

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. 12,119

IN THE MATTER OF THE HEARING CALLED BY )  
THE OIL CONSERVATION DIVISION TO DISCUSS )  
POSSIBLE AMENDMENTS TO 19 NMAC 15.C.104 )  
PERTAINING TO WELL SPACING AND THE )  
NOTICE REQUIREMENTS THROUGHOUT THE RULES )  
INCLUDING 19 NMAC 15.N )

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS  
COMMISSION HEARING

BEFORE: LORI WROTENBERY, CHAIRMAN  
WILLIAM J. LEMAY, COMMISSIONER  
JAMI BAILEY, COMMISSIONER

January 14th, 1999  
Santa Fe, New Mexico

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OIL CONSERVATION DIV

This matter came on for hearing before the Oil Conservation Commission, LORI WROTENBERY, Chairman, on Thursday, January 14th, 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.

\* \* \*

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## I N D E X

January 14th, 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   10:00 a.m.:

3           CHAIRMAN WROTENBERY: Okay, the next case is Case  
4   12,119, and here we had posted an item to allow the  
5   Commission to discuss possible amendments to 19 NMAC 15.C  
6   104 pertaining to well-spacing requirements, and then also  
7   the notice requirements throughout the rules, including 19  
8   NMAC 15.N.

9           And these particular rulemakings are in a much  
10   earlier stage of development than the ones that we just  
11   finished discussing, so I think we'll proceed in a much  
12   more informal way here and just have a couple of people  
13   who've been working on these issues come up and discuss the  
14   status of their efforts today on addressing these  
15   particular rulemakings.

16           In particular, Mike Stogner has been leading a  
17   work group on Rule 104, and I think he's got a presentation  
18   for us here today.

19           And then Tom Kellahin has been leading a work  
20   group on the notice requirements of the rules, and working  
21   with Lyn Hebert and Rand Carroll on that particular effort.

22           But I guess we'll start out with Rule 104, Mike,  
23   if you want to come up and fill us in on what you've been  
24   doing.

25           MR. STOGNER: Well, since this is informal, why,

1 yes, I have prepared a presentation today. First of all, I  
2 formed a work group a little over a year ago now, and it  
3 was a small work group, and I modeled it on the success  
4 that we had in Rule 111. That was the directional drilling  
5 rule.

6 The initial members of that group were me; Chris  
7 Williams, our District Supervisor down in Hobbs; Rick  
8 Foppiano with OXY; Burlington Resources had Alan Alexander  
9 there; Mr. Carr was there; and also from Yates Petroleum  
10 Corporation was Kathy Porter, she was a landman.

11 One of the things that quickly became apparent  
12 was that, yeah, this was going to be a more controversial  
13 aspect, more controversial topic, than directional drilling  
14 was. So there was no way that we were going to, even at  
15 those initial phases -- and even up to the very end, I  
16 don't think we're ever going to get a hundred-percent  
17 follow-up.

18 From what we had at that point, our discussions  
19 and where we were going to go, we never had a subsequent  
20 meeting after -- I believe it was in December, was it, Mr.  
21 Alexander? We had our meeting in December of 1997?

22 MR. ALEXANDER: Yes, sir, I believe that's true.

23 MR. STOGNER: And all other forms of  
24 communications were done with e-mail over the telephone.  
25 There were other informal discussions and formal

1 discussions. That's where -- at the -- when OCC Listens-  
2 Industry Speaks meetings and forums, and informal and  
3 formal discussions with Mr. Kellahin, Mr. Carr, Mr. Bruce,  
4 and almost every other person that submits an NSL  
5 application to me.

6 NSL is nonstandard location. That's our  
7 administrative process that we have. And I review 100  
8 percent of those. I shouldn't say 100 percent, let's say  
9 99.99 percent of those applications come through me.

10 You remember right, we were here, I believe,  
11 about five years ago, to try to streamline these. And one  
12 of their streamlining mechanisms was to accept geological  
13 exceptions. Prior to that, they all had to go to hearing.

14 From that, I prepared this report today, and this  
15 is in the very, very early stages, so please consider that.  
16 And this is an informal discussion.

17 What I hope to gain with this report is, it could  
18 be utilized for several different things. It could be  
19 utilized as a training book, because the present  
20 information on Rule 104 and how we got here is in this  
21 report. What we require and what is expected is also in  
22 here.

23 I hope it could be utilized as a cornerstone from  
24 whatever, as a cornerstone of whatever orders are issued by  
25 the Commission subsequent to the review of Rule 104, and

1 they do need to be reviewed, and they do need to be  
2 revised. And hopefully whatever direction the Commission  
3 chooses after today, this idea can follow through with it.

4 What I'd like you to do is take a look at the  
5 book, open it up. You'll find a table of contents.

6 Part I is a memorandum. It's about eight pages  
7 long. It has ideas, discussions. Bear in mind, they do  
8 not necessarily reflect one individual's thinking, nor does  
9 it reflect the work group's ideas or thoughts or majority  
10 interest, or even any of the topics that were discussed at  
11 that time. It is in my words, and consequently it probably  
12 reflects my ideas that I've gotten from the industry.

13 Part II is Rule 104.A. That's to remain  
14 unchanged. This was just essentially the description of  
15 what wildcat well is and a development well.

16 Part III is the big one. That's the proposed  
17 rules for spacing and acreage -- that's acreage  
18 requirements and well-location requirements. There's some  
19 big ones in there.

20 Proposed Rules 104.D, E, F, G and H, the  
21 remainder of those are to be unchanged. Mr. Rick Foppiano,  
22 a member of my work group who I worked very close with,  
23 with the Rule 111, submitted to me, and I began to rework  
24 it, but I found in doing so that his submittal was more  
25 clear, it brought questions up, and his comments were

1 better understandable. And I thought since it was a group  
2 effort and it should be industry and Division, that it  
3 would be more appropriate for me to include his comments in  
4 that.

5 Part V, that's -- and I want to thank Mr. Mark  
6 Ashley, a new member of our bureau, for coming up with  
7 these. It's going to give you a graphical representation  
8 of what our present requirements are and what I hope this  
9 Commission is going to consider, and I know it's going to  
10 bring up a lot of discussion with industry, and it should.  
11 But it serves to streamline.

12 I included Part VI. Ever since I've been here,  
13 I've never put this together, of how we've gotten from 1950  
14 -- this was where Rule 104 was originally signed; spacing  
15 goes back further. But you've got to start somewhere.  
16 Order Number 850 -- that's not R-850 -- but Order 850 was  
17 the last order to ever be issued, and there was one other  
18 before the R orders came out. These were made effective  
19 January the 1st. I've gone from there and submitted to you  
20 or made copies in here of every amendment to those -- to  
21 104. There's even a couple of Division memorandums put in  
22 there from 1988 to 1990, which molded an order that came  
23 out limiting the number of wells and spacing units. Yeah,  
24 that's going to be touched up on.

25 Down at the bottom, Part VII, related



1 miscellaneous information. I was asked to respond back in  
2 April of 1998, like I didn't have anything else better to  
3 do on April the 15th when I submitted this. I presented  
4 this to Ms. Wrotenbery. What I did in preparing this, I  
5 went back and tried to explain what well spacing did and  
6 where our rules came from and why there is well spacing and  
7 how it protects correlative rights. And as opposed to  
8 rewriting this, I've just included it.

9 I've also included some charts of the number of  
10 administrative applications, NSL's in particular, 1996,  
11 1997 and 1998, the average turn-around time. And I'll be  
12 touching up on that, especially for the last years.

13 There's also a report I'm sure you're well aware  
14 of, because it stemmed from this Commission's meeting in  
15 Artesia in September of this year, but there were some  
16 things that were talked about, and one of them was by the  
17 end of the year there would be some streamline efforts on  
18 Rule 104. And hopefully what this report today will do is  
19 answer those questions, or at least get the ball rolling  
20 where we need to go.

21 I know this is informal, so please excuse the way  
22 I present here. Let's go with the guts of it and let's  
23 just jump right into it at this point.

24 We have gone, and what I'm proposing -- and let's  
25 go to Tab III; this is Rule 104.B and C. What we presently

1 have in Rule 104.B and C is about four pages' worth of  
2 explanation of what is required. It is very cumbersome.  
3 Look at 1950, there's only one paragraph, so we've gone  
4 from one paragraph to here. I've tried to bring it down to  
5 a page and a half, and this is a lot bigger font than  
6 what's in the proposed rule changes.

7 Bear in mind what I've tried to do is standardize  
8 some things, especially 160-acre spacing. I've even  
9 touched on some 320-acre spacing taboos, and I've even gone  
10 into the mother of all of them, and that's the 40-acre  
11 spacing.

12 If you will go to your plat -- and that is V --  
13 and look behind 160-acre spacing, the first one you're  
14 going to find is what is required in the San Juan Basin for  
15 shallow gas wells and for deep gas wells outside of the  
16 Basin area. We require different setback requirements in  
17 there.

18 Go to the next page, this is what's required all  
19 elsewhere in New Mexico, and in particular the shallow-gas  
20 producing areas down in the southeast. I've got overheads,  
21 if somebody wants the overheads, but I think everybody has  
22 books today.

23 Okay, if you look at the third page, this is what  
24 I've proposed, and what this report suggests, is that we  
25 standardize all setbacks for 160-acre spacing, unless

1 special pool rules are enacted for those pools, those are  
2 not to be touched. These are just rules and regs under  
3 104. And what I propose is a standard 660.

4           Somebody once asked me, where did -- why did that  
5 come? What was the difference of southeast and northwest?  
6 Well, the best I can see was, somewhere back in the 1950s a  
7 rule came out that a gas well is to be no closer than 990  
8 from the outer boundary. Evidently this was an effort to  
9 centralize from 160-acre spacing for gas in the San Juan  
10 Basin, to keep it in the center of the quarter section, but  
11 yet give a big enough area for topographic conditions.  
12 There was a 200-foot tolerance given. That's where it came  
13 from. 130 from the quarter-quarter section line, and of  
14 course 790 from the outer boundary. There's really no  
15 scientific evidence to support it.

16           What I propose, and everybody up in -- and this  
17 is going to affect the San Juan Basin more than anybody, so  
18 get ready to live with 660. It would standardize and it  
19 would streamline our efforts.

20           Another streamlining process is, I've gone in and  
21 tried to suggest that we get rid of the internal. Why do  
22 we have the internal? That's always been a question I ask.  
23 I don't understand this. Why do we do it?

24           Forty-acre oil provides that wells be no closer  
25 than 330. It was hoped and discussed, and it came out that

1 when an operator drills a well, that they also honor the  
2 setback requirements for oil in case the well either  
3 strikes oil or is recompleted back uphole, then that 90 --  
4 that 330-foot distance is honored.

5 Well, this is one of the big concerns up in the  
6 northwest, obviously, because you have 130-acre -- I'm  
7 sorry, foot -- tolerance. So that wasn't a big deal then.

8 What are some of the realities that we see today?  
9 Most cases, gas and oil are independent of each other. And  
10 let's bear in mind, when this presentation comes out we're  
11 in our depleting stages of oil and gas development in New  
12 Mexico. That's where these come from. The rules as they  
13 were enacted came from an era in which exploration was at  
14 its highest, and all the other changes usually came through  
15 because exploration was prevalent, the deep gas zones in  
16 southeast New Mexico going to 320.

17 And most recently, last year, whenever we enacted  
18 -- or, I'm sorry, this Commission enacted, 640-acre  
19 spacing, that's also in here.

20 Oh, by the way, I'm not going to even talk on  
21 that. Those rules are not even going to be considered. So  
22 they're not to be changed.

23 But let's go back to the 160. Because we have  
24 seen most -- not all of our oil, but a good percentage is  
25 being developed by somebody else in most cases, where the

1 deeper gas intervals have no effect.

2 And the reality is, if you look at the average  
3 turn-around time is under 20 days for the most part, for a  
4 large number of applications, well, how can you do this  
5 when you have a 20-day requirement for -- a minimum of 20  
6 days' requirement for notification, that's because we have  
7 a lot of applications that don't require notification.  
8 They happen in these situations, where an operator wants to  
9 drill for 160 or 320, and they're closer than the 330-foot  
10 line. They don't have to notify, they're not encroaching  
11 any. That was one of the streamline efforts that we did  
12 four years ago.

13 So in essence, an application comes in, yeah, it  
14 has to have a reason, and I do require an application to  
15 have a reason. But even though they are internally offset,  
16 what was your topographic reason, what was your  
17 geographical reason? Why do you have it? Because the rule  
18 provides me for that.

19 But how detailed do I get? Sometimes not much,  
20 depending on how much they are offsetting this. If they  
21 are encroaching on that ten foot, is the oil up above -- I  
22 look at that, is that going to be a factor. It could be.  
23 And in a lot of cases I've asked, do you have -- are you  
24 going to be in a situation where you are ten foot from a  
25 40-acre oil tract and you don't own the upper interval?

1 And in most cases they do not, so it's not an issue.

2 So with 160 that's something to consider.

3 Okay, if you turn to the next page, 320, our  
4 present is this. Four years ago we streamlined it. It  
5 used to be that you could be no closer than 1980 from  
6 the -- Well, first of all, for the record, 320-acre spacing  
7 was enacted two different times: first in 1964 for wells  
8 drilled deeper than the base of the Wolfcamp and for  
9 production below the Wolfcamp.

10 It was amended in 1974 to include the Wolfcamp  
11 formation. At that time, and up until three years or four  
12 years ago, it had to be no closer than 1980 from the end  
13 boundary. The side boundary, which is the long -- If you  
14 look at this as a football field, of course, the sideline  
15 is going to be the long portion of the rectangle, and of  
16 course the end boundary is going to be the short portion of  
17 the outer boundary of the rectangle.

18 We relaxed that a little bit to 1650, for various  
19 reasons, give a bigger area to drill in, give the operator  
20 some relief before they start asking for nonstandard  
21 locations. This has worked well, but it hasn't totally  
22 eliminated the need.

23 Next page is a radical change for this which I'm  
24 proposing. This looks very similar to 160-acre spacing.  
25 Well, there's a reason for that. We have had a lot of

1 applications that we have heard and considered over the  
2 last few years to drill an additional well. And I'll  
3 remind you that there is, in unprorated gas pools, one-well  
4 limit for a 320-acre spacing.

5 I'm also proposing to get rid of that and allow  
6 one well in each quarter section. For the most part, I  
7 think what we're seeing out there is effective 160-acre  
8 spacing, but we've already got 320-acre spacing. You don't  
9 change that, you don't go down, because there's too much  
10 correlative-rights issue. Let's live with what we have  
11 with 320 but allow additional exploration, exploitation of  
12 the production.

13 Now, should a pool or an operator object to this,  
14 then let's focus in on their concerns. Those pools that  
15 definitely don't require two wells or are effectively  
16 draining 320-acre spacing, let's simply put those in  
17 special pool rules and allow it to go on. This will help  
18 streamline the effort. I think we're going to see fewer  
19 and fewer application. Of course there again, I've gotten  
20 rid of the internal boundary. It also reflects what's  
21 going on up in the upper zones, as far as gas goes.

22 So that's something to consider, and I hope  
23 whatever happens after this that it's looked at. And let's  
24 all keep an open mind about why we're suggesting. It seems  
25 radical. I -- I've -- It's taken me a year to even think

1 that I've gotten up to this position. And I know Mr. Dan  
2 Nutter is turning over in his grave right now.

3 If you turn back to the first part, I want to  
4 talk about oil. I'm proposing something radically  
5 different here. We'll have 330-foot offsets even prior to  
6 104, the enactment of 104 back in 1950. As you can see,  
7 what's represented here is your area, which is considered a  
8 standard location.

9 I have a lot of applications that come in that  
10 want to squeak this 330. There are several things I'd look  
11 at. If it's internal -- What I mean by "internal", let's  
12 take the northwest quarter section here. If they want to  
13 drill a hundred feet from that quarter-quarter section  
14 line, do you own the whole lease in that quarter section?  
15 If it's "yeah", you've still got to have a reason, but  
16 what's the detail that we're looking in?

17 You've got to remember, you can drill, you can  
18 have a -- four wells on a 40-acre tract, but when they  
19 start encroaching up on other operators, that's when I  
20 start requiring even additional information. And the  
21 closer they get, the bigger the alarm goes off.

22 If it's truly topographic because of a highline  
23 wire there, and they move 20 feet, I'm not going to look --  
24 I'm not going to spend much time with it. If they move 50  
25 feet, I start asking for a little bit more information. If



1 it's 100 feet, okay, what's going on here?

2 And if it's 200 feet and they don't have that  
3 acreage -- and the Land Office has seen this from me before  
4 whenever there was a situation that a well was ten foot --  
5 this was one of those -- and it would still occur, where a  
6 gas well was drilled to the standard location, it came back  
7 up and was 40-acre oil, they were ten foot off of an  
8 adjacent lease, and that lease was not federal, it wasn't  
9 fee, I turn them down unless they had some sort of an  
10 agreement. If they've got that agreement it can be  
11 approved then, and it was. The correlative rights were  
12 being looked at very strongly there.

13 What I'm proposing, next page, is 220-foot  
14 offset. This looks very radical, but let's remember that  
15 we have an allowable system out there. Take a -- Think of  
16 it like this: That allowable system -- And I used my  
17 example, an example in my report. I won't refer back to  
18 that, but I'm going to use that as my example.

19 A 7500-foot well, drilled 330 feet from the  
20 section line -- I'm sorry, from my proration unit line, can  
21 produce up to 187 barrels of oil per day. Most of our  
22 production, if not -- It's more than 95 percent, are  
23 marginal producers, and the ones that do come on as  
24 nonmarginal only stay there for a few months before they do  
25 drop down, and a good percentage of our production is

1 stripper.

2           So if you think about it, if we would allow a  
3 well 330 feet off the line, there's going to be so much of  
4 affected drainage that you're entitled to. This is rule of  
5 capture. If you take a look at that circle that that would  
6 influence, and now you move that well closer and you make  
7 it a marginal or even make it a stripper well, it's not  
8 going to affect the offset drainage that much.

9           That's where I'm coming from and that's why I  
10 want you to take a look at it, or at least adjust your  
11 thinking. We've got to move ahead, we can't look back.  
12 We've got to move ahead, and that's where I want to go on  
13 this. So that's something to consider.

14           Why did I pick 220 feet? Well, it's derivative  
15 of a quarter mile, it's an equal part, I think, from the  
16 surveyor's point of view. So that's the reason for it.  
17 It's 1/24 of a mile, where 330 feet is 1/16 of a mile.

18           And take a look at that plat again. There's  
19 still a distance. You've still got a pretty good -- You've  
20 got 440 feet between wells. It provides still an  
21 opportunity for the adjacent operator to locate a well.  
22 And isn't that what correlative rights is all about, is to  
23 allow an operator an equivalent location?

24           In the very back I have -- I've come up roughly  
25 with 550 of these kind of applications I've done

1 administratively over the last three years. Only 20 have  
2 been objected to. That's about a three-percent showing.  
3 And if you look at a lot of cases when they do go to  
4 hearing, either they're unobjected at that point or there's  
5 no penalty given on it.

6 That's some of the highlights of the big changes  
7 that we're doing, that's being proposed at this time.  
8 We've addressed the streamlining effort. Bear in mind,  
9 what this does allow is for the application, the APD that's  
10 filed, nothing special is given to that. It goes to the  
11 District Supervisor, which is one of the things, one of the  
12 streamlining efforts in which I understand concerned  
13 industry.

14 But just changing addresses is not going to do  
15 it. There's still got to remain some consistency. And  
16 when you deal with notification, that's a legal issue.  
17 let's don't complicate those guys' jobs any more than it's  
18 already complicated.

19 And it's important that the notification and that  
20 idea of getting an unorthodox location request remains  
21 somewhat consistent. It's just our inherent nature in our  
22 District Office that each District is different. And it's  
23 also going to protect them from I've got this application  
24 done over here without providing you this information.  
25 Let's keep it consistent.

1           Okay, with that in mind we go to what has been  
2 presented in Rick Foppiano's suggestion. In some ways we  
3 have tightened up the requirement for an unorthodox  
4 location. You can see where this is going, because you'd  
5 almost have to.

6           If we're relaxing the setback requirements and  
7 you go out there, I want to drill a well 220-220, there's a  
8 road, I'll just move 150 more feet. That's where we're  
9 tightening it up, and so it should be, so it should be.  
10 But you're going to see fewer applications, which is going  
11 to streamline the process and provide the industry -- I'm  
12 surprised there's not more people here today, because what  
13 I'm proposing, what is being proposed here, is very  
14 radical, is very radical indeed.

15           So whenever you thumb through this, you're not  
16 going to see radical changes at this level, because all the  
17 changes have been done at the other end of it.

18           What has -- And we discussed this at our group  
19 meeting, and I discussed it with many people, and  
20 especially the attorneys, and I know that there's going to  
21 be another format for notice changes, but I went ahead and  
22 kept ours in here, what we had discussed. This is our  
23 representation of some concerns. And yeah, I do agree with  
24 about who is to be notified when there is not an operator.  
25 And in those situations -- and Foppiano calls that a --

1 where the same operator offsets his own acreage but it's of  
2 a different lease.

3 CHAIRMAN WROTENBERY: Common operators?

4 MR. STOGNER: Yeah, common-operator scenario in  
5 which I refer to it here, is in those situations, are other  
6 people -- are they in need of notification? And I feel  
7 there's a certain amount of truth to it. He suggested the  
8 working interests be notified. I think it may need to even  
9 be a little bit more, perhaps the royalty. This is not a  
10 final, but it's some topic to discuss.

11 And by the way, that's going to be a notification  
12 requirement. It's -- You'll be able to see it when you go  
13 through this. I think it's on page 3.

14 We still have a number of wells per spacing unit  
15 provision in here in unprorated pools. If it's prorated,  
16 then it falls under special pool rules, so those are taken  
17 out, you remember I said, these requirements only are  
18 discussing those under Rule 104, and all the other pools  
19 that are under special pool rule should remain such. But  
20 even if these are inaccurate, those special pool rules  
21 could be reviewed to lessen the requirements, or even take  
22 them out altogether.

23 I think what we have seen in the past is, we had  
24 a very restrictive set of guidelines, and if you wanted  
25 special pool rules or an exception to those, you relax

1     them, getting them relaxed somehow, not in all cases  
2     because you had 640-acre spacing, but that, at least since  
3     I've been here, is what we have seen. Perhaps we turned  
4     the tide. If you want more restrictions in your pool, then  
5     the operators can come in and ask for them. Just let  
6     everybody have the opportunity.

7             And if an operator, under this 320-acre spacing,  
8     effective 160-acre drainage concept, if they do hit a  
9     prolific reservoir, then those can be put under special  
10    pool rules limiting the wells to one in 320, or even going  
11    to 640-acre spacing. That's what I'm trying to show here.

12            Anyway, if you refer to page 5 of tab IV, it  
13    talks about provisions in which would allow in unprorated  
14    pools an additional well that would be either a third well  
15    on 320 or an additional well on 160.

16            I differ with him on this. I think it needs to  
17    be more restrictive, an administrative process be attached  
18    to it. His suggestion bears in mind that there's a  
19    notification requirement, but that's all. That one would  
20    definitely need review and discussions that would take it  
21    into consideration.

22            But I wanted to put it in here, because I think  
23    he best describes what is going on. But I have this  
24    opportunity, he had every opportunity to be here today to  
25    talk about his idea, so I'm going to talk about it for him.

1 I don't have much of a formal discussion on this,  
2 but I'll entertain any questions, because I know if I have  
3 some questions that there will be other concepts which I  
4 have meant to discuss today, talk about.

5 CHAIRMAN WROTENBERY: Okay, we'll open it up for  
6 questions. I just first wanted to say, thank you for  
7 putting this together. I know this is something that  
8 you've been mulling over and discussing with a wide variety  
9 of people for a good long time now. More than a year, I  
10 think, actually. Almost, anyway.

11 MR. STOGNER: And there is a certain amount of  
12 procrastination involved on my part.

13 CHAIRMAN WROTENBERY: Appreciate you laying it  
14 all out for us and the effort that you put into taking a  
15 look at the big picture and trying to determine what makes  
16 sense in today's environment.

17 As you say, still needs to be a lot of discussion  
18 on these particular issues, and I'd like to try to end  
19 today by coming out -- by deciding on some kind of process  
20 that you might use to carry this forward and continue the  
21 discussion and refine the proposal into something that we  
22 might formally submit as a proposed change to the rules.

23 But I want to express appreciations for Mike's  
24 efforts in pulling this all together.

25 And I know there are some people who have been

1 looking at some of these issues. Mr. Alexander was on the  
2 work group and Mr. Carr was as well. I don't know if you  
3 all want to make any comments at this point or not. You  
4 probably want to take it back and spend some time thinking  
5 things over, but --

6 MR. ALEXANDER: I would very much like the  
7 opportunity to -- Some of this I haven't reviewed in any  
8 particular detail, even though I was on the work group, but  
9 I'd like that opportunity --

10 CHAIRMAN WROTENBERY: Sure.

11 MR. ALEXANDER: -- so I really don't have any  
12 particular comments to make, although I think the focus of  
13 the work group -- We knew at the outset that probably we  
14 were going to have to relax the setbacks in order to  
15 eliminate all the NSL applications, and we knew that most  
16 all of the NSL applications were being approved  
17 administrative- -- routinely. So we didn't really see a  
18 problem with doing that. And I think Mr. Stogner has taken  
19 that approach. That's the approach that I think we talked  
20 about taking.

21 CHAIRMAN WROTENBERY: Thank you.

22 Mr. Kellahin?

23 MR. KELLAHIN: Thank you. I'm appearing on  
24 behalf of the Oil and Gas Association, Madame Chairman.

25 Mr. Stogner, let me ask you your suggestions on



1 the process. The industry wants to be involved in that  
2 process. I think perhaps we're at the point with your  
3 current work-study group that you've done all you can do,  
4 quite frankly. The technical people in that group can sit  
5 there and draft proposed rules from now until kingdom come.

6 We, I think, are at a point in time in the  
7 process where we need to engage in a public discussion with  
8 the industry and the regulators about the policy decisions  
9 to be made so that we can execute some of these ideas or  
10 all of these ideas. I think they're terrific items for  
11 discussion.

12 And I'm curious for Mr. Stogner if he thinks  
13 there's any usefulness in continuing his current work-study,  
14 making further reports, are we now ready to reformat this  
15 in some other way to take his ideas and their ideas and  
16 engage the industry in an effort to see if we can make them  
17 work.

18 What's your thought, Mr. Stogner?

19 MR. STOGNER: As far as the work group that we  
20 had, I think it's done all it can at this point. I think  
21 it took it time, and that was the catalyst of what the work  
22 group did, was get the ball rolling. And I don't mean to  
23 sound callous, but finally perhaps somebody has enough guts  
24 to go after the sacred cow that's the offset. But now  
25 might be the time.

1 I don't know what format to take next, but I  
2 don't think the work group format is -- work group format  
3 that we have -- it needs to evolve into something else.

4 Don't think of these rules as amendments, think  
5 of them as evolution, the evolution of these rules that  
6 come to this, and now perhaps it should reflect of the  
7 reservoirs in New Mexico. Let's face it, they are  
8 depleting, and that's where we're going. So let's help  
9 deplete them effectively. And that's what I'm proposing at  
10 this time.

11 CHAIRMAN WROTENBERY: Commissioners, would you  
12 like to ask any questions or make any comments on --

13 COMMISSIONER BAILEY: Thank you, Mike, for all  
14 the work you've put into this. It's really impressive, and  
15 I appreciate the coordination that you've gone through.

16 This has been my first exposure to it, so I don't  
17 feel like I can even ask any intelligent questions right  
18 now. I need time to look at it, consider it.

19 CHAIRMAN WROTENBERY: Commissioner LeMay?

20 COMMISSIONER LEMAY: I too would like to commend  
21 you, Mike, and also the work group on attacking something  
22 this big and as complex as this.

23 One suggestion, Mike, that I'd like to throw out  
24 to you, in terms of the 40-acre spacing rule. Have you  
25 looked at the possibility or the assumption that if you

1 have a 4-1/2-degree deviation on your drilling, that you  
2 run a Totco every so often and you could be off the lease  
3 line as you encroach upon the offset lease?

4 I mean, I think from this point on we're looking  
5 at some type of evidence to maybe okay certain assumptions,  
6 and of course one of the assumptions was that you want to  
7 stay on your lease line. So if you all could draw  
8 something like that up, that would help me, I know, on  
9 looking at 40 acres, given the current rule of running the  
10 Totco and having to have a deviation survey if you exceed  
11 five degrees.

12 I mean, there are all kinds of other things. I  
13 personally would like to know on operating agreements from  
14 industry, what's the general situation if you're going to  
15 propose a second well on a 320-acre tract and you have some  
16 operators that don't want to go along. Are there  
17 nonconsent provisions that would prevail and make this a  
18 do-able deal?

19 So many times we have situations in the past,  
20 today, and I can think of the Central Basin Platform, where  
21 you do have equity established, so any time you change the  
22 rules you have to be very careful that that equity is  
23 somehow -- maybe not preserved, but at least it's a fair  
24 deal for all those involved that were drilling the initial  
25 well, because they drilled it under a certain set of

1 assumptions.

2 Not to say you can't change it, because as you  
3 all recognize, we have gotten a lot of development on those  
4 shallow gas fields on the Central Basin Platform by being,  
5 I think, fairly creative with both equity and drainage  
6 requirements.

7 I think it's a great start. Where we go from  
8 here -- Obviously, I'm not going to be up here looking at  
9 it, but I -- you know, and I think the timing is right,  
10 given the marginal nature of our oil patch out there, to  
11 look at -- as long as we keep in mind that what we're  
12 looking at is somehow still preserving correlative rights  
13 but preventing waste.

14 It may be a time to look at and give more weight  
15 to economic waste. As a Commission, we've kind of sheered  
16 away from economic waste, because it's such a nebulous term  
17 in terms of defining it. But obviously with an oil patch  
18 that is getting more and more marginal and the price being  
19 low, economics are a driving factor in everything, and I  
20 think we need to recognize that. In other words, are these  
21 rule changes truly to the economic benefit of developing  
22 more barrels and more MCF of gas at less cost? Because  
23 that's kind of where we're coming from.

24 I think the Commission listens and the industry  
25 proposes is one way for a regulatory agency to be very

1 cognizant of the financial demands out there and what  
2 industry is truly thinking in terms of development and  
3 trying to get more oil and gas produced at a lesser cost.  
4 So that synergy has got to continue, and I think this is  
5 certainly a good start. I again commend the work group and  
6 the Division for undertaking this.

7 CHAIRMAN WROTENBERY: Mr. Carr, you'd stepped out  
8 of the room when I was asking, giving the opportunity to  
9 work group members to ask any questions or make any  
10 comments if they wanted to. Do you have anything you  
11 wanted to say today?

12 MR. CARR: No, we have participated, I personally  
13 and also Yates Petroleum, and the issues that Mr. Stogner  
14 has laid before you are the issues that the committee was  
15 concerned about. We think it's an important thing for  
16 overall regulation for the Commission to address these, and  
17 the time is right to take a look at this. And this is sort  
18 of a top-to-bottom review of spacing, and I personally, and  
19 I think Yates also agrees that the time is definitely right  
20 to take that on.

21 CHAIRMAN WROTENBERY: Okay. Well, let me just  
22 throw something out as a possible process, since I really  
23 haven't heard any concrete suggestions about what we'd do  
24 as a next step. But I'm thinking Mike has done a good job  
25 compiling the thinking of the various work group members,

1 as well as the history of the rules and laying out an  
2 explanation for a number of the provisions in the current  
3 rules, and some discussion too about how some of the  
4 thinking that made sense, that supported the rules in the  
5 current form doesn't necessarily apply in today's  
6 environment.

7 One thinking we can do is circulate this material  
8 to the industry associations. The work group members  
9 themselves would be certainly welcome to continue to review  
10 and comment on these proceedings as they develop. Other  
11 agencies, I'm sure the Land Office needs to take a look at  
12 these rules, and BLM would probably be interested, and  
13 there are probably other agencies that would want to have a  
14 chance to mull this over.

15 I'm thinking, we might circulate basically Mike's  
16 report, with much if not all of the supporting information  
17 that's in there, and ask for comments from those people who  
18 are interested on where we should go next. And then  
19 probably, I think, hold some sort of working session. We  
20 could ask the staff to take the lead in carrying this  
21 project forward.

22 But after we get comments in, I think hold some  
23 sort of working session and invite everybody who took the  
24 time to review and comment on the proposal, and try to at  
25 least identify areas of consensus, and then also identify

1 any issues that are in controversy and analyze those in a  
2 little more detail.

3 And then maybe come back to the Commission and  
4 discuss where we are after we go through that process. I'd  
5 hope maybe that process might lead to a more refined  
6 proposal, one at least that reflects a little bit broader  
7 input from the industry and the other agencies.

8 What do you think about that approach, Mike?

9 MR. STOGNER: Well, whatever the Commission would  
10 like. Perhaps since Mr. LeMay won't be a Commissioner  
11 anymore, perhaps he could serve in some capacity on the  
12 committee.

13 CHAIRMAN WROTENBERY: I think that's a good idea.

14 (Laughter)

15 MR. STOGNER: It's just a suggestion.

16 COMMISSIONER LEMAY: When are you going to start  
17 paying me?

18 CHAIRMAN WROTENBERY: Any thoughts on that  
19 process?

20 COMMISSIONER LEMAY: I'd be happy to do anything  
21 I can do to help.

22 MR. ALEXANDER: Well, I think it is time to get  
23 feedback from the industry and the other regulatory bodies.  
24 I think we're at that point in time, and I think probably  
25 this material identifies all the salient points that need

1 to be looked and discussed, and you need to draw closer to  
2 a consensus on how it changes.

3 I don't think there's anybody out there that  
4 would say that we don't need to change the rule. I think  
5 that's a given. The rule has to be changed if we're to  
6 proceed ahead and to eliminate the burdens on the operators  
7 and the Division of filing all these NSL's, which are  
8 pretty routinely anyway.

9 So I think we're at that point in time, I think  
10 it's time to get comments back, see if we can consolidate a  
11 position that we can recommend to the Commission to adopt  
12 for a new rule.

13 CHAIRMAN WROTENBERY: Okay. Well, then, I'd like  
14 to ask Mike and Rand to take the lead on that particular  
15 effort in terms of getting this proposal circulated to the  
16 various associations and agencies and industry  
17 representatives who would be interested in it, getting  
18 comments back, holding a working session with them to try  
19 to develop a proposal, and then bring that back to the  
20 Commission.

21 I'm thinking because of the Legislative session  
22 that's going to start up next week and some of the other  
23 proposals that are -- I know BLM has some proposed rules  
24 that are going to take some time and effort to review and  
25 analyze and comment on. I think it will take at least



1 several months, probably, to complete this process that  
2 we're laying out.

3 What if we plan on coming back in April? Does  
4 that give you enough time, Rand and Mike, to -- And I'll  
5 ask, actually, maybe the industry representatives as well,  
6 what with all that's on your plate. Would that give you  
7 adequate time to review and comment?

8 MR. KELLAHIN: Madame Chairman, I think I can  
9 take Mr. Stogner's work product as he's presented it today,  
10 write up a short summary and put that out to the  
11 Association membership and move to the next level. It will  
12 be easy to take his work and draft a questionnaire and say,  
13 these are proposed changes, tell me what you think.

14 CHAIRMAN WROTENBERY: Okay.

15 MR. KELLAHIN: Industry's asked you repeatedly  
16 for relaxing location rules. Let's challenge them now to  
17 come back and comment on the specific proposals.

18 CHAIRMAN WROTENBERY: Okay.

19 MR. KELLAHIN: And what Mr. Stogner does in  
20 managing unorthodox well locations is the one critical  
21 thing the agency ought to do. By granting exceptions,  
22 then, you can circumvent the pool rules. And if industry  
23 doesn't like the current rules, he's challenged them to do  
24 something, he's said here it is, it's open agenda, here are  
25 some ideas, what do you think? And so it's our turn now to

1 respond, and we'll be happy to do that.

2 CHAIRMAN WROTENBERY: Okay, appreciate that.

3 MR. CARR: May it please the Commission, I think  
4 it's clear Michael's done an excellent job in pulling all  
5 this together and defining a problem.

6 I don't think that anyone could tell you when the  
7 industry would be ready to have a refined product to bring  
8 to you, but I think from a Commission point of view it  
9 would be helpful to those of us who were going to work on  
10 this project to have some time frames where at least at a  
11 minimum we're required to come back and report to you --

12 CHAIRMAN WROTENBERY: Okay.

13 MR. CARR: -- and for that reason I think an  
14 April date, recognizing that it might be a report instead  
15 of a final product, would be helpful.

16 CHAIRMAN WROTENBERY: Okay, that sounds good to  
17 me. I'd like that.

18 Yes, Commissioner LeMay?

19 COMMISSIONER LEMAY: Just a question, Madame  
20 Chair. Is there a -- part of this, the notice requirements  
21 are going to be looked at too, or is that a separate issue  
22 completely?

23 CHAIRMAN WROTENBERY: I was going to --

24 MR. KELLAHIN: Madame Chair, Mr. LeMay, it would  
25 be my request at an appropriate time to separate those two

1 activities and docket the notice as a different case.

2 COMMISSIONER LEMAY: You had a lot of legal  
3 complications with the notice, and a lot of this is less,  
4 of course, legal implications and more --

5 MR. KELLAHIN: They're two independent  
6 activities.

7 COMMISSIONER LEMAY: Yes, I would think that  
8 would be the case.

9 MR. KELLAHIN: We'd like different attention.

10 CHAIRMAN WROTENBERY: And I still think that  
11 we're going to hear from you here in a few minutes on  
12 the --

13 COMMISSIONER LEMAY: Oh, okay, I'm sorry --

14 CHAIRMAN WROTENBERY: -- notice activity, so --

15 COMMISSIONER LEMAY: -- something they're going  
16 to --

17 CHAIRMAN WROTENBERY: Yeah -- Well, not really,  
18 because there are some notice provisions in 104, as Mike  
19 discussed, so we do need to get that sorted out about how  
20 we're going to proceed to address those requirements.

21 Okay, we will plan to take this up again, then,  
22 at our April meeting and hear a report from the staff and  
23 from industry on the status of the efforts at that point.

24 MR. STOGNER: May I have one final --

25 CHAIRMAN WROTENBERY: Yes, certainly.

1 MR. STOGNER: -- either challenge or -- Thank  
2 you, all. Definitely it wasn't all my doing, so I had to  
3 thank everybody on this. And of course the two Directors  
4 for pushing this direction.

5 By no means could there not be improvement to  
6 this. If you have an idea, or foster whatever idea that's  
7 not covered in here, something radical or it may seem  
8 radical, work it out. This is what happened in 111. There  
9 are some proposals in here that I've been thinking about  
10 that I don't have in here.

11 But whatever happens after this, challenge the  
12 industry to think about it and bring it up for discussion.

13 That's all I have. And thank you again for your  
14 comment.

15 CHAIRMAN WROTENBERY: Thank you very much, Mike.

16 COMMISSIONER LEMAY: Thank you, Mike.

17 CHAIRMAN WROTENBERY: And I notice that,  
18 considering that the word "streamline" used to stick in  
19 your craw, it really flows now, talking about these things.

20 (Laughter)

21 MR. STOGNER: The wordstream conjures up many  
22 images.

23 CHAIRMAN WROTENBERY: Yes, okay. Okay.

24 MR. ALEXANDER: Madame Chairman, I'm assuming we  
25 can take these with us, or do we need to turn them back in

1 or --

2 MR. STOGNER: No, that's for -- Okay, for the  
3 record, he is referring to the report. I made 20 copies.  
4 I have one master copy, which is mine. Yeah, I meant for  
5 all -- the purpose, I meant for whoever is here to have  
6 one. If you represent one company, don't take them all.  
7 There's a few copies in there that I do want to submit to  
8 the various working members of our group, so I'd like to  
9 have maybe about three of them and then just turn the rest  
10 of them over to you.

11 CHAIRMAN WROTENBERY: Well, we'll want to  
12 distribute some to, for instance, IPANM, we need to make  
13 sure that they get a copy, and some other groups. So we  
14 may well end up needing to make a few more copies for  
15 distribution before all is said and done, just to make sure  
16 everybody who needs it has access. You need another one as  
17 well. So we'll keep yours and we'll make sure we make  
18 enough copies for everybody who needs one.

19 (Thereupon, these proceedings were concluded at  
20 11:12 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 January 16th, 1999.



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STEVEN T. BRENNER  
CCR No. 7

My commission expires: October 14, 2002