

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:)

IN THE MATTER OF THE PROPOSAL OF THE OIL)
CONSERVATION DIVISION ON ITS OWN MOTION)
TO AMEND RULE 7 OF 19.15.1 NMAC; RULES)
101 AND 102 OF 19.15.3 NMAC; RULES 201)
AND 203 OF 19.15.4 NMAC; RULE 701 OF)
19.15.9 NMAC; RULES 1101, 1103, 1104 AND)
1115 OF 19.15.13 NMAC; AND THE ADOPTION)
OF RULES 37 AND 38 OF 19.15.1 NMAC; RULE)
100 OF 19.15.3 NMAC; AND RULE 1227 OF)
19.15.14 NMAC)

CASE NO. 13,564

ORIGINAL

2005 OCT 31 PM 1 59

REPORTER'S TRANSCRIPT OF PROCEEDINGS

COMMISSION HEARING

BEFORE: MARK E. FESMIRE, CHAIRMAN
JAMI BAILEY, COMMISSIONER
WILLIAM C. OLSON, COMMISSIONER

Volume III - October 17th, 2005

Santa Fe, New Mexico

This matter came on for hearing before the Oil Conservation Commission, MARK E. FESMIRE, Chairman, on October 13th, 14th and 17th, 2005, 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.

* * *

CUMULATIVE INDEX

October 13th, 2005 (Volume I)
 Commission Hearing
 CASE NO. 13,564

	PAGE
EXHIBITS	4
APPEARANCES	6
OPENING STATEMENTS:	
By Mr. Carr	14
By Ms. MacQuesten	19
APPLICANT'S WITNESSES:	
<u>JOSÉ DANIEL SANCHEZ</u> (Compliance and Enforcement Manager, NMOCD)	
Direct Examination by Ms. MacQuesten	62
Cross-Examination by Mr. Carr	82
Examination by Commissioner Bailey	84
Examination by Chairman Fesmire	86
Redirect Examination by Ms. MacQuesten	89
<u>WILLIAM JACK FORD</u> (Environmental Engineer, NMOCD)	
Direct Examination by Ms. MacQuesten	90
Cross-Examination by Mr. Carr	99
Examination by Chairman Fesmire	103
Further Examination by Mr. Carr	105
<u>WAYNE PRICE</u> (Senior Environmental Engineer, Environmental Bureau, NMOCD)	
Direct Examination by Ms. MacQuesten	107
Examination by Commissioner Bailey	130
Examination by Commissioner Olson	133
Examination by Chairman Fesmire	135
Further Examination by Ms. MacQuesten	137
Further Examination by Chairman Fesmire	137
<u>WILLIAM V. JONES, JR.</u> (Hearing Examiner, NMOCD)	
Direct Examination by Ms. MacQuesten	139
Examination by Commissioner Bailey	142
Examination by Chairman Fesmire	144

(Continued...)

APPLICANT'S WITNESSES (Continued):

<u>CHARLIE T. PERRIN</u> (District 3 Supervisor, Aztec District Office, NMOCD)	
Direct Examination by Ms. MacQuesten	149
Cross-Examination by Mr. Carr	182
Examination by Commissioner Bailey	200
Examination by Commissioner Olson	204
Examination by Chairman Fesmire	212
Redirect Examination by Ms. MacQuesten	220
Recross-Examination by Mr. Carr	224

PUBLIC COMMENT:

Dennis Stenger, Deputy State Director, Minerals and Lands, BLM	227
Raye Miller, Marbob Energy Corporation	239
Gwen Lachelt, Director, Oil and Gas Accountability Project	242

APPLICANT'S WITNESSES (Continued):

<u>JANE E. PROUTY</u> (Bureau Chief, Automation and Records Bureau, NMOCD)	
Direct Examination by Ms. MacQuesten	244

REPORTER'S CERTIFICATE (Volume I)	282
-----------------------------------	-----

* * *

October 14th, 2005 (Volume II)

EXHIBITS	287
APPEARANCES	289

APPLICANT'S WITNESSES (Continued):

<u>JANE E. PROUTY</u> (Bureau Chief, Automation and Records Bureau, NMOCD)	
Direct Examination (Continued) by Ms. MacQuesten	294
Cross-Examination by Mr. Carr	339
Examination by Commissioner Bailey	373
Examination by Commissioner Olson	379
Examination by Chairman Fesmire	381
Redirect Examination by Ms. MacQuesten	383
Recross-Examination by Mr. Carr	388

(Continued...)

PUBLIC COMMENT:	
Yolanda Perez, ConocoPhillips	393
NMOGA/IPANM Witnesses:	
<u>BRUCE A. GANTNER</u> (Manager, Environmental Health and Safety, Burlington Resources Oil and Gas Company)	
Direct Examination by Mr. Carr	400
Cross-Examination by Ms. MacQuesten	415
Examination by Commissioner Bailey	442
Examination by Commissioner Olson	443
Examination by Chairman Fesmire	445
<u>ELIZABETH BUSH-IVIE</u> (Regulatory Team Leader, OXY Permian)	
Direct Examination by Mr. Carr	464
Cross-Examination by Ms. MacQuesten	473
Examination by Commissioner Bailey	490
Examination by Commissioner Olson	492
Examination by Chairman Fesmire	494
STATEMENTS BY ADDITIONAL PARTIES:	
Mr. Bruce (Devon Energy Corporation)	499
NEW MEXICO CITIZENS FOR CLEAN AIR AND WATER WITNESS:	
<u>DONALD A. NEEPER</u> (Direct Testimony)	
Examination by Commissioner Bailey	506
PUBLIC COMMENT:	
Yolanda Perez, ConocoPhillips	523
Raye Miller, Marbob	531
CLOSING STATEMENTS:	
By Mr. Carr	540
By Ms. MacQuesten	548
By Dr. Neeper	557
DELIBERATIONS BY THE COMMISSION	559
REPORTER'S CERTIFICATE	644

* * *

(Continued...)

October 17th, 2005 (Volume III)

EXHIBITS	650
APPEARANCES	652
DELIBERATIONS BY THE COMMISSION (Continued)	656
VOTE ADOPTING THE RULES	676
COMMISSIONERS' STATEMENTS OF REASONS FOR ADOPTING THESE RULES	677
REPORTER'S CERTIFICATE	691

* * *

CUMULATIVE INDEX OF EXHIBITS

Applicant's	Identified	Admitted
Exhibit 1	19, 28	338
Exhibit 2	338	338
Exhibit 2A	338	338
Exhibit 3	-	-
Exhibit 4	-	-
Exhibit 5	-	-
Exhibit 6	69	82
Exhibit 7	74	82
Exhibit 8	75	82
Exhibit 9	76	82
Exhibit 10	93	105
Exhibit 11	96	105
Exhibit 12	110	129
Exhibit 13	152	182
Exhibit 14	153	182
Exhibit 15	154	182
Exhibit 16	157	338
Exhibit 17	156	182
Exhibit 18	158	182
Exhibit 19	161	182
Exhibit 20	246	338
Exhibit 21	247	338
Exhibit 22	247	338
Exhibit 23	-	338
Exhibit 24	255	338
Exhibit 25	257	338
Exhibit 26	262	338
Exhibit 27	295	338

* * *

(Continued...)

CUMULATIVE INDEX OF EXHIBITS (Continued)

NMOGA/IPANM	Identified	Admitted
Exhibit 1	399, 407	-

* * *

Additional submission by Applicant, not offered or admitted:

	Identified
Energy Policy Act of 2005	54, 216

* * *

Additional submission by Devon, not offered or admitted:

	Identified
Letter dated 1-13-05	501

* * *

A P P E A R A N C E S

FOR THE COMMISSION:

CHERYL BADA
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;
INDEPENDENT PETROLEUM ASSOCIATION OF NEW MEXICO;
CHEVRON NORTH AMERICA EXPLORATION AND PRODUCTION COMPANY;
MARBOB ENERGY COMPANY; YATES PETROLEUM CORPORATION;
BURLINGTON RESOURCES OIL AND GAS COMPANY, LP;
and BP AMERICA PRODUCTION COMPANY:

HOLLAND & HART, L.L.P., and CAMPBELL & CARR
110 N. Guadalupe, Suite 1
P.O. Box 2208
Santa Fe, New Mexico 87504-2208
By: WILLIAM F. CARR
and
OCEAN MUNDS-DRY

FOR CHEVRON USA:

MONTGOMERY & ANDREWS, P.A.
Attorneys at Law
325 Paseo de Peralta
P.O. Box 2307
Santa Fe, New Mexico 87504-2307
By: PAUL R. OWEN

(Continued...)

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

FOR DEVON ENERGY CORPORATION;
DEVON ENERGY PRODUCTION COMPANY, LP;
and DEVON LOUISIANA CORPORATION:

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

* * *

ALSO PRESENT:

ALAN ALEXANDER
Burlington Resources Oil and Gas Company

DEBBIE BEAVER
Williams Field Service

ELIZABETH BUSH-IVIE
OXY/Permian

JOHN BYROM
IPANM/D.J. Simmons, Inc.

MICHAEL J. CONDON
Gallegos Law Firm

JACK FORD
Environmental Bureau, NMOCD

BRUCE A. GANTNER
Burlington Resources Oil and Gas Company

DAN GIRAND
Mack Energy Corporation

JOHNNY C. GRAY
Marbob Energy Corporation

(Continued...)

ALSO PRESENT (Continued):

TIM GUM
District Supervisor
Artesia District Office (District 2)
NMOCD

J.W. "BILL" HAWKINS
BP America Production Company

KRISTEN HOWELL
Williams Field Service

WILLIAM V. JONES
Engineer, Hearing Examiner, UIC Program Manager
NMOCD

GWEN LACHELT
Director, Oil and Gas Accountability Project

CAROL LEACH
General Counsel
Energy, Minerals and Natural Resources Department
1220 South Saint Francis Drive
Santa Fe, New Mexico 87505

EDWIN E. MARTIN
Environmental Bureau, NMOCD

JOHN C. MAXEY, Jr.
Read and Stevens, Inc.

RAYE MILLER
Marbob Energy Corporation

DONALD A. NEEPER, PhD
New Mexico Citizens for Clean Air and Water, Inc.

PAUL R. OWEN
Attorney at Law

YOLANDA PEREZ
ConocoPhillips

(Continued...)

ALSO PRESENT (Continued):

CHARLIE T. PERRIN
District Supervisor
Aztec District Office (District 3)
NMOCD

WAYNE PRICE
Environmental Bureau, NMOCD

JOSÉ DANIEL SANCHEZ
Compliance/Enforcement Manager, NMOCD

DEBORAH D. SELIGMAN
NMOGA

DENNIS R. STENGER
Deputy State Director, Minerals and Lands
BLM

* * *

1 WHEREUPON, the following proceedings were had at
2 8:35 a.m.:

3 CHAIRMAN FESMIRE: Go back on the record. This
4 is a continuation of Cause Number 13,564, the amended
5 Application of the New Mexico Oil Conservation Division
6 through the Enforcement and Compliance Manager for the
7 adoption of new rules 19.15.1.37 NMAC; 19.15.1.38 NMAC;
8 19.15.3.100 NMAC; and 19.15.14.1227 NMAC; and the amendment
9 of 19.15.1.7 NMAC; 19.15.3.101 NMAC; 19.15.3.102 NMAC;
10 19.15.4.201 NMAC; 19.15.4.203 NMAC; 19.15.4.1101 NMAC;
11 19.15.9.701 NMAC; 19.15.13.1103 NMAC; 19.15.13.1104 NMAC;
12 and 19.15.13.1115 NMAC.

13 Let the record reflect that it's Monday morning,
14 8:35, October 17th, and that all members of the Commission
15 are present.

16 The Commission was considering the changes to
17 Rule 201 that had been proposed by the Division, and that's
18 where we cut off Friday evening. Was it 201 or --

19 COMMISSIONER OLSON: 203.

20 CHAIRMAN FESMIRE: 203, I'm sorry, 203 that were
21 proposed to the Commission.

22 Over the weekend I had a chance to go over this,
23 and I think there were a couple of things that I wanted to
24 propose to the Commission.

25 But before I start, Commissioner Bailey, do you

1 have anything to say about this that you want to put on the
2 record real quick?

3 COMMISSIONER BAILEY: No.

4 CHAIRMAN FESMIRE: No?

5 Commissioner?

6 COMMISSIONER OLSON: No.

7 CHAIRMAN FESMIRE: Okay. The things that -- the
8 decisions that we had to make is -- I think we had worked
9 down to 203.C.

10 We'd need a couple of changes in B, I think in
11 B(1). Any operator seeking approval for approved temporary
12 abandonment status. We considered adding the word
13 "approved". And then after sundry notices on reports on
14 wells, and a notice of intent. And then in the last line
15 of B(1), before beginning work.

16 And we've gotten down to C, and I think --

17 COMMISSIONER OLSON: Where was that? Oh, okay.

18 CHAIRMAN FESMIRE: And I -- we had gotten down to
19 C. And the first thing I think that we need to decide is,
20 when an operator TA's a well do we want them to pull the
21 packer or allow the to leave the packer and tubing in the
22 hole and basically just test the annulus between the casing
23 and the tubing?

24 COMMISSIONER BAILEY: Before we leave B, there
25 were some words that we talked about the B(2).

1 COMMISSIONER OLSON: B(2) as well.

2 CHAIRMAN FESMIRE: Oh, I'm sorry. Would you go
3 ahead and -- My notes aren't very good.

4 COMMISSIONER BAILEY: Okay, we had agreed that it
5 would say, The Division shall not approve temporary
6 abandonment until the operator furnishes evidence
7 demonstrating that such well's casing and cementing are
8 mechanically and physically sound.

9 CHAIRMAN FESMIRE: I think that's what we had
10 determined.

11 COMMISSIONER OLSON: Mechanically and physically,
12 right?

13 COMMISSIONER BAILEY: Uh-huh.

14 MS. BADA: Yeah.

15 COMMISSIONER OLSON: Okay. Did we add a new (3)
16 in there as well, in B? One of my notes said number (3),
17 but I don't have what it is.

18 CHAIRMAN FESMIRE: Counsel Bada, do your notes
19 show --

20 MS. BADA: I think it has something to do with
21 demonstrating internal and external mechanical integrity.

22 CHAIRMAN FESMIRE: Yes, the operator shall
23 demonstrate both internal and external mechanical integrity
24 pursuant to paragraphs (1) and (2) of Section C of 203
25 NMAC.

1 COMMISSIONER OLSON: So that's a new number (3).
2 Okay.

3 CHAIRMAN FESMIRE: Okay. Going on to C, the big
4 question here is whether -- to me, at least, is whether or
5 not we want to make them pull the packer and run in with a
6 cast iron or retrievable bridge plug, or allow them to TA
7 it with a packer and tubing in the hole. Is there any
8 comment on --

9 COMMISSIONER BAILEY: Well, in C(1)(a) it says
10 the operator may set a cast iron bridge plug within 100
11 feet. Has there been a problem?

12 CHAIRMAN FESMIRE: Not with cast iron bridge
13 plugs. The packer question comes in on number two, the
14 operator may run a retrievable bridge plug or packer. Do
15 we want to allow that, I guess, is the question.

16 COMMISSIONER BAILEY: Has there been a problem
17 with this before? Because has been language for a very
18 long time, hasn't it?

19 CHAIRMAN FESMIRE: Uh-huh. The problem comes
20 when you run in five years later and the tubing parts and
21 you leave the packer in the hole. I don't think the
22 wellbore is a very good place to store a string of tubing,
23 I guess is what I'm saying.

24 MS. BADA: I guess my question would be that we
25 don't have -- and my advice is that you don't have any

1 evidence on the record concerning whether that's good or
2 bad, so what would you be basing your decision on if you
3 chose to change it?

4 COMMISSIONER OLSON: I guess that would be my
5 question too. I just want to make sure that we're not
6 getting ourselves in some spot where we can be challenged
7 on something just because of the fact that we didn't have
8 something in the record for testimony about that issue. It
9 wasn't proposed to be changed, I guess, at this point, so I
10 think it might be difficult for us to do that, to take that
11 action.

12 CHAIRMAN FESMIRE: Okay. Okay, I would also
13 propose that both (a) and (b) under C, with a pressure drop
14 of not more than 10 percent over a 30-minute period.

15 COMMISSIONER BAILEY: Yes.

16 COMMISSIONER OLSON: Right.

17 CHAIRMAN FESMIRE: And during -- One of the
18 things that is not clear but I think we need to address, as
19 the pressure changes that occur on the back side during the
20 testing of the casing and whether or not there's a flow on
21 the back side, I think that's a natural part of the casing
22 integrity testing that we're mandating here, and I would
23 propose in C(1)(c) that C(1)(c) read -- a new part --
24 During the testing described in (a) and (b) above,
25 operators shall open all casing valves during the internal

1 pressure tests and report any flow or pressure change
2 occurring before, during or after the 30-minute pressure
3 test.

4 Like I said, I think this is a natural outgrowth
5 of the testing that we're going to be doing on the casing
6 and would allow us to determine whether the cement on the
7 outside of the well and the casing, other than the
8 production casing string, have enough integrity to
9 withstand a period of five years shut in.

10 COMMISSIONER BAILEY: I think that's a good idea.
11 We've demonstrated that there was nothing in the rule that
12 talked about channeling behind the pipe.

13 CHAIRMAN FESMIRE: Right.

14 COMMISSIONER OLSON: And when -- we did have a
15 recommendation from Mr. Price that we should add integrity
16 testing of all annulus, essentially.

17 CHAIRMAN FESMIRE: Okay. I would also recommend
18 a fourth part to that, C(1)(b), operator shall top off the
19 casing with inert fluid prior to leaving the location, in
20 case they lose any fluid -- if we're allowing a 10-percent
21 pressure fall-off during the testing, there's liable to be
22 a small volume of inert fluid lost, and we don't want the
23 upper part of the production casing subjected to the
24 detrimental effects of high moisture content,
25 uninhibited --

1 COMMISSIONER BAILEY: It makes sense to me.

2 CHAIRMAN FESMIRE: Okay. And then perhaps
3 C(1)(e), any flow during the test above shall be reported
4 to the Division district office prior to completion of TA
5 operations, and the Division may require remediation of the
6 flow prior to granting TA status on the well.

7 COMMISSIONER BAILEY: Okay.

8 CHAIRMAN FESMIRE: Okay.

9 COMMISSIONER OLSON: Then I guess, is this
10 consistent with TA actions that are going on with the
11 Division right now?

12 CHAIRMAN FESMIRE: In some districts, yes.

13 COMMISSIONER OLSON: Okay.

14 CHAIRMAN FESMIRE: But not in all districts,
15 unfortunately. Okay, in -- so we're pretty much agreed to
16 C, adding C(1)(c) and C(1)(d) and C(1)(e)?

17 MS. BADA: Can I get your notes when --

18 CHAIRMAN FESMIRE: Sure.

19 MS. BADA: -- before we leave?

20 CHAIRMAN FESMIRE: Sure.

21 COMMISSIONER BAILEY: Yes.

22 CHAIRMAN FESMIRE: Okay.

23 COMMISSIONER OLSON: Uh-huh, yes.

24 CHAIRMAN FESMIRE: The Division may approve the
25 following methods, add an "s", of demonstrating -- so we

1 need to add a section (2), I think.

2 COMMISSIONER OLSON: Capital C(1) -- C(2)?

3 CHAIRMAN FESMIRE: Yes.

4 COMMISSIONER OLSON: Okay.

5 CHAIRMAN FESMIRE: The Division --

6 COMMISSIONER OLSON: Oh, there is a C(2) already,

7 so I guess this is a new C(2)?

8 CHAIRMAN FESMIRE: What is the C(2) --

9 MS. BADA: It talks about not --

10 CHAIRMAN FESMIRE: The operator may -- Okay, this
11 is just a little rewrite of that.

12 The Division may approve the following methods of
13 demonstrating external casing and cement integrity for
14 wells to be placed on approved temporary abandonment
15 status.

16 Here the decision is under (a), if the tests,
17 C(1) above, show no flow behind the casing -- I don't think
18 there's a real strong argument to require any additional
19 inquiry if they don't have a flow or -- behind the pipe.
20 But if the -- shows no flow behind the casing, the operator
21 may use the results of the temperature or noise log, or
22 cementing records, verified by recent cement bond log,
23 approved by the Division or other methods approved by APA
24 specified at 40 CFR 146.8 -- I think that's a little
25 awkward.

1 What I would say is, if the test in C(1) shows no
2 flow behind the pipe, a cement bond log run during the life
3 of the well, show an adequate bond to prevent flow behind
4 the casing, can be accepted.

5 What that's -- What I'm trying to say there is
6 that if there's no flow, they just show us a cement bond
7 log that they've run in the past showing adequate bond to
8 prevent flow and that they filed that log with the
9 Division.

10 COMMISSIONER BAILEY: How much deterioration of
11 the cement do you see through the salt section?

12 CHAIRMAN FESMIRE: That's a good question.

13 COMMISSIONER BAILEY: I think that it's been
14 documented that channeling and deterioration of that cement
15 does occur.

16 CHAIRMAN FESMIRE: Okay. So you don't think we
17 should accept old cement bond logs?

18 COMMISSIONER BAILEY: No.

19 CHAIRMAN FESMIRE: Are we going to require a
20 cement bond log every time they -- when they go to PA the
21 well -- TA the well?

22 COMMISSIONER BAILEY: And then every five years
23 after that. We don't have any testimony. We don't have
24 any documentation on the deterioration of the cement, it's
25 just common knowledge, isn't it?

1 CHAIRMAN FESMIRE: So is there a suggestion?

2 COMMISSIONER BAILEY: I'm thinking.

3 (Laughter)

4 COMMISSIONER BAILEY: I'm trying.

5 MS. BADA: Do the EPA regs require it, for
6 mechanical integrity?

7 COMMISSIONER BAILEY: The top of the left
8 column --

9 CHAIRMAN FESMIRE: On page 2?

10 COMMISSIONER BAILEY: On page 2, C(1), the
11 results of the temperature and noise log.

12 CHAIRMAN FESMIRE: Yup.

13 MS. BADA: So do you want to take administrative
14 notice of the EPA regulations?

15 CHAIRMAN FESMIRE: Yes, at this time we'll take
16 administrative notice of CFR 146.P [sic]. Is that
17 sufficient to describe it?

18 MS. BADA: It's 40 CFR 146.8.

19 CHAIRMAN FESMIRE: 40 CFR 146.8.

20 COMMISSIONER BAILEY: But for Class II they only
21 require the cementing records.

22 CHAIRMAN FESMIRE: So I think -- the wells that
23 we're -- most of the wells that we'll be dealing with here
24 are going to be Class II wells, aren't they? Class II is
25 oil and gas wells?

1 COMMISSIONER BAILEY: Yes.

2 CHAIRMAN FESMIRE: Cementing records
3 demonstrating the presence of adequate cement to prevent
4 such migration.

5 COMMISSIONER BAILEY: Why can't we just adopt
6 this Section C that says one of the following methods must
7 be used to determine --

8 CHAIRMAN FESMIRE: Okay, now, I think that's
9 basically what the -- with perhaps too much verbiage, but a
10 log approved -- a recent cement bond log. How about, the
11 operator may use any of the methods approved by EPA
12 specified in 40 CFR 146.8?

13 COMMISSIONER BAILEY: Okay.

14 COMMISSIONER OLSON: Uh-huh, I like that.

15 MS. BADA: Do you want to repeat that so I can
16 get that down.

17 COMMISSIONER OLSON: So where does that go again?
18 That's --

19 CHAIRMAN FESMIRE: It's under 2(A). 2 reads, The
20 Division -- currently reads, The Division may approve the
21 following methods of demonstrating external casing
22 integrity --

23 MS. BADA: Okay, so that would be a new section
24 2.

25 COMMISSIONER OLSON: That's a new 2, right?

1 CHAIRMAN FESMIRE: Well actually --

2 COMMISSIONER OLSON: Because that's --

3 CHAIRMAN FESMIRE: -- yes.

4 COMMISSIONER OLSON: -- to read, so that --

5 CHAIRMAN FESMIRE: Right. The operator may
6 approve the results of a -- I'm sorry, let me start over.

7 2 shall read, The Division may approve the
8 following methods of demonstrating external casing and
9 cement integrity for wells to be placed on approved
10 temporary abandonment status.

11 And (a), Any of the methods approved by the EPA
12 in 40 CFR 146.8.

13 And that eliminates the need for (b) there also.

14 MS. BADA: Is there a certain section in that
15 146.8?

16 COMMISSIONER OLSON: Chapter, you mean?

17 CHAIRMAN FESMIRE: 146.8 --

18 MS. BADA: Yeah.

19 CHAIRMAN FESMIRE: -- (c).

20 MS. BADA: And that's a small (c)?

21 CHAIRMAN FESMIRE: Small (c).

22 MS. BADA: Okay.

23 CHAIRMAN FESMIRE: And might add (d) also.

24 COMMISSIONER OLSON: What's that part of? It's
25 part of 3.

1 MS. BADA: I think you already have that in that
2 one section that you have on 4, allows you to approve other
3 methods.

4 CHAIRMAN FESMIRE: Yes.

5 MS. BADA: Will that cover it?

6 CHAIRMAN FESMIRE: Yes.

7 MS. BADA: Okay.

8 COMMISSIONER OLSON: So you really don't need an
9 A there, do you? It could just be all one --

10 MS. BADA: Yeah --

11 COMMISSIONER OLSON: -- one requirement, not have
12 a subsection?

13 MS. BADA: What? I'm lost.

14 CHAIRMAN FESMIRE: He doesn't think that we need
15 an A, we just go from here and --

16 COMMISSIONER OLSON: Make it all one.

17 COMMISSIONER BAILEY: Oh, okay.

18 MS. BADA: Could we just say the operator may use
19 any methods approved by EPA in 40 CFR 146.8? And would
20 this be just an external casing, or would this be internal
21 as well?

22 COMMISSIONER BAILEY: 146.8 describes both
23 internal and external.

24 MS. BADA: Okay. So how about if we word it, an
25 operator may demonstrate or may use any method approved by

1 EPA in 40 CFR 146.8(c) to demonstrate external and internal
2 casing integrity for wells to be placed on approved
3 temporary abandonment --

4 CHAIRMAN FESMIRE: -- status.

5 MS. BADA: Okay, well, I don't think we want to
6 use "status" because that's in the definition.

7 CHAIRMAN FESMIRE: Okay.

8 MS. BADA: And it says a -- that that's what that
9 means, status, so, I think they're probably redundant.

10 COMMISSIONER OLSON: I had just one question. Is
11 that conflicting, then, with C(1), which is giving you your
12 internal casing integrity?

13 MS. BADA: That's just internal, right, up there?

14 CHAIRMAN FESMIRE: Well, we're using the pressure
15 testing to determine internal casing.

16 COMMISSIONER OLSON: Right.

17 MS. BADA: So this would just be external?

18 COMMISSIONER OLSON: Is that just external then?

19 CHAIRMAN FESMIRE: External casing and cementing.

20 MS. BADA: Okay, external casing --

21 CHAIRMAN FESMIRE: -- and cement integrity.

22 MS. BADA: -- and cement integrity, okay, and
23 cement integrity.

24 COMMISSIONER OLSON: So we'd have a separate
25 section for internal and a separate section for external?

1 CHAIRMAN FESMIRE: Right.

2 COMMISSIONER OLSON: Okay.

3 MS. BADA: Okay, so instead of saying -- Okay, so
4 demonstrate external and cement -- external casing and
5 cement integrity for wells to be placed on temporary
6 abandonment, or in temporary abandonment? That's probably
7 more accurate. Okay.

8 CHAIRMAN FESMIRE: You're the grammar -- you the
9 grammar person.

10 MS. BADA: Okay.

11 CHAIRMAN FESMIRE: And the last change I had, the
12 Division -- C(5), the Division may approve other methods --

13 MS. BADA: Okay.

14 CHAIRMAN FESMIRE: -- the operator proposes if
15 the operator demonstrates that the test method will satisfy
16 the requirements of paragraph (2), subsection B, 203 NMAC.

17 MS. BADA: Okay, so the Division may approve
18 other methods to demonstrate that the well's casing is
19 mechanically and physically sound --

20 CHAIRMAN FESMIRE: Right.

21 MS. BADA: Is that what you were trying to say?

22 CHAIRMAN FESMIRE: Yeah.

23 MS. BADA: Okay.

24 COMMISSIONER OLSON: And that's to replace, then,
25 the existing (4)?

1 CHAIRMAN FESMIRE: No, I thought --

2 COMMISSIONER OLSON: That has other casing test
3 methods in it, yeah.

4 CHAIRMAN FESMIRE: I think we're talking about
5 external integrity in (4), and what we're talking about in
6 (5) is --

7 COMMISSIONER BAILEY: That's different from what
8 was in our notebook.

9 MS. BADA: Yeah, because --

10 COMMISSIONER OLSON: Yeah.

11 MS. BADA: -- what it says is, the Division --
12 the proposed (4) says, the Division may approve other
13 casing tests the operator proposes if the operator
14 demonstrates the test will satisfy the requirements of
15 paragraph 2 of Subsection B of 19.15.4 --

16 CHAIRMAN FESMIRE: Can we add (3) to this (4) --

17 COMMISSIONER OLSON: Yeah, I'm wondering if there
18 should be additional paragraphs.

19 CHAIRMAN FESMIRE: -- and avoid what I was
20 talking about, about (5)?

21 COMMISSIONER OLSON: Uh-huh.

22 MS. BADA: And is it only casing tests that we
23 want, or is there something more broader that we want to
24 say?

25 CHAIRMAN FESMIRE: Approve other testing methods.

1 MS. BADA: Okay.

2 COMMISSIONER OLSON: And then is it just the
3 requirements of paragraph (2) --

4 CHAIRMAN FESMIRE: Well --

5 MS. BADA: -- (2), or do we add (c) in there as
6 well?

7 CHAIRMAN FESMIRE: -- I think we'd need to add --
8 (2) --

9 COMMISSIONER OLSON: Because (2) is a broad --
10 very broad requirement.

11 CHAIRMAN FESMIRE: What about sections (b) and
12 (c)?

13 MS. BADA: Yeah, because (2) is in (b).

14 CHAIRMAN FESMIRE: Right.

15 COMMISSIONER OLSON: Well, I don't know if you'd
16 want (c), because --

17 MS. BADA: Oh, I know why we're referring to
18 B(2), because B(2) tells you what they have to show.

19 COMMISSIONER OLSON: Yeah.

20 MS. BADA: So that's why it only --

21 COMMISSIONER OLSON: Just so that there wouldn't
22 be damage to the --

23 MS. BADA: Right.

24 COMMISSIONER OLSON: -- zone, migration of
25 hydrocarbons --

1 CHAIRMAN FESMIRE: Oh, okay.

2 COMMISSIONER OLSON: -- in the water. I think
3 B(2) is correct.

4 MS. BADA: Okay. So it would now read, the
5 Division may approve other testing methods the operator
6 proposes if the operator demonstrates that the test will
7 satisfy the requirements of paragraph (2) of subsection B?

8 CHAIRMAN FESMIRE: Okay.

9 COMMISSIONER OLSON: That's just the perform- --
10 under performance, of what they need to demonstrate.

11 CHAIRMAN FESMIRE: Right. Okay, are there any
12 other rules that --

13 MS. BADA: Well, we need --

14 CHAIRMAN FESMIRE: -- anybody after the
15 weekend --

16 MS. BADA: We need to deal with that reference to
17 C-108, which is a bad idea to have in a rule.

18 CHAIRMAN FESMIRE: Which one is that?

19 COMMISSIONER OLSON: Where is that?

20 MS. BADA: That was at, oh -- Let me go back and
21 find it now. It has to do with notice requirements
22 complying with C-108. I should have written down which one
23 it was. It's on Rule 701, in paragraph C(1).

24 CHAIRMAN FESMIRE: Okay.

25 MS. BADA: And we should actually list what

1 requirements you want, instead of referring to a form.

2 CHAIRMAN FESMIRE: Looks like we're under Section
3 14, proof of notice, on the form.

4 MS. BADA: And if you want, I can just add a
5 paragraph there that says the notice shall include the
6 following, and just list those requirements.

7 CHAIRMAN FESMIRE: Copy of the application has
8 been furnished by certified or registered mail to the owner
9 of the surface of the land on which well is to be located,
10 and each leasehold operator with one and a half mile of the
11 location.

12 Well, isn't that the requirements in B(2)?

13 COMMISSIONER OLSON: Just that one sentence,
14 right?

15 MS. BADA: Well, no, because it says --

16 COMMISSIONER OLSON: Well, it has the contents --

17 MS. BADA: -- what has to be in there --

18 COMMISSIONER OLSON: -- right.

19 MS. BADA: -- is a name, address, phone number
20 and contact party --

21 COMMISSIONER OLSON: Right.

22 MS. BADA: -- purpose. So it would need
23 everything -- it would need the requirements in (2), (3)
24 and (4).

25 CHAIRMAN FESMIRE: Yes, I think we need to do

1 that where it refers to C-108.

2 MS. BADA: Yeah.

3 COMMISSIONER OLSON: So if we just direct our
4 Commission counsel to take the requirements from C-108 and
5 replace those direct requirements into the rule, instead of
6 the reference to C-108?

7 CHAIRMAN FESMIRE: Yeah, I think that would be a
8 good idea.

9 MS. BADA: Okay.

10 CHAIRMAN FESMIRE: Do we need to -- Okay,
11 anything else that we need to do that anybody can think of?

12 MS. BADA: That's all I had on my list.

13 CHAIRMAN FESMIRE: Commissioner Bailey?

14 COMMISSIONER BAILEY: I had nothing more.

15 COMMISSIONER OLSON: I just --

16 CHAIRMAN FESMIRE: Mr. Olson?

17 COMMISSIONER OLSON: I just was going to say,
18 just following up on C-108, it looks like it also appeared
19 up on B -- (1) -- that's by submittal of the C-108.

20 MS. BADA: Yeah.

21 CHAIRMAN FESMIRE: Right, that's just instructing
22 that --

23 COMMISSIONER OLSON: Okay, got you.

24 CHAIRMAN FESMIRE: -- it doesn't -- The problem
25 we've got is in C.(1) --

1 COMMISSIONER OLSON: It's information.

2 CHAIRMAN FESMIRE: It's information --

3 COMMISSIONER OLSON: Right.

4 CHAIRMAN FESMIRE: -- and you'd have to refer to
5 the C-108 form, and I don't think we can -- Okay.

6 Commissioner Bada -- "Commissioner". Counsel
7 Bada, do you think that you could make the changes that
8 we've requested by the next commission meeting?

9 MS. BADA: I believe so, and then I will
10 circulate them to you before that so that you'll have an
11 opportunity to review them and let me know if I've missed
12 anything or misunderstood you.

13 CHAIRMAN FESMIRE: Okay.

14 At this time the Chair would entertain a motion
15 to adopt the rules as amended during the three-day meeting
16 that we've had on these rules, and to direct counsel to
17 draft an order adopting the rules and make the amendments
18 to the attachment copy of the rules and present it for
19 signature at the next meeting.

20 COMMISSIONER BAILEY: I so move.

21 COMMISSIONER OLSON: So moved -- yeah, second.

22 CHAIRMAN FESMIRE: All those in favor signify by
23 saying aye.

24 COMMISSIONER BAILEY: Aye.

25 CHAIRMAN FESMIRE: Aye.

1 COMMISSIONER OLSON: Aye.

2 CHAIRMAN FESMIRE: All those --

3 MS. BADA: Okay, before you leave -- I'll let you
4 finish, but -- Go ahead and ask for nays.

5 CHAIRMAN FESMIRE: All those opposed signify by
6 saying nay.

7 The motion carries that the rules in Case Number
8 13,564 be adopted as amended and that the counsel draft an
9 order and make the amendments to that effect for
10 presentation for signature at the next regularly scheduled
11 OCD meeting, which is November 10th --

12 COMMISSIONER BAILEY: Yes.

13 CHAIRMAN FESMIRE: -- in this room.

14 Counsel, Bada, you had something to say.

15 MS. BADA: I would like to go through these
16 rules, and any major changes, I'd like to have your reasons
17 for making them on the record, or why you adopted the rule
18 as it was written, because if you get challenged you'll
19 need to have a basis for why you did what you did.

20 CHAIRMAN FESMIRE: Okay.

21 MS. BADA: I want to make sure we have enough on
22 the record that I can support you.

23 CHAIRMAN FESMIRE: Okay. I guess we can go
24 through --

25 MS. BADA: Let's start with 1227, and some of

1 them will be very short, and others will be longer.

2 CHAIRMAN FESMIRE: I think the rule as adopted --
3 the rule as amended was adopted, at least on my part,
4 because there's a need to formalize some of the compliance
5 and enforcement regulations that the OCD has to allow the
6 OCD and the OCC to effectively protect the correlative
7 rights, protect -- prevent waste, protect correlative
8 rights and protect human health and the environment, the
9 reason being that the OCD has reached a plateau in its
10 enforcement efforts, and given the resources we have and
11 the rules that we're using, we need to be able to basically
12 bring to bear some more stringent regulation and
13 enforcement actions, and that the Rule 1227 outlines and
14 gives us the necessary means to bring those compliance
15 proceedings.

16 Commissioner?

17 COMMISSIONER BAILEY: I think 1227 simply
18 clarifies to an operator exactly what can happen if they
19 ignore OCD and the rules.

20 COMMISSIONER OLSON: Yeah, I'd probably add to
21 that clarification, it clarifies the procedural mechanisms
22 that the Division will use to seek compliance. I think
23 that the -- I would say for all these rules, I think that
24 we've got here, I think that the Division in their
25 testimony provided adequate justification for -- and

1 testimony in support of the need for these rules.

2 CHAIRMAN FESMIRE: And I'd like to add that the
3 -- one of the more important stipulation -- one of the more
4 important sections of 1227 is the ability to bring an
5 agreed compliance order and to have that agreed compliance
6 order have the effect that it needs to have to make it
7 enforceable under current rules.

8 MS. BADA: Okay, on Rule 7(K), could you just
9 briefly explain why you chose to adopt the Division's
10 proposed definition with one minor amendment, rather than
11 NMOGA and IPANM's proposed definition for knowing and
12 willful?

13 CHAIRMAN FESMIRE: I think for the purposes of
14 assessing civil penalties, the knowing and willful
15 definition presented by the Division is much more concise,
16 much clearer, and lets the operators and the people who are
17 regulated by these rules understand exactly what's expected
18 of them and understand exactly what the definition of
19 knowing and willful that they will be subject to is.

20 Some of the other definitions that were proposed
21 to the Commission, I think were more nebulous and, for lack
22 of a more legal term, wishy-washy. And this is definitive,
23 this is accurate, and I think it accurately represents the
24 Legislative intent to provide operators the ability to know
25 exactly what knowing and willful are in conjunction with

1 the enforcement statutes and rules.

2 MS. BADA: Do either of you or -- Do you have
3 anything to add?

4 COMMISSIONER BAILEY: I simply think the OCD made
5 a better case than the other parties.

6 MS. BADA: Why don't we go to what was proposed
7 Rule 37, and you can -- since that's one of the more
8 controversial ones.

9 CHAIRMAN FESMIRE: Counsel Bada, have you
10 determined what that rule number will be?

11 MS. BADA: I believe it will be either Rule 39 or
12 Rule 40.

13 COMMISSIONER OLSON: 40 sounds good.

14 MS. BADA: Okay. We'll leave three for David for
15 his --

16 CHAIRMAN FESMIRE: Okay.

17 MS. BADA: -- compulsory pooling, we'll propose
18 it to be 40.

19 CHAIRMAN FESMIRE: Okay. My reason for voting
20 for this rule as amended is that I think the ability of the
21 OCD to enforce its rules and regulations without such a
22 rule were pretty much compromised in that while operators
23 could be caught in violations and punished to a certain
24 extent, there was nothing in there that kept them from
25 coming back and committing the same violations or new

1 violations while essentially thumbing their nose at OCD
2 Rules and Regulations.

3 If our rules and regulations are going to be
4 enforceable, this concept as embodied in Rule 40 -- the new
5 proposed Rule 40, the old proposed Rule 37 -- is necessary
6 to allow us to enforce the rules and regulations and,
7 again, to protect correlative rights, prevent waste and
8 protect human health and the environment, especially
9 protect human health and the environment.

10 COMMISSIONER BAILEY: I think this rule as
11 amended is now fair and reasonable and can be consistently
12 applied.

13 COMMISSIONER OLSON: And I'd like to add that I
14 think the Division put forward a good case that they need
15 additional mechanisms to achieve compliance with Division
16 rules, besides just issuing a financial penalty.

17 MS. BADA: Okay.

18 CHAIRMAN FESMIRE: 102?

19 MS. BADA: And with regard to 102, I think the
20 only change we made there was the -- you know, to change it
21 from good standing to compliance. But if you just -- one
22 of you could speak briefly about adding standards for
23 reviewing permissive actions, it would be helpful.

24 CHAIRMAN FESMIRE: Well, one of the complaints
25 that the regulated community has against the OCC and the

1 OCD is that sometimes we have difficulty being consistent
2 in our enforcement.

3 I think one of the major changes -- the major
4 change brought about by this rule will help provide the
5 standards that we need to be consistent and to provide a
6 benchmark from district to district and over the entire
7 state for compliance actions and the penalties that will be
8 meted out under those compliance actions.

9 MS. BADA: Okay, does anyone --

10 COMMISSIONER BAILEY: Operators need to have the
11 same standards applied, no matter where they locate their
12 wells in New Mexico.

13 MS. BADA: Do you have anything, Bill?

14 COMMISSIONER OLSON: I don't have anything to add
15 to that.

16 MS. BADA: Okay, does anybody have any thoughts
17 on 701 and your changes there to B(2) and C(1)?

18 COMMISSIONER OLSON: You skipped 1101 or --

19 CHAIRMAN FESMIRE: Did you mean to skip 1101,
20 counsel?

21 MS. BADA: I don't know that we made any changes
22 to 1101, so I'm assuming you're fairly comfortable with
23 those.

24 CHAIRMAN FESMIRE: Again, the injection of fluid
25 either as a pressure maintenance operation or in a disposal

1 operation is an integral part of producing oil and gas in
2 New Mexico.

3 The ability to effectively regulate that
4 injection is an imperative that the Oil Conservation
5 Division and Oil Conservation Commission has to address.
6 This Rule 701 allows us to basically regulate that in
7 conjunction with the federal regulations and in compliance
8 with the federal regulations, and I believe that this is a
9 required change for the OCD to make at this time.

10 COMMISSIONER OLSON: I might add that the changes
11 that we placed in this section were supported by the
12 testimony provided by the Division, were not opposed.

13 COMMISSIONER BAILEY: And I think the geology and
14 harsh conditions in many well sites requires this type of
15 testing, particularly on older wellbores.

16 MS. BADA: Did anyone want to comment on 101.A
17 and the decision to leave in the reference to privately
18 owned or state owned lands?

19 CHAIRMAN FESMIRE: On 101?

20 MS. BADA: Yeah, that's the bonds.

21 CHAIRMAN FESMIRE: Yes. Since this rule was
22 drafted, there have been some changes in the federal
23 legislative scheme that it appears, and the testimony seems
24 to support, that the federal government will be able to
25 collect and adequately plug the wells on federal lands.

1 And at this time, at least for the time being,
2 until we see how that program comes out, the need that this
3 rule was written to address is at least held in abeyance
4 for the time because, again, the federal government has
5 proposed -- or has essentially mandated under the new
6 Energy Act that they begin plugging their own wells on
7 federal lands, and they will be doing that in addition to
8 the plugging going on by the State of New Mexico and the
9 use of the oil and gas reclamation fund on federal lands.

10 Therefore at this time it does not appear that
11 some of the changes that we had originally intended to make
12 in this rule are necessary. Others still are, but the
13 bonding on federal land appears to be a problem that the
14 federal government has addressed.

15 COMMISSIONER BAILEY: Nothing to add.

16 MS. BADA: Okay.

17 COMMISSIONER OLSON: I'd like to add too, just --
18 I'd added in a number of places some additional language
19 for -- just clarifying that the site is restored and
20 remediated and -- that the well site itself is restored and
21 remediated. I'd just like to clarify this because I
22 believe that's an integral part of the plugging and
23 abandonment of the site.

24 MS. BADA: Anybody have any comments on 203? And
25 I'll let you go. And that's the integrity testing.

1 CHAIRMAN FESMIRE: Yes, the -- one of the most
2 important parts of protecting New Mexico's water resources
3 is to make sure there is no flow between different geologic
4 strata. The proper temporary abandonment of wells,
5 especially wells that have had a relatively long life, is
6 perhaps the most important part of preventing that flow.

7 The changes that we've made in Rule 203, I
8 believe, will very adequately prevent that sort of wellbore
9 deterioration and failure that will result in future
10 contamination.

11 The wellbores that are in essence turned off in
12 this state are temporarily abandoned, and the operator --
13 especially in this time when it's very difficult to get
14 ahold of rigs, as some of the testimony provided, and it's
15 difficult for the operator to pay attention to these wells,
16 it's time for the State to, in essence, make sure that that
17 is one of the operator's priorities, and this rule will do
18 that, I believe.

19 COMMISSIONER BAILEY: I think the consistency
20 shown between the EPA regulations and State regulations is
21 a very important aspect of this rule.

22 Could I make one more comment on Rule 701?

23 Although we have amended this rule, I bring up
24 the fact that I would like to see this rule brought for
25 amendment again at some point in the near future to address

1 the injection of drilling wastes into salt caverns as an
2 issue connected with this rule.

3 MS. BADA: Okay, and I have one more question,
4 because I'm not sure that we adequately explained it.

5 COMMISSIONER OLSON: I might add to the rationale
6 for Rule 203 that these requirements are necessary to
7 protect fresh waters in New Mexico.

8 MS. BADA: Okay, and the last thing I want to ask
9 you is, in the rule -- what will now be Rule 40, your
10 thought -- why you chose to increase the number of wells
11 for some categories, for operators that have a larger
12 number of wells, and chose not to do a percentage. So if
13 you could just explain that.

14 CHAIRMAN FESMIRE: I think the operators made an
15 adequate showing that perhaps the threshold we set was a
16 little low for the larger operators. But I think it has
17 been adequately demonstrated by two of the -- if not the
18 biggest, the most important operators in New Mexico,
19 specifically Burlington and Marbob, that the thresholds
20 that we were seeking were fully achievable and that they
21 were not an onerous burden on industry, and that when a
22 company engaged in the good practices that we're
23 essentially mandating with these rules, that they actually
24 made money at it.

25 Again, I think that they showed that the

1 thresholds that we were initially proposing were perhaps a
2 little low. They did not make a case to show that a
3 percentage of the wells was a better option. I think they
4 did show that a good operator can maintain compliance, and
5 that's what this is, is simply compliance.

6 Any hurdle or threshold in the number of wells
7 that we're -- enact here, is in essence more of a cushion
8 on the rules of compliance, and I think the numbers that we
9 proposed in there and the step structure that we proposed
10 were fully adequate to address the concerns that the
11 operators raised.

12 MS. BADA: What concern would you have about
13 using a percentage rather than an actual number?

14 CHAIRMAN FESMIRE: As Mr. Gantner, the witness
15 for NMOGA/Burlington, testified, when he started talking
16 about talking about what would be, in his idea, a
17 reasonable number, he mentioned 30 to 40 out of 6000. That
18 is certainly a very small percentage when you talk about
19 Burlington's total number of wells.

20 And he also testified that they have zero wells
21 out of compliance now. That is a very good record.
22 Occasionally something's going to fall through the cracks.
23 But certainly the number that falls through the cracks is
24 not going to be a representative percentage of the total
25 numbers of the wells.

1 The number that the Oil and Gas Association
2 proposed, five percent, in the case of Burlington, would be
3 300 -- 300-plus wells. They have demonstrated that they
4 can keep that down to essentially zero and that they can
5 maintain that rate over a significant period of time, that
6 they can maintain that target over a significant period of
7 time.

8 It shows that the numbers that we have applied
9 are fully reasonable, it shows that the number of wells out
10 of compliance is not going to be a function of the number
11 of wells you have in the field, it's going to be a function
12 of how much attention and resources you pay to staying in
13 compliance, and the idea behind these rules is to achieve
14 compliance.

15 MS. BADA: Would you have any concerns, even if
16 you used a fraction of a percent in trying to calculate
17 that number and -- field offices and knowing --

18 CHAIRMAN FESMIRE: Yes.

19 MS. BADA: -- exactly the number of wells that --

20 CHAIRMAN FESMIRE: I think the testimony showed
21 that we would get into, you know, the definition of total
22 wells, how many total wells are available for the
23 calculation.

24 While we -- there may be a slight argument now
25 with the step structure we have, I don't think it will be

1 hard to maintain, because the only time that you're going
2 to have an argument is when the operators are on the cusp
3 of the step, and that is a significantly smaller burden on
4 both the operators and the OCD than having to argue about
5 the accuracy of the number and applying a percentage to it.

6 MS. BADA: Do you have anything, Jami?

7 COMMISSIONER BAILEY: Nothing to add.

8 MS. BADA: Okay, Bill?

9 COMMISSIONER OLSON: I have nothing to add to
10 that.

11 MS. BADA: Okay, I have no more questions to prod
12 you with.

13 CHAIRMAN FESMIRE: Counsel will prepare proposed
14 rules and the proposed amendment and circulate it to the
15 Commissioners prior -- hopefully significantly prior to the
16 next meeting --

17 COMMISSIONER OLSON: Please.

18 CHAIRMAN FESMIRE: -- at which time we will --

19 MS. BADA: I will attempt to do this quickly so
20 that I don't forget what you've done.

21 CHAIRMAN FESMIRE: Is there any other business
22 before the Commission today?

23 COMMISSIONER BAILEY: No, and I move we adjourn.

24 CHAIRMAN FESMIRE: All those in favor?

25 COMMISSIONER BAILEY: Aye.

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 October 27th, 2005.



STEVEN T. BRENNER
 CCR No. 7

My commission expires: October 16th, 2006