

NEW MEXICO OIL CONSERVATION COMMISSION

COMMISSION HEARING

SANTA FE, NEW MEXICO

Hearing Date SEPTEMBER 28, 1995 Time: 9:00 A.M.

ILLEGIBLE

NAME	REPRESENTING	LOCATION
Bill [unclear]	[unclear]	Denver
[unclear]	[unclear]	[unclear]
Frank GRAY	TERRACO EAP	Midland
Ken [unclear]	[unclear]	[unclear]
Fred CARROLL	[unclear]	SE
D. [unclear]	[unclear]	[unclear]
Frank [unclear]	[unclear]	[unclear]
John [unclear]	[unclear]	Midland
[unclear]	[unclear]	[unclear]
Alex [unclear]	Midtown & Andrews	[unclear]
[unclear]	[unclear]	[unclear]
[unclear]	[unclear]	[unclear]
[unclear]	[unclear]	[unclear]

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. 11,351
)
HEARING CALLED BY THE OIL)
CONSERVATION DIVISION TO)
AMEND RULE 104)
_____)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

COMMISSION HEARING

ORIGINAL

BEFORE: WILLIAM J. LEMAY, CHAIRMAN
WILLIAM WEISS, COMMISSIONER
JAMI BAILEY, COMMISSIONER

September 28th, 1995

Santa Fe, New Mexico

This matter came on for hearing before the Oil Conservation Commission on Thursday, September 28th, 1995, 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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 Commission Hearing
 CASE NO. 11,351

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A P P E A R A N C E S

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 By: W. THOMAS KELLAHIN

* * *

1 WHEREUPON, the following proceedings were had at
2 9:12 a.m.:

3 CHAIRMAN LEMAY: And we shall call Case 11,351,
4 which was the matter called by the Oil Conservation
5 Division to amend Rule 104 of the General Rules and
6 Regulations.

7 I'd like at this time to call for appearances in
8 Case Number 11,351.

9 MR. CARROLL: Rand Carroll on behalf of the New
10 Mexico Oil Conservation Division.

11 CHAIRMAN LEMAY: Thank you, Mr. Carroll.

12 MR. KELLAHIN: Mr. Chairman, I'm Tom Kellahin of
13 the Santa Fe law firm of Kellahin and Kellahin, appearing
14 this morning on behalf of the New Mexico Oil and Gas
15 Association.

16 I have three witnesses I'd like to be sworn.

17 CHAIRMAN LEMAY: Thank you. How many witnesses
18 do you have, Mr. Carroll?

19 MR. CARROLL: I have no witnesses.

20 CHAIRMAN LEMAY: No witnesses?

21 Are there any other appearances in Case 11,351?

22 Will those witnesses that will be giving
23 testimony please stand and raise your right hand?

24 (Thereupon, the witnesses were sworn.)

25 CHAIRMAN LEMAY: Mr. Kellahin, you may begin.

1 MR. KELLAHIN: Thank you, Mr. Chairman.

2 CHAIRMAN LEMAY: I might, for clarification,
3 indicate that Rule 104 was discussed at the last Commission
4 hearing, and -- Well, I guess you might go into the
5 background information to inform the Commission and also
6 the people in the audience what transpired concerning this,
7 Mr. Kellahin, for introduction.

8 MR. KELLAHIN: Mr. Chairman, on August 10th of
9 1995, the Commission commenced a public hearing to consider
10 104. And as part of that process, the industry made a
11 presentation to you. Those presenters, I'd like to have
12 them identify themselves for you so you know that they're
13 back before you today.

14 Mr. Alexander, would you identify yourself and
15 explain what you do?

16 MR. ALEXANDER: Yes, I'm Alan Alexander. I work
17 on the NMOGA Committee for this Rule 104 amendment. I'm
18 employed by Meridian Oil, Inc., in the Farmington, New
19 Mexico, office, and I have been addressing spacing and
20 setback concerns during this process.

21 MR. KELLAHIN: The next party that participated,
22 Mr. Chairman, was Bill Hawkins of Amoco Production in
23 Denver. I'd like him to introduce himself and explain his
24 involvement in the process.

25 MR. HAWKINS: Bill Hawkins with Amoco. I'm in

1 our regulatory affairs group, a petroleum engineer, and
2 I've been working on regulatory affairs matters for New
3 Mexico since about 1988. I participated on this NMOGA
4 Committee in reviewing the proposed rule changes. I did
5 not make any testimony at the last hearing on this issue,
6 but I did help with the Committee in establishing these
7 proposed rules.

8 MR. KELLAHIN: And then next, Mr. Chairman, Jerry
9 Hoover of Conoco in Midland. I'd like him to identify
10 himself and explain his participation in the process.

11 MR. HOOVER: I'm Jerry Hoover of Conoco in
12 Midland. I've been working with New Mexico regulatory
13 affairs for the last 20 years. I most recently have been
14 participating with the NMOGA task force that's been looking
15 at the Rule 104.

16 MR. KELLAHIN: Let me take a moment, Mr.
17 Chairman, and describe for you how the exhibit book is
18 organized.

19 Behind Exhibit Tab Number 1 is the pre-filed
20 summary that I prepared and submitted to the Commission on
21 Monday. In addition, behind that same tab is our
22 Committee's work product, which represents Rule 104 with
23 recommended changes.

24 Those changes in terms of this format are
25 identified whereby the shaded area, the red-line notation,

1 is a proposed addition. If there's a strike-through, it
2 represents a proposed deletion.

3 In addition, behind Tab Number 1 is an exhibit
4 tab wherein, further discussing the proposed changes, we
5 have found a change, and that is shown on page 9 and it's
6 identified as a replacement page. And so we'll talk about
7 that in a moment. But the purpose of Exhibit 2 is to show
8 a replacement page for the draft that was circulated to the
9 Commission on Monday.

10 And then behind Tab Number 3 is illustrations so
11 that we can help you visualize some of the components of
12 the spacing rules that we're about to discuss.

13 Beyond that, then, is some additional schematics
14 and illustrations, again to try to visualize what our
15 objective is and how we have proposed some suggested
16 solutions.

17 And then finally, behind Exhibit Tab Number 5 is
18 again another way to approach the same topic.

19 You'll recall back on August 10th, when the
20 Commission first entertained a visit of Rule 104, the
21 Division staff had presented to you -- through Mr. Jim
22 Morrow, I believe it was -- the concept to expand the
23 ability of the Division to administratively approve
24 unorthodox well locations.

25 You may remember from the February industry

1 presentation, one of the concerns of the industry was to
2 minimize the expense and avoid the delay of Commission
3 hearings and Division hearings, particularly on nonstandard
4 locations for which there was no objection.

5 A number of those cases appear on the Examiner
6 dockets, because there is limited discretion for them to
7 administratively approve locations that are sought based
8 upon geologic reasons.

9 When you heard this case in August, then, the
10 Division presented you with a broadened scope to their
11 administrative process, whereby any applicant could seek an
12 unorthodox location in his spacing unit at any location for
13 geologic reasons.

14 In addition, there was discussion about
15 modification of the notice requirements. One of the
16 problems we deal with before the Division is notice. The
17 hearing rules for notice on unorthodox location requires us
18 to notify those operators towards whom the well encroaches.
19 If there is no operator, then you notify those adjoining
20 lessees or unleased mineral owners.

21 The question is, how broad a scope do you have to
22 that notice?

23 The current administrative rule requires you to
24 notify everyone around the spacing unit, even if you're
25 moving away from it. And in 23 years of doing this, I have

1 yet to see someone object to being moved away from. We
2 think it's an unnecessary burden.

3 Those are the two themes. We discussed those
4 back in August. We're back to show you the work product of
5 the industry Committee which re-examined those issues. We
6 are not asking for anything different than the concepts
7 initiated by Division staff, which were to relax the
8 administrative approval rules, broaden their scope, and
9 establish the means by which all this technical data can
10 flow to the Examiner for an administrative approval
11 process, rather than require that expert to appear and
12 bring the same evidence to a public hearing on the Examiner
13 docket.

14 In addressing those issues, then, we have
15 proposed some rules changes for you, and they have been
16 summarized in the summary sheet.

17 The process that we went through is that this
18 group of experts prepared rule changes, and we distributed
19 those to the industry. The only comments we received back
20 were with regards to the deep gas wells in southeastern New
21 Mexico that are spaced upon 320 acres. There was concern
22 by operators down there, that they wanted some automatic
23 setbacks for deep gas when those applications were filed
24 administratively, so that they could rely on the Division
25 to set for hearing any request that encroached upon a

1 certain minimum setback.

2 For example, in 320 gas pools, the standard well
3 right now is 660 from the side boundary and 1980 from the
4 end boundary.

5 The proposal by those members of the Association
6 in those pools were that if there's an administrative
7 request for geologic reasons that's closer than 660 out of
8 any corner, then that becomes too close, and they want that
9 to go to hearing.

10 There are no other operators for any other pool
11 that wanted to limit the Examiner's discretion, then, when
12 he processes one of these cases administratively. They
13 were comfortable with and were willing to rely upon the
14 process where they get certified mailed notice of those
15 administrative applications. And with that guarantee of
16 notice, then, they could protect themselves by filing a
17 timely objection and taking that administrative case to a
18 hearing.

19 So that was the general process we used. We have
20 polled the industry and have determined their comments as
21 to our proposals, and that was the one comment we received
22 back, the general topic.

23 What we're suggesting to you today is that you
24 consider our work product as a proposed rule change, you
25 let us present our case today and leave the record open for

1 an additional 30-day period so additional written comments
2 might be supplied to you, and we will once again poll our
3 membership to see if there is someone who has not yet
4 responded to some issue that we're discussing.

5 But I think, as far as we can determine, there is
6 widespread agreement in the industry as to the draft we're
7 about to discuss.

8 You may recall back on August 10th, one of the
9 items we struggled with was the Division's proposal to
10 relax an interior limit. You may remember that in the San
11 Juan Basin there's an interior setback in a spacing unit so
12 that you have to be 130 feet off an interior quarter-
13 quarter line.

14 The Division has recommended, and the industry
15 supports, reducing that to 10 feet. That is consistent
16 with what is done with the coal gas spacing rules in the
17 San Juan Basin, and it is our position it's appropriate in
18 the San Juan Basin.

19 At the August 10th hearing, the Commission
20 Chairman quizzed us about the suitability of relaxing the
21 rule in southeastern New Mexico. We have re-examined that
22 issue based upon his comments, and we believe it is not
23 appropriate to change the rule in southeastern New Mexico
24 and relax that interior dimension. I think it's a 330
25 setback, if I'm not mistaken. But the concept of a 10-foot

1 setback in southeastern New Mexico is not our position. We
2 withdraw any suggestion that you do that.

3 I talked about the deep gas spacing for an
4 automatic default setback for administrative applications.
5 We very much appreciate, and the industry enthusiastically
6 supports administrative applications for geologic reasons
7 and to allow the discretion of the Examiner to act on those
8 applications.

9 We think it's appropriate in the circumstance, we
10 see no reason to establish strict criteria. For more than
11 40 years this industry has relied upon the experience and
12 expertise of a well-informed Division staff who has the
13 talent and the ability to judge these matters, and we would
14 like to have them have the flexibility to process these
15 administratively and avoid the hearings.

16 Lastly, we have struggled with the notice issue.
17 It's easy to describe the objective; it is difficult to
18 execute on paper. We have some illustrations which we're
19 going to present to you, to show you what we think is the
20 answer, and we'll defer to you as to a final solution. But
21 we think we have approached a solution where only those
22 operators and interest owners towards whom you're
23 encroaching get notice, and those are the parties that
24 object.

25 Here's what we're trying to solve. I had one of

1 these kinds of cases a few weeks ago for Nearburg Producing
2 Company, and we were obligated to notify everybody around
3 us because there were unleased acreage around the spacing
4 unit. There was no operator and no spacing unit. We were
5 dealing with a rectangular-shaped spacing unit. It was an
6 80-acre spacing unit. Offsetting us, you couldn't decide
7 which way the 80 acres was oriented. And so we chose to
8 orient both directions.

9 In doing so, we picked up additional owners. I
10 had 160 people we notified, half of which came back. Not
11 one objection. It cost \$500 in postage. It seems to be an
12 unnecessary burden to go to that excess in terms of
13 notification when it means nothing to the process.

14 So that's what we're trying to do, is to avoid
15 unnecessary notification. And in doing so, we have
16 provided some illustrations to you to help you visualize
17 what is hard to describe verbally.

18 I'd like to present the parties that participated
19 in the Committee in the following order:

20 I'm going to ask Mr. Hawkins to help us
21 understand the San Juan Basin. He's a petroleum engineer
22 that has extensive experience in the San Juan Basin.

23 I'm going to ask Mr. Alexander, who's a landman
24 in that same area, to comment on the San Juan Basin.

25 And then finally, I'll ask Mr. Hoover to comment

1 as an engineer with his experience in southeastern New
2 Mexico, so you'll have a quick taste of the two different
3 areas.

4 I don't propose to have a lengthy presentation.
5 I'm simply providing an opportunity for you to ask some
6 questions for clarification so that you can understand your
7 way through our point of view.

8 And with your permission, Mr. Chairman, then,
9 I'll ask Mr. Hawkins to come forward.

10 CHAIRMAN LEMAY: Please do.

11 J.W. "BILL" HAWKINS,

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

14 DIRECT EXAMINATION

15 BY MR. KELLAHIN:

16 Q. Mr. Hawkins, let me have you turn to the exhibit
17 book and let's look at Exhibit Tab Number 3.

18 A. Okay.

19 Q. And if you'll look at the first display, it says
20 "Current", and then the second display says "Proposed". If
21 you'll note the caption, we all know how to spell "Rio
22 Arriba". When the two "r's" are together, it looked like
23 an "m" to somebody, but we really do know the counties of
24 New Mexico.

25 Mr. Hawkins, let's take a moment so that

1 everybody understand where we are now and have you explain
2 for the San Juan Basin what is identified as current
3 standard well locations.

4 A. Okay, the first picture you have here, marked
5 "Current", shows the two types of spacing units that we
6 generally have in the San Juan Basin. We've got a 160-acre
7 spacing unit shown up here in the northwest, and then we
8 have a 320-acre spacing or proration unit shown on the east
9 half.

10 And inside those spacing units, we've shown
11 through this hashed marker what the current requirements
12 are for locating wells.

13 And just to describe those quickly, they require
14 a 790-foot setback from the boundary of the spacing unit
15 and a 130-foot setback from the interior quarter-quarter.

16 If you go to the 320-acre spacing unit, it's
17 identical on each of the quarter sections. And I guess
18 that, you know, pretty much describes the way we handle it
19 currently.

20 Q. Now, those are specific to the San Juan Basin,
21 are they not?

22 A. That's correct.

23 Q. You get down in southeastern New Mexico, and
24 you've got different setbacks?

25 A. That's right.

1 Q. All right. Let's deal with the San Juan Basin
2 then.

3 A. All right.

4 Q. Let's look at the proposal now as the Committee
5 has recommended, and in fact as the Division has
6 recommended, changes in the San Juan Basin.

7 A. Okay. If we turn to the page to the exhibit
8 marked "Proposed", you'll see that for those same spacing
9 units we have retained that same setback of 790 feet from
10 the exterior boundaries of the spacing unit. So we're not
11 proposing any change here that would allow us to move
12 closer to another spacing unit offsetting us.

13 But we are recommending a change of the interior
14 setback from the quarter-quarter line, from the 130-foot
15 that currently exists to 10 foot. And the reason for this
16 is to open up the legal drilling window within this quarter
17 section to allow us a little more flexibility to locate our
18 wells and not encroach on anybody else, any other exterior
19 spacing unit.

20 The 10-foot setback would still require the well
21 to obviously be located in one of the 40s, so that it would
22 be easy to identify which unit are you in and keep us --
23 You know, in the event there's any kind of differences in
24 ownership within those 40s or whatnot, it's real obvious
25 that you're on somebody's certain tract of land and not

1 right on the boundary.

2 But it does allow the operators a little more
3 flexibility to locate wells, and in the San Juan Basin I
4 think you'll recognize that the biggest drawback we have to
5 development is the extreme topography that we have in a lot
6 of the canyons in that area. There's a lot of
7 archeological concerns that require wells to be moved
8 around. And for the most part this would just provide a
9 little more flexibility to operators to be able to move
10 around those obstructions and still not have to come in and
11 request a location exception.

12 Q. Now, this would be for standard locations, now,
13 if the Commission adopts the change, and so you would
14 simply permit your well in the usual fashion and not have
15 to obtain an administrative or a hearing order for a well
16 within this expanded standard window?

17 A. That's right.

18 Q. Describe for us what is your experience -- what
19 your position and then your experience with regards to
20 expanding the opportunity to have geologic-based unorthodox
21 locations approved administratively. How does that impact
22 the San Juan Basin, and what is your position?

23 A. You know, the expansion we're asking for there is
24 for the administrative hearing for geologic concerns that
25 an operator may need to move his well in order to recover

1 the resources under a spacing unit for some geologic
2 reason.

3 In the San Juan Basin, that's a really -- a rare
4 occasion. We've got a fairly blanket-type sands that are
5 not going to see a significant change in recovery, whether
6 you put it in the center of the spacing unit or locate it
7 somewhere else. So I wouldn't expect that the geologic
8 reason for administrative location exception would be used
9 very much in the northwest pools.

10 Q. Insofar as the pools in the northwest are
11 concerned, do you see any reason for an automatic setback
12 which would require a hearing for geologic reasons?

13 A. No, I really don't. I think -- I think for one,
14 that the occasions would be very rare, that the location
15 exception would be for a geologic reason. For the most
16 part, they're going to be topographic or for archeological
17 concerns.

18 If there was some -- I mean, where I can see a
19 potential for that is maybe in the Fruitland Coal where we
20 have this high-pressure envelope that cuts through -- I
21 mean, it kind of divides part of the Fruitland Coal into a
22 high-pressure area with typically better production and
23 better recoveries, and a low-pressure area. And there have
24 been a few cases where operators have asked for, for
25 geologic reasons, the ability to move that well into that

1 high-pressure envelope.

2 Those could even -- could still be handled
3 administratively, but there would be, obviously, notice to
4 the offset operator through certified mail, and that
5 operator -- the offset operators would have the opportunity
6 to object to that.

7 So I don't see the need for any type of a buffer
8 setback for those kind of conditions, and I do think the
9 administrative approach is reasonable for those conditions
10 as well.

11 Q. Let me ask you to turn to Exhibit Tab Number 5.
12 Well, I've gone too far. Let's go to Exhibit Tab Number 4.

13 A. Okay.

14 Q. And perhaps the second page of that may be a way
15 to illustrate this. The topic I want to discuss with you
16 is what you and the other Committee members did with
17 regards to refining the notice rules.

18 A. Okay.

19 Q. Give us a summary, and here's perhaps an
20 illustration that serves to point that example. Summarize
21 for us what you were trying to accomplish.

22 A. The current rules require, when you ask for a
23 location exception, that you notify all of the offset
24 operators completely surrounding the spacing unit.

25 And as Mr. Kellahin explained a little earlier,

1 you know, typically when you have your location exception,
2 you're moving towards some spacing units and you're moving
3 away from others. And it's almost a given that the people
4 that you're moving away from really could care less that
5 you're moving away from them. They're certainly not going
6 to object that you're violating their correlative rights to
7 get their fair share.

8 So what we're trying to do is change the rules
9 that would allow an operator to only notify those parties
10 that the well is being moved towards that might potentially
11 have some concern about protection of their correlative
12 rights.

13 We've got two exhibits here. The first exhibit
14 just kind of explains what we do today, and it does show
15 all of the -- If you look at the first page here, that's
16 got a blue hashed mark, shows the spacing unit that we're
17 in.

18 And then surrounding that are the owners or the
19 operators of the spacing units that would be notified for
20 the location exception.

21 And as you can see, some of these owners -- and
22 we're not even showing the ones completely to the south,
23 but certainly some of these owners are not being crowded in
24 any way by the change in this well location.

25 Of particular interest, I think, is the black

1 cross-hatched areas that are undeveloped where no operator
2 has been yet declared, and notice would be given to all of
3 the lessees or unleased mineral owners within those 320-
4 acre areas.

5 What we're trying to do is hone in on who are the
6 parties that are really going to be affected? So if we
7 turn the page to the second page, our proposal would limit
8 that same notification for that same type of a wellbore to
9 the areas that are shown in green and red and blue
10 crosshatch.

11 And the way that that is done in the northwest
12 would be to draw a circle around the proposed well location
13 with a radius of 790 feet, which is the -- currently the
14 minimum setback for a standard location. And where that
15 circle crosses into the other spacing units, we would
16 identify, you know, which are the parties that are -- would
17 require notification.

18 If that spacing unit is developed and an operator
19 has been declared, as in the northern setback here in
20 Section 2, then that operator would be the party that gets
21 notified.

22 If the spacing unit has not yet been developed,
23 such as the west half of Section 1, which is the cornering
24 diagonal offset, or the north half of Section 12, then
25 we're going to notify the lessee or the unleased mineral

1 owner that gets cut by that 790-foot circle. And you'll
2 see that even in the cornering area where the circle did
3 not cut, that lease still is contiguous to this spacing
4 unit, and we're recommending that that party get
5 notification as well.

6 But we would limit it to just those immediately
7 offset leases that are contiguous when the property is
8 undeveloped.

9 Q. When the Commission reads the exact language of
10 our proposed Rule 104, in your opinion, does it execute
11 what you've just described?

12 A. I think it does. We had a difficult time coming
13 up with the best wording that might describe that, but I
14 think we've done a fairly good job at it, and it should be
15 clear to most people that are reading that rule.

16 Q. Is there a rationale or a concept to tie the
17 length of the radius back to something of relevance with
18 regards to well locations?

19 A. Well, we think that the 790-foot setback, which
20 is the minimum setback for a standard location, is
21 satisfactory to define those parties that are being
22 encroached upon.

23 And so that -- We tied back to that radius to use
24 as a tool to identify who gets notification.

25 Q. And as you move to different pools in different

1 parts of the state, then, the radius would change to
2 reflect the distance required for a standard well minimum
3 in that pool?

4 A. That's right. So if you move to the southeast
5 and you have a different setback than 790 feet, that's the
6 measure you would use to identify who gets notification in
7 those pools.

8 Q. And in all instances you would always notify the
9 adjoining spacing unit if it had a spacing unit and a
10 dedicated operator?

11 A. That's correct. If it's developed, then you
12 identify who the operator is and you notify them just like
13 we do today.

14 The only thing we're doing is, we're trying to
15 eliminate primarily those parties that we're moving away
16 from and then more clearly define who are the parties when
17 it's undeveloped that really require notification on this.

18 Q. Do you and your company support the proposed Rule
19 104 changes that we're submitting to the Commission?

20 A. Yes, we do.

21 MR. KELLAHIN: That concludes my questions of Mr.
22 Hawkins.

23 CHAIRMAN LEMAY: Any additional questions of Mr.
24 Hawkins?

25 Commissioner Bailey?

EXAMINATION

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BY COMMISSIONER BAILEY:

Q. This notification would apply to locations for oil and gas wells?

A. Yes. Now, we're talking -- The part that I've testified to is in the northwest, and we're primarily gas wells there. There are some oil wells in the Gallup Pool. But it would be for all wells, either oil or gas, that you're asking for some location exception to the -- either field rule or general rule.

Q. I'm zeroing in on the oil wells --

A. Okay.

Q. -- because there are some.

Are there are 40-acre spacing units for oil wells in the northwest?

A. Typically, we're looking at an 80-acre oil well spacing unit in the Gallup. I don't believe there are any 40s, but there could be.

Q. If there are 40-acre spacing units in the northwest, how would that impact this radius if we have 10-foot offsets from interior lines?

A. Well, if we -- The 10-foot offset for the interior lines probably would not come into play on those 40- or 80-acre spacing units. Those are going to be located within -- They probably have a 330-foot setback

1 requirement or something of that nature for those oil
2 wells.

3 The 10-foot setback that we're looking at here is
4 strictly for gas wells in the San Juan Basin.

5 Q. But if a gas well is recompleted to an oil
6 well --

7 A. Right.

8 Q. -- the we have a gas well who was permitted with
9 a 10-foot interior offset --

10 A. That's right.

11 Q. -- that's now become an oil well in a nonstandard
12 location, crowding three other potential lessees.

13 A. Uh-huh.

14 Q. Do we have a problem with notification if our
15 radius is only 10 feet?

16 A. I don't -- You know, I don't really envision that
17 it would be a significant problem, and the reason I say is
18 that in the northwest pools, we -- as again I would say,
19 we're primarily gas pools. There is one zone that has some
20 wells that are classified as oil, because they produce at a
21 lower GOR. The production is fairly limited. I wouldn't
22 even say it's a fairly significant pool out of the entire
23 San Juan Basin.

24 The other thing that I think would prevent that
25 from being a significant problem is that since the primary

1 product that's being developed in the San Juan Basin is
2 gas, most of the leases that are given there are given on a
3 160-acre spacing or larger. It's pretty rare that you have
4 it broken down into a 40-acre lease, actually, for those
5 pools in the northwest.

6 So the most likely condition is that if you did
7 have a well that you recompleted into the Gallup and it was
8 oil and it happened to be 10 foot off, you would ask for a
9 location exception, you would notify the offset operator.
10 Typically, it's going to be the same operator that owns
11 this well, because the leases are usually of a large enough
12 size. But in the event that there was some other operator
13 there, they would still get notification and have the
14 opportunity to object to that. So I really wouldn't
15 envision that being a significant problem in the northwest
16 pools.

17 Q. My concern is the size of the radius of the
18 notification. Does it shrink down to 10 feet?

19 A. No, I wouldn't think. We're talking about
20 crowding the exterior boundary, and if you were in a 40-
21 acre pool and the minimum setback was, say, 330 feet, or
22 660 feet or whatever that number happened to be for that
23 pool, that would be the radius that you would use to
24 identify who gets notification.

25 The 10-foot is only the minimum setback in the

1 gas pools. It's not the same setback for the oil pool, so
2 you wouldn't even consider using that for notifying a
3 location exception in the Gallup Pool. You would use the
4 minimum setback for the Gallup Pool.

5 Q. Except for recompleted wells, right?

6 A. Well, no, even for a recompleted well, if you
7 took a Mesaverde or a Dakota well and you recompleted it to
8 the Gallup, and if you're not in a legal location for the
9 Gallup then you would notify the owners that you're moving
10 towards and you would use the minimum setback for the
11 Gallup Pool to establish the radius to identify the notice.

12 So I don't think the 10 foot would even come into
13 play in that. That's just one of the interior boundaries
14 for the gas pools.

15 COMMISSIONER BAILEY: Okay, that's all I have.

16 CHAIRMAN LEMAY: Commissioner Weiss?

17 EXAMINATION

18 BY COMMISSIONER WEISS:

19 Q. Does -- I don't know about the situation in the
20 northeast, I don't have a great deal of experience there.
21 But some places, when they survey things for right-of-ways,
22 for power lines and fences and ditches and roads, they put
23 them all on -- you know, on legal --

24 A. Right.

25 Q. -- section lines. And then, when you start

1 crowding it down to 10 feet, is that going to raise a
2 problem here, your 10-foot setbacks?

3 A. I don't think it will. Right now, we have a 10-
4 foot setback for the Fruitland Coal Pool. So, you know,
5 however we're dealing with those type of issues there, we
6 would continue to deal with them in the same fashion for
7 the other pools in the northwest.

8 COMMISSIONER WEISS: We have no experience with
9 that?

10 CHAIRMAN LEMAY: Yeah, we haven't had any problem
11 to date with that 10-foot setback in the northwest.

12 COMMISSIONER WEISS: That's the only question I
13 had. Thank you.

14 EXAMINATION

15 BY CHAIRMAN LEMAY:

16 Q. Mr. Hawkins, I've got some threshold questions
17 here.

18 It seems like what you're saying is, rather --
19 leases versus proration unit, you're talking about
20 notification to lessee, to operators that are directly
21 offsetting a proposed -- Well, let's look at page 2. It
22 will be easier to explain Exhibit 4.

23 You're talking there about notification to the
24 south half of Section 2. What would happen if that
25 proration unit or another proration unit that was formed

1 would encompass the east half of Section 2? The operator
2 in the northeast corner would not be notified?

3 A. I'm not sure if I'm following what you're saying.
4 If the --

5 Q. You have an established proration unit there, the
6 south half, I understand that. That would be a proration
7 unit for the same formation that this target well was --
8 that this well was --

9 A. Right.

10 Q. -- targeted for.

11 A. Okay.

12 Q. So there would be very little chance of having
13 the northeast quarter of Section 2 be part of an offsetting
14 proration unit?

15 A. If that spacing unit had been established as an
16 east-half spacing unit in Section 2, then an operator would
17 have been designated for that east-half spacing unit, and
18 that operator would get notification.

19 Q. But you're talking about what spacing unit is
20 already established?

21 A. That's right.

22 Q. Okay, so --

23 A. If there's a well drilled and it's producing from
24 the same pool and then there's been a spacing unit
25 established, we would identify who that operator is and

1 notify them, regardless of -- You know, as long as it's
2 contiguous and you're moving towards them.

3 Q. So that would take care of the offset proration
4 units that have been established?

5 A. Right --

6 Q. It's where you -- Let's assume --

7 A. -- the undeveloped.

8 Q. -- that we don't have a problem in non-unitized
9 areas. I mean, so much of the San Juan Basin is unitized,
10 where you unitize the -- the royalty's taken care of,
11 you're operating within a unit, you have rules protecting
12 correlative rights by the -- by virtue of its being
13 unitized.

14 A. Right.

15 Q. So in non-unitized areas where you're notifying
16 only the lessee or lessor, where there hasn't been a
17 proration unit established, it's not unitized, is there any
18 protection for those lessors that would be in an offsetting
19 proration unit but would not be in the 40 acres directly
20 affected?

21 A. Well, in the example that we've shown here, there
22 really would not be. Those people would not get any
23 notification. The justification for that, I think, is that
24 there's been no one -- no well that's been drilled yet.
25 There's nobody there that's been established as an operator

1 for that land tract. There's no well that would be
2 adversely affected as of yet by this location. Yet we
3 would still at least give notice to the parties that were
4 immediately offset.

5 But you're correct, there are owners of leases or
6 mineral owners out, then, in a potential spacing unit that
7 are not getting notification.

8 Q. The other question that comes up all the time
9 would be the protection of rights of royalty owners. Are
10 you assuming that the operator, by virtue of their legal
11 document, their lease, with whoever might have owned the
12 land, the mineral owners or in effect -- offset operating
13 -- overriding royalty interest owners, that those interests
14 would be protected by the operator? Is that the
15 assumption?

16 A. Yeah, and that's the rule, and that's as it
17 presently exists today. And when the operator has been
18 declared and a spacing unit is developed, then that party
19 is deemed to have the responsibility for protection of
20 drainage and protection of correlative rights for all of
21 the parties in that spacing unit.

22 The other thing that we do when it's undeveloped
23 is, if there are leases out there, then we notify the
24 lessee. And again by virtue of that contract with the
25 mineral owner, he assumes -- the lessee assumes the

1 responsibility for protection of correlative rights there.

2 So we're not really proposing that we change the
3 type of owner that we notify, but the number of the owners,
4 you know, within the surrounding area that actually get the
5 notification.

6 It's always been that we notify the operator. If
7 there's no well, we notify the owner of the lease. If
8 there's no owner of the lease, then we notify the unleased
9 mineral owner.

10 But the point is, how many of those people
11 actually need to get the notice, I guess, is the question.

12 Q. Yeah, I think that's the threshold. Obviously
13 when you're moving away from someone, logic seems to
14 dictate that you wouldn't have to notify those people. But
15 how many people you have to notify as you're moving toward
16 someone might be a debatable issue.

17 A. Right, that's right.

18 CHAIRMAN LEMAY: Any more questions? That's all
19 I have. Thank you, Mr. Hawkins.

20 MR. KELLAHIN: We're going to go right to the
21 southeastern New Mexico. Mr. Alexander endorses and
22 supports Mr. Hawkins' responses and conclusions, so to save
23 you some time, let me go straight to the southeastern part
24 of the state.

25 Call Mr. Jerry Hoover.

1 JERRY W. HOOVER,

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

4 DIRECT EXAMINATION

5 BY MR. KELLAHIN:

6 Q. Mr. Hoover, let's deal with the topic under
7 discussion as it applies to southeastern New Mexico, and
8 deal first of all with the interior setback.

9 You can confirm for me that the original
10 suggestion that we relax the interior setback in
11 southeastern New Mexico to the 10 foot raises the kinds of
12 issues that Commissioner Bailey was describing, that are of
13 importance as to those reservoirs, and that would be too
14 aggressive a location exception, would it not?

15 A. As a general rule, that's correct. That concept
16 was originally proposed strictly out of concern for gas;
17 but realizing the potential problem that it might create
18 with oil completions, we concur with your ideas on that.

19 Q. Let's go, then, to the first topic I want to
20 point your attention to. Let's look at Exhibit Number 3,
21 and there are a set of similar displays where we have a
22 current and a proposed setback for standard wells as it
23 applies to Lea, Chaves and Eddy and Roosevelt Counties.
24 Here we're dealing with the existing rules on the first
25 page. Quickly show us what we typically have for the gas

1 well locations in southeastern New Mexico.

2 A. All right. This is the third sheet under Exhibit
3 2 [sic], as the rules currently allow, we have the example
4 again of a 160 and 320 tract. As you can see, typically,
5 on the square proration unit, the 160, it's a 660 setback
6 all the way around the unit, 330 interior setback from all
7 quarter-quarter lines.

8 The only difference in the 320 is that you have
9 an end setback from the long ends of the proration unit of
10 1980 currently.

11 And you can see this provides us with some pretty
12 small windows. Although we cannot claim the terrain
13 problems that northwest has, we have other, additional
14 problems which give us a great deal of difficulty in trying
15 to locate wells within such a small framework.

16 The southeast has been so fully developed in many
17 areas, we have so many pools to deal with in that thick
18 section down there, we're covered up with pipelines and
19 locations and roads and power lines, and it's often very
20 difficult to locate a standard location within these small
21 windows.

22 Q. Let's go to the proposal, then, if you'll look at
23 the illustration for proposed Rule 104, the 160-acre gas
24 spacing does not change; that remains the same?

25 A. That's correct.

1 Q. And when we look at the 320 gas spacing as to the
2 end line, is that the only dimension you're seeking the
3 change for?

4 A. That's the only thing we're suggesting, is that
5 we have a slight relaxation of the 320 proration units to
6 give us a little more latitude to find a standard location.

7 In addition to the surface problems, which are
8 just as real for us in flat country as it is in northwest
9 in the canyons, also, this is an age of new discoveries
10 with 3-D seismic of small structures, very small new little
11 pools that are very difficult to space within.

12 Q. The recommendation is from the industry committee
13 to relax the 1980 setback to a 1650 setback?

14 A. That's correct.

15 Q. All right. Let's go to the concept of relaxing
16 the administrative rule so that you can take unorthodox
17 well locations to the Division with an administrative
18 process for geologic reasons.

19 Is there support in your part of New Mexico among
20 the operators for avoiding the hearing process for those
21 kinds of cases?

22 A. I think there's a great deal of support from all
23 of the industry, people that I work with.

24 Q. In terms of dealing with your reservoirs down
25 there, do you see any particular need to have an automatic

1 setback so that administrative requests for geologic
2 reasons within a certain minimum distance of a boundary
3 have got to go to a hearing regardless of the request?

4 A. No, I do not. We typically present our best
5 science and technical data to both the Commission and to
6 offset parties, and there are ample opportunities, we feel,
7 for the Division and/or the offset parties that are
8 affected to bring this to a hearing if it looks like it is
9 needed.

10 Q. In circulating this concept to the other
11 operators, were there some operators that requested an
12 automatic setback insofar as the deep 320 gas spacing was
13 concerned?

14 A. There were some concerns expressed from some of
15 the parties with that particular concept, just in the 320-
16 acre deep gas units, and in order to provide some extra
17 means of protection in those specific cases in those
18 specific pools, we have agreed to ask for the minimum
19 setback.

20 Q. And that concept is in the draft the Commission
21 has before it, is it not?

22 A. Yes, it is.

23 Q. Let's turn to that, so that they can see how that
24 was integrated into the proposal. I think if you'll turn
25 to -- is it page 10? No, wrong page.

1 A. Eight.

2 Q. Page 8. Page 8, and it's subparagraph (3) in the
3 center of page 8. That paragraph (3), then, is a special
4 limitation for southeastern New Mexico, for these deep gas
5 pools, and it provides an automatic 660 setback, and if
6 you're in that range then you've got to go to a hearing?

7 A. That's correct.

8 Q. All right. Let's turn now to the last displays
9 in the book, and let's look at Exhibit 5 and talk about the
10 notice issue.

11 Mr. Hawkins, I think, has set the stage for the
12 concept in terms of providing appropriate notice to those
13 parties being encroached upon. Does that concept and
14 objective suit situations in southeastern New Mexico?

15 A. We feel like it does. We have some different
16 circumstances to deal with. Typically in the northwest,
17 the setback is equal around the spacing units. In
18 southeast, that's not typically the case.

19 Q. Explain yourself. In a 320 gas pool in the San
20 Juan Basin, 790 is the dimension all the way around?

21 A. That's correct, all the way around the -- the
22 exterior boundary.

23 Q. In southeastern New Mexico, you deal with two
24 different footage setbacks?

25 A. That's correct, the standard rule as it is now,

1 which we just discussed with the diagrams, is a 660 from
2 the side boundary and a 1980 from the end boundary. There
3 may be some pools which have some differences from that,
4 but that's what the general rules are.

5 Q. All right. And so because you're dealing with a
6 rectangle which has two different setback dimensions for
7 standard well locations, how do you propose to apply the
8 proposed notice rule to your area of New Mexico?

9 A. What seemed logical to us is to -- again, as they
10 did in the northwest, to take the minimum setbacks toward
11 which we are encroaching.

12 For example, the first plat that you're looking
13 at under Exhibit 5 here is an example of that, a 320-acre
14 proration unit in the white. We've just given a
15 hypothetical grouping of offset spacing units, offset
16 lessees, offset mineral owners.

17 And this first example is unorthodox only to the
18 right side or the east side of the unit. If we change the
19 end line distance to 1650, which we're proposing, this
20 location would be standard to the north. So we're saying
21 that it seems logical to us to use that side boundary,
22 because those are the only parties towards which we are
23 encroaching.

24 We have also conceded that even though this
25 radius does not cut a corner, or that green tract, we're

1 conceding that that person should be notified, because
2 there is a -- technically, a very slight encroachment in
3 that direction.

4 Q. Okay. When we deal with an encroachment in two
5 directions, we have two different potential radiuses for
6 the notice circle?

7 A. That's correct.

8 Q. And if you'll turn to Case B, which is the second
9 display behind Exhibit 5, let's illustrate how to make the
10 notice work with an encroachment in two dimensions.

11 A. All right, this is the same base plat. We have
12 simply located our well in a position which encroaches both
13 in the easterly and the northern direction, at 400 from the
14 east and 1330 from the north.

15 And in a case like this we're suggesting that we
16 use the larger setback from the end boundary, because
17 that's -- we're encroaching -- and use that as our radius
18 for notification. You can see we've marked, then, with the
19 asterisk and the legend there, which party is either cut by
20 that radius or would be involved in the notification
21 process.

22 Q. When the Commission looks at Exhibit 2, which is
23 a revision to page 9, and it's identified as a "Replacement
24 Page", if they'll add that into the proposed rule, as they
25 read through that, will that rule accomplish what you're

1 just described in these two illustrations?

2 A. I believe that's correct. I think we've reworded
3 that -- those subdivisions under 4 there, to better
4 describe what we have graphically shown you in Exhibit 5.

5 Q. Is there a logic to using the setback dimensions
6 as the radius of notification to lessees and unleased
7 mineral owners in southeastern New Mexico?

8 A. We believe there is. After all, these minimum
9 setbacks provided by the general rules and by the various
10 pool rules, their whole purpose is to deal with
11 encroachment on parties in those directions, and so we feel
12 like it's very logical to use those minimum setbacks as the
13 conditions of notification when we violate those setbacks
14 with an unorthodox location.

15 Q. If the Commission should elect to increase the
16 radiuses, at some point by increasing the radius you would
17 be obligated to notify interest owners in a direction from
18 which the well is moving away?

19 A. That's correct.

20 Q. In all instances here, you propose to notify an
21 offsetting operator in a spacing unit that's currently
22 dedicated, whether he's an adjoining or a diagonal?

23 A. That's correct.

24 Q. And you're again attempting to deal, as Mr.
25 Hawkins was, with the concept of particularly the 320

1 spacing in an adjoining section where there is no spacing
2 unit, then you have the dilemma of which way that
3 orientation is finally committed?

4 A. Yes.

5 Q. Under the current rules, you're in a situation
6 where you would have to notify three-fourths of a section
7 because it's not yet been dedicated?

8 A. That's probably the assumption we'd have to make.

9 MR. KELLAHIN: All right. That concludes my
10 questions of Mr. Hoover.

11 CHAIRMAN LEMAY: Commissioner Bailey?

12 COMMISSIONER BAILEY: No, no questions.

13 CHAIRMAN LEMAY: Commissioner Weiss?

14 EXAMINATION

15 BY COMMISSIONER WEISS:

16 Q. Yeah, I think you explained it, but tell me
17 again --

18 A. Okay.

19 Q. -- why you didn't use -- Let me see. Yeah, on
20 Exhibit --

21 A. -- Three?

22 Q. -- Three, in your Rule 104 for Eddy County, et
23 cetera?

24 A. Yes.

25 Q. And the standard -- The rule today is 1650 from

1 the north or south of these up-and-down units; is that
2 correct?

3 A. The rule today is 1980.

4 Q. 1980?

5 A. Yes.

6 Q. Well, how come we don't just make them 660 all
7 the way around from the exterior boundary? I mean, who --
8 You said something -- The operators don't like that for
9 some reason, and that's not clear to me why they don't.

10 A. Well, the 660 automatic setback was just a kind
11 of an automatic trigger in case for some reason the process
12 falls down. We don't believe it's going to, the
13 notification process.

14 They just wanted some at least minimum boundary
15 under which, you know, it would automatically have to go to
16 hearing.

17 Now, you're talking about setting 660 for a
18 standard location all the way around?

19 Q. Yes, that would give you a much bigger window.

20 A. Well, it would. It's also kind of hard to drill
21 a 660 off of one end and claim that you're draining a 320
22 proration unit that way. More likely, you're draining half
23 of yours and half of somebody else's, if you really --

24 Q. That's the --

25 A. -- go that far.

1 Q. That's the argument.

2 A. I doubt very seldom that we've ever asked for
3 anything like that. I can't remember.

4 MR. KELLAHIN: Commissioner Weiss, you've put
5 your finger right on the objective. The regulators many
6 years ago made the choice, that in 320 gas pools, because
7 the presumption is that they could drain in 320, it was
8 inappropriate, then, to let them have a 660 location as a
9 standard location, because it upset the drainage pattern.
10 And so they forced them to a more centralized position in
11 the section.

12 COMMISSIONER WEISS: But that's driven by
13 industry, I would think.

14 MR. KELLAHIN: That was driven by regulation in
15 order to keep all these corner shots from coming together
16 in a Morrow channel.

17 THE WITNESS: And we're only asking for a minor
18 relaxation of that to help us with the extreme surface
19 location problems we've got now, as much as anything.

20 Q. (By Commissioner Weiss) Yeah, I don't see why
21 you didn't ask for 660 from all the boundaries myself.

22 A. I think from a reservoir engineering standpoint,
23 that's probably not desirable.

24 Q. That's not sellable to the offset operators; is
25 that correct?

1 A. That's right.

2 COMMISSIONER WEISS: That was my question. Thank
3 you. I thought that's what you said. That's all.

4 EXAMINATION

5 BY CHAIRMAN LEMAY:

6 Q. Let's see, Mr. Hoover, I've got a couple
7 questions. I guess the -- You're not recommending the
8 default setback for oil under any circumstances?

9 A. No, I think that decision was somewhat arrived at
10 in discussion with your staff, that they did not
11 particularly recommend one and so we are not either. We
12 feel like --

13 Q. Let me explore a number of possibilities. I can
14 certainly see examples with 3-D seismic where you need to
15 drill the crest of that seismic --

16 A. Yes.

17 Q. -- because that's the purpose of going 3-D. You
18 might have missed some oil.

19 A. Right.

20 Q. I don't see any problems correlative-rightwise
21 or any other ways, if it's unitized or if you have working-
22 interest units. I'm talking about extreme encroachment.

23 A. Uh-huh.

24 Q. Extreme example, five feet from the lease line.

25 A. Yes.

1 Q. I don't see a problem, correlative-rightswise
2 where you're talking about the possibility of another well
3 in a proration unit to get additional drainage. We've seen
4 40-acre spacing, sometimes. Operators come to us and say,
5 we'd like another well in there because we're looking at
6 maybe some oil that was left, and then you get a waste
7 issue. And you generally don't have a problem with that,
8 because in the latter stages of reservoir development --

9 A. Yes.

10 Q. -- you're trying to get every possible drop of
11 oil, and you need all the flexibility that you have.

12 I do see a problem in this concept in just plain
13 closeology, and not -- We see it a lot in the Strawn where
14 someone doesn't want to take enough risk to take the
15 standard setback, so they want to crowd as close as
16 possible to their discovery well or to a very good well.

17 A good example would be corner shots in a channel
18 sand. You have four wells just clustered right together,
19 draining what amounts to a pretty prolific part of the
20 reservoir. But because you are clustering wells, you're
21 really not draining the full reservoir. The next person
22 that has to drill has a larger stepout; he's going the
23 other side of your -- away from where you crowded. And
24 there is a problem with that type of thing. We've
25 discussed that many times.

1 So when you're looking at one size fits all, it's
2 very difficult to say one size does fit all. It fits a lot
3 of the situations that you need. It doesn't fit what might
4 be considered just a risk-aversion strategy on the part of
5 an operator to rules risk, therefore apply
6 administratively.

7 And believe me, we've seen a lot of smoke in the
8 geological area where we've see isopach maps, 3-D seismic
9 that you see a buildup in an area, therefore let's crowd it
10 50 feet from the lease line. Not a structural play, but
11 geological justification to, to my way of thinking, reduce
12 risk. In those situations there's a problem.

13 MR. KELLAHIN: Let me respond, Mr. Chairman.
14 That's why you're the Director, Mr. Chairman, because you
15 are the expert, and these regulatory orders that come to
16 your desk either through the hearing process or the
17 administrative process are all signed by you. And if you
18 sense in your management of the industry and the regulation
19 of our activities that that's taken place, then you deny
20 the application. And I think that's your best solution,
21 rather than forcing us to go to a hearing process, as
22 opposed to an administrative process.

23 CHAIRMAN LEMAY: Well, denying an application,
24 Counsel, always has the hearing-process option connected to
25 it.

1 MR. KELLAHIN: In either context.

2 CHAIRMAN LEMAY: Yes.

3 THE WITNESS: Right.

4 Q. (By Chairman LeMay) The other point, though --
5 and this may be a matter of integrity -- wouldn't this in
6 essence destroy spacing rules in all fields?

7 A. I would certainly agree with the potential
8 problem that you're talking about, clustering wells.
9 That's a potential problem.

10 But in not putting an automatic setback to go to
11 hearing, we're not suggesting that that's what we would
12 like to see. We still must go through the justification
13 process for that. Not only the Division, but all the
14 involved parties around that, would have their opportunity
15 to object, to turn it down.

16 We're simply suggesting that the notification
17 process is sufficient to keep everybody informed of such an
18 attempt of that, where it can be brought to light.

19 Q. I could visualize even with the 3-D seismic --
20 And agreed, it may not be our issue. But if you're going
21 to go five feet from a line to try and capture the top of a
22 structure, that offset operator has royalty owners that are
23 different, how is that protected short of compensatory
24 royalty or some deal like that?

25 MR. KELLAHIN: This process is the same. They'll

1 get notice in either way, and they can object, and it is
2 dealt with in that fashion. Or even in the absence of
3 objection, your or your staff can recognize that is an
4 unusual circumstance that you won't approve, and you simply
5 say no.

6 CHAIRMAN LEMAY: Generally we don't have
7 knowledge of different royalty owners. We do if it's
8 federal, state, state fee. But different royalty owners
9 and the same overriding royalty owners, we don't have those
10 kind of records.

11 MR. KELLAHIN: We address it all the time when
12 we're asked by the agency, what happens if? And they
13 repeatedly ask us what happens to the land office, the BLM.
14 And that information is provided upon request.

15 CHAIRMAN LEMAY: Overriding royalty interest
16 owners?

17 MR. KELLAHIN: Yes, sir.

18 CHAIRMAN LEMAY: So you feel the correlative-
19 rights issue, both from a royalty and working interest
20 point of view, is adequately taken care of by virtue of
21 your lease agreements, I assume?

22 MR. KELLAHIN: And by the existing procedure, and
23 all we're seeking is to move these category of cases to an
24 administrative process. The notice issues are handled the
25 same way.

1 CHAIRMAN LEMAY: Okay, any other questions?

2 Okay, thank you, Mr. Hoover.

3 I guess that's all you have. I have some
4 questions. Maybe they would be directed at you, Counsel,
5 because I -- This is just a more informal nature. I think
6 rule-making needs to be informal. But you made some
7 statements. I'd just like some clarification on them if I
8 can.

9 MR. KELLAHIN: Well, let me suggest a process for
10 you. Making rules is incredibly difficult. I find it to
11 be the hardest thing I'm involved in doing. You know, it's
12 like making fine wine. You don't stomp the grapes and eat
13 the juice; it's got to go through an ageing process.

14 And my suggestion is, let us have the opportunity
15 to present this rule to you, perhaps have the Commission
16 give us some general guidance on where you want it to go.
17 We'll be happy to draft a finished product for you, even if
18 we disagree with you, and then we can circulate that for
19 comment to the industry and hopefully find a rule that is
20 well serving.

21 CHAIRMAN LEMAY: Well, some of my questions
22 really involve elaboration of some things you said. So --

23 MR. KELLAHIN: I will do my best, Mr. Chairman.

24 CHAIRMAN LEMAY: -- if you can elaborate, I'd
25 appreciate it.

1 You mentioned that these rule changes were
2 distributed to industry or industry was polled.

3 MR. KELLAHIN: Yes, sir.

4 CHAIRMAN LEMAY: Could you expand how much --
5 what was done in terms of getting these out to industry and
6 how many people were contacted?

7 MR. KELLAHIN: I think Ruth Andrews is -- Are you
8 here? Ruth's here.

9 The process was, when we first saw the 104, that
10 was distributed to the Regulatory Practices Committee of
11 the Association. Ruth can tell us how wide a membership
12 that is and how big the Association is. But it was widely
13 distributed.

14 In addition, I prepared and circulated a
15 questionnaire in terms of topics, which include all the
16 ones we're discussing, to the industry. And in response to
17 that there were questionnaires that were returned to us.

18 From that information, then, we have taken it to
19 this technical committee and tried to simply edit these
20 concepts, none of which are new, and have all been
21 addressed internally by staff for a long time. Notice and
22 how to handle administrative geologic cases.

23 What we plan to do is, after the meeting today,
24 we will once again poll the membership of the Association
25 for all those that are involved in this process, and get a

1 final suggestion on their comments.

2 Ruth, how big is the membership of the Committee?

3 MS. ANDREWS: We have about 300 members of our
4 Committee, representing 250 companies.

5 CHAIRMAN LEMAY: Well, might I suggest something
6 else? This particular rule draft you have here was not
7 submitted in its form to your membership?

8 MR. KELLAHIN: No, sir, not as the way it's
9 edited right now.

10 CHAIRMAN LEMAY: Recognizing there are some
11 independents to your group, but -- IPA of New Mexico didn't
12 necessarily have a corresponding distribution or anything
13 to their membership?

14 MR. KELLAHIN: As I understand it, a great many,
15 if not a substantial portion of their membership, is also
16 members of NMOGA. Specifically, Randy Patterson with Yates
17 and Raye Miller with Marbob helped us with reviewing this
18 draft and provided the suggestions about the default
19 setback for the 320 pools in southeastern New Mexico.

20 MS. ANDREWS: Chairman LeMay --

21 CHAIRMAN LEMAY: Yes?

22 MS. ANDREWS: -- their president, Kevin McCord,
23 is also a NMOGA member --

24 CHAIRMAN LEMAY: Yes.

25 MS. ANDREWS: -- so he certainly had the

1 information that we distributed. I have no awareness of
2 whether --

3 CHAIRMAN LEMAY: Yeah, Commissioner Weiss?

4 COMMISSIONER WEISS: Out of the 300 people that
5 you polled, how many replied?

6 MS. ANDREWS: Many of the replies went to Tom,
7 some went to me. I would say at least 50, which is a very
8 strong reply rate for our association.

9 MR. KELLAHIN: There were no dissents.

10 MS. ANDREWS: Fifty different companies.

11 MR. KELLAHIN: There were no dissents on the
12 basic concepts.

13 CHAIRMAN LEMAY: How about royalty owner
14 representation? How many royalty owners do you have in
15 your association?

16 MS. ANDREWS: I have no idea. We don't determine
17 our membership by royalty owners.

18 CHAIRMAN LEMAY: Thank you, Ruth.

19 We have a docket mailing list too. A suggestion
20 would be, we take your markup draft, we do submit it out to
21 the general docket mailing list with the comments and bring
22 it back on the November 9th hearing, with the idea that any
23 additional comments could be heard then, but outlining some
24 critical threshold issues.

25 Let me go over those with you, because I think

1 the threshold issues as I've see them -- and I welcome
2 fellow Commissioner comment, dissent, support, whatever, on
3 these threshold issues, are, number one, by instituting the
4 encroachment concept rather than offset, you're going to
5 offset mineral owners, leasehold owners, and not potential
6 owners, in an offsetting proration unit.

7 I don't think -- I've not heard of any
8 controversy moving away from someone, therefore they should
9 be notified. That -- I mean, unless I hear someone is
10 complaining about not being notified when people move away
11 from you -- I think you're right on that one.

12 But I can see some problems on someone being
13 encroached upon and not being notified because they would
14 be part of an offsetting proration unit, and I know it's a
15 hassle, because you've got to notify a lot of people. It
16 could be a correlative-rights issue there.

17 MR. KELLAHIN: Here's the response. The party
18 with the 40-acre tract up in the remote area of a future
19 potential spacing unit has only rights to share in
20 production insofar as that lease is concerned --

21 CHAIRMAN LEMAY: Right.

22 MR. KELLAHIN: -- and it doesn't trigger any
23 contractual or correlative rights until it is consolidated
24 into a spacing unit.

25 And so I don't see that there is a violation of

1 particularly those parties in an opposite 160 in the 320.
2 I think it's highly remote from a legal point of view.

3 CHAIRMAN LEMAY: That may be a legal argument.
4 I'm just trying to look at it in terms of -- maybe
5 threshold -- trying to crystallize the threshold issues,
6 where there may be some debate involved. I think that
7 could be one, not moving away, but moving toward a
8 potential interest owner in an offsetting proration unit
9 that wouldn't be notified.

10 COMMISSIONER WEISS: That's not a unit.

11 CHAIRMAN LEMAY: It's not a unit yet, no, it's
12 not a unit yet. And you may be right. It may be a legal
13 question; maybe it's just something that isn't a big issue.

14 MR. KELLAHIN: As a practical matter, like in the
15 Nearburg case, I've sent out 160 of them, and there's
16 nobody that called except to tell me their address was
17 wrong and the next notice needs to be changed.

18 CHAIRMAN LEMAY: Maybe that's not an issue.

19 COMMISSIONER WEISS: That's a fact.

20 CHAIRMAN LEMAY: Seeing ghosts here.

21 I think a more important issue, possibly, would
22 be the default setback on oil where you're talking about
23 just no -- no limit whatever, and this may be arbitrary.
24 If you have a default setback, what would that be?
25 Increasing the options that's necessary in an ageing oil

1 basin, I would fully agree with.

2 But going right to that lease line, two, three,
3 five feet, on an administrative order that we could -- we
4 could reject -- There's no doubt we could reject it here.
5 That's one alternative.

6 Another alternative might be, just so the right
7 signal is sent to industry -- not the signal that says,
8 Hey, you guys can drill anywhere you want in that proration
9 unit, we don't have spacing rules. That's the wrong signal
10 to send. I think you can think about a different default
11 than we currently have, whether it's half the existing
12 distance that would not require a hearing, whether it be
13 100 feet. You know, the concept is open on default
14 setback, and I think that's a pressing issue that needs
15 more discussion.

16 The fact that you're not getting the default
17 setback puts the burden of proof on -- I mean, it puts the
18 responsibility on us to pick up those situations where
19 operators want to play closeology.

20 They want to reduce risk, they want to use their
21 science to -- And, really, what we're trying to do is
22 protect them from themselves. If they use that and they
23 want to flood the field later on, it becomes a waste issue,
24 because you don't have those wells in any kind of equal
25 spacing to have an injection pattern, we have to drill a

1 whole bunch of new wells.

2 In a sense it's almost protecting them from
3 themselves by requiring the default setbacks, because
4 otherwise -- We all know what happened when this industry
5 began. We had -- Without proration units, we had derricks
6 next to each other. No one -- I mean, they didn't want to
7 have any risks, so they just drilled those wells right next
8 to each other, and there was a big waste issue.

9 And in a sense this can send a signal as a waste
10 issue by not having at least a default -- We've had classic
11 examples where, whether it's for topography or for geologic
12 reasons, they said, Well, we can't drill that far away.

13 And we show them on the proration unit, Well, you
14 can drill way over here. I mean, getting away from this
15 good well. And you don't have a topography problem, you
16 don't have an archeological problem, you don't have a
17 geologic problem.

18 Well, we'll drill the orthodox. You know,
19 We'll -- We've seen that.

20 And rather than, in a very practical sense,
21 engage in some gamesmanship with industry concerning what
22 is a valid closeology play, versus a valid reason for
23 moving that location, you might think about some minimum
24 setback distances there so we just don't keep playing games
25 in the regulatory arena.

1 MR. KELLAHIN: Well, I would argue to the
2 contrary. I think you've got your regulatory gun pointed
3 at the wrong problem. All we're asking for now is nothing
4 different as to that issue. We're simply saying that these
5 are exceptions.

6 The pool rules require a certain setback, and
7 that's the standard. If you want to achieve an unorthodox
8 location, you either have administrative process or a
9 hearing process, all of which have the same notice
10 obligations, all of which have the same regulatory
11 obligations on you and your staff. What you're simply
12 doing is giving us the flexibility as to form and not as to
13 substance. And so if your regulatory concern is the corner
14 shoot and all the complexities involved in that, that's
15 just what we have now.

16 CHAIRMAN LEMAY: Well, there's a little
17 difference, Counselor, now. I would say that now, to get a
18 hearing approved for a corner shot -- Let's face it, it
19 takes some money. They've got to come to Santa Fe, they
20 have to hire you or someone else for you, they have to get
21 an extra witness.

22 Many operators would take the chance on getting
23 something by an administrative application, but if they
24 have to come to Santa Fe and spend some money for that
25 corner shot, they probably will back away from it.

1 So we're talking about what happens in the real
2 world in terms of a signal sent to industry. I'm still
3 concerned that the signal we send to industry without any
4 valid pool rules or pool rules that aren't valid because
5 you get an exception to them -- I think that's the wrong
6 signal to send and that the obligation for us has to be to
7 pick out all these things that come in that have
8 alternatives.

9 I mean, it's a function of our time, it's a
10 function of what we have to process in order to protect
11 correlative rights and prevent waste. And therefore, I
12 think it's valid to consider relaxing the setbacks short of
13 hearing. But I just want you to discuss that a little
14 more, that's all. I'm raising it as an issue.

15 MR. KELLAHIN: Well, we've discussed it at
16 incredible length. The problem is, we're going to need
17 feedback from the staff, because your staff knows the level
18 at which they're being asked for exceptions. I don't know
19 what their position is, but I assume that they have a
20 printout, a forum, a way to determine what they've been
21 doing and how aggressive they've been asked to grant
22 exceptions. And if they would participate with us, we
23 might be able to suggest some minimums.

24 But among the industry we haven't been able to
25 handle that because it's too complicated, and what we

1 thought we were trying to achieve is what we asked you back
2 in February, and that is, save us the expense of a
3 regulatory hearing process, which accomplishes nothing more
4 than making them spend some money. And I appreciate having
5 the income. I've got two kids in college, and here today
6 I'm working for free to do away with a rule that makes me
7 money; I've lost my mind.

8 CHAIRMAN LEMAY: Well, you'll -- You'll have to
9 increase taxes, and we've got to process all those
10 applications --

11 MR. KELLAHIN: And I don't share in those either.

12 CHAIRMAN LEMAY: -- corner shots.

13 MR. KELLAHIN: I don't share in any of that, Mr.
14 Chairman.

15 Anyway, we'll be happy to look at the default,
16 but we've struggled with it and the default setback was
17 more than we could handle without assistance from your
18 staff to let us know how many of our industry members are
19 pushing them around on getting too aggressive with that
20 request.

21 CHAIRMAN LEMAY: Recognizing that we have
22 instituted a lot of measures, one of which is an order here
23 we're going to be sighing to bring the administrative
24 process in place of the hearing process, in many, many
25 cases, by opening the issue we've also opened some other

1 critical issues here, in both commingling and in unorthodox
2 locations that we're addressing.

3 We wanted initially to give some relief to
4 industry, which we have done by going through the
5 administrative process. But you've raised a lot of other
6 issues by redoing the rule in many, many different ways
7 that I think needs to be discussed more, and we need to at
8 least look at these questions because they do involve
9 correlative rights and they do involve waste. They don't
10 all involve just efficiencies.

11 We agree with you that there are efficiencies and
12 there are economies by going the non-hearing route, by
13 having -- And we're more than willing to work with you in
14 this area.

15 But when we have rule changes that truly do
16 affect correlative rights and do have some waste issues
17 associated with them, I think we need to take a little more
18 time with them.

19 And what I'd like to do with this is bring it
20 back November 9th and -- I'll open it up for my fellow
21 Commissioners, if they have some threshold questions that
22 they see in this, different than I do.

23 Commissioner Weiss?

24 COMMISSIONER WEISS: Well, I -- It's my
25 observation that you should put the wells where the oil is.

1 I'm sympathetic to you, Mr...

2 CHAIRMAN LEMAY: Okay. Commissioner Bailey?

3 COMMISSIONER BAILEY: Land Office does issue 40-
4 acre leases in the northwest. One of my major concerns is
5 recompletion of these gas wells that are 10 feet off lease
6 lines. I would see that as aggressive encroachment on
7 other lessees.

8 MR. KELLAHIN: May I respond?

9 COMMISSIONER BAILEY: Sure.

10 MR. KELLAHIN: As I understand the rule as
11 existing now and as proposed, the recompletion triggers a
12 new action by the agency, and that would be an
13 administrative application to approve the recompletion.
14 It's at an unorthodox location. We're proposing that that
15 also does what I think it does now, it triggers
16 notification again to those people that you're encroaching
17 on.

18 The normal solution in those circumstances is to
19 allow the well to produce, subject to production penalties
20 that are agreeable to the offsets, either through a hearing
21 process or by private negotiation. So I think your concern
22 is currently addressed, because notice is required.

23 I don't have any problem with expanding that
24 notice to make it clear that the Land Office ought to
25 receive notice in those circumstances. I think that's an

1 editing thing we can do.

2 But to suggest that we shouldn't have the 10-foot
3 setback, because of that problem, may be solved in another
4 way: to let that existing wellbore have some continued life
5 but to give those offsets the notice I think they get now,
6 make it clear the Land Office gets it. You call us or
7 contact the Division and say, We've got a problem with
8 this, my friends, and the agency and the Division attends
9 to it. And perhaps that helps you address that concern.

10 But there's real value in the northwest to
11 recompleting those wellbores rather than new drills. And
12 occasionally it happens where you have an oil zone that
13 gets encroached upon because of the existing wellbore. And
14 I think there's a way to address your concern and yet let
15 us utilize that wellbore.

16 CHAIRMAN LEMAY: Okay. Is there anything else in
17 this case? Anybody else have any statements, comments to
18 make at this time?

19 My intent is to leave the record open until
20 November 9th, at which time -- written comments can be
21 received -- at which time we can send out, and plan to,
22 your final draft of what you've proposed for comment,
23 because our mailing list may be different than yours, and I
24 think it gets wider exposure.

25 And please advertise yours any way you want, so

1 we can get some industry coverage on it. Because normally,
2 as you well know, our process has been for me to appoint a
3 committee and have that committee to be balanced --
4 independents, majors, stakeholders, environmental community
5 -- have them bring back a draft document which is then sent
6 out to industry, comments are received, and we hold the
7 hearing.

8 This has been handled slightly different. Not to
9 say you haven't done a wonderful job. I commend you on
10 what you've done. My concern is that the exposure might
11 not have been as much as we might need to get. Therefore,
12 I think this policy of sending it out on our docket,
13 leaving the record open until November 9th and bringing it
14 back then for additional testimony, I think, will satisfy
15 that concern.

16 MR. KELLAHIN: Mr. Chairman, one last comment on
17 that issue. You can take comfort in the fact that you have
18 had this on the docket in that fashion. The August 10th
19 docket had the Division's suggested rule change attached to
20 it.

21 We came to that hearing. It's on the docket
22 again, as a generalized rule change for 104, very broad in
23 scope. And you can see who's here to talk: same people
24 that were here before.

25 CHAIRMAN LEMAY: Counselor, I would underline

1 "broad in scope". We brought that here for a quick kill on
2 administrative approval on a hearing process. That was our
3 intent, because in the February hearing that's what we
4 heard out there. You wanted administrative approval for
5 those items that you've been coming to hearing. We had
6 that. That was not controversial.

7 What you're proposing here is quite a bit
8 different than we proposed then.

9 MR. KELLAHIN: The August 10th docket did not
10 have the Division discussion about relaxing the geologic-
11 based administrative rule.

12 CHAIRMAN LEMAY: The August docket?

13 MR. KELLAHIN: Yes, sir.

14 CHAIRMAN LEMAY: My recollection of the August
15 docket was just that -- bringing it in for administrative
16 approval, not addressing setbacks, not addressing some of
17 the things you've brought up here.

18 MR. KELLAHIN: The biggest issue, though, is one
19 which there's no disagreement. It's relaxing the geologic
20 rules so we can have administrative processing.

21 CHAIRMAN LEMAY: We set administrative
22 administrative approval for geologic and topographic
23 reasons.

24 MR. KELLAHIN: Yes, sir.

25 CHAIRMAN LEMAY: Yes.

1 MR. KELLAHIN: And all we have done is address
2 the notice problem. What else is new?

3 CHAIRMAN LEMAY: Well, I think you've addressed
4 more. You're addressed different criteria, you've
5 addressed the radius, you've addressed the issue of not
6 everyone in a proration unit, potential proration unit,
7 you've addressed the notice requirement, yes.

8 MR. KELLAHIN: Those are all notice questions,
9 are they not, Mr. Chairman?

10 CHAIRMAN LEMAY: Well, they're notice, but I view
11 the different setbacks as something quite a bit different
12 than just taking the geologic -- the administrative
13 process.

14 You've defined it a lot further than we intended
15 it to be defined, and I think for that reason you're
16 opening up different issues than we initially -- I mean,
17 you could interpret that different ways. You can say
18 broadly "geologic reasons", yeah. I mean, you've addressed
19 geologic reasons. But you've defined them to a greater
20 extent than we did, and I think you've really enlarged the
21 issue.

22 MR. KELLAHIN: I disagree with you, Mr. Chairman.
23 I don't see anything in what Mr. Morrow presented back on
24 August 10th when he said that you can come to the Division
25 for a geologic exception and not be compelled to go through

1 the hearing process. We didn't touch that rule.

2 CHAIRMAN LEMAY: Nor did that rule address
3 anything in the way of default setbacks, if they even
4 exist. I think that question was always there. You can
5 get an exception for geologic reasons. But can you do it
6 right up to the lease line? Is there another default
7 setback that's different than the spacing rule where maybe
8 you don't have to even submit a geologic application?

9 I mean, there's a lot of things in there
10 specifically that weren't covered this just the broad
11 announcement.

12 MR. KELLAHIN: Mr. Morrow brought it to you
13 without a default setback, and we have simply repeated
14 that. We have examined default setback and as an industry
15 do not want the default setbacks, with the exception of the
16 deep gas.

17 And so we think we have simply responded to what
18 the agency had initiated, and we have not created anything
19 new for you on that item. The only item that we have
20 addressed is the notice issue.

21 CHAIRMAN LEMAY: Well, do you see any harm in
22 getting wider coverage and --

23 MR. KELLAHIN: Oh, absolutely not.

24 CHAIRMAN LEMAY: Okay. I mean, that's what we're
25 planning to do. I don't know -- If there's any objection

1 to that, let me hear it. I mean, did you in us sending out
2 what you have right here --

3 MR. KELLAHIN: No, sir, absolutely not. I have
4 no disagreement --

5 CHAIRMAN LEMAY: -- then bringing it back for any
6 additional testimony on the 9th of November?

7 MR. KELLAHIN: We're pleased to do that.

8 CHAIRMAN LEMAY: Okay.

9 MR. KELLAHIN: It would help us, Mr. Chairman, if
10 the Commission would do something unusual. You don't have
11 to write the rule for us, but if you would collectively
12 give us some guidance in terms of policy and practice, if
13 you'll tell us what you want us to do in terms of these
14 issues, it helps my draftspeople understand what they're
15 dealing with.

16 CHAIRMAN LEMAY: This is rule-making, so let me
17 get real informal on this. I brought it up before -- The
18 type of things we see, there's no problem if it's unitized,
19 there's no problem if you're talking about the end of the
20 life of a reservoir. You want to capture some oil that
21 hasn't been drilled, in your estimation. You go to that
22 point where, like Bill says, where there's some oil. You
23 want to drill where there's some oil.

24 We do have a problem, and maybe we can handle it
25 with policy, maybe we can issue a policy that says, this

1 relaxing the rule does not mean that we will honor corner
2 shot, that we will honor scientifically prepared, quote,
3 isopach maps that do nothing more than reduce risk where
4 you have an orthodox location to drill. That's a
5 possibility.

6 I mean, what I did is raise an issue, a problem,
7 with our regulatory agency in handling these things. It
8 may be that we can handle them by rejection, but I don't
9 think we can handle -- There, again, as a matter of time,
10 by sending the wrong signal, hundreds of applications to --
11 because the signal is out there that, Hey, the OCD will let
12 you drill anywhere you want in that spacing unit.

13 MR. KELLAHIN: You're doing what I'm asking, and
14 that is for the Commission to decide if the Division should
15 handle your concerns with guidelines, memorandums, policy
16 decisions, or whether this Commission wants the Division to
17 have us write it in a rule.

18 CHAIRMAN LEMAY: That's the question that's out
19 there.

20 MR. KELLAHIN: And if you'll decide it -- I
21 can't, I've already got my answer and I'm not on the
22 Commission. The Commission needs to decide that as a
23 matter of policy, how you want to orchestrate and construct
24 the management of this problem. And if you tell us that
25 much, then we know what our task is.

1 CHAIRMAN LEMAY: Well, am I hearing from you that
2 your idea is, industry's preference is for us to handle it
3 as a policy matter and not write it in the rules? I
4 understand that's --

5 MR. KELLAHIN: Yes.

6 CHAIRMAN LEMAY: -- kind of what we've heard so
7 far.

8 MR. KELLAHIN: What we have done is given you our
9 best effort that's the collective effort of several groups
10 and hundreds of hours. We've done as well as we can do
11 without some guidance.

12 If you'll tell us, it has to be in a rule,
13 people, and that we want automatic setbacks so that we can
14 show the industry we won't exercise discretion within those
15 automatic setbacks, you need to tell me as a Commission so
16 we can struggle with the setbacks.

17 CHAIRMAN LEMAY: Well, let's look at the
18 automatic setbacks. I didn't say we wouldn't do
19 discretion. We would say those cases will have to come to
20 hearing, which might discourage the corner-shot applicants,
21 that's all.

22 I mean, we're not saying that you couldn't drill
23 50 feet from a lease line or 20 feet, but you may have to
24 undergo additional expense, you may benefit by this,
25 because what we're trying to do is discourage those cases,

1 not -- And if the science is sound enough, I think many
2 times they'll come to hearing.

3 If it's not sound, they will -- Well, I can drill
4 the orthodox location. We've seen that happen. I'm giving
5 you examples of what staff has seen and we've talked about,
6 and I'm giving that to you now because I'm raising the
7 issue. Those are the two issues:

8 Automatic defaults that can still be -- you can
9 still get it, but you've got to come to hearing on a
10 different default spacing.

11 Or, as a policy call from us, the spacing unit is
12 wide open for administrative approval, but we handle this
13 thing in policy papers.

14 MR. KELLAHIN: I understand exactly what you're
15 saying, that's a Commission decision. You need to make the
16 decision and tell us what to do.

17 CHAIRMAN LEMAY: We can do that. I also like
18 industry input on that.

19 MR. KELLAHIN: Our input is, we very much want
20 you to adopt the rule we propose today and that, if you
21 want setbacks, that you'll do it by memorandum or issuing
22 guidelines for approval to your staff on how to process
23 these and to keep it out of the rule.

24 CHAIRMAN LEMAY: And if we were to adopt a
25 default setback that you have to come to hearing, what

1 footage would that be?

2 MR. KELLAHIN: If you ask us to work on that in
3 terms of guidelines, we'll be happy to work on it.

4 CHAIRMAN LEMAY: I would like that, I really
5 would. It gives us another option.

6 MR. KELLAHIN: Okay.

7 CHAIRMAN LEMAY: I'm not saying that we'd adopt
8 it, but it would give us an option. Okay?

9 MR. KELLAHIN: We'll need some initiation from
10 Division staff to give us a database to tell us what
11 they're doing in terms of a statewide handling of those
12 issues. I do not have available to me how the staff has
13 handled their NSLs, and I would assume, so that I don't
14 have to look at every one of your NSL files, it's on a
15 database somewhere, you can show me how you've handled them
16 so that we can identify a pool, a reservoir or a place in
17 New Mexico where the corner shots are a problem.

18 CHAIRMAN LEMAY: Okay. Well, they can do that,
19 they can go over some applications that have been -- I
20 mean, I certainly encourage you to talk with staff.

21 But you've come up with a 1650 versus a 1980
22 setback. Obviously it could have been 1500 or 1320 or -- I
23 mean, we're talking about an arbitrary number. I just want
24 an arbitrary number from you, something that industry can
25 agree on. I don't think you're going to come up with a

1 scientific number. But you might kick that around and come
2 up with an arbitrary number that we at least know is
3 somewhat of an industry consensus for an option, that's
4 all.

5 MR. KELLAHIN: All right, sir. Thank you.

6 CHAIRMAN LEMAY: Anything else in the case?

7 It shall be continued, the record shall be open
8 until November 9th.

9 Thank you very much. You did do a good job. We
10 appreciate that.

11 (Thereupon, these proceedings were concluded at
12 10:45 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 October 4th, 1995.



STEVEN T. BRENNER
 CCR No. 7

My commission expires: October 14, 1998