Dumas in Texas. And I asked him, has that ever
6 occurred?

7 He said over the 12 years, once, it's occurred
8 once. And for three days they lost millions of dollars,
9 the producer -- I'm talking about the producer -- they lost
10 millions of dollars because Y shut them off, because they
11 exceeded the threshold, the performance standard that was
12 in the contract.

13 So they have to make sure they commit to
14 compliance and then start selling the gas. If you don't
15 commit to compliance, that gas is shut off.

16 Q. Let me ask you about another issue that came up,
17 and that is correlative rights. Do you see any
18 correlative-rights issue in New Mexico, in connection with
19 operation at below atmospheric pressure?

20 A. I think that has been described by Bruce, but I
21 don't see any correlative-right issue in New Mexico, and
22 I'll tell you why, because the formations are very tight
23 and with very low permeabilities in New Mexico, compared
24 with some of the fields that we visited.

25 Q. Mr. Ezeanyim, let me interrupt. Did you prepare

1 a slide to illustrate this?

2 A. Yes, I have a slide to illustrate that --

3 Q. Thank you --

4 A. -- but I want to make a comment before I go to
5 this slide.

6 Q. Sure.

7 A. Even in certain areas where you have high
8 permeabilities, where the permeabilities are appreciable --
9 the coal, for example, is highly discontinuous and
10 variable. Discontinuity causes some vertical and lateral
11 discontinuity which prevents communication between the coal
12 beds or even between the wells.

13 Because of this discontinuity and variable
14 drainage, operators will not be able to drain the gas in
15 the pools.

16 Operators in New Mexico have been -- agree that
17 correlative rights is not an issue, that when you put your
18 well on a vacuum, they don't think you are draining the
19 gas, and the experience of Bruce Gandy in Texas
20 demonstrated that, even though they required notice.

21 What we learned from them, that notice
22 requirement is not really necessary because if we say we
23 want to have a notice requirement, any overzealous offset
24 operator might, you know, object to the use of vacuum, and
25 then this will create more work for OCD, especially my own

1 Bureau, which has no resources to deal with these. But
2 that's apart.

3 Let's go back to Slide 13 and look at what we
4 have there. We went to Texas and this is what we found.
5 We look at permeabilities and they averaged them. The
6 Hugoton field is about 25 md. However, but they have
7 homogeneous brown dolomites that are not discontinuous or
8 variable.

9 If you go to New Mexico, the San Juan Basin,
10 Fruitland Coal in the High Productivity Area, you can see
11 the range of permeabilities. The average is 100 md. and
12 then the range is 10 to 400 md. Yeah, very high
13 permeability.

14 But I have a note below it, and I know some of
15 the operators there who have tested that, that coal is
16 highly discontinuous, as I mentioned before, in the High
17 Productivity Area, and even in the Low Productivity Area
18 with highly variable drainage. Because of this condition
19 in that very high permeability, we don't think drainage --
20 there is communication between the wells, to be able to
21 drain your offset operator.

22 And if you go to San Juan Basin, Mesaverde, you
23 see that the formation is very tight. It's .1 md.
24 permeability, range from .02 to 1 md. The same you find in
25 the San Juan Basin, Dakota, the average is .5 and the range

1 is .003 to .085 [sic].

2 So you see, that's the comparison. And I'm going
3 to use these to demonstrate that really correlative rights
4 is not an issue.

5 In the other slide, I will make a point of
6 whether processes that they use that do not require notice
7 to anybody, and I'll share my information with you on what
8 they told me.

9 Q. Okay. Let me ask you before we go to that slide,
10 in Texas have offset operators challenged the installation
11 of vacuum pumps or other devices?

12 A. Yeah, that's a good question. Nobody in Texas
13 ever challenged the use of vacuum pumps.

14 Q. So even though they have the notice requirement
15 there to protect correlative rights, there hasn't been a
16 challenge --

17 A. No.

18 Q. -- from the offset operators?

19 A. No, that's correct, there's not challenge. They
20 do it as a courtesy. And like Bruce said, I think we're
21 trying to learn from the mistakes people make now and try
22 to make a very workable Rule in New Mexico.

23 Q. Now, you mentioned that there are other processes
24 that are used that increase production, and those processes
25 are not treated as affecting correlative rights. Can you

1 explain that?

2 A. Yeah, that's correct. And processes like
3 compression, this Slide 14 can show you -- you have
4 compression there.

5 If you -- I mean, the operators here know when
6 you are going on compression, you notify anybody, and the
7 idea here is to bring out more gas, and no operator is
8 complaining that you're draining.

9 And then acid and frac simulation, if you use any
10 kind of stimulation to produce more gas or, for that
11 matter, more oil, you don't notify anybody, or when you
12 re-perforate to, you know, produce more gas, or even when
13 you use hydraulic fracturing, there are no notice
14 requirements, there are no rules covering these processes
15 that you do to produce more gas.

16 I want us to add below these processes, operation
17 at below atmospheric pressure, because I don't think it's
18 necessary to have a notice requirement, because it is the
19 same process that goes with all these processes.

20 Q. Have any operators in New Mexico expressed
21 concern about correlative rights --

22 A. I have not found any --

23 Q. -- as an issue in this Rule?

24 A. I have not found any. In fact, in our work group
25 everybody said there's no correlative-rights issue, we

1 agreed.

2 Q. Now, there have been a number of different
3 versions of this Rule that have circulated during the
4 course of the two works groups and our presentation. Did
5 you send the proposed Rule that we are presenting to the
6 Commission today to the members of the work group for
7 comment?

8 A. Yes, I did send it, I thought we agreed that this
9 is the final version. I sent it out through the e-mail, I
10 sent it to NMOGA, to Rick, to send it to everybody and ask
11 for comments. Then we presented it on our website for the
12 public. We did everything to make sure we publicized this
13 Rule, because we worked very hard to be able to come to a
14 consensus.

15 We came to a consensus between the producers and
16 the gatherers about this Rule, and we're very confident
17 about this Rule. So when I presented it, I didn't receive
18 any comments at that time.

19 Q. Did you receive any comments later?

20 A. Yes, on July 12th I received a comment from BP.
21 BP wanted a modification of some -- modification of Section
22 307.B, the way it is written. And since we are going to go
23 to hearing today, we didn't have enough time to maybe look
24 at the issue. So what I'm going to say here is that I
25 believe that Section B as written is the way we saw it at

1 the work group and everybody agreed to it.

2 We have to have it, the way it is currently
3 written, so that if you go to my Slide 11 where I have X,
4 Y, Z, anybody on that line should be able to know whether
5 any oxygen has entered the system, so that he can take
6 action to protect himself from any pipe failures.

7 I'm not really quite familiar with the
8 modifications that BP is seeking, provided in the hearing
9 today.

10 Q. Now, you received this proposed modification on
11 July 12th?

12 A. 12th, on Monday.

13 Q. And so have you received any comments from
14 gatherers on how they feel about the proposed modification
15 from BP?

16 A. No, we haven't really discussed it with the
17 gatherers or the -- in fact, the gatherers agree with the
18 proposed Rule as it is. I don't think the gatherers know
19 about it, because this is really a short time period, so I
20 do have time to give you that for comments, I mean what BP
21 is proposing.

22 But the original version of this draft is
23 supported by all the gatherers, and the producers as well.

24 Q. Does the Engineering Bureau endorse the proposed
25 Rule as presented to the Commission today?

1 A. Yes, they endorse it because they believe that it
2 will prevent waste.

3 Q. And let me ask you, the slides that you have used
4 during your presentation, did you prepare those or review
5 them and approve them before the presentation?

6 A. Yes, I prepared them myself.

7 MS. MacQUESTEN: Okay, thank you. I don't have
8 any more direct questions of Mr. Ezeanyim.

9 CHAIRMAN FESMIRE: Okay. Mr. Hawkins, do you
10 have any questions of this witness?

11 MR. HAWKINS: No, I do not.

12 CHAIRMAN FESMIRE: Commissioner Bailey?

13 COMMISSIONER BAILEY: No questions.

14 CHAIRMAN FESMIRE: Commissioner Chavez?

15 COMMISSIONER CHAVEZ: Yes, I do.

16 EXAMINATION

17 BY COMMISSIONER CHAVEZ:

18 Q. Mr. Ezeanyim, if I understand you correctly, the
19 safety that is allowed by this Rule change is because of
20 the agreement between the operator and the transporter; is
21 that correct?

22 A. That's correct.

23 Q. What is the benefit of filing the sundry notice
24 with the District Office to the OCD?

25 A. I think the benefit, as you know, Commissioner

1 Chavez, is to let OCD know that certain wells have been
2 operated at below atmospheric pressure, and to also make
3 sure that a written agreement is in place so that everybody
4 on that -- my simple concept line -- is being protected.

5 So the sundry notice is to make sure that we know
6 when this paper goes out to the field, finds a well on
7 vacuum and we check and see, is this -- that we do have a
8 sundry notice on this well, that it's on vacuum? If not,
9 then we have to check it out and see maybe was this an
10 enforcement action on that?

11 Q. But the enforcement action would be only for the
12 purposes of filing a 103, isn't it?

13 A. That's correct.

14 Q. So an operator who does have an agreement with
15 the pipeline but neglects or forgets to file a C-103,
16 they're still operating with the intent of the rule for
17 safety, aren't they?

18 A. They are operating with the intent of the Rule
19 but may be in violation for not filing Form C-103 by the
20 third Friday. If you don't do it, I think that's a
21 violation right there, even though they have an agreement.

22 I think -- if I'm correct, I think the work group
23 members agreed to that.

24 Q. But is there any beneficial information to the
25 OCD to have to approve that, or is it -- it's just a

1 notification of an activity, it's not requiring approval by
2 the OCD; isn't that correct?

3 A. No, that's just a notification; it doesn't
4 require any approval.

5 Q. Under this Rule there isn't a time limit for
6 filing the C-103 after -- Is it supposed to be done before
7 the well goes on vacuum or operated below atmospheric
8 pressure or within a certain time period after the well
9 begins operating below atmospheric pressure? There's no
10 limitation within the Rule about when this document is
11 supposed to be filed?

12 A. Yeah, that's a good question. There are no
13 limitations on that Rule. We didn't even discuss it. I
14 believe that once you design your program and file your
15 Form C-103, because you are obviously going to have those
16 wells on vacuum. Of course, they have to also execute a
17 written agreement between whoever is going to collect that
18 gas.

19 So we didn't discuss at a point in time they had
20 to file that, but I believe that they can file it before
21 even they go on vacuum. They don't have -- If you operate
22 on vacuum without filing it, you are in violation right
23 there. So I believe they have to file it before they
24 operate it on vacuum.

25 This was not discussed, as you are aware, in the

1 work group.

2 Q. Well, if there's no time limit for filing it, if
3 it's not filed in -- Let's say a well goes on operating
4 below atmospheric pressure on one day, and a couple of days
5 later an inspector finds the well but doesn't have a
6 sundry, the operator can file it subsequently and appear to
7 be still in compliance with the Rule since there's no
8 timeliness for filing?

9 A. Yeah, at that point there is no -- at that point
10 the operator is in violation. If before he filed a sundry
11 and somebody discovers the violation, that's a violation
12 right there, I don't care whether it's one day.

13 Like I told you, we didn't discuss it, but I'm
14 just assuming that's what is meant. Before you put your
15 well on vacuum, you need to file your sundry before you go
16 on that vacuum, have your contract ready, your written
17 agreement ready.

18 Q. That's not what you're proposing. That's not
19 what the Rule says, that it be filed before. What I'm
20 saying is, there's no timeliness in the proposal?

21 A. Yeah, we did not discuss timeliness during the
22 work group meeting.

23 MS. MacQUESTEN: Mr. Commissioner, if I could
24 clarify, the Rule does state that the well operator may
25 operate at below atmospheric pressure only if he has done

1 certain things, so the Rule requires that these things be
2 done before he can operate. He has to have the agreement
3 in place and he has to have filed the sundry notice, and
4 those things have to happen before operation at below
5 atmospheric pressure --

6 COMMISSIONER CHAVEZ: Okay.

7 MS. MacQUESTEN: -- so there is built in a time.

8 COMMISSIONER CHAVEZ: I'm sorry.

9 MS. MacQUESTEN: Now, it isn't a 30-day
10 requirement or a 10-day requirement, but it is a
11 requirement that these things be in place before the action
12 is taken.

13 THE WITNESS: That was the point I was trying to
14 make.

15 Q. (By Commissioner Chavez) Okay, I'm sorry. To me
16 it didn't necessarily seem that clear.

17 Usually when a sundry notice requirement, filing
18 requirement, is carried within a portion of the Rules,
19 there's a subsequent requirement under Rule 1103 for filing
20 of a sundry notice. Do you propose that there may be a
21 change to 1103 at some time also?

22 A. I'm not familiar with 1103. Could you -- What is
23 1103?

24 Q. 1103 is a rule requiring and detailing when a
25 sundry notice is supposed to be filed.

1 A. Well, I think we are going to stick with what we
2 said right here, the way the Rule is written. We didn't
3 consult Rule 1103. I think we are going to stick with what
4 we have here, that before you operate your well on that
5 vacuum you must file a sundry notice before you operate
6 them. It doesn't have to be -- If you operate one day
7 after you do them on vacuum, I think you're in violation.
8 I think that was the intent from the work group.

9 Q. Well, my concern was, first of all, with the
10 burden of filing a 103 with the District Office and what
11 the District Office was supposed to try to enforce with
12 that, other than to -- actually just the filing of the
13 document itself, because I can't draw a connection right
14 now between what the importance of the filing of the
15 document is, as to the importance of having the agreement
16 between the operator and the transporter, whereas if an
17 operator files a 103 but doesn't have an agreement, the OCD
18 doesn't take any enforcement action until the transporter
19 tells us there's no agreement; isn't that correct?

20 A. Yeah, that's correct. And as you know -- you
21 were in that work group, which I know you're a member -- we
22 suggested that point to the work group members, that there
23 is no reason for you to file a Form C-103.

24 And the industry personnel said no, they want OCD
25 to be involved in some fashion. And that's why the -- I

1 know you oppose using Form C-103, because of the additional
2 work that will be done in the district, additional
3 resources that you may require. But I think to reach a
4 compromise on this Rule, we decided in the work group to
5 include it so that the OCD would be notified of these
6 systems.

7 Remember, I said to them that there's no reason,
8 actual reason for us to file Form C-103. They didn't want
9 that to happen, they wanted us to be in the loop, to make
10 sure we knew about it, even though the only thing is to
11 file sundry notice and you are in compliance.

12 Q. Okay. When you refer to filing a sundry notice
13 or Form C-103, just in point of clarification here, under
14 Rule 1128 operators can file a federal sundry notice with
15 the federal government, which would then come to the OCD,
16 for any 103 filing. Does that also apply here to this
17 particular 103 filing, the provisions under 1128?

18 A. What is Rule 1128? What is that? I'm not
19 familiar with it.

20 Q. When an operator is going to do work on a federal
21 well or a well on Indian lands, if they -- a sundry notice
22 that might require approval by the OCD office would first
23 be sent on a federal form to the BLM and then is forwarded
24 to the OCD office. Are you looking at that same provision
25 of 1128 to apply to this, or do you specifically want a --

1 are looking at this provision for a 103 only to the State
2 Office?

3 A. I think we need to consult 1103, I think the
4 basic scenario here is to file Form C-103, and we didn't
5 discuss 1128 to be able to incorporate it into this Rule.

6 Q. Okay. If a well is going to be recompleted to
7 another formation and not operated under below atmospheric
8 pressure, should there be another sundry notice filed
9 saying that the well will no longer be operated below
10 atmospheric pressure?

11 A. Currently it's operating at below atmospheric
12 pressure? Is that what you're saying? Now, and they
13 recomplete it?

14 Q. Recomplete it, or even just taking the compressor
15 away, and for whatever reasons the operator says we will
16 now return to --

17 A. -- positive pressure?

18 Q. Yes.

19 A. Sure, and maybe that's why the Form C-103 is
20 important, they file Form C-103 and say, well, we are now
21 -- we have reperforated to a lower well, we have positive
22 pressure, and therefore we are not operating at below
23 atmospheric pressure, again.

24 And at that point, I don't know what happens with
25 the contractual obligation. That's -- The operator and the

1 gatherer have to decide that.

2 But as far as we are concerned, we are dealing
3 with wells under vacuum, not with wells under -- producing
4 positive pressure. So when they go back to producing
5 positive pressure, then they need to notify us, and then
6 maybe we take it off from a well that produces under
7 vacuum.

8 Q. Let's see. Are there -- Did any discussions come
9 up about any gathering systems which are more directly
10 connected to distribution systems in New Mexico and any
11 notifications there?

12 A. You have to notify anybody downstream of you,
13 whether you are a gatherer or whether an operator.

14 You also, according to the terms of this Rule
15 execute a contract, a written agreement on the performance
16 standards that you need to have to protect the integrity of
17 the pipeline.

18 COMMISSIONER CHAVEZ: Okay, thank you.

19 EXAMINATION

20 BY CHAIRMAN FESMIRE:

21 Q. Richard, Mr. Gantner testified that it would take
22 a pretty major breach of the system to allow enough oxygen
23 into the system to make the mixture explosive. Do you
24 agree with that?

25 A. Well, to a certain extent, but let me explain

1 this. Like I explained about the energy or something, you
2 know, once you're operating at vacuum there is a tendency
3 for air to enter your system, especially when it is
4 leaking, so the question becomes how much air is included
5 and what type of gas are you moving? Is this gas a wet
6 gas, is it a dry gas? There are a lot of -- specific
7 gravity, BTU content. If you have the gas right there, it
8 will tell you there are several variables that might in
9 fact -- hydrogen sulfide, carbon dioxide. You have to -- a
10 lot of the areas, you have to put it in equation to be able
11 to determine what will be your performance standard. Once
12 that air goes in there, the gatherers have that opportunity
13 to know how much of it -- or how much it will tolerate in
14 their system.

15 So yeah, I agree with what he said, but we need
16 to modify so that we can put it -- everybody.

17 Q. So you don't think explosion hazards are a real
18 hazard under the Rules that we propose today?

19 A. No, there is -- from the experience we have, it's
20 not really -- especially if they have that written
21 agreement, we don't see that happening. Some people have
22 operated for 25 years and have not had any explosions at
23 all, unless, you know, somebody doesn't meet his end of the
24 bargain.

25 And I think now that we have a lot of knowledge

1 -- this is a learning curve, and we have learned a lot from
2 other states. And let me tell you now, most authorities
3 say, well, we may go back and revise our rule that our
4 committee wrote, or these are not issues.

5 So this is -- they might learn from us when we
6 adopt this rule, because we want to stimulate our rule so
7 it becomes more effective and more efficient between the
8 producers and the gatherers.

9 Q. Okay, do you see any potential problems between
10 the producers and the gatherers concerning liquid
11 production when you operate under a vacuum?

12 A. I don't see that, because I think they will take
13 care of that in their written agreement. And as you know,
14 as regulators we're not going to be involved in that. I
15 don't think we have jurisdiction to even do that.

16 But like I explained to you, to the Commission,
17 it behooves everybody to comply with any terms they have,
18 some sort of self-regulating, and we think with that self-
19 regulating we will protect the integrity of the pipeline
20 and the public safety too.

21 CHAIRMAN FESMIRE: Okay. I don't have any
22 further questions.

23 Ms. MacQuesten, do you have any cross-examination
24 of this witness -- redirect of this witness?

25 MS. MacQUESTEN: No.

1 CHAIRMAN FESMIRE: Do you have any other
2 witnesses?

3 MS. MacQUESTEN: No, we don't. This concludes
4 our presentation.

5 I would move for the introduction of Exhibits 1
6 through 4.

7 CHAIRMAN FESMIRE: Any objection?

8 COMMISSIONER CHAVEZ: No.

9 CHAIRMAN FESMIRE: They're admitted.

10 Mr. Hawkins, do you have a case to present today?

11 MR. HAWKINS: Well, I just have a proposal to
12 make for BP and a comment, and I'd be glad to answer any
13 questions that I can.

14 CHAIRMAN FESMIRE: Okay, are you going to do that
15 through a witness or a statement?

16 MR. HAWKINS: Just through myself, so through a
17 statement.

18 CHAIRMAN FESMIRE: Okay.

19 MR. HAWKINS: I do have copies of the letter that
20 I sent over e-mail, and have that for each of the
21 Commissioners, and I have a proposal that I also forwarded
22 to Richard under e-mail. And I have some extra copies of
23 these for everyone.

24 MR. BROOKS: Could I have a copy?

25 MR. HAWKINS: Yes.

1 CHAIRMAN FESMIRE: I've got your originals.

2 MR. HAWKINS: Anybody else? You need one?

3 Well, at the risk of -- just trying to make this
4 statement, I'm not going to read this letter into the
5 record, but I would like to point out that BP participated
6 in the work group effort, and we agree conceptually with
7 the Rule. We certainly believe that a rule allowing vacuum
8 operations is needed in New Mexico to improve recovery from
9 our low-pressure reservoirs, and in particular the
10 Fruitland Coal.

11 We think that the primary concerns over oxygen
12 are being addressed with the Rule that requires an
13 agreement between the operator of the wellhead and the
14 first gatherer. Certainly that's going to be the area
15 where any oxygen might come into the system, where it's
16 going to need to be monitored, and if that gatherer and
17 that operator have a common agreement on how they're going
18 to handle that, when the well should be shut in and who's
19 going to do what.

20 The concern really comes when the gas continues
21 down the line from the first gatherer to the second
22 gatherer, and that doesn't occur in every case, but in many
23 cases it does. The way the language is written right now,
24 it says that the first gatherer is going to have to have a
25 written agreement with the next downstream gatherer,

1 allowing vacuum operations from upstream wells. And so
2 that puts this second gatherer, two connections removed
3 from the wellhead, in somewhat of a position to deny that
4 gas to be allowed to come into the stream. And I don't
5 think that's the intent of the work group.

6 I think the intent of the work group is to make
7 sure that everyone knows that that gas is coming into the
8 stream so that they can take whatever precautions are
9 necessary and to ensure that the operator and the first
10 gatherer, where they make that first connection, that
11 they've taken steps to make sure that oxygen is being
12 monitored, that certain levels are being required, and that
13 there are steps going to be made to fix anything that goes
14 wrong.

15 So it just appeared to us that the language
16 shouldn't allow a party two steps removed from preventing
17 this operation to occur, even when the operator of the well
18 and the first gatherer have an agreement. And the more I
19 listen to the testimony today, it appeared to me that the
20 intent there is that there would be an agreement between
21 each of the parties and to make sure that everybody knows
22 that this gas is coming into the system.

23 And I think it's just a little change in the
24 language of the Rule that would meet that same intent, but
25 the way it's written right now it says that the agreements

1 between those two gatherers is going to allow upstream
2 wells to be operated on vacuum, and I think that's not what
3 the intent of all of our discussions were.

4 And so we've made a proposal that says we
5 continue with the language that deals with the agreement
6 between the operator and the first gatherer or, if that
7 gatherer wants to take their system on a vacuum, they have
8 to have an agreement with the next party in line, that
9 deals with how they're going to measure and monitor and
10 who's going to do what.

11 But what we've said beyond that is that those
12 parties then just have to notify the gatherers next down
13 the line that they have that gas coming in on vacuum.

14 CHAIRMAN FESMIRE: Commissioner Bailey, do you
15 have any questions of Mr. Hawkins?

16 COMMISSIONER BAILEY: No, I don't.

17 CHAIRMAN FESMIRE: Commissioner Chavez?

18 COMMISSIONER CHAVEZ: No.

19 CHAIRMAN FESMIRE: Mr. Hawkins, so basically it's
20 my understanding that your proposed Rule, you agree with
21 part A?

22 MR. HAWKINS: Yes.

23 CHAIRMAN FESMIRE: And your changes that the
24 second gatherer -- Would you elaborate on that a little
25 bit?

1 MR. HAWKINS: Okay. What we've tried to do is go
2 as closely as we can with the work group language that says
3 that any party that wants to operate under a vacuum,
4 whether at the wellhead or at the gathering system, has to
5 have an agreement with the next party in line.

6 Where we have a little problem is that if you're
7 the gatherer that's taking gas from a vacuum, now it's come
8 into your -- and you've got an agreement with that party,
9 and now you have to go to the next person and make an
10 agreement. The language of our Rule says that that
11 agreement has to allow operations of upstream wells at
12 below atmospheric pressure, and that puts this third party
13 in a position of saying, No, you can't have -- I won't
14 allow any wells operating on vacuum in my system, even
15 though they've already got an agreement that deals with all
16 of the details of how that would be handled.

17 CHAIRMAN FESMIRE: Well, isn't the purpose of the
18 Rule and the revision to make sure that everybody who will
19 have some sort of exposure to either an explosion or a
20 corrosion hazard have notice and a say in the operation at
21 less than atmospheric pressure upstream?

22 MR. HAWKINS: Well, certainly they need to have
23 notice. What I don't agree in is that the third party here
24 -- If I'm the producer and I have an agreement with the
25 first gatherer, I don't think the second gatherer needs to

1 have an ability to modify what my agreement is with my
2 first gatherer. We've given the gas to them, we've got an
3 agreement on what the oxygen content is going to be and
4 who's going to monitor for oxygen and who's going to
5 prepare if there is an introduction of oxygen. And this
6 party practically -- I mean in practice, has an agreement
7 with their next gatherer that certain gas will be allowed
8 to pass as a -- whatever quality or quantity is in their
9 contract.

10 And what we're saying is, they still need to let
11 them know that we're accepting gas from another party down
12 here that is going to be operating on a vacuum.

13 CHAIRMAN FESMIRE: Okay.

14 MR. HAWKINS: But you don't need to say that it's
15 okay for me to do that.

16 CHAIRMAN FESMIRE: So you don't mind the first
17 gatherer --

18 MR. HAWKINS: No.

19 CHAIRMAN FESMIRE: -- having a veto?

20 MR. HAWKINS: We agree with that.

21 CHAIRMAN FESMIRE: Okay. But what you disagree
22 with is that the second gatherer would essentially have an
23 agreement on whether the first gatherer can accept gas from
24 the well at less than atmospheric pressure, right?

25 MR. HAWKINS: That's correct.

1 CHAIRMAN FESMIRE: What's the difference between
2 the second gatherer -- in Richard's terms, Z -- having a
3 veto on gas he's getting from Y, why is that any different
4 from Y having a veto on perhaps oxygenated gas he's getting
5 from the well?

6 MR. HAWKINS: Well, in practice all the contracts
7 have oxygen-content levels in them.

8 CHAIRMAN FESMIRE: Right.

9 MR. HAWKINS: And the only thing I'm bringing an
10 issue with is, the contract that's between Y and Z
11 shouldn't have to say that they're allowed to carry gas
12 that came from wells operated below atmospheric pressure,
13 as long as they've still got an oxygen content. And any of
14 the problems that are going to be dealt with, with
15 monitoring and measuring and repairing, are going to be
16 dealt with between the wellhead, the producer and the first
17 gatherer.

18 CHAIRMAN FESMIRE: Okay. Commissioner Chavez?

19 COMMISSIONER CHAVEZ: Mr. Hawkins, wasn't one of
20 the issues for having these agreements in place -- wasn't
21 one of those issues because many contracts did not have
22 oxygen limitations in them?

23 MR. HAWKINS: To my knowledge, all of the
24 contracts have an oxygen limit.

25 COMMISSIONER CHAVEZ: Thanks.

1 CHAIRMAN FESMIRE: I have no further questions of
2 Mr. Hawkins.

3 MS. MacQUESTEN: If I could just ask a few?

4 CHAIRMAN FESMIRE: Ms. MacQuesten?

5 MS. MacQUESTEN: As I understand your proposal,
6 if we have more than one gatherer in a stream, the second
7 gatherer would not have any say in the conditions imposed
8 on accepting the gas?

9 MR. HAWKINS: Well, no, they have a contract with
10 their connection, with their first gatherer, and there are,
11 I'm sure, limits on the quality of gas that can come into
12 their system.

13 What I don't want is the second gatherer to have
14 some way to intervene or to veto gas coming from the
15 producer, even when that party has made an agreement with
16 this first gatherer to accept that gas and will take
17 whatever steps it needs to remedy any problems with oxygen.

18 MS. MacQUESTEN: Well, the agreements that the
19 second gatherer has in place with the first gatherer are
20 probably agreements that have been in place for some
21 time --

22 MR. HAWKINS: Right.

23 MS. MacQUESTEN: -- and don't take into account
24 the fact that gas may enter the system now that has been
25 produced at below atmospheric pressure.

1 MR. HAWKINS: Right. And that's why, at least in
2 our proposal, we're making sure that that party has to
3 notify their second gatherer that gas is going to be coming
4 into the system that originated from wells that were
5 operated on vacuum. But it doesn't mean that it can exceed
6 any of the quality specs that are already in place.

7 MS. MacQUESTEN: Doesn't the first gatherer have
8 agreements in place already that set some --

9 MR. HAWKINS: Well, we're making a rule that says
10 the first -- that if you want to operate on vacuum, you
11 have to now have an addendum to that agreement that deals
12 with how you're going to operate on a vacuum, and we agree
13 with that. And if that gatherer wants to take his system
14 down to a vacuum, he needs to build an agreement into
15 whoever he's giving the gas with, you know, to deal with
16 the vacuum operation.

17 So we don't have any qualms about the need for an
18 agreement with the first connection between -- you know, on
19 what's going to be operated on a vacuum. It's really
20 bringing in the third party that has now some control
21 over -- you know, or Z having some control over party Y's
22 operations that we have an issue with -- or party X's
23 operations.

24 MS. MacQUESTEN: Isn't it true, though, that the
25 second gatherer in the line may have different concerns

1 than the concerns of the first gatherer? For example, he
2 may have an older system, he may want stricter controls.

3 CHAIRMAN FESMIRE: Or his gas may be at an oxygen
4 limit now, and an introduction of more oxygenated gas into
5 the system would put him out of compliance with his
6 contract, with his delivery contracts.

7 MR. HAWKINS: Well, the only point I'm saying is,
8 if party -- if the first gatherer and the second gatherer
9 get out of compliance on their contract, they've got to
10 remedy that.

11 CHAIRMAN FESMIRE: Right, but the second
12 gatherer, you know, he's got other gas coming into his
13 system, and he may be at the limit now. And you introduce
14 this gas that the first gatherer -- you know, they've got
15 different contracts --

16 MR. HAWKINS: Right.

17 CHAIRMAN FESMIRE: -- and the first gatherer, you
18 know, has some oxygen limit, but he's not approaching it.
19 But once you add the first gatherer's gas into the second
20 gatherer's system, he exceeds his oxygen limit, he's going
21 to have to do something to treat that gas or take care of
22 that before he can deliver his gas. And if this well
23 upstream hadn't been put on line, he would not have any
24 compliance problems at that point.

25 MR. HAWKINS: Well, I guess I feel like that the

1 producer and the first gatherer have a contract to deal
2 with oxygen limits, and if they --

3 CHAIRMAN FESMIRE: Right.

4 MR. HAWKINS: -- meet those -- meet that
5 contract, then there's not going to be a problem with the
6 first gatherer and the second gatherer.

7 If the producer fails and oxygen goes into the
8 system and exceeds his contract, and this first gatherer
9 has an agreement with the second gatherer and we've
10 notified them, the first gatherer is going to say, shut
11 your well in now so that I can continue to feed gas to the
12 second gatherer and, you know, you fix your well, we have
13 an agreement that says you have to go take care of your
14 problem.

15 So I don't see that there's going to be that
16 dramatic impact on the second gatherer, and I don't see
17 that the second gatherer needs to have control over the
18 first -- over the producer.

19 CHAIRMAN FESMIRE: Mr. Hawkins, I think I
20 disagree with you because, you know, we are in essence
21 coming in and introducing another variable into what has
22 been a previously negotiated contract, and I think that
23 everybody down the line should have at least some input
24 into whether or not they're accepting vacuum-operated gas
25 in their system.

1 MR. HAWKINS: Well, you know, the point I'm
2 making is that from point A to point B, or X to Y, there's
3 a limit, there's going to be a contract that deals
4 specifically with how you're going to operate that well on
5 a vacuum.

6 CHAIRMAN FESMIRE: Right.

7 MR. HAWKINS: And if you satisfy that contract to
8 the first gatherer, the first gatherer is going to be able
9 to satisfy whatever contract he has with the second
10 gatherer. If he doesn't, he'll have to renegotiate that
11 contract.

12 But there's not a need for that contract to say
13 it has to allow this other gas to come in. It just needs
14 to be an agreement that the second gatherer and the first
15 gatherer have that deals with the quality of the gas.

16 CHAIRMAN FESMIRE: Okay. I could -- you know, I
17 could see that if all we had was a rule that said, yes, you
18 can do it, and that everything else was negotiated by
19 contract, that would be fine.

20 But we're going to be in essence injecting
21 ourselves into some older agreements that didn't anticipate
22 this, and I for one think that there is a need for that, if
23 not a veto, something more than notification of the
24 operator down the line, the second and third, et cetera,
25 gathering system that this gas will be going into.

1 MR. HAWKINS: Well, I think the -- I mean, we
2 don't agree that the second gatherer should have a veto
3 power. We believe that if anything, the agreement between
4 the first and second gatherer may need to be renegotiated
5 on quality, and that's really the main concern. It's not
6 whether the gas came from a well operated on a vacuum or
7 not.

8 They need to be aware that there's wells on this
9 system that have been operated on vacuum, and they need to
10 have some kind of a contract that deals with quality, but
11 they shouldn't have control over the operation of those
12 wells two steps down. And that's the position that BP, you
13 know, would like the Commission to recognize.

14 CHAIRMAN FESMIRE: Okay. For my edification, how
15 do you justify that position and still give the first
16 operator, the first pipeline operator, gathering-system
17 operator, veto over that same decision?

18 MR. HAWKINS: Well, that's the -- I think, you
19 know, if the producer is giving gas to the first gatherer,
20 certainly there needs to be some understanding between them
21 on what you're -- who's going to monitor for oxygen --

22 CHAIRMAN FESMIRE: Right.

23 MR. HAWKINS: -- who's going to fix the
24 repairs --

25 CHAIRMAN FESMIRE: Right.

1 MR. HAWKINS: -- if there's oxygen problems?

2 CHAIRMAN FESMIRE: But aren't those the same kind
3 of concerns that would -- wouldn't the second system
4 operator have those same kind of concern?

5 MR. HAWKINS: I think the problem we have is, the
6 language in the Rule says that that second party has to
7 allow wells that have been operated on vacuum to come into
8 the system, and even if the operator and the first gatherer
9 have that kind of an agreement, the second agreement
10 doesn't appear to be -- it should be just dealing with
11 quality and not the operation of the upstream wells. It's
12 two -- they're two connections removed.

13 CHAIRMAN FESMIRE: Okay. Mr. Ezeanyim, did you
14 have a question you wanted to --

15 MR. EZEANYIM: Yes, I --

16 CHAIRMAN FESMIRE: -- ask Mr. Hawkins?

17 MR. EZEANYIM: -- don't know whether I want it on
18 the record, but I wanted to make a point.

19 From what Bill is saying on the present Rule as
20 written, the question we are going to ask ourselves, or the
21 question I want to ask is, how often does that situation
22 arise where you have X, Y, Z, like I demonstrated, and then
23 Z -- I don't know how it happens, I may have to ask Bill
24 how that is.

25 And again, one point I want to make is, once X

1 and Y has a contract, I believe if Y wants to have a
2 contract with Z or B or A, and they don't want to get --
3 the gatherer, get it from X, they can go elsewhere and get
4 it.

5 So because the intent of this Rule, and from all
6 the work group members, says that once that oxygen is
7 introduced everybody downstream will know. And I know
8 where Bill is coming from, but I think once you do what I
9 demonstrated, 1 and 2, you do a contract with Y, file a
10 sundry notice, I think you are done. The whole thing now
11 is between Y and Z.

12 If Z doesn't want to take gas from Y because they
13 are collecting for you, then they can get business
14 elsewhere and do it. Because we want to make sure that Z
15 has an opportunity to know that oxygen is in the system and
16 to see whether he wants to collect gas, because that
17 relates to quality or quantity. You want to make sure that
18 that oxygen-introduced gas is taken care of. And I think
19 that's the intent of that Rule.

20 If I -- I mean, from the work we've done, all we
21 came up with, and that's what we present here. So I don't
22 think you're affected on that. Of course, again, we're not
23 examining all circumstances you would have that scenario
24 arise.

25 For example, once you execute your contract with

1 Y, you are done. But would that occur frequently in that
2 situation, that we are really fighting it? Will that occur
3 frequently? That's the question I was going to ask.

4 And again, when you have a contract with Y, I
5 don't think your wells will be shut in because they are on
6 vacuum. That's the way I understand it, because Y has to
7 take care of their agreement with Z, or whoever again. If
8 he doesn't want it, then maybe Y will find somebody who
9 wants the gas. After all, somebody has to want the gas on
10 the vacuum. I don't think anybody will refuse the gas.

11 So that's the point. I want to bring it up so
12 that -- maybe for consideration, you know, and then for
13 your thoughts, that if you have experienced those
14 situations where you have, you know, a gas gatherer, have
15 somebody downstream, my X, what you're saying.

16 That's just the point I wanted to make.

17 CHAIRMAN FESMIRE: Thank you, Richard.

18 MR. HAWKINS: Well, I have nothing further to add
19 to our proposal. I've just tried to clarify what we feel
20 like is a flaw that we would rather not see in the Rule and
21 still meet the intent of all of the work group effort.

22 CHAIRMAN FESMIRE: Okay, thank you very much, Mr.
23 Hawkins.

24 Mr. Foppiano, did you have a statement you wanted
25 to make?

1 MR. FOPPIANO: Yes, I did. If I could --

2 CHAIRMAN FESMIRE: Why don't you come on up,
3 Rick?

4 MR. FOPPIANO: I guess I can stand. Apologize
5 for not wearing a coat and tie today.

6 My name is Rick Foppiano and I, along with Mr.
7 Bill Carr, chair the Regulatory Practices Committee of the
8 New Mexico Oil and Gas Association.

9 And I just wanted to say that it's been a long
10 road to get to this point of dealing with trying to
11 authorize or come up with a regulatory process that allows
12 vacuum pump operations or operations below atmospheric
13 pressure. And a lot of people have put a lot of hard work
14 in over the last three-plus years, it looks like, and the
15 reason is because there are important issues to consider,
16 but there's also -- we don't want to lose sight of the
17 important target, the important conservation issue, the
18 waste that could be avoided by finding a way to allow these
19 kinds of operations which go on in other states and have
20 for many years, that, you know, if we can find a way to
21 allow this to happen in New Mexico safely and in a way that
22 protects the integrity of the pipelines, honors the
23 sanctity of the contracts that are in place and all those
24 issues being dealt with.

25 And I just want to commend all the people,

1 particularly the OCD staff, that have been working on this
2 issue in the work group and even bringing it up, as a
3 matter of fact, that, you know, this was an obstacle to
4 recovery of future reserves that would otherwise be lost.

5 So we're very pleased that it's gotten to this
6 point, and we support the proposal as it is presented here
7 today.

8 And I did want to add a couple of things, if I
9 could, to Mr. Gantner's testimony. Some of the things he
10 may not have been privy to during the deliberations of the
11 RPC -- the Regulatory Practices Committee's work group on
12 vacuum-pump operations.

13 There was a question about did any producer have
14 a correlative-rights problem during that process? And
15 actually there was one company that did object, and it
16 appeared to be on the basis of correlative rights. So in
17 the interest of full disclosure I want to make sure you're
18 aware of that. But that was one company that combined with
19 another company, and the combined company is not here to
20 take a position on this, so I'm not sure if that is still a
21 concern. Clearly, there has been ample opportunity through
22 NMOGA's website, through the OCD's website, through all the
23 notice that's gone out, for people to comment, and I
24 obviously don't see that company here making that same --
25 raising that same sort of concern.

1 Also there was a question about -- in the process
2 of our deliberations on the committee, were there any small
3 producers, either in southeast New Mexico or otherwise,
4 that had some issues? And while that didn't appear to come
5 up during the committee process, I believe it came up in
6 the deliberations on the work group effort. There was a
7 small company in southeast New Mexico that absolutely
8 objected to the requirement to have to have an agreement
9 with their gatherer, so... But without getting into the
10 reasons why, they also are not here today, you know, to
11 share their concerns. So obviously maybe their concerns
12 were not that strong, you know, and have been alleviated
13 over time.

14 So with that I would just say that NMOGA is very
15 pleased to be participating in the work group, and we
16 support the Rule as proposed, and I'm prepared to answer
17 any questions that you might have, if you've got any.

18 CHAIRMAN FESMIRE: Thank you.

19 Commissioner Bailey, do you have any questions?

20 COMMISSIONER BAILEY: (Shakes head)

21 CHAIRMAN FESMIRE: Commissioner Chavez?

22 COMMISSIONER CHAVEZ: No.

23 CHAIRMAN FESMIRE: Me neither, Mr. Foppiano.

24 Thank you very much.

25 Mr. Alexander?

1 MR. ALEXANDER: Yes. I also have some copies of
2 a letter from the original hearing, and I have a few left
3 if anybody would like those.

4 Basically, El Paso -- I mean --

5 (Laughter)

6 CHAIRMAN FESMIRE: Things are changing fast, are
7 they?

8 MR. ALEXANDER: Burlington is in support of the
9 suggested rule change, and the letter that I've just given
10 you does clearly state that.

11 I would like to go just briefly over three
12 sections of the letter that I think are important.

13 Number one, again, we do support the rule change,
14 and we do see the need to have vacuum operations in the
15 state to recover additional reserves.

16 Secondly, we do support BP's clarification of the
17 Rule, because I like the fact that we break the Rule, the B
18 part, into two sections. And as the discussion has been
19 this morning, we're talking about two things going on
20 there. One is the agreements between the operator and the
21 first gatherer. The second one is between the gatherer and
22 any subsequent gatherers. So I kind of like that format
23 that shows that we're talking about two different areas
24 there.

25 And we've had a lot of discussion about the

1 differences between the first operator and the first
2 gatherer, the second gatherer and the third. I see that
3 the way that we've kind of broken out into A and B, it does
4 allow for the notice to the second or the third gatherers,
5 and of course we will have to have contracts that provide
6 for quality and quantity.

7 And we kind of agree that the first contract
8 between the operator and the first gatherer deals with
9 other items. It deals with the quality and quantity of the
10 gas, it deals with how we're going to measure that, it
11 deals with how we're going to shut in wells. And so those
12 items are not dealt with by the second, third or fourth
13 gatherer, but I agree with you wholeheartedly that that
14 notice needs to be made and that those contracts need to be
15 in place for quality and quantity. I agree with that a
16 hundred percent.

17 Third thing that I would like to say is that we
18 very much appreciate the chance to work with the OCD, and
19 we've had a very good collaborative effort, and we hope
20 that the collaborate effort goes forward into the future on
21 these very same kind of issues.

22 Thank you.

23 CHAIRMAN FESMIRE: Thank you. Commissioner
24 Bailey, do you have any questions?

25 COMMISSIONER BAILEY: No.

1 CHAIRMAN FESMIRE: Commissioner Chavez?

2 COMMISSIONER CHAVEZ: No.

3 CHAIRMAN FESMIRE: Thank you very much, Mr.
4 Hawkins.

5 Are there any other members of the public that
6 would like to make a statement on the record on this issue?

7 Sir, would you stand up and identify yourself?

8 MR. HALE: Are we going to consider BP's proposal
9 on that deal of what he just proposed here?

10 CHAIRMAN FESMIRE: Yeah, in just a few minutes we
11 intend to deliberate, and one of the questions that we --

12 MR. HALE: Okay, I'd like to make a couple points
13 to you guys.

14 CHAIRMAN FESMIRE: Okay, could you identify
15 yourself?

16 MR. HALE: Yeah, I'm Greg Hale, I'm with El Paso
17 Field Services, and what I'm going to tell you is going to
18 be from a technical point of view as far as corrosion goes.

19 If the third gatherer downstream has taken gas
20 with oxygen limit too high, he can -- it will be
21 detrimental to his system. And what I mean by that is, if
22 you have an agreement with the first gatherer and the
23 producer and he's running X amount of pressure and
24 temperature, his system can handle it. But if it gets to
25 the second guy and he gets -- the pressure gets, you know,

1 boosted up with compression, temperature goes up or down,
2 things can happen to that guy, okay? In a hurry.

3 So I just wanted you guys to know that from a
4 technical point of view it could hurt that second guy.

5 So that's all I've got.

6 CHAIRMAN FESMIRE: Okay, thank you, Mr. Hale.

7 Do you have any questions, Commissioner Bailey?

8 COMMISSIONER BAILEY: No, I don't.

9 CHAIRMAN FESMIRE: Commissioner Chavez?

10 COMMISSIONER CHAVEZ: No.

11 CHAIRMAN FESMIRE: Thank you, Mr. Hale.

12 Are there any other public comments?

13 Okay, at this time I'd like to take the time
14 necessary to begin the deliberations, if the Commission
15 agrees to that.

16 Before we start I do want to indicate on the
17 record that we have received three letters of comment, the
18 one that was handed to us today from Burlington, one from
19 NMOGA and the one that was previously referred to from BP.
20 Those -- unless there's objection, we'll enter those into
21 the record, and at this time we'll begin our deliberations.

22 Commissioner Bailey, do you have anything you
23 want to start with?

24 COMMISSIONER BAILEY: I put a lot of weight into
25 what Mr. Hale said on his comments on the second gatherer.

1 So for that reason I support the proposed Rule as it was
2 originally presented.

3 CHAIRMAN FESMIRE: Commissioner Chavez?

4 COMMISSIONER CHAVEZ: I agree. The only -- the
5 biggest safety reason this will work is because of the
6 agreements. If there's only a notification issue, the
7 safety issue breaks down, I think, and I think what's what
8 the comment by Mr. Hale was, and I think that we should go
9 with the Application as presented on B, except I'm
10 concerned about a little bit of ambiguity on that last
11 phrase that I think may have been the crux of the matter.

12 That last part says, "...allowing operation of
13 upstream wells or gathering systems at below atmospheric
14 pressure."

15 I think what -- it was left to be interpreted
16 that the agreement between the first and second transporter
17 reflects allowing the operation of upstream wells, but I
18 don't think that was what the intent was from what the
19 testimony was.

20 I think the testimony was that there has to be an
21 agreement between those two transporters, not necessarily
22 driving the allowing of the operator of the wells to
23 operate their wells at below atmospheric pressure.

24 So I think there's some -- at least an ambiguity
25 in the language there that would need to be cleared up.

1 CHAIRMAN FESMIRE: How can we change that?

2 COMMISSIONER CHAVEZ: Well, I've been looking at
3 that and I don't know that I have a good idea right now,
4 except maybe if we were just to drop the phrase "connected"
5 and just end that long sentence saying that, "...to which
6 the gathering system is immediately connected", and --

7 MR. BROOKS: May I make a suggestion --

8 CHAIRMAN FESMIRE: Mr. Brooks?

9 MR. BROOKS: -- Commissioner Chavez?

10 COMMISSIONER CHAVEZ: Yes, please.

11 MR. BROOKS: One way to articulate that might be
12 to say allowing delivery of gas into the -- allowing
13 delivery of gas that has been -- allowing delivery of gas
14 from a well or gathering system operated at below
15 atmospheric pressure into --

16 COMMISSIONER CHAVEZ: Just drop it right there.

17 MR. BROOKS: Allowing the delivery of gas -- what
18 I'm trying to say is into the second gathering system, but
19 I'm not exactly sure.

20 COMMISSIONER CHAVEZ: Well, it could be a third
21 or fourth --

22 MR. BROOKS: Yeah.

23 COMMISSIONER CHAVEZ: -- but into that system.

24 CHAIRMAN FESMIRE: Into a downstream system.

25 MR. BROOKS: Okay, that's good.

1 COMMISSIONER CHAVEZ: Yes, I could go with that,
2 that's good.

3 CHAIRMAN FESMIRE: Okay. There's a couple of
4 other related issues that Commissioner Chavez brought up
5 that I wanted to talk about, and my note says "clear up
6 timing" on A.(2) about when the C-103 needs to be filed.

7 I think Rule 1103 is pretty clear, and it's
8 pretty clear under the proposed Rule that it has to be done
9 prior to beginning operations. Do we need to be more
10 specific on that?

11 COMMISSIONER CHAVEZ: No, I'm okay with it now,
12 but I can see where my confusion was, and it's -- I don't
13 think it's everybody's confusion.

14 CHAIRMAN FESMIRE: Okay, Commissioner Bailey?

15 COMMISSIONER BAILEY: (Nods)

16 COMMISSIONER CHAVEZ: I did have an issue, first
17 of all, with the concept of the 103, as I've pointed out.
18 The purpose for filing, I think we always have to be
19 careful that when we require an operator to file a form,
20 they should have pertinent information on it or approval or
21 notice that the OCD needs in order for them to do their
22 enforcement work.

23 While the operators have agreed to go ahead and
24 file the form, therefore I'm presuming that they agree that
25 if they don't file the form, even though they may have an

1 agreement, they're subject to enforcement action by the OCD
2 for not filing that form. And as long as they're -- go
3 with that, we're okay.

4 There is a little bit of maybe insecurity, and
5 certainly we have to work through as far as the issues of
6 what happens if the operator files a notice of intention to
7 do this and then later on decides not to, whether they have
8 to file a form canceling that -- it's not an approval that
9 the OCD gives, it's just a notification. And it would be
10 more like, really, style that we're intending to do this
11 but in the end we may not, so if you find that this well
12 operating below atmospheric pressure, we do -- did notify
13 you that we might do that.

14 Given that, I think when it's a form like that,
15 it's maybe an operator's tendency to say, Hey, over these
16 next two years we're going to operate these 50 wells and
17 just file those forms right now. Doesn't require that they
18 act on it, and there's no reason why an operator can't file
19 a C-13 on every well that they operate.

20 CHAIRMAN FESMIRE: So how do we address that?

21 COMMISSIONER CHAVEZ: I don't know.

22 CHAIRMAN FESMIRE: Raise the issue, get a
23 question.

24 COMMISSIONER CHAVEZ: I don't know how to do
25 that, I really don't, the way it's structured here. It may

1 have to be clarified that some time period before they
2 begin, or within some time period before they begin that
3 actual operation, to clear up that issue of filing
4 everything that they intend to do this year on January 1.

5 CHAIRMAN FESMIRE: Yeah. So under A.(2) perhaps
6 put "filed a sundry notice (Form C-103) within 90 days of
7 beginning operations, in the -- "

8 COMMISSIONER CHAVEZ: That would be fine with me.
9 I don't know if the operators discussed a timing limit or
10 what the discussions may be, but --

11 CHAIRMAN FESMIRE: Within 90 days prior to
12 beginning.

13 COMMISSIONER CHAVEZ: I don't have a problem with
14 that.

15 CHAIRMAN FESMIRE: Commissioner Bailey?

16 COMMISSIONER BAILEY: We have to have that prior
17 to.

18 CHAIRMAN FESMIRE: Yeah, so we intend to amend
19 Section A.(2), "filed a sundry notice (Form C-103) in the
20 appropriate district office of the Division within 90 days
21 prior to beginning operations for each well operated at or
22 below atmospheric pressure or served by a gathering system
23 operated at below atmospheric pressure."

24 COMMISSIONER CHAVEZ: That would work, yeah.

25 CHAIRMAN FESMIRE: Commissioner Bailey?

1 COMMISSIONER BAILEY: Fine with me.

2 CHAIRMAN FESMIRE: Okay. Mr. Brooks, we've
3 identified, I think, two issues with the proposed Order,
4 two relatively minor issues with the proposed Order. Do
5 you understand what we need in the drafting?

6 MR. BROOKS: I think I understand. In B, B will
7 read -- Section B will read, "A gathering system operator
8 may use vacuum pumps, gathering system compressors or other
9 devices to operate the gathering system at below
10 atmospheric pressure, or may accept gas originating from a
11 well operated at below atmospheric pressure or that has
12 been carried by any upstream gathering system operated at
13 below atmospheric pressure, only if the operator has
14 executed written agreement with the operator of the
15 downstream gathering system or pipeline to which the
16 gathering system is immediately connected allowing..." and
17 delete the words "...operation of upstream wells or
18 gathering systems at below atmospheric pressure" and insert
19 in lieu thereof, "...delivery of gas from a well or
20 gathering system that has been operated at below
21 atmospheric pressure into the downstream gathering system
22 or pipeline"; is that correct?

23 COMMISSIONER BAILEY: Sure.

24 (Laughter)

25 COMMISSIONER CHAVEZ: Sounds like it did it to

1 me, yeah.

2 CHAIRMAN FESMIRE: That sounds like what we
3 wanted.

4 MR. BROOKS: Okay. Now, the second one -- Let me
5 finish writing here, although I will have the benefit of
6 the --

7 CHAIRMAN FESMIRE: -- record.

8 MR. BROOKS: -- record, in case I forget what I
9 said.

10 Okay in A.(2), subsection A.(2) -- paragraph
11 A.(2) of the Rule, "filed a sundry notice (Form C-103) in
12 the appropriate district office of the Division for each
13 well operated at below atmospheric pressure or served by a
14 gathering system operated at below atmospheric pressure..."
15 and at that point we insert "...within 90 days prior to
16 beginning operation at below atmospheric pressure,
17 notifying the Division that the well or gathering system
18 serving the well..." and I believe we should at this point
19 insert "will be" rather than "is being", since it's going
20 to be filed before the operation is commenced --

21 COMMISSIONER CHAVEZ: Yeah, that's correct.

22 MR. BROOKS: -- "...will be operated at below
23 atmospheric pressure."

24 Now, I do have -- I missed out on a part of the
25 Commission's discussion because I was writing, the issue of

1 the C-103. I believe Commissioner Chavez has made a very
2 valid point in pointing to Section 1128, which, it would
3 seem to me, says by reference that whenever you're filing a
4 sundry notice -- and correct me, Commissioner Chavez,
5 because I know you're much more familiar with these Rules
6 than I am, but it seems to say that whenever you're filing
7 a sundry notice and it's on federal land, you shall file
8 that sundry notice on the federal form and with the BLM.

9 COMMISSIONER CHAVEZ: Yes, that's correct.

10 MR. BROOKS: So it's your understanding of the
11 way this Rule will operate that if the well is on federal
12 land, the sundry notice will be filed with the BLM rather
13 than with the district office?

14 COMMISSIONER CHAVEZ: That's right, and Rule 14
15 requires that the operator make sure that the copies filed
16 with the BLM are then subsequently sent to the district
17 office.

18 MR. BROOKS: Okay. That being the understanding
19 of the Commissioners, then I don't believe any further
20 change of the proposed Rule is entertained. Thank you, Mr.
21 Chairman, honorable Commissioners.

22 CHAIRMAN FESMIRE: At this time we're going to
23 request Mr. Brooks to draft the order and append the
24 revised Rule for consideration at the August 12th hearing.

25 Is there any objection from the Commission?

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COMMISSIONER BAILEY: No.

COMMISSIONER CHAVEZ: No objection, no.

(Thereupon, these proceedings were concluded at
11:55 a.m.)

* * *

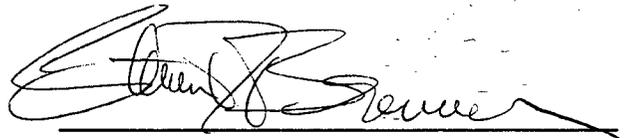
CERTIFICATE OF REPORTER

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 Commission 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 July 22nd, 2004.



STEVEN T. BRENNER
 CCR No. 7

My commission expires: October 16th, 2006