

STATE OF NEW MEXICO

OIL CONSERVATION DIV.

ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

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OIL CONSERVATION COMMISSION

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

CASE NO. 12,119

APPLICATION OF THE OIL CONSERVATION)
 DIVISION TO AMEND RULE 104)
 (19 NMAC 15.C.104) PERTAINING TO)
 WELL SPACING)

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGSCOMMISSION HEARING

BEFORE: LORI WROTENBERY, CHAIRMAN
 JAMI BAILEY, COMMISSIONER
 ROBERT LEE, COMMISSIONER

July 15th, 1999

Santa Fe, New Mexico

This matter came on for hearing before the Oil
 Conservation Commission, LORI WROTENBERY, Chairman, on
 Thursday, July 15th, 1999, at the New Mexico Energy,
 Minerals and Natural Resources Department, Porter Hall,
 2040 South Pacheco, Santa Fe, New Mexico, Steven T.
 Brenner, Certified Court Reporter No. 7 for the State of
 New Mexico.

* * *

STEVEN T. BRENNER, CCR
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I N D E X

July 15th, 1999
 Commission Hearing
 CASE NO. 12,119

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A P P E A R A N C E S

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* * *

1 WHEREUPON, the following proceedings were had at
2 9:10 a.m.:

3
4 CHAIRMAN WROTENBERY: Okay, that gets us to the
5 principal item on our agenda today, and that's Case 12,119,
6 the Application of the Oil Conservation Division to amend
7 Rule 104 pertaining to well spacing.

8 We posted the proposed rule changes on the
9 Internet, and what we'd like to do today is take any
10 testimony that anybody would like to offer on these
11 proposed rule changes.

12 After today's meeting, we'll leave the record
13 open for a few weeks to take any further comment that
14 anybody might want to submit in writing, and then our plan
15 is to come back and take final action on this particular
16 rule-making at the Commission's meeting on August 12th.

17 So let me call for appearances in this particular
18 item.

19 MR. CARROLL: May it please the Commission, my
20 name is Rand Carroll, appearing on behalf of the Oil
21 Conservation Division, and I have one witness.

22 CHAIRMAN WROTENBERY: Anybody else plan to
23 testify?

24 MR. FOPPIANO: May it please the Commission, Rick
25 Foppiano with OXY USA, from Houston, Texas.

1 MR. OWEN: May it please the Commission, my name
2 is Paul Owen of the Santa Fe law firm Campbell, Carr, Berge
3 and Sheridan, appearing on behalf of Yates Petroleum
4 Corporation.

5 MR. PATTERSON: Madame Chairman, I'm Randy
6 Patterson with Yates Petroleum Corporation.

7 MR. SMITH: Madame Chairman, Steve Smith of
8 Santa Fe Snyder Corporation.

9 CHAIRMAN WROTENBERY: Anybody else plan to
10 testify today?

11 Just to handle this most efficiently, could
12 everybody who plans to testify rise and be sworn in,
13 please?

14 (Thereupon, the witnesses were sworn.)

15 CHAIRMAN WROTENBERY: Okay, Mr. Carroll, would
16 you like to proceed?

17 MR. CARROLL: Thank you.

18 What you have before you is marked OCD Exhibit
19 Number 1, and that's four versions of 104. At the back
20 under Tab D is the current Rule 104.

21 Now, as you know, this case was originally called
22 in January, and on January 14th you heard a lot of
23 testimony, including Mr. Stogner's extensive review of Rule
24 104 and the need for revising it.

25 Also on April 22nd, you heard additional

1 testimony.

2 After those two hearings and meetings with the
3 New Mexico Oil and Gas Association, the OCD drew up their
4 proposed rule change, which was posted on the Internet in
5 late May or early June. That is what is marked as Exhibit
6 C. And this version is still the version on the Internet.

7 Since that time, the OCD has made other changes
8 to -- non-substantive changes, to clarify the intent and
9 clean up some of the language, and the changes are marked
10 -- are red-lined under Tab B.

11 And the version we propose today is on top, and
12 that is Tab A. And there will be some changes to this too.
13 Lyn has noticed some further changes.

14 And actually I have one change in Section F.
15 That's the fifth page under "Unorthodox Locations". On the
16 second line after that capital B you can delete "and C".
17 Since this refers to secondary recovery, it just pertains
18 to oil wells, so -- and C pertains to gas wells, so we can
19 delete "and C".

20 Then with that, if you want a rehash of what's
21 happened and the major changes made to the prior Rule 104,
22 Mr. Stogner can run through them again for you.

23 CHAIRMAN WROTENBERY: A quick summary would be
24 helpful.

25 MR. CARROLL: Okay, Mike.

1 MR. STOGNER: Good morning. Just some quick
2 summaries of the change. Again, a committee was formed
3 back in December of 1996, in which we addressed
4 streamlining the process for 104s, unorthodox-location
5 exceptions and addressed some other issues surrounding this
6 particular portion of the rule.

7 After that one meeting, certain parameters were
8 set out, and due to some changes within the Division
9 nothing was really done on that until January of this year
10 when I presented before this Commission this notebook
11 explaining some proposed changes or what we should look at.

12 And what those essentially were, were the
13 relaxation of the setback requirements, namely, for
14 northwest New Mexico, that would include the 160-acre
15 spacing units going from 790 foot from the proration unit
16 spacing unit to 660. This would make it more uniform
17 throughout the state for 160-acre spacing. 320-acre deep
18 spacing, relax the setbacks on those, and also permit the
19 infill drilling. This would essentially allow for deep gas
20 wells to be on effective 160-acre spacing.

21 Also omitted the internal offset requirements for
22 gas wells or where there's more than one quarter-quarter
23 section to make up a proration unit, our rules allow for an
24 internal setback no closer than 330 feet to these internal
25 quarter-quarter sections. This was due to, if you

1 completed down in these zones for gas and then you came
2 back up to the shallower oil zones, you would have the
3 proper spacing at that time.

4 As I had mentioned in my write-up, we felt that
5 these may be somewhat antiquated. And industry has assured
6 me, over and over and over again, that they know what these
7 offsets are for these oil and they will assure me that this
8 will not happen, because they know that if they find
9 themselves ten feet from a quarter-quarter section line
10 that doesn't belong to somebody's lease, then they're going
11 to have to jump through a bunch of hoops, that that
12 property line just doesn't end at the bottom of that barbed
13 wire fence out there, it keeps going down. Surprisingly
14 enough, I have found some oil and gas operators that seem
15 to forget that, but I have been assured that those
16 operators are no longer operating anymore. So -- that this
17 is no longer necessary.

18 And also, it would allow for that deep gas
19 exploitation or exploration to be done more properly, more
20 effectively, if you're in the middle of the quarter section
21 or closer.

22 Also, because of the BLM requirements for surface
23 constraints, this also gives a bigger window, a broader
24 window that operators can move within the spacing unit, as
25 opposed to moving -- encroaching on somebody else.

1 So that's the main points of what we're doing
2 here today. That's just touching upon the highlights of
3 what we're doing here.

4 CHAIRMAN WROTENBERY: Thank you.

5 Any questions of Mr. Stogner or Mr. Carroll?

6 COMMISSIONER LEE: (Shakes head)

7 COMMISSIONER BAILEY: (Shakes head)

8 CHAIRMAN WROTENBERY: Mr. Stogner, would you just
9 address the comment that Nearburg made about the
10 possibility and -- I don't want to mischaracterize their
11 comment, but they were concerned that under the proposal
12 that would allow an additional well in a 320-acre deep gas
13 well spacing unit, that the second well could be as close
14 as 20 feet to the first well?

15 MR. STOGNER: Yes, I believe you're referring to
16 a statement or a letter from Nearburg Producing Company
17 dated June 10th in which they refer to the 320-acre
18 spacing, that wells will be permitted up to 20 feet. Well,
19 that's not true.

20 What we're proposing is 660 feet from a quarter
21 section line. There is still an internal setback
22 requirement of 660 feet from the quarter section line,
23 because 320 acres, as you know, is made two quarter
24 sections. So this would not occur. You can only have one
25 well in each quarter section. You can't have two wells in

1 each quarter-quarter section, so this would not -- This is
2 not going to be the case, it's not going to happen.

3 Perhaps Nearburg misread that, where I can
4 understand that, they see that the internal offsets are
5 taken away. Perhaps they read it in such a way that no
6 closer than 660 feet to the outer boundary of the proration
7 unit, which is what most of the rules and regulations
8 state. But this is where it differs a little bit. We can
9 get that continuity pattern, work, on this infill
10 procedure, and if -- I kept that in there on purpose, or we
11 kept it in there on purpose, so we wouldn't have this
12 transgression of these wells real close together.

13 And you would also get in this particular
14 instance, if that was allowed to occur, people would
15 reorient proration units, which I've seen them do, just to
16 get around that, or perhaps that's one step, or it also
17 gets you into trouble. So that will not be a problem.

18 CHAIRMAN WROTENBERY: Thank you.

19 Anything else, Mr. Carroll?

20 MR. CARROLL: Yes, Chairman Wrotenbery. As you
21 know, a number of comments have touched on the issue of
22 compulsory pooling regarding infill wells. It's the
23 Division's suggestion that a work group be formed with
24 whoever wants to participate from industry to address
25 amending our standard compulsory pooling order to address

1 this issue. And the issue is whether compulsory pooling is
2 applied on a unit basis or on a well-by-well basis.

3 The Oil and Gas Act statute governing compulsory
4 pooling does not limit to a particular well, you know, it
5 only mentions on a spacing-unit basis. And I've looked
6 back at compulsory orders back to the 1960s, and our orders
7 since the 1960s have always referred to a particular well
8 in a compulsory pooling order.

9 So in effect, our compulsory pooling order is a
10 hybrid of on a unit basis, but we also refer to a specific
11 well. And the issue is whether, if you drill a well other
12 than the well mentioned in the order, whether you're still
13 pooled or not.

14 So the -- this issue does need to be addressed,
15 and I think we can take care of it by meeting with industry
16 and then just making an internal OCD policy call to change
17 our orders to address the issue.

18 Comments were filed by Yates, Nearburg, OXY and
19 NMOGA regarding this compulsory pooling issue. Oklahoma, I
20 guess, has experienced a number of problems, and I think
21 they've gone from a -- on a well basis to a unit basis.

22 So I would suggest that this group meet within
23 the next couple months and then report back, or just meet
24 with you informally, and then you can make a decision as to
25 how to change or order.

1 And there's nothing in our Rules that need to be
2 changed.

3 CHAIRMAN WROTENBERY: Do you think you could
4 report back to the Commission at the September meeting --

5 MR. CARROLL: Yeah.

6 CHAIRMAN WROTENBERY: -- on the results?

7 MR. CARROLL: Yeah.

8 CHAIRMAN WROTENBERY: Okay. I think that's a
9 good way to proceed. I've taken a look at the pooling
10 orders, and I can't really tell whether it's a well or unit
11 basis. Some of the language points one way, some of the
12 other language points the other.

13 So we do need to do some work and some
14 clarification and try to address the concerns that have
15 been raised about abuses that might occur once we amend
16 Rule 104.

17 Okay, sounds good.

18 MR. CARROLL: That's all I have.

19 CHAIRMAN WROTENBERY: Okay.

20 MR. KELLAHIN: Madame Chairman?

21 CHAIRMAN WROTENBERY: Yes?

22 MR. KELLAHIN: I'm Tom Kellahin of the Santa Fe
23 law firm of Kellahin and Kellahin.

24 May I ask Mr. Stogner or Mr. Carroll a question
25 with regards to the infill well?

1 At one time the industry or various members of
2 the industry had proposed requiring notice to the offset
3 operators that surrounded the infill well location. I
4 think that appeared on some of the Association tracts. It
5 is now not in the Division proposal before you today, and
6 I'd ask Mr. Carroll or Mr. Stogner to comment on their
7 choice to delete that notice requirement.

8 MR. STOGNER: Thank you for that compliment. If
9 you notice, that's one regulatory requirement that has been
10 taken out. This is not necessary. If we're going to adopt
11 these rules, then we're going to adopt them. That would
12 add one additional burden. And besides, if somebody did
13 object, the rule has already been passed. That's just a
14 burdensome thing that will not streamline the process, that
15 we chose to omit. It's not needed. If we're going to
16 adopt it, let's adopt it.

17 There's other ways, if there are pools where the
18 operator strongly disagrees with this infill program, then
19 they can come in and ask for that pool to be treated
20 special, under special pool orders that only will allow one
21 well. And also you can adjust your setbacks accordingly.

22 But just for notification's sake -- and that's
23 what we felt it was -- there's other ways. You've got your
24 monthly reports, you've got your activity reports. Just to
25 notify is not a reason, and that's the reason it was

1 omitted.

2 MR. KELLAHIN: Follow-up question?

3 CHAIRMAN WROTENBERY: Sure.

4 MR. KELLAHIN: Let's assume that the notice is
5 deleted for that purpose. If it were to be adopted and the
6 notices sent and an objection is filed, what would the
7 regulators decide at dispute?

8 MR. CARROLL: Well, what would be the basis for
9 the objection if the infill well is allowed and it's a
10 standard location?

11 MR. KELLAHIN: Well, I guess that's my question.
12 You know, I'm not certain I see a purpose in having the
13 notice. If you get an objection, what do you do with the
14 objection?

15 MR. STOGNER: That's what --

16 MR. CARROLL: Yeah, that's why we deleted the
17 notice.

18 CHAIRMAN WROTENBERY: And I might add too when we
19 talked about this particular issue several months back, I
20 believe some of the proponents of that particular notice
21 provision noted that it was extremely burdensome to try to
22 get a change to pool rules because of the notice
23 requirements that we had in place at that time.

24 Since then, we have changed those notice
25 requirements, and we hope that those notice requirements no

1 longer are an overwhelming burden on the operator that
2 would prevent the operator from coming in and asking for an
3 appropriate change in the pool rules.

4 MR. KELLAHIN: Thank you, Madame Chair.

5 CHAIRMAN WROTENBERY: Thank you.

6 Anything else for Mr. Carroll and Mr. Stogner?

7 Thank you both very much.

8 And Mr. Stogner, thank you once again for taking
9 the initiative to put together the work group and come to
10 the Commission with this proposal. Very good work.

11 MR. STOGNER: Well, thank you, and I'd like to
12 extend that appreciation to the people in this room that
13 helped me and the people that could be here today from
14 industry. Thank you.

15 CHAIRMAN WROTENBERY: Thank you.

16 Okay, Mr. Foppiano, would you like to go next?

17 MR. FOPPIANO: Yes, Rick Foppiano with OXY USA.

18 OXY USA is a very active operator in southeast
19 New Mexico, particularly for deep gas drilling, and we
20 fully support these proposed rule changes. They are, in
21 fact, as I mentioned in our comments, our only area of
22 activity in the State of New Mexico in terms of drilling.
23 So we're very keenly interested in things that would
24 promote more activity, and we believe this, in fact, will
25 do so.

1 We also agree with Mr. Carroll that the comments
2 that have been filed relative to questions about force
3 pooling really would be more properly dealt with in looking
4 at force pooling issues in total, not just force pooling as
5 it relates to the infill but also force pooling as it
6 relates to subsequent operations on a spacing unit. We
7 think there are larger questions in force pooling, other
8 than that would be created by adoption of an infill
9 provision, and we think that's very much the appropriate
10 way to pursue that.

11 So we very much support these changes and look
12 forward to their adoption and think that they are going to
13 help New Mexico drilling activity increase, and we thank
14 the Commission and Mike Stogner and the work group for all
15 the good work that they've done. Thank you.

16 CHAIRMAN WROTENBERY: Thank you.

17 Any questions of Mr. Foppiano?

18 Okay, Mr. Owen, I guess, would you like to --

19 MR. OWEN: Yes, Madame Chairman, on behalf of
20 Yates Petroleum Corporation I'd like to thank the work
21 group and the Commission and the committee for putting
22 together a rule which I think benefits the industry and
23 avoids a lot of the regulatory problems that we have run
24 into that have led to a lot more regulatory burdens on the
25 industry.

1 Yates supports the formation of a committee to
2 address the compulsory pooling issue, and Yates would like
3 to participate in that committee and would certainly be
4 willing to discuss with Mr. Carroll or whoever's going to
5 chair that committee, as soon as possible, the framework
6 for that committee and developing some framework for the
7 Commission's treatment of the compulsory pooling situation.

8 We think it's appropriate that that issue is
9 addressed outside of the context of this particular rule
10 change, that this particular rule change cannot address the
11 issue which has been presented in the compulsory pooling
12 context.

13 As this issue has developed, as the issues
14 surrounding this rule change, the rule change to Rule 104,
15 have developed, there have been a lot of comments from
16 industry, and the comments have been very well taken by the
17 Commission, and the rule reflects the industry's feelings
18 on this rule.

19 In addition, Madame Chairman, I'd like to point
20 out that Yates has come forward with specific evidence
21 dealing with specific situations in which infill wells have
22 been needed on 320-acre spacing, and I think the Commission
23 has done an admirable job of taking those into account and
24 coming up with a rule which fits the situations.

25 Yates supports the proposed changes as written,

1 and we urge the Commission to adopt them.

2 CHAIRMAN WROTENBERY: Thank you, Mr. Owen.

3 And Mr. Carroll will be in contact with you on
4 the work group.

5 Mr. Patterson, did you have anything you wanted
6 to add on Yates' behalf?

7 MR. PATTERSON: That's fine.

8 CHAIRMAN WROTENBERY: And Mr. Smith?

9 MR. SMITH: Yes, Madame Chairman, Santa Fe really
10 is in support of streamlining efforts. Our major concern
11 with the rule change is the fact that it doesn't and cannot
12 address the far-reaching effect it has on compulsory
13 pooling.

14 It would be our recommendation that we move ahead
15 with the study group to study that effect and come up with
16 recommended changes, but, in the interim, that this rule
17 should not be put in place until a solution is reached.
18 There are too many opportunities for inequities and wells
19 to be drilled that would be wasteful. You can build
20 hundreds of scenarios that cut either way, that it would be
21 wasteful from the party who force pooled or wasteful to the
22 party who is pooling.

23 So it would be our recommendation that the rules
24 not be enacted as written until the study group comes up
25 with a recommendation that satisfies the concerns of

1 industry around the effect the rule changes have on
2 compulsory pooling.

3 CHAIRMAN WROTENBERY: Any questions of Mr. Smith?

4 Could you be more specific?

5 MR. SMITH: Well, this rule change is, in
6 essence, a one-size-fits-all, by allowing for infill
7 drilling without notice, without showing cause. And Santa
8 Fe is willing to accept the concept that in a majority of
9 the cases, the deep Morrow gas in southeast New Mexico does
10 not drain -- a Morrow well does not drain more than 160
11 acres.

12 But we can point at numerous examples, recently
13 discovered, where Morrow wells are, in fact, draining 320
14 acres and in some cases, if left to its own device, one
15 well might drain as much as 640.

16 The bottom line is that this a one-size-fits-all
17 solution that has ramifications on past and future pooling
18 orders.

19 And with that issue in mind, until that -- We
20 agree you cannot address that problem in Rule 104, unless
21 -- and a possible solution that we would put forth is that
22 in order to drill an infill well, that notice be provided
23 to the parties within the 320-acre proration unit,
24 including the party who was force pooled, and, if an
25 objection is raised to that well, then a hearing be set.

1 But we're not proposing that notice be provided
2 to offsets, simply to the parties who are at risk to be
3 affected by the drilling of that well and those who would
4 have an opportunity to participate or be affected by the
5 force pooling order.

6 COMMISSIONER BAILEY: Thank you.

7 CHAIRMAN WROTENBERY: Anything further for Mr.
8 Smith?

9 Thank you, Mr. Smith.

10 CHAIRMAN WROTENBERY: Mr. Foppiano?

11 MR. FOPPIANO: Could I respond?

12 CHAIRMAN WROTENBERY: Certainly.

13 MR. FOPPIANO: I think Mr. Smith commented that
14 he felt like this rule is probably applicable to a majority
15 of pools that it would affect, and I suggest that we should
16 have a rule that applies to a majority of the pools instead
17 of a rule that applies to a minority. And then where it
18 does not apply, or where people feel like it should not
19 apply, as Mr. Stogner mentioned, that is obviously an
20 avenue for getting field rules adopted for that area.

21 So I think there is -- I think we would greatly
22 benefit by having a statewide rule that is broadly
23 applicable to and affects the majority of the pools which
24 it should affect and which everyone agrees is needed for a
25 majority of our pools.

1 And also on the issue of working interest owner
2 notice on an infill well, I guess our feeling is that
3 working interest owners in a spacing unit get notice of the
4 infill well, their AFE, and plus they have a contract among
5 themselves, an operating agreement which speaks to the
6 issue of proposal of wells and everything else.

7 So, you know, I think there are mechanisms there
8 to alert working interest owners to a proposed infill well.

9 CHAIRMAN WROTENBERY: Mr. Smith?

10 MR. SMITH: Does OXY notify a party that they
11 force pool when they drill a well by providing them with an
12 AFE?

13 MR. FOPPIANO: In ten years, OXY has not force-
14 pooled anyone, and so my answer to that is not, because we
15 don't force pool anybody. We have filed applications, but
16 we have never, in the ten years that I have handled all of
17 OXY's regulatory matters in New Mexico, ever resulted in a
18 force pooling order applicable to OXY.

19 MR. CARROLL: Chairman Wrotenbery?

20 CHAIRMAN WROTENBERY: Yes, Mr. Carroll?

21 MR. CARROLL: It's been industry practice before
22 the Division that if a second well is drilled or a
23 different well, that the compulsory pooling order be
24 amended. And in that situation, the working interest
25 owners be notified.

1 Until we change the form of the compulsory
2 pooling order, I believe the operator would have to come in
3 to amend the compulsory pooling order and then notify the
4 working interest owners that have already been force-
5 pooled.

6 MR. SMITH: Would that party who is force-pooled
7 have any voice, I guess, in that pooling order?

8 MR. CARROLL: Yes.

9 MR. SMITH: Again, I'm pointing out a possibility
10 for the way a pooling order will affect -- or is affected
11 by this Rule 104 change, and we would argue that until this
12 gray area is resolved, you know, that this order should not
13 be made law as written until the solutions to the apparent
14 concerns of numerous industry parties are addressed, that
15 the rule not be made law as written.

16 CHAIRMAN WROTENBERY: We've noted your request.

17 MR. SMITH: Thank you.

18 MR. STOGNER: May I make a comment on that?

19 CHAIRMAN WROTENBERY: Certainly.

20 MR. STOGNER: I'd like to remind everybody,
21 this -- It may be new in the southeast, but this not a new
22 situation in New Mexico, where there are 320-acre spacings
23 up in the San Juan Basin, Basin-Dakota, Blanco-Mesaverde.
24 I think we have some expertise out there in industry that
25 might help and lend to answering these questions, because

1 we haven't had that many competing compulsory pooling cases
2 up there. That's just an expertise I believe we can draw
3 on when this committee is set up, to keep that in mind.

4 So that's all the comment I have.

5 CHAIRMAN WROTENBERY: Thank you, Mr. Stogner.

6 MR. CARROLL: Chairman Wrotenbery?

7 CHAIRMAN WROTENBERY: Mr. Carroll?

8 MR. CARROLL: On the record, you might ask the
9 members of the audience who would like to participate on
10 the committee.

11 CHAIRMAN WROTENBERY: I've heard several
12 volunteers already here. I see Mr. Smith raising his hand,
13 Mr. Patterson --

14 MR. FOPPIANO: I'd like to volunteer.

15 CHAIRMAN WROTENBERY: -- Mr. Kellahin, Mr.
16 Foppiano. Mr. Bruce was doing research on the issue
17 yesterday, I think, so he might be --

18 MR. BRUCE: No comment.

19 CHAIRMAN WROTENBERY: -- invited to participate.

20 MR. OWEN: Madame Commissioner, I would like to
21 point out that this is an issue -- that the compulsory
22 pooling issue is not simply raised by the new rule changes.
23 These issues surround other cases, in fact, other pending
24 cases, and it's an issue that needs to be resolved outside
25 of the context of this rule.

1 This rule is not created -- it does create a --
2 it may create new cases in which that issue may arise, but
3 it's an issue that is already before the Commission, and
4 the rule needs to be changed, or needs to be reviewed by a
5 standing committee, at any rate.

6 CHAIRMAN WROTENBERY: Thank you, Mr. Owen.

7 Mr. Foppiano?

8 MR. FOPPIANO: I would just like to add one more
9 caveat to this issue about force pooling on the infill
10 well.

11 Unlike Oklahoma, in New Mexico there's another
12 part of Rule 104 that says the operator of the infill well
13 has got to be the same operator as the initial well.

14 And so I think that is going to help deal with
15 some of these issues that might arise where working
16 interest owners don't feel like a second well is necessary
17 or someone that wants to propose a second well but they're
18 not the operator --

19 CHAIRMAN WROTENBERY: Uh-huh.

20 MR. FOPPIANO: -- in my view, you still have to
21 come to the Division and try to get an exception to 104,
22 because it would be that different operator situation.

23 CHAIRMAN WROTENBERY: Is there anybody else that
24 would like to comment on the proposed amendments to Rule
25 104? Did I miss anybody?

1 MR. CARROLL: Chairman Wrotenbery, the new rule
2 does say that the operator of the infill well shall be the
3 same operator designated by the Division for the initial
4 well, so that is part of the rule.

5 MR. SMITH: Might I ask for clarification?

6 Does that mean that a nonoperator in a pool of
7 320 acres who is force pooled in the first place has no
8 standing to be the operator of the second well if the
9 existing operator chooses not to participate? What happens
10 in that case? The operator of that unit receives a valid
11 proposal and chooses not to participate in the well. Does
12 he still operate the well for the parties who choose to
13 drill?

14 MR. CARROLL: Well, the rule says he can't, that
15 you can't have different operators.

16 CHAIRMAN WROTENBERY: That might be an issue at
17 the Commission hearing, as who the appropriate operator
18 would be, for both wells.

19 MR. FOPPIANO: And that could also be an issue
20 that's either dealt with in the force pooling order as to
21 whether that operator will drill all the wells or there
22 would be a removal or a succession of operator. That
23 operator issue is also something that's probably already
24 dealt with in the operating agreement for the existing
25 well.

1 MR. CARROLL: I would think the applicant in that
2 case would have to have some type of application for
3 replacement of operator by the non-operator for both wells.

4 MR. STOGNER: May I comment on that?

5 The operator of the well is always the operator
6 of the proration unit, including oil, including those deep
7 gas wells up in the San Juan Basin, the 320. Pretty muchly
8 always been the way it was, always a policy. I'm pretty
9 sure it's in the rules already somewhere, and so that's
10 already been taken care of.

11 CHAIRMAN WROTENBERY: Any other comments or
12 questions at this point?

13 Well, Mr. Carroll, certainly I agree that the
14 compulsory pooling issue is a separate issue, but these
15 rule amendments have highlighted the need to promptly
16 address the issue and try to come to some resolution so
17 everybody will have a little more certainty on how this
18 will affect them.

19 I do think we should plan to get the work group
20 together here within the next month, probably, and try to
21 work it through, and come back to the Commission at the
22 September meeting with a proposed resolution on the issue.

23 COMMISSIONER BAILEY: Not August.

24 CHAIRMAN WROTENBERY: Not in August. We've got a
25 very full agenda in August, but...

1 Okay, what we will do is leave the record on the
2 Rule 104 amendments open for a few more weeks.

3 Mr. Carroll, Ms. Davidson, when will the docket
4 go out for the Commission's August 12th meeting?

5 MS. DAVIDSON: Next week.

6 CHAIRMAN WROTENBERY: Next week? So we'll have
7 the latest draft of the proposed amendments posted on the
8 Internet by next week; is that right?

9 In that case, what I'd like to ask is that if we
10 any further comments on the proposed amendments to Rule
11 104, that those be submitted in writing to the Division,
12 and the Division will distribute those to the
13 Commissioners. And those should be submitted by Wednesday,
14 August 4th. That will give us enough time to get them out
15 to everybody.

16 And then the Commission will consider at the
17 meeting on August 12th whether and in what form to adopt
18 the proposed amendments to 104.

19 Any questions?

20 Okay, do we have the revised order? Okay, great.

21 (Thereupon, these proceedings were concluded at
22 9:43 a.m.)

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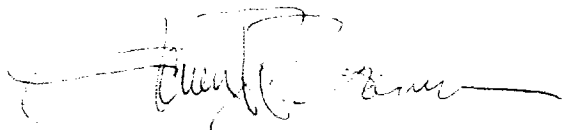
CERTIFICATE OF REPORTER

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 17th, 1999.



STEVEN T. BRENNER
CCR No. 7

My commission expires: October 14, 2002