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. 11,762
IN THE MATTER OF THE HEARING CALLED BY THE OIL CONSERVATION DIVISION ON ITS OWN MOTION TO AMEND RULE 111 OF ITS GENERAL RULES AND REGULATIONS TO SIMPLIFY THE REGULATORY PROCESS	ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

COMMISSION HEARING

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

April 10th, 1997

Santa Fe, New Mexico

This matter came on for hearing before the Oil Conservation Commission, WILLIAM J. LEMAY, Chairman, on Thursday, April 10th, 1997, 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

April 10th, 1997
Commission Hearing
CASE NO. 11,762

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E X H I B I T S

Division	Identified	Admitted
Exhibit 1	5	-
Exhibit 2A	5	-
Exhibit 2B	5	-
Exhibit 3	5	-

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Enron	Identified	Admitted
Exhibit 1	71	-

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A P P E A R A N C E S

FOR THE COMMISSION:

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FOR ENRON OIL AND GAS COMPANY:

RANDALL S. CATE, Petroleum Engineer

* * *

WHEREUPON, the following proceedings were had at 11:01 a.m.:

CHAIRMAN LEMAY: We shall now call Case 11,762, in the matter called by the Oil Conservation Division on its own motion to amend Rule 111.

Appearances in the case?

MR. CARROLL: May it please the Examiner, my name is Rand Carroll, appearing on behalf of the Oil Conservation Division.

CHAIRMAN LEMAY: Any other appearances?

Yes?

MR. CATE: Yes, my name is Randall Cate. I represent Enron Oil and Gas, and I will put forth Enron's position concerning the proposed rule changes, and we want to put forth a possible addition to the rules.

CHAIRMAN LEMAY: Do you have any witnesses, Mr. Cate?

MR. CATE: Me.

CHAIRMAN LEMAY: Just -- Are you going to make a statement to that effect? Is that what you'd like to do?

MR. CATE: Yes.

CHAIRMAN LEMAY: Okay, we accept statements.

Will those witnesses that will be giving testimony kindly raise your right hand, stand and raise your right hand?

(Thereupon, the witnesses were sworn.)

CHAIRMAN LEMAY: Thank you.

Mr. Carroll?

MR. CARROLL: Mr. Chairman, I have some exhibits here, multi-media presentation here, and these were expensive so I only enough for the Commissioners.

Mr. Chairman, Exhibit Number 1 is the book with the blue cover, and that is the same information that will be shown on the screen here for everybody.

Exhibit 2A is the redlined version of the new Rule 111, as compared to the old Rule 111.

And then 2B is the clean version of the new rule.

Exhibit 3 is a copy of comment letters we have received. I did not include the Phillips letter; I did not find it when I was making this, but I know you've seen the Phillips letter.

My first witness will be Mike Stogner, petroleum engineer and Hearing Examiner with the Oil Conservation Division.

MICHAEL E. STOGNER,

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

DIRECT EXAMINATION

BY MR. CARROLL:

Q. Mr. Stogner, will you please state your name, your employer and your position with your employer for the record?

A. Michael E. Stogner, petroleum engineer, New Mexico Oil Conservation Division, here in Santa Fe.

Q. And what do your duties include with the Oil Conservation Division?

A. Hearing Examiner, also petroleum engineer to review administrative applications that include directional drilling, unorthodox locations, nonstandard proration units, among other things, and a wide variety of other questions and answers whenever it arises.

Q. And how long have you been at the OCD?

A. Fifteen years, eight months and several days.

Q. Mr. Stogner, will you please give the Commissioners a summary of what your working group -- how it proceeded with amending Rule 111?

A. Yes, I will.

If you remember right, we were here about two years ago, in June of 1995, and changed the long-standing Rule 111, rules and regulations, for directional drilling. And what came out of it then was a great step on giving administrative authorization for horizontal wells. We'll go into that a little bit later with another witness, what we did then. But we made great strides.

And what we wanted to do was take that step further and go into perfecting it a little more and also come up with some new ideas and get some new people involved.

So I'd come up with this idea about getting a work group together, a work group that consisted of people and peers and which do these kind of applications, administrative applications for directional drilling, on a day-to-day basis.

This is somewhat of a different concept, because a lot of times members of committees and work groups would consist of individuals from the companies that come up that may be once or even twice removed from that particular work. Not to put them down or anything, but they were somewhat in tune with a particular aspect of what their company did and maybe lose track overall of what the whole State was doing.

So what I wanted to was get a small group -- it had to be small -- of the people that worked with it, and also a representation of what I felt, at least, try, the whole state.

The catalyst of it was an application filed by OXY, or a proposed application to be filed by OXY, which brought up the notification rules and regulations. And it made it so burdensome for them that that was the catalyst. Well, let's see what we can do. And I'm sure Rick Foppiano will review that a little bit later. So I asked Rick if he would be willing to help me on this.

Also contacted Ms. Donna Williams with Burlington Resources out of Midland. Now, Burlington Resources, of course, has operations statewide, and they were also -- or their predecessor, I should say, the Meridian Oil, Inc., being one and the same -- was the applicant two years ago in the proposed rule changes. So I asked her to do it and she was able to, and thanks to Burlington Resources for allowing her to do this.

I also contacted Texaco. We needed a major in this aspect, a true major, not to say that OXY and Meridian are not, but...

So I've asked Wade Howard. There again, they have operations throughout the state too, but I was getting a lot of applications in their waterfloods, and he was perfect on those kind of applications, but he lacked some other -- the deep drilling and such as that.

Also needed somebody from the northwest, and I asked George Sharpe with Merrion Oil and Gas. They have been very instrumental on all types of directional drilling up in the San Juan Basin, and they have got some fantastic little projects, these little short-radius horizontals on top of the Entrada formation up there, and they've got some deep -- or considered deep gas up there. So they have some

-- and he was able to provide some expertise.

We initially met the Monday after Labor Day in Midland. George Sharpe was able to come down. And between us five, essentially what I had suggested at that point was rewriting the rules.

And I -- Really, what I did initially was to say, Here's some suggested topics, the notification, maybe doing away with the administrative procedure and turning it over to the District Offices.

But as we got to talking there was a lot of other aspects that could have been changed.

I also encouraged them, because I heard comments like, Well, I don't think the Commission will go for this, or perhaps...

And I said, Well, hold it, let's discuss it, let's bring it up, that's what we're here for. We've been encouraged to think outside the box, so that's exactly what we did, and we come up with some pretty, what I think, fantastic ideas.

What we did in that work group was use current Rule 111s, new and improved Rule 111s and comparisons of those changes and then come up with some, of course, summaries.

Also during this time, this initial phase, we were all encouraged to talk to other companies, other people, other applicants that come in.

So I would have a question for somebody, I'd say, Oh, by the way, we're thinking about doing this; what do you propose, and how do you feel about it? I encouraged them to talk to Rick, Donna, Wade, myself and of course George Sharpe.

So I've essentially introduced to your our little work group that we came up, which all of them, of course, do file applications with me.

We on, after that initial meeting -- which by the way, didn't cost the Commission anything because I was down in that part of the world on a different matter, and I got together with them, so we wanted to do -- We reviewed the process, that was another thing we wanted to do, was make it efficient, effective, and get to the nitty-gritty of it. And also that encouraged them to talk within their companies.

Of course, Mr. Howard had his regulatory people, and they were very pleased with him working on this, and they were able to give him some expertise, and he was able to go around.

One of the things that really came out of it -- because each one may have had an expertise in one particular aspect, but when you talk about this whole thing in trying to make the rules and regulations work for the whole state, then they started seeing all these other mechanisms and ways to do things, what George was doing up in the San Juan Basin.

I've seen some gaping mouths, to be honest with you: My God, they're doing that? And they can do that, and here's what we were doing.

And it worked out very well. They learned a lot.

We outlined a vision, what should the regulatory process look like? We wanted to see what other states were doing, what Texas -- and of course, they all had lots of expertise in other states, like Oklahoma, Texas, Louisiana, Kansas.

We got together and drafted some rule changes, rule language, which there again, it became their learning process of it. We were using language which perhaps meant something else to somebody else. So we had to get that cohesiveness together. And that was -- That came rather quickly.

We drafted these rule changes that achieved, I think, or vision. And we solicited feedback from other companies, of course.

Also another thing they did, I sent them copies of administrative rules or administrative orders that I had done since the -- June of 1995, and they've meticulously reviewed them all to see what the consensus was and some of the things that we could improve on.

In October -- After our meeting in September, in October, we had a rough draft order, several of them, I should say, through October and November.

And in December, early part of December, we met with, of course, the people that this is really going to affect, and that's the District Supervisors from the four District Offices.

We got them together, Rick Foppiano came up and made a presentation to them. We also got a lot of feedback from them. We were quite surprised with some of the suggestions they made, to make it more streamlined.

And we again -- our -- the crew then took those suggestions back and made some -- we made some word/languagesmithing and got some proposed rules out, and they submitted to me in January.

We again met. Again, I was down in the Midland/southeast area for some other aspect. I went over and we had a meeting together to discuss these comments and come up with a final draft to give to the Commission, which we did, and of course they were put on the docket several weeks ago, and additional comments came in.

And with that, that's essentially my presentation at this point, which I then am going to turn over to Rick, Donna and Wade for additional presentations.

MR. CARROLL: Call Rick Foppiano to the stand.

RICHARD E. FOPPIANO,

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

DIRECT EXAMINATION

BY MR. CARROLL:

Q. Rick, will you give your name, your company and your position with your company for the record?

A. Yes, my name is Rick Foppiano. I'm a registered professional engineer for OXY USA in Midland, and my title is Regulatory Affairs Advisor for our operations in New Mexico, west Texas, and other states in the western part of the United States.

Q. What are your duties as regulatory affairs --

A. My duties are to understand the regulations of the different jurisdictions that we operate in and basically interface between our geologists and engineers and other company people and the regulatory agency in trying to ensure compliance and ensure understanding of the regulations, and also participate in industry efforts to streamline, improve, whatever, on the regulations as they impact us.

Q. And what is your educational/professional background up to now?

A. I'm a graduate of the Georgia Institute of

Technology in Atlanta, Georgia. In 1977 I earned a degree in civil engineering there. Following that I spent three years with Halliburton Services in field operations, drilling and completion on the drilling rigs and workover rigs. And then I went to work for Cities Service, now OXY USA, where I did for about five years more drilling and completion activities, then, essentially chasing rigs.

And then I evolved into management and then evolved from management into the regulatory affairs position where I performed -- I basically did what I do now, for the last ten years, but I did it in Mississippi, Louisiana, Oklahoma and various states, and just interfacing between the regulatory agencies.

So I've been handling regulatory affairs for my company for the past ten years in various states.

Q. And do your duties include the handling of applications for directional/horizontal drilling?

A. That is correct, I've prepared and filed several directional drilling applications in New Mexico.

Q. Okay, Rick, if you would proceed through the slides you've prepared.

A. Okay. Mr. Chairman, Commissioners, what we have here is a slide presentation we're kind of just going to walk you through. It's identical to what you have in your exhibit.

But we found that when we got together and talked about this, we ended up drawing lots of pictures. So what we have are a lot of those pictures that we drew. And it helped us understand the current rule and where we wanted to be, so we thought that would be beneficial, and for the audience that was here, so they'd be able to see it.

So thank you for your indulgence on the technical difficulties we had this morning. I think we've got those cured.

COMMISSIONER WEISS: What was the problem?

THE WITNESS: Actually, I had to go into my computer and configure the setup such that it shows an external monitor and an internal monitor. It was really weird. I was getting desperate, because it's worked everywhere but here.

A little bit about the process before we get into the meat of the subject. The work group, as Mike has mentioned, got together and the first thing we did was get agreement among ourselves on what the problem was. Before we ever started fixing anything, we wanted to get agreement on what is it that we think is wrong that needs to be fixed. So we spent a good bit of time doing that.

And that was very crucial because after that, developing the solutions and then -- you know, crafting our vision and then coming up with rule changes all fell right into place, because we were all rolling in the same direction.

So this presentation will kind of walk you through the same process. We've gotten -- You've seen a little bit about the work group. What we want to talk about is the problems that we identified as a group, the solutions that we came up with as a group, and the vision that we crafted such that whatever our solution was fit in with that vision.

And the finally we want to take you through our understanding of current Rule 111 so you can kind of see, as we did, what problems industry has had with current Rule 111, and then take you through the new 111 as it's been proposed for change, and then follow that up with a side-by-side comparison for clarity, and then just kind of clean up with some summary stuff.

I would like to mention, though, that the red line and version that you have for exhibits -- I want to make sure that everyone's. We had a version from our work group that was sent out to industry for comment. We got comments back.

The work group met and has proposed some additional changes based on that input, and those additional changes are included in the version that you have before you. They're shown in bold italics as additional suggested changes to what was docketed.

So in case there was any confusion about what that document is, it is the most recent set of changes the work group is working with, based on consensus.

So with that, I'd like to go ahead and start in to what the work identified was the problems. And the first thing that we identified was the current process for permitting horizontal and directional wells under Rule 111. In our view, it was just more difficult than it needed to be for most of the situations.

And for example, even though a bottomhole location for a directional drilling or horizontal drilling project was orthodox, an operator was still required to file a formal application with several attachments, identify and give notice to offset operators and then wait at least 30 days to go ahead and get a formal order before you can proceed.

Another problem we identified was the requirements for vertical wells when you had excessive deviation, i.e., you had any part of that vertical wellbore, any 500-foot section of it, with greater than five degrees of deviation. What happened after that really was kind of unclear, and that was more or less validated by our meeting with the District Directors.

For example, when the deviation exceeds five degrees per 500 foot, we weren't sure when a directional survey would be required, and then, more importantly, we weren't sure what happens when the directional survey results are known, because a lot of times we drill at the corner of an orthodox window, and when we do that the chances are three out of four that our bottomhole location will be unorthodox. So we thought there needed to be some clarity in the rule as to what happens.

So how could we improve it? The work group suggested that we could identify those situations that can be permitted just through a normal APD process, APD meaning application for permit to drill, just like a vertical well.

And then when the bottomhole location is unorthodox, handle it under Rule 104 just like a vertical well.

Of course, clarify when a directional survey would be required for a vertical well.

And so with those problems and solutions identified, the team came up with a vision saying, What should the answer look like?

The answer, in our view, should have minimal regulatory burdens for drilling normal directional and horizontal wells. And "normal" meaning kind of like more orthodox bottomhole locations and more, you know, ordinary type of directional and horizontal. And you'll see some examples of those as we go through.

And we felt like that the protection of correlative rights was paramount -- you know, the correlative rights of the offsets -- through using Rule 104, because the Division just revised Rule 104 to clarify the notice, you know, encroachment and that kind of thing, and so we think that's a very good tool to use for directional and horizontal wells if the producing interval is unorthodox. And I think that's been kind of understood, but it was unclear, and our proposed changes make it real clear.

And then finally, clear requirements for vertical wells when you have excessive deviation.

And really finally, we needed a simple rule so we could go back and explain it to our engineers and geologists, so it didn't mentally challenge them any more than necessary.

So with that, we'd like to launch into an explanation of current Rule 111. I'd be happy to answer any questions based on what I've presented so far, or we can go right into the presentation of the current rule if you would like.

CHAIRMAN LEMAY: Okay. Commissioner Weiss?

THE WITNESS: Moving right along...

The current Rule 111, and this is the current --

what's in the rule book right now and what we're working under -- has six parts.

Part A is definitions, Part B deviation tests, C is an application process related to deviated wellbores. Part D is the section relating to directional wellbores, and then Part E says when the Division issues an order for directional wellbores this is what it has to say, and then Part F is kind of a cleanup section. And we'll go through each of these parts, not in excruciating detail but in enough to kind of get everybody on the same book and page, I think.

Key definitions in Part A that we need to mention here. First are a vertical well, a deviated well and then a directional well. A producing interval, a project area and then a producing area. And we'll go through these individually real quick.

First off, what's a vertical well? Well, a vertical well to us is like straight-hole well. It's where we drill a well, it's intended to be straight, but they never are. So Rule 111 says a vertical well is a wellbore that's drilled without intentionally steering it somewhere and without intentionally deviating it, although they -- every wellbore does deviate in the drilling.

What's a deviated well? A deviated well seems to be a very small class of wells that are -- where the wellbore is intentionally deviated for some specific reason, like to deviate around junk in the wellbore or something like that. But it still -- It doesn't have a specific target.

A directional well is a wellbore that does have a specific target, and more importantly, horizontal wells are treated the same as directional wells. So a directional well, horizontal, there's no distinction between the two.

The producing interval is defined to be that part of the wellbore which is located within the vertical limits of a particular pool, and it is specific to that pool. And here's where we get into some pictures to kind of help explain this.

This is an example of a producing interval. I used deep gas in southeast New Mexico because that's what we're real familiar with at this point. But this is a cross-sectional view of some deeper gas formations, Strawn, Atoka and Morrow.

And if you can kind of picture a boundary line extending down through the earth there, from the surface, that could be a side boundary line, it could be an end boundary line, it really doesn't matter. And then white is showing the wellbore track.

And you can see the wellbore track starts from an orthodox location, it goes through at an angle and it ends up with its terminus there, right here at the end, at an unorthodox location. So this red line could be the 660 setback from the side boundary, it could be the 1650 setback from the end boundary, it really doesn't matter.

But the key point here is that the producing interval is orthodox, here, the producing interval right here is orthodox in the Atoka. The producing interval in the Morrow here is unorthodox because a portion of it does encroach on the side -- or on this boundary line.

Project areas and producing areas. Project area is simply an area that an operator designates on his Rule 111 Application. It can be a spacing unit or it can be a combination of spacing units.

The producing area --

CHAIRMAN LEMAY: Rick, could I interrupt you for a question on that previous one?

THE WITNESS: Sure.

CHAIRMAN LEMAY: Why don't you flip back to the diagram?

THE WITNESS: Okay. Oh, I've got to go all the way back.

CHAIRMAN LEMAY: All right, there. Taking that Morrow interval, if you only perforated what was right at that vertical line, you'd still be orthodox, though, wouldn't you?

THE WITNESS: Well, in the current rule, Chairman LeMay, it's not real clear, but in the proposed changes to the rule it does not relate to what you perforate. It relates to where you penetrate it.

And if any part -- Since the producing interval is defined to be this portion of the wellbore, it doesn't matter that you're perforating down here, a portion of -- or let's -- I'm sorry, let's say you're perforating right here.

CHAIRMAN LEMAY: Yeah.

THE WITNESS: It doesn't matter that -- where you're perforating; it matters that a portion of your wellbore is in -- is closer to the side boundary or end boundary than is allowed under the setback rules. So it kind of clarifies what is -- when the producing interval is unorthodox.

CHAIRMAN LEMAY: Yeah, that's a problem I can see, that you don't want that bottomhole -- your deviated well to migrate beyond what is orthodox, according to the current rules, or you're automatically unorthodox.

THE WITNESS: If you want to produce anywhere in that -- For example, if you want to produce anywhere in this Morrow --

CHAIRMAN LEMAY: Yeah.

THE WITNESS: -- under the proposed revisions to the rule, it would require a nonstandard location order, it would require that you go through Rule 104, even if you just proposed to perforate it right here.

CHAIRMAN LEMAY: If you used the analogy that a vertical well would be equivalent to a horizontal well at any point of that horizontal or directionally drilled well's deviation, then you should be orthodox if you kept your perforations to the right of that vertical setback?

THE WITNESS: I agree, your perforations would be orthodox, but I think the problem would be, what would stop somebody where they have pay interval down here --

CHAIRMAN LEMAY: Yeah.

THE WITNESS: -- and pay interval here, to go and get producing authority for their perforations up here, and then later on down the road add the perforations down here.

CHAIRMAN LEMAY: Because you'd be unorthodox once you added the other perforations?

THE WITNESS: But it would be very difficult to police it at that point, later on down the road.

And actually, this is -- It's a rare situation, and Morrow is probably a good example because of the stratification of it and how broken up it is, but it's -- Most of the time, that really hasn't been an issue that we've run into yet, is that where we want to perforate is orthodox but we have a portion of our producing interval is unorthodox.

CHAIRMAN LEMAY: Okay.

COMMISSIONER WEISS: Is the objective to maximize the wellbore in any of those formations? The length of the wellbore?

THE WITNESS: I think the objective is -- Where we were trying to get to is, if my producing here is orthodox, then that should be fine, that shouldn't be any problem.

But if I intend or I want authority to be able to produce in this Morrow and a portion of my wellbore is unorthodox, I should fall under the same rules as a vertical well. If a vertical well was drilled right here, it would have to go through Rule 104.

COMMISSIONER WEISS: I was just thinking that. You know, if you were -- If you thought there was something in all three zones, it looks like you'd want to maximize the length of the wellbore. I mean, the result here if you did that, most of your well would be unorthodox in the Morrow.

THE WITNESS: A portion of it would be. But it would be orthodox for the other zones. I'm not sure I understand your question.

COMMISSIONER WEISS: Well, that's okay, go on.

THE WITNESS: The producing area definition is basically the orthodox window inside of that project area, and it's defined by the minimum setbacks that are applicable to that particular pool, and we'll have a picture here to show you.

And basically the well is unorthodox when any -- when the producing interval is outside of the producing area.

Here's the example of a 320-acre spacing unit. That would be kind of like a south half. And in red -- heavy red dashes would be the outline of the project area that the applicant identified on his application.

And in orange here would be what we call the producing area, and it's defined by these minimum setbacks, 660 and 1650, so that anything that went on here in terms of producing interval would be considered to be orthodox, and anything, any part of the producing interval that was out here in the green area would be considered to be unorthodox.

This is the way we've interpreted the current rule, but it really isn't clearly addressed in the current rule, and we propose to clarify that in the new rule. And I think you'll see how it is clarified.

Another example of a producing area consisting of more than one proration unit. Here's one where there's four 40-acre units put together. It may be that an operator is planning on drilling a long horizontal -- like this. And so he would identify this project area as the outline of the four 40-acre proration units that he put together.

Incidentally, that's been more -- I'm sorry.

COMMISSIONER BAILEY: Would that then fall under unit regulations?

THE WITNESS: As we interpret it, Commissioner Bailey, the current rule allows for you to combine multiple proration units and have a project inside of that is just like that.

That's how we've seen -- We've seen some applications up in Farmington that do exactly that, and it's been handled under Rule 111. Now, I think in those cases all the interests have been consolidated or unitized, so there really isn't an issue where you're combining different leases or you're trying to unitize or anything like that.

Part B of the rule deals with deviation tests, really relating to what we call straight-hole wells. It says operators must run deviation tests every 500 feet on any new drill or deepening project, he must file the deviation test information with the C-104 and completion paperwork.

And the operative part of the rule is that when the deviation exceeds five degrees in any 500-foot interval, the operator must calculate the maximum horizontal displacement of his wellbore.

And basically what that is is a theoretical maximum, if all the departures from the vertical were added up in the same direction, that would be where the end of the wellbore would be. No wellbores do that, but the maximum horizontal displacement is really just a theoretical maximum outline of where that wellbore would be.

And then it says the Division Director can require a directional survey for the wellbore.

Part C is an application process that applies to deviated wells, and it says the District Office can approve an operator's written request to deviate a wellbore for a specific reason, like deviating around junk or something.

And then it says if he wants to deviate for any other reasons, he must file an application for administrative approval and attach plats and give notice to the offset operators and working interest owners. And then the offsets have 20 days to protest.

The interesting thing here is that based on everybody we've asked inside the OCD and outside, no one can ever recall an application ever being filed under this section.

And so we -- You'll see we proposed to delete it all, and the District Directors didn't have any objection to that at all.

Part C has an interesting section in there called -- what we call the 50-foot rule. And we probably had more discussion over this 50-foot rule than anything in this entire rule.

So I'll try to walk you through and explain it, because it may come up again. You may have some questions about what is this 50-foot rule.

Rule 111(C)(4) requires that the producing interval of a deviated wellbore be orthodox or within 50 feet of an approved location. It doesn't apply to directional wellbores, so -- It applies only to deviated wells where you had to run a directional survey. So we'll talk some more about that later on, when we get into it.

Part D, directional wellbores. Directional, of course, includes horizontal projects. And here is where the group was -- originally started with its major concern, was, Part D requires NMOCD approval through an application which has a plat, a horizontal and plan view, a type log, notice and opportunity for protest to all offset operators or working interest owners. And that is irrespective of whether the bottomhole location is orthodox, unorthodox, whatever. It says you have to go do this.

And then the offsets, of course, have 20 days to protest before -- you know, the application can even be started to be processed, because it may have to go to hearing.

D(3) contains some information or some discussion about allowables that, quite frankly, we had a little trouble with, so we changed it.

It says when you're combining units and you're trying to get a maximum allowable for this area where you've combined units, that that maximum allowable for that project area is equal to the number of proration units that are located within a certain feet of your wellbore.

Now, certain feet is the same as the minimum setback for an outer boundary -- or minimum setback from the outer boundary that's applicable to a vertical well.

Give you an example. For an oil pool or an oil well in an oil pool under statewide rules where the setback is 330 feet, if that wellbore is within or closer to 330 feet to any offset unit, then the operator would be allowed to add that in and define that as part of his project area, and get a multiple allowable based on that, even though he didn't get over there and penetrate it.

And the group kind of felt like that was a little lenient and we thought we should tighten that up.

And what we ended up doing was adopting the same language that had been, you know, put in the orders that had been issued in these situations. So we basically codified the orders back in the rule.

Part E are the conditions of approval for directional and horizontal drilling applications. It says that they can be approved after 20 days or sooner if no waivers -- or if waivers are submitted.

It says the orders shall require a directional survey with notice to a District office.

And then Part F is the miscellaneous section. One area that has caused some interesting comments from industry was this section about that the Division can order an operator to run a directional survey if an offset operator complains. There's some stuff in there about who pays for the survey and the posting of the bond.

Interesting, nobody has ever complained past the Division, yet this paragraph caused more comment from industry than anything.

It says the Division Director can also set any directional drilling application for hearing, even if no one protests.

So that's kind of a review of the current rule from where we started with. And to summarize again, the main problem that we started with was the fact that on a normal directional drilling application, even when the bottomhole location was entirely orthodox, we still had to go through an application and notice process that added extra time and expense to us and to the Commission in having to process it and issue an order.

And an example that Mike brought up that OXY had was in the City of Carlsbad that we wanted to directionally drill. And because there were undrilled spacing units offsetting us, we hired a broker to go out and investigate the ownership of the leasehold, and it was so broken up that the estimate we got back was well over $10,000 and several months' worth of time to try to get the lists of people to comply with the notice requirements.

So -- That and our experience in other states led us to ask the question, why are we requiring such strenuous effort, even when the bottomhole location is orthodox? And if it's unorthodox, we have a great Rule-104 process; why don't we use it for that situation?

So that's really where we started with.

We also attempted to address some questions and concerns, clarifications that we thought needed to be made and that kind of thing.

And so I'd be happy to answer any questions on the current rule if you've got any at this point, or we can go right into the new Rule 111.

CHAIRMAN LEMAY: Bill, do you --

COMMISSIONER WEISS: Yeah, tell me again what Rule 104 is.

THE WITNESS: I'm sorry, Rule 104 is the Commission's general spacing rule.

It was revised last year, and it basically says that when you're encroaching, you know, you're trying to drill closer than is allowed under the spacing rules applicable, either under a statewide basis or the pool rules, it has a specific determination of who the affected parties are and a notice that is required and the application process.

COMMISSIONER WEISS: Is the penalty included in that rule?

THE WITNESS: Not to my knowledge, I don't believe it is, no. That's, I think, usually been the subject of an agreement or a Commission order issued after a protest of hearing.

COMMISSIONER WEISS: That was my only question. Thank you.

CHAIRMAN LEMAY: Commissioner Bailey?

COMMISSIONER BAILEY: I don't have any, that's fine.

CHAIRMAN LEMAY: I don't have any.

THE WITNESS: And with that, I'd like to turn it over to Donna Williams with Burlington.

DONNA WILLIAMS,

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

DIRECT EXAMINATION

BY MR. CARROLL:

Q. Donna, will you please state your name, your employer and your position with that employer for the record?

A. My name is Donna Williams, I work for Burlington Resources as a regulatory technician.

Q. Will you please give the Commission a brief history of your educational and professional background?

A. I have three-plus years towards a business degree. Currently, I'm responsible for all regulatory aspects, including drilling completions, production, environmental issues and field compliance for southeast New Mexico, Colorado, Texas, Oklahoma, Arkansas and Kansas, and will be assisting in North and South Dakota, Montana and Wyoming.

Q. Whoa! And do your duties include the -- making applications for directional horizontal drilling?

A. Yes, it does.

Q. Could you lead us through the new Rule 111, please?

A. Sure. As Rick previously discussed, what we took was the current Rule 111 and came up with some revisions that we felt like that the rule needed.

The first is, you'll see the structure. What we did was take the six parts of Rule 111 and combined some of them that we felt could be addressed under additional or the same parts, and basically what you're seeing is a simpler Rule 111.

Under Part A on the definitions, what we did was redefine a project area to be the area that an operator can designate on a Form C-102, which is the State form for certified plats of the acreage assigned to a well.

In addition to being one or more drilling units, we felt like that a project area can also be a secondary recovery unit or a pressure maintenance project.

And finally, we redefined "unorthodox" to mean encroachment to the outer boundaries only.

And we'll look at an example here. What we have is a standard 320 proration unit. The red bold lines indicate what we've designated as our project area.

The orange in the center is what we would term as our producing area that's after you do your minimum setbacks, that that's the area that you can legally drill and produce out of without encroaching on anybody else's lease.

The green area is what we've determined as the unorthodox area, meaning that if our producing interval or area got anywhere into that green area, then Rule 104 would be applicable.

The next section that we dealt with was on deviation tests. Basically what we did was define that a directional survey will be required if there's a chance that the wellbore will be off-lease.

We maintain the current 50-foot allowance for straight-hole wells.

And we clarified that Rule 104 is applicable if the survey shows the wellbore is too close to the outer boundaries.

And we finally required that all directional surveys are to be filed with your paperwork, your completion work. And it also allows NMOCD to require a directional survey in any special situation.

We're going to look at an example here. It's our infamous standard 320 proration unit. You've drilled your well, and during the drilling of it, you've exceeded your five-degree-per-500-foot interval. You've calculated your maximum horizontal displacement.

And as indicated by the circle around the wellbore, you didn't exceed the minimum setbacks as required by the statewide rules. So under the new rule, we felt like no directional survey would be required.

Here we have the same wellbore. We've exceeded our five-degrees-per-500-foot-interval. We've calculated our maximum horizontal displacement. However, in this situation it looks like we might have exceeded our minimum setbacks that the statewide rules require. And under this case a directional survey would be required and filed with the NMOCD.

COMMISSIONER WEISS: Does this mean that you guys don't know which way the wellbore is going to go?

THE WITNESS: That we don't know?

COMMISSIONER WEISS: Yeah.

MR. FOPPIANO: That's correct.

COMMISSIONER WEISS: Okay, that's why you have to do the survey?

THE WITNESS: Right, the directional survey --

COMMISSIONER WEISS: You pointed to the northwest there, and you don't know that necessarily it's going to go to the northwest; is that the idea? Do you have to demonstrate that?

THE WITNESS: Well, the directional survey will determine what direction the well, I guess, drifted or --

COMMISSIONER WEISS: It's to confirm what you said is going to happen?

THE WITNESS: Yes.

COMMISSIONER WEISS: Okay.

MR. FOPPIANO: If I could add to what she's saying, this really is the section that only applies to what we call straight-hole wells, wells where we don't have directional surveys required, but it sets up a condition that does require a directional survey for a straight-hole well, and then it defines what happens after you've run that directional survey and you find your bottomhole location is over here.

So to answer your question, Commissioner Weiss, we don't know, on a straighthole well, where that wellbore goes. That's kind of -- Everybody's at the same advantage/disadvantage.

COMMISSIONER WEISS: Yeah, I was thinking -- directional --

MR. FOPPIANO: Directional?

COMMISSIONER WEISS: Yeah.

MR. FOPPIANO: We haven't gotten there yet.

CHAIRMAN LEMAY: But on the straight hole, how many times, practically speaking, does your -- when you run the Totco, say, on a trip, does that 500 feet, every -- five degrees every 500 feet, how many times do you get that much deviation in southeast New Mexico?

I've not seen it -- much of it happen. That's why I didn't know if it was a problem.

MR. FOPPIANO: It's happened to us.

MS. WILLIAMS: It hasn't happened to us. I think it's just a case-by-case basis.

CHAIRMAN LEMAY: I'm just curious, how much this comes to play.

MR. HOWARD: -- Texaco --

CHAIRMAN LEMAY: Huh?

MR. HOWARD: Very seldom, we haven't seen --

CHAIRMAN LEMAY: Yeah, I've not seen it out in the field.

MR. FOPPIANO: Interesting, if I can expand on that, that one of the things we're seeing more of is the application of slimhole drilling technology, and that has more weight on the bit. One of the problems is excessive deviation with packed holes assembly when you're trying to drill that small hole.

So it may not have been as much of a problem in the past. Operators are trying to cut drilling time down, and that's one way they're looking at doing it.

CHAIRMAN LEMAY: As an exploration/exploitation technique -- I hate to give away a lot of secrets of the past, but when we were unorthodox we'd get over the reef and we'd pour the coal to it and try and deviate it because it was the last trip, that we wouldn't have to run a 500-foot --

MR. FOPPIANO: You old-timers --

CHAIRMAN LEMAY: Do you still use that technique today to try and get closer to a --

MR. FOPPIANO: We're just not that good, we're just not that sharp.

MR. STOGNER: No, but they will.

MR. FOPPIANO: I'm going to know that, though.

MS. WILLIAMS: The next part we're going to deal with is Part C, regarding directional and horizontal wells.

This was probably one of the key factors in the forming of this work group, was that we felt like with directional and horizontal wells, as long as the -- it was a legal location, that we felt like we could obtain approval to do this through the district offices and not have to go through a special permitting process as the rule currently requires.

And we also added that Rule 104 will apply if the wellbore encroaches on the outer boundaries, as it would with a vertical well.

It deals with the allowables for project areas that combine proration units, as Rick had previously discussed, and we had expounded on that part of the rule, as you'll see in the comparison part that Wade will be going through.

And we also stated that directional surveys will be required on any directional and horizontal well.

Part D is regarding to the miscellaneous, or the cleanup version, as Rick refers to it.

The first part describes how an offset operator can request a directional survey on another's well.

And the Division Direction can require an application to go through administrative approval process, or be set for hearing.

And finally that notice and opportunity for hearing are required for approval of any directional drilling project that is not addressed in the rule.

And that's concluding my part of the presentation. If you all have any questions or...

COMMISSIONER BAILEY: I have seen some confusion, ambiguity, between unit areas and the definition of project areas.

THE WITNESS: Okay.

COMMISSIONER BAILEY: Was that a two-channel problem?

THE WITNESS: We had several discussions on that, actually, including project areas. We felt like for Burlington, most of ours would be done on a lease basis, but we would never cross -- It would be like a state lease, one state lease that we have or federal lease, and that was what we would deem as our project area.

We did discuss the ability of putting leases together and using joint operating agreements, the kind of conditions that operators do amongst themselves for --

COMMISSIONER BAILEY: But then it starts crossing the line into unit approvals, and then it's differences in leases or differences in --

THE WITNESS: -- in interests.

COMMISSIONER BAILEY: -- in ownerships. And I can see that there would be confusion and ambiguity as far as when a unit is going to be approved or when a project area is not considered a unit and --

THE WITNESS: Where is the difference or the distinction?

COMMISSIONER BAILEY: Exactly, exactly. It's a very gray area.

MR. FOPPIANO: Commissioner Bailer, the answer we finally came up with was the definition of a project area by an operator, either under the old rule or the new rule. And our view didn't confer unit status on that area.

However, where you had units already formed, either through an operating agreement or it was single lease anyway, or it was a secondary recovery or a tertiary recovery project, that an operator should be able to designate that area as a project area.

And interesting, the current rule just says an operator can combine more and more proration units. It doesn't speak to under what situations that will be allowed or if that has to be unitized or whatever. It more or less presumes, I believe, that that is only allowed or will only be allowed in a unit-type situation or in a single-lease-type situation.

COMMISSIONER BAILEY: Or even a gray area, if it's aggravated, that it doesn't come to hearing. I can see where that problem would arise if it was not ever set for hearing, because as it is now, it does come.

MR. FOPPIANO: It comes to the Commission, yes, through the application process, if it's going to be more than one unit.

But in the past the applications we've seen only address this multiple unit situation in the context of a federal exploratory unit. We haven't really seen any applications in southeast New Mexico.

But one point where the work group was to deal with that particular problem was, we actually kept a notice and application process for the multiple-unit scenario.

And we were actually challenged by the District Directors to say, well, why? You know, you file a C-102 on this well, and it says all the interests in this area are consolidated. And when you say that, you're either operating on a single lease or you've consolidated all these interests. And so when you sign that, you are attesting, in their view, that these interests are essentially unitized.

And so we took comfort in that and removed the notice and application process for the multiple-unit situation.

MR. STOGNER: If I may pick up on that, because we did talk about this, let's say, for instance -- we'll take state, two state leases, same operator, and they want to combine with the horizontal. There again, when it shows up on a C-102, then yes.

And also, when that information is then put on the ONGARD system, then there's going to be something comes up that says, Is there a consolidation of this acreage, either by unitization or communitization?

So we felt that there was a mechanism, and so did the District operators -- or the District Supervisors. There was something there in that, that would cover that and, in fact, encourage it also, and would catch it.

Does that kind of summarize it a little bit?

COMMISSIONER BAILEY: Where does it show up in the ONGARD system? It would just be as an approved C-101?

MR. STOGNER: Well, I understand that is checked, once it ends up on the C-102 as something that is abnormal, bigger than what the allowed spacing is, say 40 in this instance, and when an 80-acre nonstandard proration or a proration unit or project area shows up, that then there's something that comes out to state leases, some sort of communitization.

COMMISSIONER BAILEY: -- following up on that. But that's for communitization; units do not normally have that requirement?

MR. STOGNER: Right. We did have a situation -- Merrion, in fact -- and that was one of the reasons I asked George Sharpe to be on it.

They had some projects up in those Entrada subterranean sand-dune projects, and most of their 40-acre tracts, or in some cases 160-acre tracts, tracts in this instance being the normal spacing, were combined by a cooperative unit agreement, and this included fee land, Indian land and BLM land.

And as long as they were -- "they" being in this instance the agency and the mineral interest owner, if there was some sort of a written agreement, we felt it was satisfactory and could proceed with the project with as little bureaucratic hassle as possible. We encourage that, actually, and it seemed to have worked out pretty well. And from that model, that's where we took this from.

COMMISSIONER BAILEY: Well, I think you've -- or inter-agency cooperation.

But one of the problems that I've been looking at is OCD Rule 507 concerning unitized areas where it says after petition and notice of hearing, the Division may grant approval of the combining of contiguous developed proration units into a unitized area.

Is this proposed revision going to be in conflict with Rule 507?

MR. STOGNER: We hope not.

MR. FOPPIANO: Here again, it's really the same as the current rule, and we were operating from the current rule that says you can combine them.

But I agree, we did eliminate the notice process for that combination, and I wasn't sure if the notice process under Rule 111 actually -- because it never really stated we're combining -- or want to operate this area as a unitized area, if that was meant to address that section of Rule 500 anyway -- of the 500 rules anyway.

COMMISSIONER BAILEY: Rule 507.

MR. STOGNER: And we didn't -- We weren't suggesting that it's going to overrule whatever leasing organization there is out there. I mean, if this situation was to occur on state lands before they would even begin to start this process or produce it, there would have to be some sort of an agreement, through either communitization, or a unitization, for that matter, through the State Land Office or the BLM.

COMMISSIONER BAILEY: Right, I'm just looking for potential areas of ambiguity and potential problems that would arise, just to refine this to the point where we could eliminate some of those problems.

MR. FOPPIANO: That's exactly what we were trying to get to.

One thing that might improve your comfort level on that, that we kind of take comfort in, is, the process we're proposing forces all of this stuff through District Directors, and it also has a process that says if the District Director is uncomfortable with something that he's presented, he can boot it up to Santa Fe at his discretion, his sole discretion, to be set for -- to go through a notice process and an application process and a hearing process if that's applicable.

So it really kind of empowers the District Office to go ahead and handle the normal stuff, the mundane directional and horizontal.

But also, if they get an unusual one, which may involve the combination of multiple units in southeast New Mexico, it may be that the first couple of those, they do want to force those through some sort of a process to give the Commission the opportunity to establish some precedent in that area, and then their comfort level is improved and they can approve subsequent applications.

So that process gave industry some comfort in that, yeah, we won't have to force every one of these through, particularly if we're just doing the same thing over and over again. But maybe the first couple -- If the District Director feels uncomfortable with what he's presented, he has the discretion under our proposed rule to boot it right up to Santa Fe and force it through an application and notice process.

COMMISSIONER BAILEY: Shall we go on?

CHRISTOPHER WADE HOWARD,

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

DIRECT EXAMINATION

BY MR. CARROLL:

Q. Mr. Howard, will you please state your name, your employer, and your position with that employer for the record?

A. My name is Christopher Wade Howard, that's what the C is for. I'm with Texaco Exploration and Production, Inc., in Midland, Texas, and I'm currently an advanced technician with Texaco.

Q. Mr. Howard, would you please give the Commission a brief history of your educational and professional background?

A. I have a bachelor's of science degree in communications from west Texas State University in Canyon, Texas. I've been with Texaco for 18-plus years. I've been involved with drilling operations since 1983 in some aspect.

I'm currently responsible for coordinating all the surveying of new drilling locations and all pre-drill applications, which include 104 applications, 111 applications, federal and state, in New Mexico.

Q. Mr. Howard, would you please lead us through the comparison of the two versions of the rule?

A. What we've tried to do here, we've tried putting some of the parts of the rule side by side to kind of get a better understanding for what we were trying to do.

First is the definition of a project area. Under the old rule it was just limited to one or more units. And as we said a while ago, under the new you're going to designate that project area on your C-102, and it can be one or more units, and we've added that it can also be a secondary recovery unit.

Definition of "unorthodox". Under the old rule it really wasn't defined, and there was the 50-foot allowances for deviated wells only. Under the new rule we did define it as the -- when producing interval encroaches on the outer boundary of the project area. And the 50-foot allowance, we added some language to hopefully clarify that, but it's still for deviated wells only, not directional or horizontal.

Excessive deviation, the old rule, when excessive deviation requires an operator to submit his maximum horizontal displacement calculations, it is really unclear to us what happens next.

So we made it very clear under the new rule that when you provide those calculations, if there's a chance that your wellbore is off lease, a directional survey will be required.

Talk a little bit more about the 50-foot rule. Under the old rule the well is unorthodox if the producing interval is found to be more than 50 foot from approved location or at a previously approved unorthodox location.

Under the new rule, the well is unorthodox if the producing interval is found to be 50 foot from the approved location and encroaching on the outer boundary of the spacing unit.

Deviated well approval process, under the old rule, was a written request with the District Office, give notice as described in Part C. As Rick said, we deleted that section. And as he said, after our meeting with the District Directors we all agreed that we hadn't found any of these that had been filed, and they agreed that it was probably unnecessary.

CHAIRMAN LEMAY: Just a correction. They may want to be directors, but currently they're supervisors.

THE WITNESS: Excuse me.

The directional well approval process.

Under the old rule an administrative approval process was initiated by application and notice under part D.

Under the new rule, if the producing interval is unorthodox or at a previously approved unorthodox location, then you simply file your APD with the district supervisor, district office.

The unorthodox location approval process.

Under the old rule, the operator files an application and gives notice under 104. It was a little bit confusing because the operator also had to give notice, file application under Rule 111.

So under the new rule, if you're unorthodox, the operator files his application and gives notice under 104. And in part C(2) it makes it clear that 104 applies if the producing interval is outside of the producing area.

An unplanned orthodox directional well.

The old rule really didn't address this type of situation, but in our meetings we felt that this type of situation should be addressed in the new rule. And what it says is that an operator must file application and give notice under Rule 104, and approval of that must be granted before an allowable will be assigned.

And kind of an example what we mean here, this is our planned horizontal well, our surface here, we're going to enter the formation here. For some reason -- maybe we don't monitor our directionals as close as we should, and if we find that our bottomhole location is out here you're unorthodox, you have to file for a 104 application before you can get an allowable.

COMMISSIONER WEISS: Let me interrupt at that point. What is the penalty there? I think that needs to be addressed, perhaps.

THE WITNESS: Penalty?

COMMISSIONER WEISS: Yeah, for an unorthodox location.

Mike, do you have a comment?

MR. STOGNER: A penalty is not assessed unless an operator, an offset operator, sends in an opposition and we have a hearing on it. Then a penalty is -- there again, you have to -- A penalty can either be based, because there's no set formula, is it prorated, is it unprorated? A lot of the past ones have been the percentage it was away from a legal location and the absolute open flow, calculations off of the well when it initially produced.

So if a well is unorthodox, it doesn't

necessarily mean -- in fact, most cases, does not receive a penalty. Perhaps they got some sort of an agreement or they're offsetting themselves. But they all have an opportunity to object.

But to be honest with you, very seldom is a penalty assessed, and only then after notice and hearing, or if the applicant has made arrangement with a neighbor, and then they complete it themselves.

COMMISSIONER WEISS: So it's not as big a problem as I envisioned it because it's usually worked out?

MR. STOGNER: It's worked out, quite often. I have filed many, many unorthodox locations. I'm the one that does those administratively, and also when it comes to hearing, those are the ones, and we've either -- We've gone the whole gamut, no, you can't drill, yeah, you can drill, it's unorthodox but it's not going to harm you, it's not going to harm your neighbor, so go ahead and do it. Or a penalty, assessed in many, many ways.

COMMISSIONER WEISS: Thank you.

THE WITNESS: And the last section is allowables for multiple units.

Under the old rule a project area with one or more proration units, the maximum allowable is based on the subject unit and the units that were being encroached upon.

And we revised that somewhat by stating that for project areas with one proration unit, the maximum allowable is based on the units that are developed or traversed by the well's producing interval.

We've got an illustration of what we mean here.

Here's your horizontal well, and she's got a 40-acre pull. You're putting four 40-acres together. This is where you start your producing interval. You can get four times the allowable for that well, as long as you can traverse it or -- that 40.

And with that, I'd like to turn it back over to Mr. Foppiano with OXY to summarize our efforts, unless there are questions for me, excuse me.

CHAIRMAN LEMAY: Just a quick one there, Mr. Howard.

You don't have to perforate the interval crossing a proration unit that's combined in order to get the allowable that's -- That's it? You just have to traverse it?

THE WITNESS: Traverse it. I'm not sure about other operators, but in most horizontal wells, most of ours are open-hole completions. We're not setting casing through that horizontal section. We set casing up and then we kick off, and there's an open-hole horizontal completion in most cases. So that --

CHAIRMAN LEMAY: So it would be open to your wellbore?

THE WITNESS: If you penetrate it, it's open, yes, sir.

MR. FOPPIANO: It's too difficult to cement that casing, haven't figured out how to do that yet.

Okay, thank you, Mr. Howard.

Just summarize real quick where we are. We took you through the process, identifying the problems, solutions and understanding of the current rule and come up with the rule changes that we proposed here, and -- So, you know, the $64,000 question is, well, what's the final result? You know, what does it do for us?

And in our view what this allows is a clarification of these excessive deviation requirements, allows for more uniform application crossing industry, which we always beg for. You know, we want to be treated the same as everybody else.

So clarification and consistency among the District Offices and when a deviation survey is required and then what happens when a deviation survey is run is something that we think will be very beneficial for everybody.

It still treats horizontal wells the same as directional wells. And our experience in other states -- You know, I've got to tell you, I think the way New Mexico has approached this is actually pretty novel and very good because there isn't, if you sit back and think about it, any difference between a horizontal and a directional well. So we maintain that concept all the way through this. There's not even a mention of a horizontal well in these rules, if I recall. It just says it's a directional well.

And then we think it empowers the District Offices through this new permitting process and kind of relieving Santa Fe of some of the -- what we consider to be unnecessary and burdensome paperwork, since most of the situations that are being dealt with today are really orthodox producing intervals for a directional well or horizontal well. That is most of them right now.

Also we think, you know, clarification of the ambiguous provisions, of course, ensures consistent application.

And probably most importantly, it's going to improve everyone's understanding of the regulations in industry, thereby increasing our compliance with them since we understand them better.

The benefits of changing Rule 111, real quickly, is an elimination of time and expense on operators and the Commission by eliminating what we consider to be the unnecessary process involved with these normal projects.

Streamlines the permitting process. These days when we're trying to do more with less, our guys are coming down to our office and wanting to drill their wells tomorrow. And so we're trying to look to be as efficient as possible in getting them from point A to point B to well spud and well completion, and this allows us to get them where they can drill their wells a little faster.

Now, the team actually went back and did some validation. One of the first questions that we had was, Are we creating the need for form revision?

We looked at the forms and concluded that all the application requirements through the APD process, there are places on the current forms that can capture the information about projected bottomhole locations, producing intervals, and, when you're combining more than one proration unit, outlining your project area.

So in our view there didn't need to be any changes to existing state and federal forms.

We also, as Mike mentioned, looked back on a stack of applications that was about that high that had been filed under the current rule in the past two years, and we tested them against the proposed rule. We said, Okay, let's assume this guy filed this application under the new rule. How would it fare? And most of them would have been unnecessary applications, because they dealt with orthodox bottomhole locations in that particular pool.

We also have reviewed the proposed changes with the BLM, and they're okay with them, have no objections. And as indicated by one of the exhibits, there is broad support from industry, we feel, and particularly in eliminating unnecessary notice requirements. I think the letters from industry all point to, yeah, let's do streamline this process.

And also, there have been no objections to the proposed version that has gone out, which contains all these changes, and it has been out for almost 60 days now.

In terms of next steps, where we might go from here, the team had some ideas they wanted to bounce off the Commission.

Of course, the first would be, can we send this out -- or a final draft out, the draft before you, for possible adoption on the next Commission hearing on May 22nd?

And another idea we had that we wanted to throw out on the table, that if there's some portions of this that, like Commissioner Bailey mentioned, we're not sure they're clear enough or there are some aspects of it that we want to try and see and see how this process works and maybe make some changes after that, the idea of just trying this and revisiting it automatically and deciding that ahead of time to revisit this two years from now seemed attractive to us if there's some lack of comfort with streamlining this regulatory process as we've proposed.

And then finally, we felt like based on what we've done so far, that we would offer the Commission our services as a work group to continue to solicit feedback from us on the industry comments, if there are any more coming in, which there probably won't be. But if you buy off on the concept that we were trying to get to, which is streamlining the regulatory process, then it might make sense to try to get this group to come back with feedback on suggested changes, if there are any, to make sure that it fits with the concept and doesn't create some conflicts there.

And of course that's the end of this -- I was getting a little ambitious with my clip art there.

So that concludes our direct presentation and --

CHAIRMAN LEMAY: Nice presentation.

MR. FOPPIANO: -- we're ready for any more questions that anyone might have.

CHAIRMAN LEMAY: Commissioner Weiss?

COMMISSIONER WEISS: No, I don't have any more. Nice presentation.

MR. FOPPIANO: Thank you.

MR. HOWARD: Thank you.

COMMISSIONER WEISS: I enjoyed it.

CHAIRMAN LEMAY: The problem is that your lawyer didn't have anything to do with the whole thing.

MR. FOPPIANO: We're not paying him enough.

CHAIRMAN LEMAY: I wouldn't pay him if I were -- Commissioner Bailey?

COMMISSIONER BAILEY: On page 28, if an offset operator complains that there could be excessive deviation, then the directional survey would be required and the offset operator would be required to post that $5000 indemnity bond?

MR. FOPPIANO: If I could address this, I apologize. The comment process that we went through, there were several comments related to this particular paragraph, relating to was the bond enough, who should pay for the survey based on the results? It was a hot button for industry.

And in the last 60 days the work group has met several times, and the version before you, the red line version, proposes to strike this paragraph out completely because, number one, no one's ever used it.

Number two, it's a hot button, apparently, and no one can agree on what it should say.

And number three, in our view it really doesn't take away authority of the Commission to order a directional survey if someone comes in and complains. In fact, in our view, eliminating that paragraph confers the discretion upon the Commission to decide if a bond is even required and, if so, how much, and then who should pay for it and all -- you know, all those kind of things, based on a case-by-case basis.

So the work group concluded that the best thing to do is just take that piece of it out.

COMMISSIONER BAILEY: If a deviation survey is not required, how would an offset operator know that there was a problem?

MR. FOPPIANO: Well, a deviation survey is required, deviation being a report of your angle from the vertical of your wellbore every 500 foot. That's required on every well that's drilled, unless you're going to drill it directionally, and then a directional survey is required. That's under the current rule, and that's in the proposed rule.

COMMISSIONER BAILEY: Okay --

MR. FOPPIANO: But addressing the question about where is the bottomhole location, most of us out there are drilling wells in a generally straight direction, so the presumption that the bottomhole location is the same as the surface location has kind of been an accepted approach to this problem, but there have always been some caveats to it which deal with what happens when your deviation gets excessive and what should we do about it?

And that's where we think the five-degree rule comes into effect. It says if you're getting outside this five degrees -- in other words, the angle of your wellbore is more than five degrees in any 500 foot -- that automatically triggers a requirement that you have to calculate the theoretical maximum point that that wellbore could be away from the surface location.

And then, if that is off lease, or if that extends to a portion that's off the lease, as you remember in the diagram, then that indicates a very slim possibility, but a possibility, that the wellbore could be off the lease. That's what triggers the requirement to run the directional survey. And then, of course, you know where the bottomhole location is.

And that's -- That seemed to be the most commonly accepted approach in other states, and we thought it was probably applicable here.

The other problem is that operators really don't want to run directional surveys on straight-hole wells unless they absolutely have to. They're expensive, they're time-consuming, and it's just -- you know, we feel like everybody's operating on the straight-hole rules with the same advantage, disadvantage.

And as Bill mentioned, if they want to pull it away to the bit and try to walk it up an anticline or through the top or whatever, they are going to go over their five degrees. And so they're probably -- They're going to trigger the requirements there.

CHAIRMAN LEMAY: Not the last trip they make before they get into the pay.

MS. WILLIAMS: And I'd like to say that -- I mean, all the surveys are filed with your completion reports, so all of that is public information that any operator could go check if they had any questions on it.

COMMISSIONER BAILEY: Good, thank you.

CHAIRMAN LEMAY: Just one quick one. I -- Administrative approval will also be granted under these new sets of rules for drain holes; is that covered at all?

MR. FOPPIANO: Drain hole, are you talking about a horizontal?

CHAIRMAN LEMAY: Well, for a number of horizontals, like -- I know we had some applications where -- Mike, maybe you could help on this one -- where they went in there and they took three or four drain holes off the same vertical. And that would be, maybe, a separate circumstance that wouldn't be covered by these.

MR. STOGNER: Interesting on that because, yeah, I -- actually before I came here I did a couple of those.

The way we envision that, we did discuss this, that's, of course, the short radius --

CHAIRMAN LEMAY: Short radius.

MR. STOGNER: -- horizontal draining holes, and there are numbers of them. Think of it as a root system.

CHAIRMAN LEMAY: Right.

MR. STOGNER: Or root system, I should say.

That would pull -- And this would be general enough that we could do that. If, let's say, you're in the center of the 40-acre proration unit and the wells were going to -- or the holes, the extent of the holes, were going to be within the proposed standard setback requirements, if they extend that or they believe they're going to extend that, then they can get an unorthodox location.

Now, let's say that one of the Districts, maybe something special with this particular application that that supervisor feels uneasy with. We've put in a portion within our rules that would allow them to come to the Santa Fe office for an administrative procedure to address those questions, and perhaps help them into setting up something, does this look like something that's going to be done in this particular pool? Is it going to kick off very well? So...

And I encourage them. Let's go up here, let's take a look at your special applications in this particular area. And then we can either do that here administratively -- and then we can say, Let's notify these offsets if something's wrong, or let's notify some affected party that we see fit.

Now, let's say -- and we can even have it go to hearing. That would then help the supervisor say, Well, we had this application, we had it go administrative, we notified all offsets, the first two, nobody had a problem with it. Does this make you feel more comfortable? And then perhaps go on out.

We feel that the rules are general enough to allow for that and, in fact, encourage it. But yet it would still -- That hole would be considered a hole and would then be affected by all the requirements here, herein -- in the application.

It was one of those things that, also, in that particular aspect, we don't regulate fractures. I even told somebody one time, why don't you go to some other state in the south and just say you're going to do some sort of a fracturing mechanism with a drill bit, and maybe they'll buy it, where you don't have to, but don't try it here. And...

But we feel that the rules the way we've got them would address that issue.

CHAIRMAN LEMAY: Okay, Rick?

MR. FOPPIANO: I need to add one more thing to make sure the record is clear.

If I could direct your attention to page 7 of the proposed changes, with the red lines on them -- I'm not sure what exhibit that is.

MR. STOGNER: 2A.

MR. FOPPIANO: 2A? I wanted to just briefly touch on a couple of additional changes that the work group is suggesting that resulted from comments from industry and the OCD.

I think right there you'll see under D.1 -- D.1 is eliminated, or it's struck through. That's the point I was -- when I was addressing Commissioner Bailey's question about what is this section, you know, I said we recommend that it be struck out.

New paragraph (1) has some language in there that says the directional surveys shall have the shot points less than 200 feet apart and shall be run by competent surveying companies that are approved by the Division Director.

The reason why that was suggested -- it was suggested by another company and the work group didn't have any objection to it -- is, it became apparent through our research that there are old and obsolete tools that can be used to run directional surveys.

It is also a very technical science, in terms of calculating the departure and applying corrections, making sure the instruments are calibrated. In short, there's a lot of expertise involved in running a directional survey.

And so the suggestion was, let's make sure that operators know they have to use competent surveying companies.

And the minimum shot spacing, 200 foot -- I understand generally what is used is 100 foot. It's like you pull a stand of drill pipe, and then you'll take a picture on your multi-shot tool. So two stands of drill pipe is about 200 feet. So, you know, that's not -- having that as a minimum spacing pretty much covers everything that's going on now.

But it does say, just like deviation tests, for accuracy's sake it's got to be at least every 200 foot. Because if it's every 500 foot, the directional survey is less accurate.

And so the intent there was, based on comments from industry, was to put some language in there addressing the quality of the directional surveying company that you're using. And that might not be, you know, acceptable to the Commission to approve -- require that these survey companies be approved.

But it is a practice in an adjoining state, and it has worked real well. And the idea there is, well, if these companies are approved in other states, you might just reciprocate so it wouldn't be a big problem.

So that was the intent there, was to try to specify some -- get our arms around, really, some minimum accuracy standards.

And then new paragraph (2) there, the language where it has a new process in there, is the process where the District Director -- or, excuse me, District Supervisor, can throw an application up to Santa Fe, and the contents of the application, the notice that will be required, all will be determined by the Division based on the circumstances presented to them. And we thought that was a very reasonable conclusion, just deal with it on a case-by-case basis.

That's all I've got.

CHAIRMAN LEMAY: Okay, does that --

MR. FOPPIANO: That concludes --

CHAIRMAN LEMAY: -- conclude your presentation?

Your -- Frank, do you have something?

MR. CHAVEZ: I just have a question, if you're ready, when you're ready.

CHAIRMAN LEMAY: Yeah, please, go ahead.

MR. CHAVEZ: Frank Chavez, OCD Aztec.

First of all, I do want to thank the study

Committee for promoting us to supervisors.

CHAIRMAN LEMAY: Yeah, I thought that was neat too.

MR. CHAVEZ: I have a question for Mr. Foppiano, just to clarify an issue on the C-102 filed.

Under the proposed rule, the operator is still responsible for consolidating the acreage through force pooling or unitization. Prior to -- And you show that on the C-102; isn't that correct?

MR. FOPPIANO: That's our understanding, yes.

MR. CHAVEZ: So that --

MR. FOPPIANO: You described it better than I did.

MR. CHAVEZ: Okay. So that obligation, that burden, is still on the operator. And all that the C-102 does is, for the purposes of OCD administration, show the acreage is dedicated and certifies that the acreage is in some way consolidated?

MS. WILLIAMS: Yes.

MR. FOPPIANO: That's our understanding, yes.

MR. CHAVEZ: Okay. And as far as deleting the portion where an offset operator could request a survey, you're saying basically that the mechanism is already available through the hearing process for an operator who feels that their correlative rights may be violated by a well and they could use the hearing process, then, to get some type of relief or request it?

MR. FOPPIANO: Yes, in both sections relating to deviated wells and directional wells, there's general language which says the Division Director can order a directional survey, for whatever reason.

And I guess if I was going to complain, my vision would be that that's where I would come to the Division and say under the terms of Rule 111 and those -- You have that discretion, here are the reasons why we believe you should order a survey, and basically present my evidence and facts and let that issue -- let all the issues related to that complaint be decided either informally through the parties or through a contested hearing or whatever.

But I guess we feel like there's plenty of discretionary rule language in both sections to deal with that situation.

MR. CHAVEZ: Okay, that's all I have.

CHAIRMAN LEMAY: Thanks, Frank.

Any other questions, maybe at the panel here?

Bill, Jami?

COMMISSIONER BAILEY: I have a question for Lyn. If you could check to see potential problems, discrepancies between Rule 507 and the elimination of hearing. Thank you.

CHAIRMAN LEMAY: Okay. I think Mr. Cate had a statement or -- from Enron or --

RANDALL S. CATE,

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

DIRECT TESTIMONY

BY MR. CATE: Yes, I do. Thanks.

I also have -- We're going to propose some language. And I apologize, we weren't able to get it to the industry Committee in time for them to really digest it and adopt it, and we're hoping that they've got their copies now and maybe this could -- if the Commission and the Division would -- likes the idea of this proposal, that it could be incorporated into these rules.

Number one, we have a letter here that does support -- showing that Enron does support the efforts of the industry Committee and the proposed rule changes to Rule 111 and that if the Commission chooses to adopt as you've seen presented here today, that Enron does support that. And we think that it does go a long way to simplify and eliminate unnecessary requirements of both NMOCD and the industry and yet does protect correlative rights and prevent waste.

We do have one recommendation that I would like to take a short amount of time to get into very quickly, and it's concerning the specific incidence of utilizing and existing an existing wellbore for the purpose of a directional drilling, and we didn't -- We think that this is going to occur quite frequently.

And actually, Commissioner Bailey has been hitting on this subject, that the problem that we see that could happen is one of a regulatory burden, and that is, you do not know exactly where your bottomhole location is until you do run a directional survey.

Your deviation surveys that you are required to run for a vertical or deviated hole tell us the cumulative displacement. And we believe that we will be re-entering and using a lot of these wellbores, because the first thing you'd have to do if you're going to kick it off and make a directional or horizontal wellbore is to find out where that bottomhole location is so that you can properly pick your kickoff point.

So now I run the survey, I find out -- if you look at this little drawing here, and if you'll consider this interior rectangle as a minimum setback, well, you can see that 75 percent of the time I'm probably going to be unorthodox. It might only be three, four, ten feet, who knows?

But just assuming that a -- And a well will generally, when it drills, it corkscrews, it does this, unless you're on a shelf-margin area, then you might actually have to get in there and try to fix that. But -- You can put bottomhole assemblies and all.

But for these certain instances of wells that the surface location is drilled on a minimum setback, we believe that chances are, 75 percent of the time you'll find that you are unorthodox in some and hopefully small measured displacement. And down here, this producing area is what we call an orthodox area.

And to encourage the use, or perhaps not discourage and penalize an operator for wanting to use a wellbore that already exists, we would ask that the Commission consider some leniency or tolerance, as long as the operation has proven that you're heading back to your orthodox producing area, and you're doing it within a specified area.

Now, the reason we came up with 100 feet, it is somewhat arbitrary, although in our experience when you take cumulative displacements -- and generally they will increase, the deeper you go, because you've got more hole and so on, more subsequent potential for a higher displacement calculation. But...

We chose 100 feet as somewhat arbitrary, but we have seen that most of the wells should fall within a 100-foot radius of the surface location, unless there was a major problem. And in that case, they should have run the directional survey.

Chances are, this well has already been produced, where it bottomholed in the producing interval, it's already been producing, it's considered an orthodox wellbore.

And so what we're asking is that some leniency or tolerance be given to this type of situation to allow the operator to utilize the wellbore, re-enter and kick it off.

Now, when a well has casing in it, it's produced out of the interval of interest, then you are limited to what you can do as far as -- you can't re-run another string of casing. If you've got 4-1/2- or 5-1/2-inch, that's pretty much it. You're confined to what we call a short-radius turn to make your directional hole and then kick your lateral off. Okay?

And the reason that you can't go way above it, because if you don't get another string of casing to set, is, you might be up in shale, it will slough in. You highly increase the chance of losing your hole.

So again, this will encourage, particularly wells that have casing run, that we can utilize these wellbores and not suffer a potential penalty or delays of up to, you know, six months, if the offset wants to just drag out the regulatory process.

We ran -- if you'll look at this page -- the subsequent page is -- we -- Everybody that drills horizontal wells has these programs that calculate your azimuths, you can put in any basic wellbore plan that you desire. And what it does, it tells you, it warns you of the potential problems.

The example that we're using here is a 5000-well TD, and now we want to drill a horizontal later. We found ourselves, after running our directional survey, 100 feet out, which is probably the most we're going to see.

And so at that point, if we don't have this leniency, we basically have to shut down our entire operation. You cannot really plan for -- to go ahead and get your rig in there with your tools and all, because one foot out, which will be 75 percent of the time, is unorthodox, and now we've got to go through this whole process.

So it would be a tremendous aid to go ahead and allow us, as long as we know that we have -- we are going to penetrate the producing interval, albeit unorthodox, closer than the girth of the well was in the first place, and correct the problem back to the orthodox producing area within a mechanically tolerable area here. And what that would be is approximately 600 feet in this example.

And what we did was a short-radius turn here.

And if you look at the number, the bold number under "dog leg" at the bottom of the page, it's five degrees. That is the maximum recommended dogleg tolerance when you need to drill a horizontal lateral.

And really, even a vertical well. If you had more than five degrees, then you are putting yourself at risk of not achieving the total distance, because now you're crimping the well, the tools, the drilling collars, anything that has to go down through there, you've created a crimp. So you've got to make these on a relatively smooth curve and stay below the five-degree dogleg.

And that's what this example shows you, and that's why we patterned it after this example. And again, we are simply concerned with, as long as the horizontal or directional lateral penetrates the producing interval within 100 feet, comes back within the producing area with 600 feet of measured depth, and then the remainder of the lateral stays within the orthodox or producing area, we would ask that that be considered, for all practical purposes, as an orthodox wellbore.

The benefits -- again, it conserves resources by -- and encourages the use of existing wellbores. We believe there's going to be a lot of these cases. Again, it will eliminate a two-to-six-month regulatory interruption possibility of the drilling operations, due to the fact that 75 percent of the time you're probably going to be several feet out of -- or up to a hundred, maybe.

And then again, the portion of the lateral that is outside the producing are, in all likelihood, would have been entirely within a drainage area of that vertical well, and so there really is not correlative rights issue as we see it. And that really is our recommendation. The language that we -- as you can see, would be 111.C.(5), which is an additional paragraph. We are by no means -- have pride of ownership on this. If you want to put it back to the Committee to write it better, by all means, or if the Division can come up with better language.

But this is the general idea that we're trying to put across, and we believe that language of this type would help satisfy what we believe would be a fairly frequent occurrence.

If you have any questions.

CHAIRMAN LEMAY: Well, I'd like to first turn it over to the work group and have their comments on this.

MR. FOPPIANO: Chairman LeMay, I think I speak for the work group. We really have not had a chance to go through this and talk about it as a group, so at this point we really don't have any reaction to the proposal, as a group.

CHAIRMAN LEMAY: Yeah. It's a shame you couldn't have come up with this in a very timely manner, because --

MR. FOPPIANO: They tried --

CHAIRMAN LEMAY: -- you know, I --

MR. FOPPIANO: -- believe me.

CHAIRMAN LEMAY: Yeah, our process is such, we try and encourage this kind of input at the proper time, which naturally -- when the group is formed and throughout the --

MR. CATE: Yes. It's a fairly new -- for Enron. We have done a few wells in Texas now. We're getting up the learning curve. We did respond to Michael Stogner's invitation on the memorandum that came out. And so it took us a little time to get up the learning curve and fully understand all of the rules.

And so this was one of these considerations that we found ourselves wanting to put forth. And I am sorry that it wasn't on time. I wish it could have been, so...

CHAIRMAN LEMAY: Your intent was to present this here for consideration. You mentioned something about next month. What was your time schedule for consideration by the Commission, I guess?

MR. FOPPIANO: Actually, I think several of us have applications we have on our desk, so the -- We, of course, would like, if the Division, or the Commission, doesn't have any problems with what we've proposed, certainly industry supports it, and we would like to move ahead with it as quickly as possible. And, you know, that would be our preference.

And particularly if the version before you was acceptable -- And Enron's suggestion, I think the language they have presented, if the Commission felt like that was reasonable, could actually just be added in as another paragraph, that wouldn't be any problem at all, and still, you know, be ready for adoption in May.

CHAIRMAN LEMAY: If we left the record open for ten days, could you submit a comment as a group on Enron's recommendation?

MR. FOPPIANO: I believe we could do that.

CHAIRMAN LEMAY: Because I guess -- It's hitting you cold. Is this the first time you've seen it today, when they --

MS. WILLIAMS: Yes.

CHAIRMAN LEMAY: -- came up with it? Okay, we'll give you some digestion time. We'll leave the record open ten days for comments on that. I think, since it's your product, it would help to have your comments on a new proposal.

Yes, sir, Mr. Stogner?

MR. STOGNER: Mr. Chairman, in light of what Mr. Foppiano's -- wishing not to ask any questions, I'm going to put another hat on --

CHAIRMAN LEMAY: Sure.

MR. STOGNER: -- as a regulatory representative.

This particular example that you show, was the surface location at a standard location, as shown within -- what, the -- just barely the corner tolerance?

MR. CATE: Yes, we're saying it was drilled at the minimum setback, right at that corner tolerance, yes.

MR. STOGNER: Okay. Now, was this a well in New Mexico or Texas, or where --

MR. CATE: No, this is one of the -- hypothetical example. But I know Enron, most operators, possibly not in units or projects, but we tend to drill the minimum setback that's required. That's a fairly frequent -- I think that's common practice, and that's why we're showing this as an example.

MR. STOGNER: Okay, let's take a look at your example here, and let's put you on the other side of that horizontal line and put me on this side. And this situation occurred. You would feel comfortable if you had some wells over there that were producing their allowable and I had a well that I knew was 100 feet closer to you, you would not want to know that? Enron would not want to know that?

MR. CATE: Well, I think we believe that 100 feet is probably the maximum that we're going to find, when you finally do go in these vertical --

MR. STOGNER: I didn't ask that. Would you be comfortable with it --

MR. CATE: I think so.

MR. STOGNER: -- if somebody was 100 foot closer to you?

MR. CATE: Yes, yes. We have worked through that, we believe we have -- Number one, they are not going to get any -- this example would not have a higher -- you mentioned that this -- We're producing top-allowable wells, and in this example they will not get the competitive advantage by being able to produce at a higher allowable. They will have to penetrate the next spacing unit over in order to be able to qualify for a higher allowable on a single well versus our well.

Hopefully we would either respond with the same type of situation and drill a horizontal lateral that is along the minimum setback. Again, we anticipated in a lot of these cases, that well will have been produced from this interval as a vertical wellbore.

And now to come back and head toward a more orthodox location, we just -- we don't see a change or an effect or an advantage on correlative rights.

MR. STOGNER: Okay, in your situation that you talked about, that you recognize.

But how about if that's not the case in all instances? Maybe somebody wants to come in and drill a horizontal wildcat. It has been done.

MR. CATE: Yes. But generally, you know from the surface to the end of the well where you're at. There's really no -- I mean, you're in control of that wellbore and where you guide it through the use of directional surveys from surface to the terminus.

And again, what we're saying is, to encourage the use of existing wellbores that don't know exactly where they're at. Otherwise, we feel most of the existing wellbores will fall unorthodox, and we'll all be coming in to the Commission, possibly, quite frequently.

MR. STOGNER: Well, isn't this a requirement now, that you'd have to get an unorthodox location request?

MR. CATE: This one is. Had it been within 50 foot, it would not have been.

But again, this is with the intent to directionally drill, and that will require -- So you're right, the rules as proposed would have said anything outside the producing area is considered unorthodox.

But we don't believe that a situation like this, that the potential for correlative rights impairment or infringement is very, very negligible compared to the benefits of being able to utilize existing wellbores.

MR. STOGNER: Of course I get a freedom here of not only asking questions here but also offering --

CHAIRMAN LEMAY: You can answer your own questions.

MR. STOGNER: When I put this group together, this is one of the things we wanted to show everybody, is that whatever example you come up with, I guarantee you there's about a hundred other variances. And of course, to meet everything.

This particular item, in which is suggested as a regulatory person who has to abide by the rules and regulations, protect correlative rights, I'm going to suggest and probably go to the recommendation of the Committee that we might adopt it, this is just too much of a leeway for the correlative rights issue, without giving notification.

It's not that big of a deal to get an unorthodox location, even in the horizontal applications that we have had.

I say, Well, what kind of window do you want? Do you want the standard window or do you want to get away from it and get something else? I've even authorized some ten feet from the line, administratively, and which Mr. LeMay has signed, there again, giving everybody the opportunity.

We are encouraging the use of existing wells, and I believe our 104 applications allow for that. There's just -- if we start giving the leeway on something like this, on correlative rights, it could lead to something else.

And somebody does have a potential to come in and say, You weren't protecting my correlative rights by allowing this 100-foot variance.

At least that's my recommendation. There again, I'm sure since the Committee will have an opportunity to voice its concern, that is just my opinion and my opinion alone at this point.

Thank you.

CHAIRMAN LEMAY: Okay. Well, we like to have that kind of input.

Obviously, you know, the problem with this is, there hasn't been a lot of opportunity for other people to comment on your proposal. That's a big disadvantage of it. We could have put it out, you know, in draft form for other comments, had we known what was coming. But in the absence of that, I think you raised --

Let me raise one more point with your recommendation. You're using the word "penetration point". So if you're going to penetrate the formation within 100 feet of what would be the orthodox window, you're saying allow that, as long as you're going the right direction; is that right?

MR. CATE: Yes, sir.

CHAIRMAN LEMAY: What about, rather than "penetration point", how about "producing interval"? Would you have to perforate that portion of the penetration between where you perforate -- or -- There again, you're probably speaking open hole, so maybe I'm -- If this is open hole, you don't have that kind of leeway.

MR. CATE: I think that -- Maybe I misunderstood. The definition, I think, of "penetration point" is the point at which it penetrates the top of the pool --

CHAIRMAN LEMAY: Yes.

MR. CATE: -- in which it is intended. I guess I took that as kind of equivalent to the producing interval.

CHAIRMAN LEMAY: Well, it could be in terms -- I just found out here that most of those intervals is open hole, so it would be.

If you're running casing in that deviated wellbore, then you could control where you perforated, you could be orthodox as far as your perforations go. That was my point.

MR. CATE: We -- Again, we appreciate the ten days to hear what the Committee would have to say. And again, Enron will support these rules without this change. We do support adopting them as proposed by the Committee today.

CHAIRMAN LEMAY: Commissioner Weiss had something.

COMMISSIONER WEISS: Yeah, if I understand you right, what you're looking for is a grandfather clause for unorthodox wells that nobody knew about.

MR. CATE: Basically, I think that's right.

COMMISSIONER WEISS: And you don't generally drill a horizontal lateral or anything until it's depleted, right?

MR. CATE: Not true. Now, a lot of instances, we are finding we drilled, let's just say, a carbonate well at 10,000 feet, and the well's only capable -- we put acid on it, we've encountered 50 foot of tight rock, it's only capable of 200 MCF a day.

Well, the horizontal is going to be a great way to now encounter more reservoir and make an economic well out of something that wasn't.

COMMISSIONER WEISS: Well, how long is your example here? How long has that well been vertical, producing, has your vertical well -- Is that years, months? In my mind --

MR. CATE: I'm not sure, maybe just since the completion paper's been filed, or it was dryholed possibly, just --

COMMISSIONER WEISS: Uh-huh. Yeah, I wasn't thinking that way, okay.

MR. CATE: Because again, the intent of drilling a vertical well is not to spot a certain direction; the intent of a directional well is. And that's why we were asking for some leniences on using these wellbores. And once we find out, I think we'll see that most of them are slightly unorthodox.

COMMISSIONER WEISS: Well, if they're new, that might provide incentives not to crowd the lease line so much, huh?

MR. CATE: We already tried.

COMMISSIONER WEISS: Thank you.

MR. CATE: Thank you.

COMMISSIONER WEISS: I wasn't clear about that.

CHAIRMAN LEMAY: Anyone else have anything?

Okay, let's -- We'll leave the record open for ten days for comments. And as far as the working group, you don't have to be unanimous on your comments.

We recognize that -- we're not saying -- I mean, the Commission will make the final decision, but you all put a lot of work and deserve a lot of credit for a fine job, and therefore we definitely want to have your input as to the final rules, collectively agreeing or disagreeing with reasons why you do either.

MR. FOPPIANO: Well, we decided early on we would only proceed with consensus, agreement on -- because actually OXY had an idea for something that was a little more radical and it didn't fly past Texaco, so...

But we agreed early on that we would only present a consensus view, and if individual companies, if we wanted to carve out and -- you know, like Enron or others and say, Here's some suggested revisions, then we would do that individually.

But as a group we only moved forward on consensus.

CHAIRMAN LEMAY: Well, but it's kind of out of your hands now. I don't mean to be critical in that comment, but since we're the considerating -- we'll consider it now --

MR. FOPPIANO: Right.

CHAIRMAN LEMAY: -- it will help us, if you do have a divergent view, to have both of those arguments presented to us.

So you don't have to just present your unanimous vote on it, so to speak.

MR. FOPPIANO: Okay.

CHAIRMAN LEMAY: We're looking for the reasons for acceptance or rejection of the Enron proposal.

So we appreciate that.

Anything else?

If not, we'll take the case under advisement. Thank you very much.

MS. WILLIAMS: Thank you.

MR. FOPPIANO: Thank you.

MR. HOWARD: Thank you.

(Thereupon, these proceedings were concluded at 12:53 p.m.)

* * *

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) 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 April 21st, 1997.

STEVEN T. BRENNER
CCR No. 7

My commission expires: October 14, 1998