

NEW MEXICO OIL CONSERVATION COMMISSION

COMMISSION HEARING

SANTA FE, NEW MEXICO

Hearing Date APRIL 9, 1986 Time: 9:00 A.M.

NAME	REPRESENTING	LOCATION
Kevin Pfister	Monsanto Oil Co	Midland TX
Karen Kuback	Kellco - Kelloban	Santa Fe
Ernest L. Padilla	Padilla & Snyder	SF, NM
Richard W. M. Skelton	Commissioner of Public Lands	S.F., NM
Gene Weber	Monsanto Oil Co.	Midland TX
John F.
Tom WRIGHT	"	"
Robert H. Lape	NEW MEXICO POTASH Corp	HOBBS
...	NMOC	HOBBS
W. J. Kelloban	Kelloban & Kelloban	Santa Fe
...	...	HOBBS
Amy C. Squires	...	HOBBS
...	AGUA	HOBBS
R. W. ...	AT	HOBBS
JANCO, THOMSON	AGUA	HOBBS
David P. ...	AGUA	HOBBS

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NAME	REPRESENTING	LOCATION
Bob Hulme	Byram	Santa Fe
John Robie	Nimble Law Firm	Santa Fe
William A. Jan	Campbell and Esch	Santa Fe
David Boyer	NM OCS	Santa Fe
Bill Morris	Monsanto Oil Co	Midland TX
Sue E. Unshier	CULRAM, INC	Albany, NM
Peter K. Jones	Campbell & Blank	SF, NM
P. Decker	SLO	SF NM
Francis R. Cherry	BLM	Roswell NM
Tom Kelly	Petroleum Central	Albany
Michael E. Suggs	OCS	Santa Fe
R. Enfant	Self	"
Eddie Seay	OCS	Hobbs

A P P E A R A N C E S

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For EPNG Co.:	W. Perry Pearce Attorney at Law MONTGOMERY & ANDREWS P. O. Box 2307 Santa Fe, New Mexico 87501
For BCO, Inc.:	Ernest L. Padilla Attorney at Law PADILLA & SNYDER P. O. Box 2523 Santa Fe, New Mexico 87501

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E X H I B I T S

Division Exhibit One, Proposed Rules and
Regulations

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We will now go ahead and call Case 8735, application of the Oil Conservation Division on its own motion to require Division approval of all commercial and centralized pits in the San Juan Basin.

This is the continuation of a case which was called at the last Commission hearing.

MR. TAYLOR: May it please the Examiner, my name is --

MR. STAMETS: How about Commissioner?

MR. TAYLOR: I mean the Commissioner, my name is Jeff Taylor, Counsel for the Oil Conservation Division.

I believe you misstated the number of that case. I've got it as 8835.

MR. STAMETS: I'm sorry, 8835.

MR. TAYLOR: And we have one witness who needs to be sworn.

MR. STAMETS: Is this a new witness or the same one that was sworn last time?

MR. TAYLOR: The same one that testified last time.

MR. STAMETS: Fine. We will not have to re-swear Ms. Bailey.

1 Are there any new appearances
2 in this case?

3 MR. PADILLA: Mr. Commissioner,
4 Ernest L. Padilla of Santa Fe, New Mexico, for BCO, Inc.

5 MS. AUBREY: Mr. Commissioner,
6 Karen Aubrey with the law firm of Kellahin & Kellahin, re-
7 presenting Tenneco Oil Company.

8 We have no witnesses today.

9 MR STAMETS: Thank you.

10 Oh, before we begin, too, I'd
11 like to introduce our new Chief Engineer, Vic Lyon, and ask
12 that those of you who are presenting exhibits today be sure
13 Mr. Lyon gets a copy so that he can assist the Commission in
14 its work today.

15
16 JAMI BAILEY,
17 being called as a witness and having been previously sworn
18 upon her oath, testified as follows, to-wit:

19
20 DIRECT EXAMINATION

21 BY MR. TAYLOR:

22 Q Would you please state your name, employ-
23 er, and job description for the record, please?

24 A I am Jami Bailey with the Environmental
25 Bureau of the Oil Conservation Division here in Santa Fe.

1 Q Ms. Bailey, have you testified previously
2 before the Commission or its examiners and had your qualifi-
3 cations accepted?

4 A Yes, I have.

5 MR. TAYLOR: Mr. Commissioner,
6 I tender the witness as an expert.

7 MR. STAMETS: She's still qual-
8 ified.

9 Q Ms. Bailey, would you please explain to
10 the Commission, identify and explain for the Commission what
11 Exhibit One is in this case today?

12 A Exhibit One are propose special rules and
13 regulations governing the disposal of produced water, drill-
14 ing fluids, drill cuttings, and completion fluids at commer-
15 cial or centralized pits, utilizing ponds, pits, or below-
16 grade tanks within McKinley County, Rio Arriba, Sandoval,
17 and San Juan Counties.

18 That was commercial or centralized facil-
19 ities.

20 Q Ms. Bailey, you testified as the previous
21 hearing regarding the proposed rules and regulations for
22 disposal of produced water. Would you explain the differ-
23 ences in the proposed rules which were presented today and
24 those which were presented at the last Commission hearing; I
25 believe February 26th?

1 A Yes. Beginning with Rule 1. Applicabil-
2 ity.

3 This rule now includes drilling fluids
4 and drill cuttings as items disposed of at commercial or
5 centralized facilities and they are also carried into the
6 subsequent rules.

7 At this time I would like to recommend
8 elimination of Rule 2 because that topic is essentially
9 covered in Rule 4, as well as in our general rules.

10 Rule 3 includes the definitions for
11 drilling fluids and drill cuttings. Rule 3(d) is the defin-
12 ition for drill cuttings and Rule 3(e) is the definition for
13 drilling fluids.

14 Rule 4(c) was changed May 1st instead of
15 April 1st.

16 Rule 5 now has the clarification of the
17 types of waste which may be received at commercial facili-
18 ties, enumerating produced water, acides, completion fluids,
19 drilling mud, et cetera.

20 Parts of Rule 6 were completely changed
21 and now there is a presentation of three options for the
22 Commission to consider.

23 Rule 6(a) is essentially the same as it
24 was but Rule 6(b) now requires OCD to notify applicants of
25 proposed centralized facilities within thirty days of re-

1 ceipt of a registration form, whether they will need to pro-
2 vide additional information.

3 On March 18th we had a meeting with mem-
4 bers of the Long Term Produced Water Study Committee and re-
5 ceived some valuable input from industry representatives.

6 Option 1 was presented at that meeting by
7 industry representatives. It provides a scoring mechanism
8 in which pits are rated according to the daily volume, the
9 TDS quality of the produced water, and depth to groundwater.
10 Only pits that receive exclusively produced water would be
11 eligible for using the rating scheme.

12 All other centralized pits, except pipe-
13 line drip pits, would automatically have registration forms.

14 The Division retains the prerogative of
15 requiring registration forms for pits in which the location,
16 discharge, or other factors, may provide inadequate protec-
17 tion of groundwater. Each category, volume, quality, and
18 depth to groundwater, have scores ranging from 1 to 5 with
19 the least hazardous factors receiving the lower scores.

20 Rule 6(d) is identical in all the options
21 and provides that off-site pits that receive produced water
22 under emergency water flow drilling conditions are exempt
23 from filing a pit registration form provided that a pit is
24 not located within a water course or that the base of the
25 pit is greater than 10 feet above the water table.

1 The rule is now written and further pro-
2 vided that should such emergency conditions persist for a
3 period in excess of ten days permission to continue disposal
4 into such pit shall be sought from the Aztec District of-
5 fice.

6 I would suggest at this time that that
7 portion of the rule in all options be changed to read "and
8 further provided that permission to dispose into such pit
9 shall be sought from the Aztec District office".

10 That way the Aztec Office knows from day
11 one that off site pits are being used for emergency disposal
12 from drilling operations.

13 Option 2 of Rule 6 is exactly the same as
14 Option 1 except for the numerical rating that the volume and
15 the depth to groundwater categories.

16 At the Long Term Produced Water Study
17 Committee Meeting the ratings were presented as suggestions
18 or starting points and it was understood the Division would
19 study them and suggest modifications for the ratings.

20 Under both Option 1 and 2 pits that
21 scored 10 or less are exempt from the initial registration
22 process.

23 Under Option 1 a pit 11 feet to ground-
24 water could receive 50 barrels a day of 10,000 TDS water and
25 be exempt from filing a pit registration form.

1 Under Option 2 that pit that receives 50
2 barrels a day of 10,000 TDS water and is 11 feet to ground-
3 water would be registered. Only the ratings for volume and
4 depth to groundwater were changed.

5 Option 3 --

6 MR. STAMETS: Excuse me.

7 A Yes.

8 MR. STAMETS: On Option 2 what
9 was the -- what was the volume again?

10 A That was 50 barrels a day of 10,000 TDS
11 water 11 feet to groundwater.

12 MR. STAMETS: That was, I'm
13 sorry, I thought that was Option 1.

14 A Under Option 1 that pit would not be reg-
15 istered.

16 MR. STAMETS: Okay.

17 A Option 2, the pit would be registered.

18 MR. STAMETS: Okay.

19 Q And I assume, Ms. Bailey, that it's your
20 feeling that Option 2 in that situation is preferable be-
21 cause it would require the registration of a pit that you
22 see as a potential problem.

23 A There could be a potential problem to
24 fresh water with those circumstances.

25 Q Okay, please continue.

1 A Option 3 is an OCD proposal that
2 eliminates the need for all the calculations. It's simple
3 and easier to understand.

4 This option gives a flat 16-barrel per
5 day exemption for disposal of only produced water at
6 centralized facilities provided that the pit is not located
7 within a water course or is not within 10 feet to groundwater.

8 This 16-barrel per day exemption is
9 consistent with Order Number R-3221, which regulates pro-
10 duced water disposal in Lea, Chaves, Roosevelt and Eddy
11 Counties in southeast New Mexico.

12 It is a figure which is already
13 established for accountability of volume and it is also
14 consistent with Option 2 concentrations up to 5000 TDS.

15 Both Option 2 and Option 3 would be good
16 mechanisms for operators to decide if a centralized pit that
17 receives only produced water needs to be registered.

18 Option 2 takes into account the major
19 factors involved in a first glance at evaluation of the
20 impact to the pit on groundwater and I appreciate the effort
21 of the industry members on which this option was based;
22 however, in order to accurately use the rating scheme, the
23 operator must know the highest TDS of all sources of
24 produced water and the depth to groundwater, figures which
25 may not be readily available on all centralized pits in

1 northwestern New Mexico.

2 An added burden may be added to the oper-
3 ators if either of these options is adopted.

4 Option 3 eliminates the need for that
5 type of research and the possible confusion that the rating
6 scheme could generate. In Option 3 the operator only needs
7 to know the maximum daily disposal for the centralized pit
8 and the OCD feels that the volume of 16 barrels, which es-
9 tablished for southeast New Mexico and is equivalent to one
10 barrel from each 40-acre tract in a fully developed section,
11 is a reasonable cutoff figure for required filing of a pit
12 registration form.

13 In areas where that volume could present
14 a threat to groundwater, the OCD retains the option of re-
15 quiring that a form be filed within 30 days notification.

16 To continue with the changes in these
17 proposed rules, Rule 7 has been changed in its wording but
18 essentially carries the same requirements as it did at the
19 previous hearing.

20 Rule 7(b) now outlines the criteria which
21 the Division will determine whether the facilities may pre-
22 sent a threat of groundwater contamination, and Rule 7(c)
23 outlines the procedure to be used by the Division if facil-
24 ity use may threaten water supplies.

25 To summarize this procedure, the pit

1 registration form is filled out, then additional information
2 is requested.

3 Third, the Division notifies the owner-
4 operator of its specific concerns and invites them to con-
5 sult with the Division to initiate the changes we feel are
6 necessary.

7 Rule 7(d) states that upon a showing that
8 the facility does not present a hazard to fresh water, the
9 Director will administratively approve the facility, and
10 Rule 7(e) states that if no agreement is reached, the Divi-
11 sion will issue a second notice specifying the potential
12 threat to fresh water.

13 The operator may then request a hearing
14 within thirty days.

15 Q Ms. Bailey, would you now summarize the
16 reasons why these rules are necessary and the rule of the --
17 out of the three options, the one that is preferred by the
18 Division and why?

19 A Yes. First off, the Oil Conservation
20 Division and Commission is required to regulate the disposi-
21 tion of water produced or used in connection with drilling
22 for or producing of oil or gas, or both; and to direct sur-
23 face or subsurface disposal of such water in such a manner
24 that will afford reasonable protection against contamination
25 of fresh water supplies as designated by the State Engineer.

1 There is much production of crude oil and
2 natural gas in northwestern New Mexico that is accompanied
3 by the co-production of produced water. Completion fluids,
4 particularly salt solutions, brines and acids may contain
5 high concentrations of chlorides, a highly mobile contaminant
6 of fresh water, and other constituents that can increase
7 TDS beyond acceptable levels.

8 Waste fluids disposed of in unlined pits
9 transport any included dissolved contaminant load into the
10 subsurface.

11 The relatively greater volume of fresh
12 water contaminants found at commercial and centralized disposal
13 facilities presents the potential for the greater volume
14 of contaminant movement into the subsurface and fresh
15 water supplies.

16 The Division seeks to prohibit and/or
17 limit disposition of oil field related fluids at such facilities
18 as may be necessary against contamination of fresh
19 water supplies. In order to afford reasonable protection
20 against contamination of fresh water supplies as designated
21 by the State Engineer, the disposal or storage of produced
22 water, drill cuttings, drilling fluid or completion fluids
23 at commercial or centralized surface collection or disposal
24 facilities in any unauthorized pit, pond, lake, or depression,
25 or in any stream bed, arroyo, water source, or in any

1 other place or in any other manner, such facilities which
2 may constitute a hazard to fresh water supplies, should be
3 prohibited.

4 OCD Order Number R-7940 requires surface
5 disposal facility approval for produced water removed from
6 or disposed of or stored in the defined vulnerable area of
7 the San Juan Basin, but no method exists for reporting the
8 disposal locations for produced water regulated by that or-
9 der.

10 In addition, the situation can occur
11 where produced water from the vulnerable area is disposed of
12 or stored in an approved pit side by side a pit not requir-
13 ing approval and receiving produced water and other oil
14 field fluids from outside the vulnerable area. This situa-
15 tion is undesirable in that it does not provide the same de-
16 gree of protection to fresh water under equivalent condi-
17 tions.

18 The Oil Conservation Division does not
19 have sufficient staff to assure that nonapproved facilities
20 are not receiving produced water from the vulnerable area.

21 The presence of crude oil presently found
22 on the surface in many produced water pits indicates the
23 possible waste of oil. The required use of skimmer ponds or
24 tanks at approved commercial evaporation pit facilities
25 would prevent the waste of oil. The availability of county

1 landfill lagoons for produced water disposal is limited. To
2 assure that produced water, drill cuttings, drilling fluids,
3 and completion fluids which may be trucked or otherwise
4 moved out of an area are not disposed of or stored in the
5 manner which represents a threat to fresh water, all commer-
6 cial disposal or collection facilities should be approved
7 and appropriate centralized disposal or collection facili-
8 ties should be registered and when necessary, approved.

9 Q Now, Ms. Bailey, the second part of the
10 question was which of the options does the Division prefer
11 and why is that a preferable option?

12 A The Division prefers Option 3, which
13 gives the flat 16-barrel exemption for centralized surface
14 disposal or collection facilities.

15 That option is preferable because it is
16 simple. It is obvious. It requires no extraordinary efforts
17 on the parts of the operators to determine what the depth to
18 groundwater is, what the TD -- TDS is of the highest -- the
19 highest TDS of all sources of fluid to that pit. It is sim-
20 ple in that they only need to know the volume which goes in-
21 to that pit on a daily basis at the highest daily rate.

22 It eliminates confusion.

23 Q Thank you. Do you have anything further
24 to add to your testimony?

25 A No.

1 MR. TAYLOR: Mr. Commissioner,
2 that's all our testimony in this case. We offer --

3 MR. KELLEY: May I ask one
4 question?

5 MR. TAYLOR: Sure. I would
6 move the admission of Exhibit One.

7 MR. STAMETS: We'll admit Exhi-
8 bit One.

9 Mr. Kelley.

10

11

CROSS EXAMINATION

12 BY MR. KELLEY:

13 Q On Option 3, I think there's one other
14 thing the operator has to know and that's whether the
15 groundwater is actually 10 feet below the bottom of the pit,
16 and I'm not sure that's always available from the geologic
17 information in some of these letters.

18 A That's true; however, finding out if its
19 10 feet to groundwater is a lot simpler than finding out if
20 it's 100 feet to groundwater or 80 feet to groundwater.
21 That can be done with the use of a backhoe, if necessary.

22

23

CROSS EXAMINATION

24 BY MR. STAMETS:

25 Q Ms. Bailey, I'd like to run through some

1 of these rules. I've had a chance to review these, and I
2 may have some suggestions here, and let me see if my percep-
3 tion is the same as -- as what you've proposed.

4 We start with Rule 1 and take the next to
5 the last line, would it be appropriate if the word "solely"
6 would be inserted after the word "subject"?

7 A So these rules shall not apply to those
8 facilities which are subject solely to regulation under the
9 rules and regulations of the New Mexico WQCC?

10 Q Right.

11 A I would have no problem with that.

12 Q Okay. Let's go to Rule 4, then, under
13 (c), was it your intention in this rule that the operator of
14 any existing unapproved commercial collection or disposal
15 facility would notify the Division of the location of that
16 facility?

17 A Yes.

18 Q Okay. Perhaps that language might be
19 modified to reflect that more closely.

20 Let me, in Rule 5, the last line on page
21 2, it seems perhaps as though the word "facility" should be
22 substituted for "pit".

23 A I'll agree with that one, too.

24 Q And then in the following sentence, such
25 records, perhaps instead of "are to" it should say "shall".

- 1 A That sounds good to me.
- 2 Q The end of that line at the top of page
3 three, perhaps the word "fluid" should be eliminated since
4 there are other materials here besides fluids.
- 5 A Yes.
- 6 Q In the first option to the Rule 6, take
7 the end of the second line that says "only produced water
8 that", cross out "that", add in "which facilities score",
9 cross out "receive," would that make that more readable?
- 10 A To read "The requirement for filing a pit
11 registration form shall not apply to those pits or facilities
12 receiving only produced water" --
- 13 Q Uh-huh, "which facilities score a numeri-
14 cal index of 10 or less..."
- 15 A Okay. That makes that clear.
- 16 Q The one, two, three, four, fifth line,
17 "the Division", perhaps that should be Division Director,
18 "to the owner/operator of any such pits"...
- 19 A Certainly
- 20 Q And I'm confused. You told me something
21 about (d) there, relative to emergency conditions. Could
22 you go over that again, please?
- 23 A All right, the language now reads "per-
24 mission to continue disposal into such pit shall be sought
25 from the Aztec District Office."

1 That should be changed to read -- I'll
2 get back to my notes here, "and further provided that per-
3 mission to dispose into such pit shall be sought from the
4 Aztec District Office."

5 Q Okay, now where it's dealing with an
6 emergency drilling condition, and that pit was -- in all
7 likelihood would be located at the wellsite, why do we need
8 this rule?

9 A Because under emergency water flow condi-
10 tions it is not unusual for other pits in the area to be
11 used for disposal of that produced water.

12 We are only referring to those off-site
13 pits under this option, under this rule.

14 So it would only be for off-site disposal
15 and off-site pits that receive the excess water flow.

16 I've been told of situations where every
17 pit in the area is filled.

18 Q Okay. All right. Moving along, under
19 the last paragraph of that rule on page 4, for consistency
20 it would seem that the two words "mud et cetera" at the end
21 of the second line should perhaps be changed to "fluids or
22 drill cuttings".

23 A Yes.

24 Q And the next line shall instead of "auto-
25 matically" insert "be required to" and then I think the last

1 line there saying "clearly indicating the types and volumes
2 of fluids" is probably unnecessary.

3 A number of those changes would be the
4 same under either of those two options, and then Option 3,
5 Rule 6(c) one, two, three, four, five, the sixth line, per-
6 haps Division Director is the appropriate place to give
7 written notice, as opposed to the Division.

8 A Yes. I would certainly agree with that.

9 Q I'm a little concerned, Ms. Bailey, that
10 these rules don't really spell out the that the Division
11 should move promptly if there is a situation where ground-
12 water really is threatened by the -- by any existing or --
13 an existing commercial or centralized disposal or storage
14 facility.

15 I wonder if we need a rule 8 in there
16 which would say something to the effect that nothing in
17 these rules shall prohibit the Division from taking immed-
18 iate action to suspend the use of any commercial or centra-
19 lized disposal or storage facility and require the removal
20 of fluids and material therefrom when such suspension or re-
21 moval is necessary to protect fresh water.

22 A I think that is an excellent idea. We
23 need to have that rule.

24 MR. STAMETS: Are there other
25 questions of this witness?

1 Mr. Pearce.

2 MR. PEARCE: Thank you.

3
4 CROSS EXAMINATION

5 BY MR. PEARCE:

6 Q My questions arise from one of the
7 changes which was just suggested by the Chairman of the
8 Commission, and if I could, Ms. Bailey, I'd like for you to
9 walk through a process with me and it relates to those
10 facilities which are regulated by the Oil Conservation
11 Division as a constituent agency of the Water Quality
12 Control Commission, so those are the ones that I'm talking
13 about.

14 My concern is that it is my understanding
15 that those facilities are regulated under really two sets of
16 authority. They are regulated by the Oil Conservation Divi-
17 sion because they receive produced water and that produced
18 water is exclusively within the jurisdiction of the Oil Con-
19 servation Division.

20 They are regulated under the terms and
21 conditions of the Water Quality Control Commission regula-
22 tions because they do receive some water and produce some
23 liquid waste which is not produced water and therefore not
24 within the explicit jurisdiction and control of the Oil Con-
25 servation Division.

1 Is that your understanding?

2 A Yes. Yes, it would be.

3 Q My concern, and I address the question to
4 you and I certainly want to exclude any comment, but if you
5 insert the word "solely" into Rule 1, I no longer am sure
6 that, for instance, natural gas processing plants will not
7 be subject to dual regulation again, which we have tried to
8 avoid, I thought, and I say that because those facilities
9 will now be forced to file discharge plans under the Water
10 Quality Control Commission regulations applied by this
11 agency as a constituent agency, and they will be required to
12 comply with the terms of that rule. Is that your understand-
13 ing?

14 A The WQCC discharge plans, as we enforce
15 them, cover areas where produced water may be involved.
16 There is no superseding of regulations of WQCC over the OCD.
17 It is a matter of using the same criteria for the discharge
18 standards so that there would not be any conflict of proce-
19 dure in that area.

20 Q And that was also my understanding the
21 way I read the last sentence of Rule No. 1 before the sug-
22 gested change was that if a facility was regulated under the
23 rules and regulations of the Water Quality Control Commis-
24 sion, it would not, for instance, have to file pit registra-
25 tions under this order.

1 A That's the way it was written.

2 Q But it sounds to me as if inserting the
3 word "solely" into that sentence would place that additional
4 administrative burden on the operator of that facility.

5 A Because we have not asked for all -- for
6 discharge plans from all facilities which are regulated by
7 the WQCC is simply a matter of priorities and time on our
8 part. Those facilities which have not been requested to
9 file a discharge plan or have not already filed a discharge
10 plan, would be required to file the pit registration form.

11 Q It is your understanding of that sentence
12 with the proposed change is that if a facility has filed and
13 received approval of a discharge plan under the Water Qual-
14 ity Control Commission regulations, that it would not be
15 forced to comply with this proposed order, is that correct?

16 A That is correct.

17 Q I -- it may not be proper, but I'd like
18 to express an opinion that I don't think that's what that
19 says, and I'm pleased to hear you say that that's what you
20 intend just because we'd rather avoid duplicate administra-
21 tive procedures, if we can avoid them.

22 My concern is that a processing plant,
23 for instance, which had an approved discharge plan, the word
24 "solely" excludes that facility from the exemption because
25 it is regulated under the Water Quality Control Commission

1 regulations for two reasons, and not solely the Water Qual-
2 ity Control Commission regulations, and so I think that pre-
3 sents a problem.

4 Having -- having brought that problem up,
5 I would say that on behalf of El Paso Natural Gas Company
6 and Meridian Oil Company, that my clients are generally in
7 favor of Option No. 3. Our position is that it does in fact
8 add administrative simplicity and I think just generally in
9 favor of it.

10 Thank you.

11 MR. STAMETS: Mr. Pearce, you
12 did point out an interesting issue there and I can see what
13 you're getting at. Hang on a second.

14 If something like this were
15 added to that, take out the word "solely", that then we'd
16 talk about facilities possessing a discharge plan approved
17 by the Division, which plan included provisions for disposal
18 of produced water, would that take care of your concern?

19 MR. PEARCE: May I have that
20 language once again?

21 MR. STAMETS: Okay. We've been
22 talking here it shall not apply to a facility approved under
23 WQCC regulations if those facilities possessed an approved
24 discharge plan approved by the Division and that plan in-
25 cluded provisions for disposal of produced water.

1 The thing I'm concerned about
2 here is we might have a facility somewhere else that is ap-
3 proved for God knows what by the EID and people are hauling
4 produced water to that, you know. In my view that's not --
5 that's not an appropriate thing to have done and I don't
6 think we can give away that sort of jurisdiction but if
7 we're approving it under WQCC regulations and the plan did
8 deal with produced water, that some thing like that would be
9 appropriate.

10 MR. PEARCE: I'm not sure that
11 you could ever have a facility regulated under the Water
12 Quality Control Commission regulations which would not deal
13 with the disposal of fluids at the facility. I thought
14 that's all those regulations dealt with.

15 I hope we are all appreciating
16 each others concern, Mr. Chairman. Our concern is that the
17 timetable set forth in this order for approval and action
18 has been kicked into place. For instance, a processing
19 plant on which you have not yet requested a discharge plan,
20 then we're going to have to much more quickly than -- than
21 would allow us to do a thorough job, we're going to have to
22 jimmy something to get (not clearly understood) of pit reg-
23 istration on the pits in that facility when in fact I think
24 we all recognize that that is substantially a more compli-
25 cated situation.

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MR. KELLEY: Mr. Pearce.

MR. PEARCE: Yes, sir.

MR. KELLEY: Are there two concerns here? One, kind of like a grandfather clause for those facilities under EID regulation right now and then a time frame for new pit registrations?

MR. PEARCE: The -- there is a time concern about the pit registrations in addition to the simple grandfathering, though, rather than just grandfathering present facilities, we are concerned about having facilities subject to two sets of regulations.

MR. STAMETS: Mr. Boyer is in the audience. I'd ask him if he's got any comments on this or suggestions.

MR. BOYER: Well, I'll try to clarify a couple of things.

It is not the intent of the Environmental Bureau staff to have dual regulations in this instance. If there is a facility such as a natural gas processing plant, such as El Paso Natural Gas and some of these other folks have, it is not my intent to have this particular order apply to such facilities, even though they may have produced water.

I feel that the discharge plant

1 process is a more appropriate process.

2 Now, as far as if it wasn't --
3 if they were subject to this order, then since they do have
4 produced water, yes, they'd have to -- I think they would
5 have to file the form. I think the order would indicate
6 such was the case.

7 It is my intention if I find a
8 problem at a particular facility to require a discharge plan
9 that addresses not only these discharges but any other dis-
10 charges that may impact groundwater and I believe that the
11 Bureau needs to have the flexibility to take a look at each
12 one of those facilities individually and to request a dis-
13 charge plan after -- after we look at it rather than just
14 requiring a jerry-rigged form submittal like Mr. Pearce in-
15 dicated.

16 So I would support whatever
17 changes to the language would be necessary to eliminate this
18 particular confusion given the fact that we do have a prior-
19 ity list that from looking at the discharge from the natural
20 gas processing facilities and I would want not -- would not
21 want that to get mixed up with the fast filing of forms.

22 MR. STAMETS: So, Mr. Boyer,
23 what you're saying basically is that if there is a facility
24 which the Oil Conservation Division would be approving at
25 some point, approving their discharge plan under WQCC regu

1 lations, it would not be your intent that that facility be
2 required to file under these rules --

3 MR. BOYER: Yes, sir, that is
4 correct.

5 MR. STAMETS: -- be required to
6 file under WQCC rules.

7 MR. BOYER: Yes, sir, when they
8 are requested to submit a discharge plan.

9 Again we have that flexibility
10 under the current WQCC rules which has been exercised very
11 recently to request a discharge plan when we feel there's a
12 problem at a site.

13 MR. STAMETS: Let me suggest,
14 then, that if we don't hear any objections to that policy,
15 that you work with Mr. Pearce to come up with some -- some
16 language for Rule 1 which would spell out that a little more
17 clearly.

18 MR. TAYLOR: Mr. Chairman, I
19 might point out that (not clearly understood) look at it, we
20 might want to change in that sentence the word "rules", "the
21 rules shall not apply" to something more specific, such as
22 the pit registration requirement shall not apply, because
23 Mr. Boyer may at some later time want to require pit regis-
24 tration after they review the situation; if the rules didn't
25 apply that might cause a problem.

1 MR. STAMETS: That sounds good.

2 MR. PEARCE: Thank you, Mr.
3 Chairman, I have nothing further.

4 MR. STAMETS: Ms. Aubrey.

5 MS. AUBREY: Thank you Mr. Sta-
6 mets.

7

8

CROSS EXAMINATION

9

BY MS. AUBREY:

10 Q Ms. Bailey, I want to ask you a couple of
11 questions on your proposal No. 2, Option No. 2.

12 As I read it, this is similar to Option
13 No. 1 since the proposal numbers under volume and depth to
14 groundwater haven't changed.

15 A That is correct.

16 Q Under your Option No. 2 if a pit receives
17 5 barrels of water it would then receive a 1 under volume.

18 A That's right.

19 Q And if the water had a TDS quality of
20 5000-to-1 to 10,000 TDS, it would then receive a 4, is that
21 correct?

22 A That is correct.

23 Q And if the pit were in the 11 to 50 feet
24 depth to groundwater, it would receive a 6.

25 A That's right.

1 Q That totals 11 so that pit would need to
2 be registered, is that correct?

3 A That is correct.

4 Q Under Order 7940 a pit which received 5
5 barrels or less of water, less than 10,000 TDS, and at least
6 10 feet above the water table, or 11 feet, would not have to
7 be covered by 7940, is that correct?

8 A 7940 applies only to the vulnerable area.
9 This, these rules do not apply to the vulnerable area.

10 Q Let me ask you my question about the vul-
11 nerable area.

12 Under 7940 in the vulnerable area a pit
13 which had the criteria we've just described under your Op-
14 tion No. 2 would not even be covered by the -- by 7940 by
15 the vulnerable area rules.

16 A Uh-huh.

17 Q Is that correct?

18 A Yes.

19 Q But that same pit would have to be regis-
20 tered in the non-vulnerable area.

21 MS. AUBREY: That's all I have.

22 MR. STAMETS: You're not going
23 to tell us that you prefer any of these options over any of
24 the others?

25 MS. AUBREY: Well, Mr. Stamets,

1 I can make my statement now or I can make it at the end of
2 the hearing.

3 MR. STAMETS: Okay, that's
4 fine.

5 Anything further?

6 MR. TAYLOR: I have another
7 question.

8
9 REDIRECT EXAMINATION

10 BY MR. TAYLOR:

11 Q Ms. Bailey, as to Option 1, do you be-
12 lieve the numerical ratings on that option are adequate to
13 protect fresh water?

14 A No, I do not. That is the reason that
15 those ratings have been modified in Option 2.

16 We felt that it was important to be able
17 to cover pits that received 10,000 TDS, are 11 feet to
18 groundwater, with 50 barrels, we felt that those figures
19 that I gave in the original testimony needed to be covered
20 and that is why Option 2 was brought about.

21 Q And, Ms. Bailey, simply because a pit re-
22 quires a registration form does not infer that there will be
23 some kind of massive regulation about that, isn't that cor-
24 rect; that they merely file the form for the knowledge of
25 the Division of the pit?

1 A That is correct.

2 Q Thank you.

3 MR. STAMETS: Any other ques-
4 tions of the witness?

5 She may be excused.

6 Anybody have any closing state-
7 ments?

8 Ms. Aubrey?

9 MS. AUBREY: Thank you.

10 On behalf of Tenneco Oil Com-
11 pany I would first like to thank the staff and particularly
12 Ms. Bailey and Mr. Boyer for the amount of time they've
13 spent with industry considering the concerns which industry
14 has about these registration forms.

15 Tenneco Oil Company prefers Op-
16 tion No. 1 because we believe that it gives the operator the
17 opportunity to dispose of water which does not have a signi-
18 ficantly high TDS in pits which are not -- which are shallow
19 to groundwater.

20 Option No. 2 is clearly more
21 stringent than Option No. 1 and in our opinion creates regu-
22 lation in the non-vulnerable area which is more stringent
23 than that in the vulnerable area.

24 Both Option No. 1 and Option
25 No. 2, of course, will require the operator to determine

1 depth to groundwater before disposing of produced water in a
2 pit.

3 As Ms. Bailey said, No. 3 is
4 the easiest to comply with because the calculations are sim-
5 pler. The problem that Tenneco has with No. 3 is that it
6 does not permit the disposal of a truckload of water in the
7 non-vulnerable area.

8 We would propose Option No. 1
9 be adopted by the Commission on an interim basis for a year
10 to allow the Division staff to examine the pit registration
11 forms for those pits that must be registered and to put to-
12 gether an analysis of the information received on depth to
13 groundwater and TDS levels, not only from the vulnerable
14 area, but also from the non-vulnerable area. We believe
15 that by having the operators provide this information to the
16 Division in the event an operator wants to use off-site dis-
17 posal it will give the Division more information than it has
18 now about the location of those pits and the possible threat
19 to groundwater, while at the same time protecting ground-
20 water by prohibiting disposal of high TDS water at high vol-
21 umes at shallow depth to groundwater.

22 MR. STAMETS: Are there other
23 closing statements? Any comments?

24 Being none, this case will be
25 taken under advisement.

(Hearing concluded.)

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C E R T I F I C A T E

I, SALLY W. BOYD, C.S.R., DO HEREBY
CERTIFY the foregoing Transcript of Hearing before the Oil
Conservation Division (Commission) was reported by me; that
the said transcript is a full, true, and correct record of
the hearing, prepared by me to the best of my ability.

Sally W. Boyd CSR

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12 JAMI BAILEY

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1
2 MR. STAMETS: We will call next
3 Case 8835, being the application of the Oil Conservation
4 Division on its own motion to require Division approval of
5 all commercial and centralized oil field fluid waste and
6 disposal facilities utilizing ponds, pits, and below grade
7 tanks in McKinley, Rio Arriba, Sandoval, and San Juan Coun-
8 ties, New Mexico.

9 And I will ask for appearances
10 at this time.

11 MR. TAYLOR: May it please the
12 Commission, my name is Jeff Taylor. I'm counsel for the Oil
13 Conservation Division and I have one witness to be sworn.

14 MR. STAMETS: Are there other
15 appearances in this case?

16 MS. AUBREY: Karen Aubrey from
17 the law firm of Kellahin and Kellahin, representing Tenneco
18 Oil Company.

19 MR. STAMETS: Do you expect --

20 MS. AUBREY: I don't believe we
21 will be calling a witness at this time.

22 MR. STAMETS: Thank you.

23 MR. CARR: May it please the
24 Commission, my name is William F. Carr, with the law firm of
25 Campbell and Black, P. A., of Santa Fe. We represent North-

1 west Pipeline Corporation and we do not intend to call a
2 witness today.

3 MR. STAMETS: Any other appear-
4 ances?

5 I'll ask the witness to stand
6 and be sworn, please.

7

8 (Witness sworn.)

9

10 MR. TAYLOR: There are copies
11 of the proposed rules and exhibits, if anybody wants them.

12 MR. STAMETS: You may proceed,
13 Mr. Taylor.

14

15

16 JAMI BAILEY,
17 being called as a witness and being duly sworn upon her
18 oath, testified as follows, to-wit:

18

19

DIRECT EXAMINATION

20 BY MR. TAYLOR:

21 Q Would you please state your name, your
22 place of employment, and your job class for the record?

23 A I am Jami Bailey with the Environmental
24 Bureau of the Oil Conservation Division in Santa Fe.

25 Q Ms. Bailey, have you testified before the

1 Commission or its examiners before and had your credentials
2 accepted?

3 A Yes, I have.

4 MR. TAYLOR: I tender the wit-
5 ness as an expert geologist.

6 MR. STAMETS: The witness is
7 considered qualified.

8 Q Ms. Bailey, could you briefly state the
9 purpose of the hearing today?

10 A The OCD is proposing special rules and
11 regulations governing the disposal of produced water and
12 completion fluids at commercial or centralized facilities,
13 using ponds, pits, or below grade tanks within McKinley, Rio
14 Arriba, Sandoval, and San Juan Counties, New Mexico.

15 Section 170-2-12(B)15 of the Oil and Gas
16 Act authorizes the Oil Conservation Division to regulate the
17 disposition of water produced or used in connection with the
18 drilling for or producing of oil and gas, or both, and to
19 direct surface or subsurface disposal of such water in a
20 manner that will afford reasonable protection against con-
21 tamination of fresh water supplies designated by the State
22 Engineer.

23 The State Engineer has designated all
24 surface waters of the state and all underground waters con-
25 taining 10,000 milligrams per liter of total dissolved sol-

1 ids, or less, for which there is a reasonably foreseeable
2 future use, as fresh water.

3 Q Thank you. Would you please refer to Ex-
4 hibit One and identify it for the Commission and explain it?

5 A Exhibit One is a copy of the proposed
6 rules in which the Division seeks to require approval of the
7 surface disposition or collection of oil field related
8 fluids at commercial or centralized facilities as may be ne-
9 cessary for the purpose of affording reasonable protection
10 against contamination of fresh water supplies.

11 Industry members have worked with us for
12 development of these rules and this exhibit is modified from
13 the proposed rules which were distributed earlier.

14 The modifications are as follows:

15 Rule 1. Applicability.

16 These rules would apply to all commercial
17 and most centralized surface disposal or collection facili-
18 ties which receive produced water or completion fluids in
19 the northwestern part of the state.

20 You will note that centralized facilities
21 which are presently subject to regulation under the Water
22 Quality Control Commission regulations would not be affected
23 by these proposed rules. There is no reason to have dupli-
24 cate regulations for these facilities.

25 Rule 2. Prohibitions.

1 This rule was the previously proposed
2 Rule 3. June 1st is now the date by which commercial sur-
3 face disposal facilities must regulate the disposal or stor-
4 age of fluids in a manner that does not constitute a hazard
5 to groundwater.

6 Rule 3(e). Definitions.

7 This rule was the old Rule 2. The defin-
8 ition of centralized surface or collection facility list
9 field compressor stations as an example of a centralized fa-
10 cility. This is simply a matter of clarification.

11 Rule 4.

12 This rule now applies only to commercial
13 facilities and makes it clear that pits will also be re-
14 viewed for their structural integrity as well as their abil-
15 ity to protect fresh water.

16 Section (d) of the previously proposed
17 rule was eliminated.

18 Rules 6 and 7 were added to this copy of
19 the proposed rules and deal specifically with centralized
20 facilities.

21 The Division is proposing that all com-
22 mercial surface disposal or storage facilities which receive
23 produced water water, completion fluids, or other fluids
24 produced in connection with the drilling for, production of,
25 oil or gas, or both, shall be regulated in their use of the

1 lined or unlined pits or below grade tanks.

2 We also seek to require commercial sur-
3 face disposal facilities to keep and make available for in-
4 spection records for each calendar month on the source, lo-
5 cation, volume, and type of waste, date of disposal, and
6 hauling company that disposes of fluids in their pits. This
7 section of the rule is needed as a means of tracking dispo-
8 sal locations for fluid produced from the vulnerable area.

9 In addition, we are asking for authority
10 to require filing of pit registration forms for centralized
11 surface disposal or collection facilities in order to eval-
12 uate the impacts on groundwater prior to approval.

13 Q Thank you.

14 MR. TAYLOR: And, Mr. Chairman,
15 I would like to note that because of the comments received
16 by the Division and the changes they've made in the proposed
17 rules, that we would ask that this case be continued until
18 the next hearing in order for the parties to respond and to
19 review these changes, and I believe it probably would also
20 have to be readvertised because the proposed rules were sent
21 out before the changes were made.

22 Q Is that correct?

23 A That's right.

24 Q Ms. Bailey, could you explain for us why
25 these new proposed rules are necessary?

1 A The proposed rules are necessary for a
2 variety of reasons.

3 OCD Order No. R-7940 required with cer-
4 tain volume and groundwater elevation limitations that sur-
5 face disposal facility approval for produced water removed
6 from or disposed of or stored in the defined vulnerable area
7 of the San Juan Basin.

8 I'd like the Commission to take adminis-
9 trative notice of Order No. R-7940, and at this time I'd
10 like to recap certain rules from that order.

11 Rule 3 of that stated prohibitions, and
12 stated that within the vulnerable area disposal of produced
13 water or fluids produced in connecton with the production of
14 oil and natural gas, or both, in unlined pits or on the sur-
15 face, was prohibited, except for disposal of produced water
16 specifically exempted herein.

17 Rule 4 had the exemptions. The provi-
18 sions of this order shall not apply to, one, produced water
19 pits which receive five barrels or less per day of produced
20 water, provided that such produced water has a concentration
21 of total dissolved solids of 10,000 milligrams or less, and
22 that the base of the pit was at least ten feet above ground
23 level -- water table.

24 The second exemption concerned unlined
25 produced water or ancillary pits which received a half gal-

1 lon -- a half barrel or less per day of produced water, pro-
2 vided that the base of such pit was at least ten feet above
3 the water table.

4 The third exemption was for any pits,
5 ponds, lagoons, or impoundments resulting from activities
6 regulated by a discharge plan approved and permit issued by
7 the Division under Water Quality Control Commission regula-
8 tions.

9 Rule 5(a) of the order required that no
10 produced water shall be removed from the vulnerable area of
11 the San Juan Basin for surface disposal except through such
12 facilities as may be approved by the Division.

13 One problem was that the order provided
14 no mechanism for reporting the disposal location for vulner-
15 able area produced water. The Oil Conservation Division
16 would have to spend an inordinate amount of staff time in
17 order to verify that nonapproved facilities are not receiv-
18 ing produced water from the vulnerable area.

19 A demand has been created for approved
20 facilities outside of the vulnerable area and at this time
21 we have approved eight sites for centralized and/or commer-
22 cial faciities.

23 Order No. R-7940 based volume limitations
24 for the vulnerable area pit disposal of fluids on the homo-
25 geneous nature of the alluvial deposits within the area, on

1 the shallow groundwater, on the quality of fluid disposed of
2 in the pits, and on the average individual well productions,
3 but outside the vulnerable area there is great geologic di-
4 versity, variation in the depth to groundwater, and a demand
5 for disposal facilities for fluids produced both within the
6 vulnerable area as well as those fluids which originate out-
7 side the vulnerable area.

8 The larger volume of fluids concentrated
9 in commercial and many centralized facilities can transport
10 a larger concentration of contaminants into the subsurface.
11 These larger volumes and concentrations may present a hazard
12 to fresh water.

13 In the case of centralized facilities and
14 also due to the variation in geology, depth to water, volume
15 and concentration of contaminants, it would be impossible to
16 adopt specific limitations, such as volume limitations, that
17 would not be burdensome to either affected operators or the
18 Oil Conservation Division.

19 In an effort not to be burdensome we are
20 asking to review centralized facilities by way of pit regis-
21 tration forms as a way of avoiding potential problems that
22 could arise with a single set of regulations.

23 The pit registration forms for centra-
24 lized facilities are requested as an efficient means of
25 evaluating facilities which may receive large volumes of

1 fluids. For those facilities which are located in known
2 shallow water areas, and receive large volumes of fluids,
3 additional information may be requested on TDS content and
4 on specific depth to groundwater.

5 In addition to making this additional in-
6 formation available, OCD may require that the owner/operator
7 of a centralized facility submit information, including
8 plans and specifications on the facility to demonstrate that
9 his use would not cause a hazard to fresh water.

10 If the Division determines that a centra-
11 lized facility may present a hazard in its design or opera-
12 tion, and we are unable to secure appropriate modifications,
13 either in the design or operation of the facility, we would
14 like authorization to instigate proceedings to require the
15 owner/operator of the facility to show cause why it should
16 not be closed in a manner approved by the Division.

17 In addition to the previous reasons for
18 the need for these proposed rules, the situation can occur
19 whereby produced water from the vulnerable area is disposed
20 of in a pit that required approval, side by side produced
21 water and other oilfield related fluids from outside the
22 vulnerable area disposed of in a pit that did not require
23 approval. This situation is undesirable in that it does
24 not provide equal protection of fresh water under equivalent
25 conditions.

1 Q Thank you, Ms. Bailey. Would you tell us
2 how much water is produced in the vulnerable area and dis-
3 posed of in the San Juan Basin?

4 A I have Exhibit Two, which is a summary of
5 northwestern New Mexico 1984 produced water and injected
6 water figures.

7 These were tabulated in the monthly sta-
8 tistical reports and the underground injection waterflood
9 and pressure maintenance annual report.

10 You can see by the difference in figures
11 for water produced and injected or reinjected, that nearly
12 3-1/2 million barrels produced in northwestern New Mexico
13 are disposed of in permitted ponds, unlined pits, or used in
14 secondary recovery.

15 Exhibit Three shows that more than 2-1/3
16 barrels -- million barrels of water were reported from 595
17 wells in the vulnerable area alone in 1984, but 41 wells lo-
18 cated in the vulnerable area produced more than 150 barrels
19 of water per month or more than 5 barrels per day.

20 This adds up to a bare minimum of over 2-
21 1/4 million barrels of produced water from these 41 wells,
22 which if it is removed for disposal to the surface, must be
23 disposed of in approved pits.

24 There's no mechanism for reporting this
25 disposal of fluid into permitted ponds, and the proposed

1 Rule 5 would help alleviate this problem.

2 Q Ms. Bailey, would you now refer to
3 Exhibit Four and identify it and explain it for the Commis-
4 sion?

5 A Exhibit Four is a map of northwestern New
6 Mexico showing locations for OCD approved commercial and
7 centralized facilities, evaporation pits. A total storage
8 volume of 367,428 barrels has been authorized up to date and
9 a total storage volume for 228,000 barrels has been
10 constructed.

11 These permitted pits represent a storage
12 volume of only about 10 percent of the produced water which
13 is produced from the vulnerable area in 1984.

14 Q Thank you. Would you refer now to Exhi-
15 bit Five and identify that and explain it, please?

16 A Exhibit Five is a copy of the guidelines
17 that are used for approval of lined evaporation pits. It
18 must be emphasized that these are guidelines only and that
19 site specific studies are done by the applicant.

20 We worked with each individual applicant
21 according to their situation. Unlined, as well as lined pit
22 designs, are looked at for their capability of groundwater
23 protection, structural integrity, freeboard allowance, use
24 of skimmer ponds and tanks.

25 Q Ms. Bailey, could you tell us what the

1 threat is to fresh water supplies from centralized and com-
2 mercial surface disposal collection facilities?

3 A As stated in Findings 27 and 28 of Order
4 No. R-7940, waste fluids disposed of in unlined pits trans-
5 port any included dissolved contaminant load into the sub-
6 surface.

7 Exhibit Six is a chart of analyses of
8 samples taken from pits in the San Juan Basin. These sam-
9 ples were taken of fluids in the pits and what percentage
10 was due to rain or snowfall is unknown.

11 Separator analyses, analyses of samples
12 taken from separators are not on that chart but in all cases
13 they had higher hydrocarbon values.

14 In addition, completion fluids, particu-
15 larly salt solutions, brines, and acids, may contain high
16 concentrations of chlorides which are a highly mobile conta-
17 minant of fresh waters.

18 They also may include other constituents
19 that would increase TDS above acceptable levels.

20 The relatively greater volume of fresh
21 water contaminants found at commercial and centralized
22 facilities present the potential for a greater volume of
23 contaminant movement into the subsurface and fresh water
24 supplies.

25 Q In addition to preventing the contamina-

1 tion of fresh water resources, would approval of surface
2 disposal or collection pits prevent waste of oil?

3 A Yes. The required use of skimmer ponds
4 or tanks at approved facilities would help prevent waste of
5 oil.

6 In summary, in order to afford reasonable
7 protection against contamination of fresh water supplies, as
8 designated by the State Engineer, the disposal or storage of
9 produced water or completion fluids in commercial or cen-
10 tralized facilities in any unauthorized pit or pond or in
11 any other place, or in any other manner in such facilities,
12 which may constitute a hazards to fresh water supplies,
13 should be prohibited.

14 Q Ms. Bailey, do you have anything else
15 further to add to your testimony?

16 A No, I -- not at this time.

17 MR. TAYLOR: Mr. Chairman,
18 that's all we have at this time.

19 MR. STAMETS: ARE there ques-
20 tions of the witness?

21 MS. AUBREY: Yes.

22 MR. STAMETS: Ms. Aubrey.
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CROSS EXAMINATION

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BY MS. AUBREY:

Q Ms. Bailey, can you explain for me what the difference is between a centralized surface disposal facility and a commercial facility?

A A commercial facility, as seen in the definitions of these proposed rules, Rule 3(d) defines commercial surface disposal or collection facilities as those facilities that receive compensation for produced water and/or completion fluid collection, disposal, evaporation, or storage in surface pits, ponds, or below grade tanks.

Section (e) of that rule defines centralized surface disposal or collection facilities as those facilities other than commercial surface disposal or collection facilities that receive produced water or completion fluids from any off-site location for collection, disposal, evaporation, or storage in surface pits, ponds, or below grade tanks.

Q In your opinion, Ms. Bailey, is there a difference other than the compensation requirement?

A That is our cutoff point.

Q Is there a difference, in your opinion, between a centralized surface disposal facility and a collection facility?

A No. One may be a temporary method until

1 it goes to an injection well; one may be the final resting
2 point of that produced water.

3 Q Are you proposing to make any
4 definitional difference between sizes of centralized surface
5 disposal facilities?

6 A As I testified, it would be impossible to
7 put a volume limitation, a size limitation. There are too
8 many other factors at work within the area to be able to
9 have one rule which would not be burdensome to industry.

10 Q Can you give me an example of a
11 commercial surface disposal facility which is presently
12 operating outside the vulnerable area?

13 A You want the name?

14 Q Certainly.

15 A Basin Disposal.

16 Q Are you aware of any others which are
17 presently operating in that area?

18 A No, I'm not. That is the only one that
19 has been approved as a commercial pit.

20 Q And you show that on your Exhibit Four,
21 is that correct?

22 A That's right.

23 Q Let me have you look at Exhibit Four.
24 The other facilities that you show on there, Consolidated,
25 Amoco, Amoco, Union Texas, Meridian, are all centralized

1 surface disposal facilities, is that correct?

2 A I am not sure if C & E has decided to be
3 a commercial facility or simply will take in water of their
4 own wells.

5 Q Of the facilities you show on your
6 Exhibit Four, how many are presently in operation?

7 A Meridian has just now been approved. It
8 has not begun construction at this time.

9 The others have been approved and
10 constructed.

11 Q And so there is presently, it's your
12 testimony that there is a Union Texas facility in existence?

13 A As far as I know, yes.

14 Q And two Amoco facilities?

15 A As far as I know, yes.

16 Q And Consolidated?

17 A Yes.

18 Q Do you know whether or not disposal is
19 occurring in those facilities from other operators other
20 than the ones listed on your exhibit?

21 A I have been told yes.

22 Q Do you have any independent evidence to
23 present to the Commission that that is true?

24 A We don't ask for that information. I
25 don't get their bills.

1 Q How is this Commission going to decide
2 whether a facility is a commercial facility or a centralized
3 surface disposal facility?

4 A That question will be asked.

5 Q Of whom?

6 A Of an applicant for an approved pit.

7 Q When you were asked to explain the
8 reasons for creating this new rule, you referred to the Com-
9 mission Order 7940, is that correct?

10 A That's right.

11 Q Would you agree with me that that rule
12 regulates disposal of produced water inside the vulnerable
13 area?

14 A Yes.

15 Q And what we're talking about here today
16 is outside the vulnerable area.

17 A Yes.

18 Q And I think you testified that there were
19 geological differences and differences of depth to ground-
20 water between the vulnerable area and the area that we're
21 proposing to regulate.

22 A There can be.

23 Q Now in Order 7940 there is a requirement,
24 is there not, that water from inside the vulnerable area
25 moved outside is (not clearly understood.)

1 A No, I believe that it only has to go to
2 an approved facility, but there is no reporting that's re-
3 quired.

4 Q So that facilities that receive water
5 from inside the vulnerable area has to now presently be ap-
6 proved by the Commission.

7 A That's right.

8 Q Are there any facilities which are ap-
9 proved to receive water or other fluids from the vulnerable
10 area?

11 A Yes.

12 Q Which ones are those?

13 A Basin Disposal, very obviously. We have
14 not required information from the centralized pits that
15 have been approved as to their sources of their fluids, so I
16 cannot tell you if any of the produced waters -- water
17 that's being disposed of in, for example, Amoco pits, they
18 do not report to us where that fluid comes from at this
19 time.

20 Q Under Order 7940 water from the
21 vulnerable area must be disposed of in a pit which is
22 approved by you.

23 A That's right.

24 Q So that regulation is already in place as
25 part of Order 7940.

1 A Insofar as Order 7940 states it, yes.

2 Q Insofar as we're talking about water
3 coming out of the vulnerable area and going into (not
4 clearly audible.)

5 A That's right.

6 Q What pit approval process do you have in
7 place under 7940 for those pits?

8 A We go through these guidelines. An
9 applicant makes -- submits to us a form listing location,
10 it's very informal as to what is required at that point.
11 Then we ask their engineers to submit to us plans as to
12 construction, specifications, expected volume within the --
13 that will be disposed of within the pits.

14 We work with the applicant to insure that
15 the site, it does not have any major problems, as being in
16 an arroyo or at the very head of an arroyo.

17 We work with the engineering details to
18 make sure that there should not be any problem. We ask for
19 a 24 hours notice before liners are put in so that we can
20 inspect that the liners are put in in an adequate manner.

21 That's about it.

22 Q And you're doing that at the present
23 time?

24 A Yes.

25 Q In your testimony earlier you mentioned

1 Rules 3 and 4 of your Order 7940, particularly 4, which
2 talked about the less than 5 barrels a day exemption.

3 A Yes.

4 Q Are you -- are you suggesting that is
5 part of -- be part of the order in this case?

6 A No, I'm not.

7 Q Is there any present regulation of com-
8 mercial disposal facilities in the State of New Mexico other
9 than what you've described to me as the approval process for
10 pits which receive fluids from the vulnerable area?

11 A Regulation of commercial and centralized
12 facilities is not a new concept in New Mexico.

13 In southeastern New Mexico this has been
14 in effect for many years in the areas that are regulated by
15 Order No. R-3221. This is not a new concept.

16 It is a -- will simply be extended to the
17 northwest in -- in the concept; maybe not in the manner.

18 Q So that I understand you, your answer to
19 my question is yes, there is presently a mechanism in the
20 State of New Mexico to regulate commercial facilities?

21 A Yes.

22 Q Is it the intent of the Division to make
23 any distinction between a centralized facility which re-
24 ceives produced fluids from, say, fifteen or twenty wells
25 and one -- and a pit, which received fluids from, say, two

1 wells?

2 A That is why the pit registration forms
3 are such an efficient method. At this point, as you can see
4 on the exhibit, we're asking for pit fluid sources, the max-
5 imum daily discharge to each pit, and the pit type.

6 Upon review of these forms we would be
7 able to eliminate the small discharges in areas where it is
8 several hundred feet to groundwater. This way we can eval-
9 uate on a site by site basis.

10 Q Are you agreeing with me, then, Ms. Bai-
11 ley, that there is a difference which you recognize, or the
12 Division recognizes, between a pit which receives fluids
13 from, say, two wells, and a facility which receives fluids
14 from, say, fifteen wells?

15 A Depending on the depth to groundwater.
16 Depending on the quality of fluid that's disposed of.
17 There are many variables.

18 Q Does your pit registration form ask for
19 any information on the quality of fluid?

20 A Not at this first cut. That would be
21 under additional information that we may require.

22 Q And it is your testimony that you are
23 going to evaluate this pit registration form and one of the
24 criteria you're going to use is the number of pit fluid
25 sources?

1 A Yes.

2 Q Are you going to do that on a case by
3 case basis or are you going to set out certain criteria in
4 arriving -- for operators prior to making that decision?

5 A We do not intend to do that.

6 Q Is there any way that an operator can
7 know now, or will be able to know if this rule goes into
8 effect, how many pit fluid sources will be the cutoff point
9 given a certain depth to groundwater?

10 A There are too many other variables, not
11 only depth to groundwater, but also quality of fluids, the
12 location. No, I cannot give you a number which will be a
13 cutoff point.

14 Q Will the difference between a lined pit
15 and an unlined pit be part of your criteria?

16 A Of course.

17 Q Do you have any number that you can give
18 us today about depth to groundwater, how far will your cut-
19 off point be?

20 A No.

21 Q What are you going to use to make that
22 decision?

23 A Because of experience of field people and
24 in the Bureau, there are certain locations which may or may
25 not be of interest. There may be certain numbers, just

1 sheer volume. Probably the first cutoff will be the sheer
2 volume and taking in order the number of sources to each
3 pit.

4 Obviously --

5 Q And -- I'm sorry, I didn't mean to in-
6 terrupt you. Go ahead.

7 A That would be all.

8 Q Well, in terms of sheer volume, can you
9 give me a number?

10 A No.

11 Q Let's talk about certain locations. Which
12 certain locations?

13 A I cannot state those locations at this
14 time.

15 Q And in terms of numbers of sources, you
16 cannot tell me that today, either?

17 A No.

18 Q After this rule is adopted does the Divi-
19 sion intend to publicise its criteria for approval of a pit
20 registration rule?

21 A There is not an approval process. This
22 is a review process. We will not approve these forms. We
23 will use them as information.

24 Q As I read your Rule 7, Ms. Bailey, you
25 have written it in a way that even though you don't claim to

1 be approving the pit registration form, the ultimate result
2 can be on operator being required to come in and show cause
3 why his facility should not be closed.

4 A If, after review of additional informa-
5 tion, which may be requested of those operators, in areas
6 where there may be a threat to groundwater, it need to be
7 investigated.

8 Q Let me ask you then what criteria you are
9 going to use to determine whether or not you will require
10 additional information from an operator.

11 A Location, as I said before, information
12 that we would be looking at would be location, volume of
13 discharges into the pit, the manner of pit, whether it's
14 lined or unlined.

15 Q Do you intend now to approve or to not
16 require additional information from an operator who sends
17 you a pit registration form that shows his pit is unlined?

18 A Our intention is to protect groundwater.
19 We're not saying that all pits have to be lined.

20 Q Ms. Bailey, Order 7940, which you brought
21 up in your direct testimony, sets out some very specific
22 criteria with regard to disposal of produced water in the
23 vulnerable area. It has township and range and it has num-
24 ber of barrels per day of discharge.

25 Is it the intent of the Division to give

1 operators in the northwest corner of the state the same kind
2 of criteria for pit registration or disposal of produced
3 water outside the vulnerable area?

4 A Would you repeat that?

5 Q Sure. You're familiar with the contents
6 of Order 7940, aren't you?

7 A Yes.

8 Q And you're aware that in that order there
9 are -- the vulnerable area is defined by township and range.
10 We can look at that order and tell what the vulnerable area
11 is.

12 A Right.

13 Q And we can look at that order and tell
14 what volume of water is being exempted from the requirements
15 of that order.

16 A Uh-huh.

17 Q Are -- is it the Division's intent to
18 give us the same kind of direction with regard to the four
19 county area as it has given us in terms of the vulnerable
20 area?

21 A You're asking for township and range?
22 Obviously the vulnerable area was given township and range,
23 as well as between certain ditches and rivers.

24 This order would apply to the four coun-
25 ties.

1 Q Let me try my question again. I don't
2 think I made it clear to you.

3 You have told me that in certain loca-
4 tions, at certain volumes, and with some number of pit fluid
5 sources, you may require not only additional information
6 from an operator but require that operator to show cause why
7 his facility ought to be closed.

8 A If, in the opinion of the Division there
9 is a threat to groundwater, a potential threat to ground-
10 water, then that action has been requested for authoriza-
11 tion.

12 Q My question to you is do you intend that
13 an order issued, which will give us the same kind of cer-
14 tainty that 7840 does, and will set out what locations you
15 feel are more vulnerable, are more fragile, what depth to
16 groundwater your concern is, what volume of water you're
17 talking about, and how many pit fluid sources you would be
18 concerned about before you would require an operator to give
19 you design specifications or he's asked to come in and show
20 cause why the facility should not be closed?

21 MR. STAMETS: Excuse me for in-
22 terrupting, Ms. Aubrey. Let me see if I can -- if I under-
23 stand the point you're getting at.

24 Are you suggesting that it
25 would be useful if the industry had some sort of little set

1 of guidelines that if -- if in an unlined facility the dis-
2 posed water exceeds so many parts per million TDS and the
3 combination of hydraulic head and natural sediment in the
4 area would result in fresh -- in this water reaching fresh
5 water within a such and such a period of time that that fa-
6 cility would be treated as one requiring a liner, is that
7 the sort of thing you're looking for?

8 MS. AUBREY: Mr. Stamets,
9 that's certainly one of our concerns. I think one of the
10 concerns that we have is that we -- we are faced with a rule
11 which potentially requires us to come in and show cause.
12 We're faced with a pit registration form, but we don't know
13 what the criteria are.

14 Obviously, and I think Ms.
15 Bailey agrees with me, that there is a difference between
16 the fluids from, say, two wells being put into a pit, which
17 is large enough and far enough from groundwater that the
18 fluids will evaporate and will not -- will not be a hazard
19 to groundwater, and a facility which has -- is receiving
20 fluids from too many sources or too much volume for that
21 particular pit, but we don't know where that cutoff is.

22 What I'm trying to find out is
23 whether Ms. Bailey or the other people in the Division know
24 where that cutoff is, and if we can set out some kind of
25 criteria so we know what we're supposed to do.

1 MR. STAMETS: Let me suggest
2 that since this is going to be continued, that Ms. Bailey
3 and the other people in the Environmental Bureau see if they
4 could perhaps come up with some sort of guidance which would
5 go along with this which would, I don't think, obviously,
6 could deal with every single pit size, location, and water
7 volume, but which might have enough detail in it about con-
8 siderations and impact such that it would be clear what the
9 intention was in setting out these rules, and that could
10 then be circulated with the docket for the April 9th Divi-
11 sion hearings.

12 MS. AUBREY: I think that would
13 be helpful to everyone, Mr. Stamets.

14 Q Let me ask you a few final questions, Ms.
15 Bailey.

16 I understand that a pit survey has been
17 done. Has that been completed for the vulnerable area?

18 A A pit survey, yes. It has not been com-
19 puterized at this time.

20 Q So that the information is not available?

21 A No, it is not.

22 Q And I seem to recall also a survey of
23 water haulers and survey of service companies?

24 A That's right.

25 Q Have those been completed?

- 1 A Yes, that has been completed.
- 2 Q Have the results from those surveys been
3 tabulated?
- 4 A I have copies, yes.
- 5 Q Do the results from those surveys in any
6 way assist the Division in calculating the amount of water
7 which is presently being produced and disposed of?
- 8 A To a very minor degree.
- 9 Q Can you tell me why that doesn't help any
10 more?
- 11 A No companies were required to keep re-
12 cords on the volumes that they transported. Guesstimates
13 were made as to volumes. How reliable guesstimates are, I
14 cannot say.
- 15 Q Let me ask you about your Exhibit Three.
16 It's titled 1984 Cumulative Water Survey -- Vulnerable Area.
- 17 What does that tell us about the water
18 which is being produced outside the vulnerable area?
- 19 A This applies only to vulnerable area pro-
20 duced water.
- 21 Exhibit Two applies to the entire nor-
22 thern New Mexico produced water.
- 23 Q And is Exhibit Two broken out between the
24 vulnerable area and the area outside the vulnerable area?
- 25 A No. Exhibit Three has vulnerable area by

1 itself. It does not include figures from outside the vul-
2 nerable area.

3 Q So if I was to subtract these figures I
4 would have a figure --

5 A Yes, you could do that.

6 Q -- that would apply to the non-vulnerable
7 area; roughly a million barrels difference?

8 A Subtracting the difference between the
9 total produced water and the total injected water of the en-
10 tire northern New Mexico, and then subtracting the total
11 water reported from the vulnerable area would be a
12 1,100,000.

13 Q Do facilities exist presently for the
14 surface disposal of that water in the (not clearly under-
15 stood) for the 1,100,000 barrels?

16 A We have approved a certain volume of --
17 for these pits of the hundreds of thousands of barrels, but
18 nowhere close to millions.

19 Q So in terms of the pits which are ap-
20 proved but not necessarily built, there are hundreds of
21 thousands of barrels capacity available?

22 A Storage capacity.

23 MS. AUBREY: Thank you, Ms.
24 Bailey. That's all.

25 MR. STAMETS: Are there other

1 questions?

2 Mr. Carr.

3 MR. CARR: I have just a few.

4

5 CROSS EXAMINATION

6 BY MR. CARR:

7 Q Ms. Bailey, just to be sure I understand
8 what the Division is proposing here, you are not looking for
9 registration of pits in a one well/one pit sort of situa-
10 tion.

11 A That's correct.

12 Q Now, the purpose of this proposed rule is
13 really directed, is it not, at the disposal of larger vol-
14 umes of produced fluids?

15 A We would like this to apply to all pro-
16 duced water and completion fluids disposed of or stored in
17 commercial and centralized facilities within those counties.

18 Q And when you start reviewing these forms,
19 don't you actually intend to just give a sort of a cursory
20 review to smaller volumes of water that are placed in the
21 pits?

22 A Yes.

23 Q And if I understood your answer to one of
24 Ms. Aubrey's questions, it was that you thought you would be
25 able to eliminate from further review small amounts that

1 are, oh, say, disposed of several hundred feet from ground-
2 water sources.

3 A I believe these guidelines that Mr. Sta-
4 mets has requested that we write up will answer those ques-
5 tions.

6 Q Do you have available to you at this time
7 the kind of information that you would need to determine the
8 distance of the surface disposal from groundwater?

9 A I'll have to check.

10 Q If you don't have that data, that would
11 be something that you at a staff level of the industry would
12 have to supply.

13 A That is correct.

14 Q Now, if I look at your definition of cen-
15 tralized disposal facility, you set out as part of that de-
16 finition certain examples. The examples include facilities
17 such as field compressor stations, et cetera. You don't make
18 any reference in this to pipeline drips, as an example.

19 Are you directing these rules and do you
20 anticipate the definition of a centralized surface disposal
21 facility would include a pipeline drip?

22 A Transmission pits are not under our
23 jurisdiction.

24 Q I'm talking about --

25 A Gathering is what you're talking about.

1 Q I'm talking about a low where there's a
2 pit or a (not understood) pipe, or something of that nature
3 where the fluid is released from the pipeline. Is -- are
4 you focusing on that kind of a disposal?

5 A No, we are not focusing on that type of
6 disposal.

7 Q Would that be something which you would
8 expect to be reported to you under this proposed rule?

9 A For our first pass, yes.

10 Q So you would expect all pipeline drips to
11 be reported.

12 A Yes.

13 Q On Exhibit Number Four I think you've in-
14 dicated a number of authorized disposal facilities, is that
15 correct?

16 A Uh-huh, yes.

17 Q Do you have the volumes or have you ap-
18 proved certain volumes for each of those facilities?

19 A Yes, according to the engineering design
20 of each one.

21 Q Could you make the volumes that are ap-
22 proved for each of those facilities available to us?

23 A Certainly.

24 Q Now, you are looking for registration for
25 all pits outside the vulnerable area.

1 A No. We're looking for registration of
2 all centralized pits.

3 Q You are -- there is no exemption, there
4 is nothing that relates to the volumes that you've placed
5 into those pits; you want all of those pits reported to you.

6 A For centralized disposal or collection,
7 yes.

8 Q And it is possible that as you enforce
9 these rules you could actually have more stringent require-
10 ments outside the vulnerable area than within the vulnerable
11 area.

12 A At this time I'm not anticipating this.

13 Q But is there's a staff change we don't
14 know what we might anticipate, isn't that correct?

15 A I never count on a staff change.

16 Q And we hope you're right.

17 Now, if we look at the reporting require-
18 ments and the filing of the registration forms, on a new
19 centralized disposal facility we'd be required to file that
20 ninety days in advance of actual disposal.

21 A That's right.

22 Q Does that time frame represent a time
23 within which we could assume that if we don't have any fur-
24 ther request from you or any notice for a show cause hear-
25 ing, could we rely upon that to move forward then and start

1 disposing water in that pit?

2 In other words, are we ever really going
3 to know if we in fact have met with your approval in re-
4 questing to go forward?

5 A Most certainly. But you'll notice that
6 it's ninety days prior to the date of expected construction
7 of the facility.

8 Q If we go file that, ninety days later
9 construct the facility, and have not heard from you, would
10 it be safe for us to assume we can go ahead and use the fa-
11 cility?

12 A Yes.

13 Q Do you have a staff situation wherein you
14 can process these within that time period?

15 A Turn around time at this date is three
16 weeks.

17 MR. CARR: No further ques-
18 tions.

19 MR. STAMETS: Any other ques-
20 tions of this witness?

21 Mr. Chavez.

22

23 QUESTIONS BY MR. CHAVEZ:

24 Q Ms. Bailey, do the figures that you used
25 for produced water on your Exhibit Two include water pro-

1 duced at pipeline drips, (not understood) compressor sta-
2 tions and facilities like that?

3 A No, it does not.

4 Q So the actual volume of water could
5 actually be higher.

6 A Yes, it could.

7 Q Would it be unreasonable to expect an
8 operator to use the guidance that was used in the previous
9 Commission order which you referred to in the vulnerable
10 area, use those guidelines outside the vulnerable area as
11 far as quantities of produced water and depth to the
12 groundwater?

13 A I think that would be very reasonable.

14 MR. CHAVEZ: That's all the
15 questions that I have.

16 MR. STAMETS: Any other
17 questions of this witness?

18 Mr. Taylor.

19 MR. TAYLOR: Could I have a
20 minute?

21 MR. STAMETS: Sure.

22 MR. TAYLOR: Just a couple of
23 questions more or less to clarify what the Division is
24 proposing here.

25

REDIRECT EXAMINATION

1
2 BY MR. TAYLOR:

3 Q Ms. Aubrey was looking at the require-
4 ments of Orer 7940 and how -- and also Mr. Carr, I suppose,
5 asked whether the regulations outside the vulnerable area
6 might eventually be stricter than inside.

7 Isn't it true that the purpose of this
8 hearing and of the proposed rules here are to cover situa-
9 tions where large amount of water are being disposed of into
10 pits where before it was spread over a larger area?

11 A That's right. There is a concentration
12 of fluid being disposed of or collected in pits and those
13 concentrations would probably have a great effect on the
14 fresh water.

15 Q And these guidelines or rules are not in-
16 tended necessarily to affect small amounts of disposal,
17 either from one well, which they would not cover at all, am
18 I correct?

19 A That's right.

20 Q Or from two or three wells as long as
21 it's small, but they are aimed essentially at large amounts
22 of disposed water.

23 A Yes, they are.

24 Q And isn't it true that -- that the reason
25 that these, at this time are so vague is that the area to be

1 covered, the non-vulnerable area, does differ quite a bit,
2 is a diverse area. Some areas would have a small amount of
3 clearance from the surface to the groundwater; other amounts
4 -- other areas would have large amounts, and that it would
5 be virtually impossible to adopt a rule that could be en-
6 forceable that would cover the whole area.

7 A That is true.

8 Q And therefore, as Mr. Stamets asked, that
9 we could develop some general criteria, it's expected that
10 no criteria could cover the whole area and could always be
11 relied upon by someone to determine beforehand whether they
12 could go ahead and construct a pit until they've asked for
13 review by OCD.

14 A Site specific studies should always be
15 done.

16 Q And therefore, even if there are some
17 criteria set forth, the OCD Environmental Bureau or the OCD
18 in general, will still need to discretion to review each
19 filing and determine on their own whether they think that
20 meets the requirements to protect fresh water and if not, to
21 require more information.

22 A That's right.

23 MR. TAYLOR: That's all I have.

24 MR. STAMETS: Any further ques-
25 tions?

1 MS. AUBREY: I have some more
2 questions, Mr. Stamets.

3

4 RECROSS EXAMINATION

5 BY MS. AUBREY:

6 Q Ms. Bailey, Mr. Chavez asked you about
7 using the guidelines in 7940 outside the vulnerable area and
8 I believe your testimony was that that would be a good idea.

9 Q Yes.

10 Q You're aware, aren't you, that the hearing
11 in the case which resulted in Order 7940, lasted over a per-
12 iod of almost a year, and that hours and hours of scientific
13 testimony was presented to justify the numbers which are in
14 that order?

15 A I am aware of that.

16 Q Is it the Division's intention at this
17 time to present a case which will be similar to that in
18 terms of using the numbers (not clearly audible).

19 A No, it is not.

20 Q Are you aware now of whether or not there
21 are any unlicensed commercial surface disposal facilities
22 operating in the nonvulnerable area that are receiving
23 fluids from -- from the vulnerable area?

24 A That is not required to be reported to
25 us.

1 Q So you don't know?

2 A Not for certain.

3 Q I believe you testified that the intent
4 of the proposed rule is to cover large amounts of fluids
5 being disposed of in pits.

6 A Yes.

7 Q Is there any exemption written in the
8 rule as it exists to exempt two or three or four wells from
9 -- from the requirements of the rule?

10 A No, because of variability within --
11 throughout the area.

12 Q So that is an intent which is not expres-
13 sed in the rule itself, the intent to only cover large
14 amounts of fluids.

15 A Yes.

16 Q Ms. Bailey, do you know whether or not
17 the terms of the proposed rule in this case have been refer-
18 red to and reviewed by the long term study committee?

19 A Yes.

20 Q And is this the -- is the rule which we
21 are talking about today the rule which came out of that?

22 A Yes, there was input from industry repre-
23 sentatives from that committee.

24 MS. AUBREY: That's all I have.

25 Thank you.

1 MR. STAMETS: Ms. Bailey, did
2 you make some more recent changes in the rules which the
3 committee may not have seen?

4 A The committee received the final issue
5 yesterday.

6 MR. STAMETS: Any other ques-
7 tions?

8 The witness may be excused.

9 While it -- Mr. Pearce?

10 MR. PEARCE: I certainly didn't
11 mean to interrupt you, sir.

12 MR. STAMETS: Do you have a
13 question of --

14 MR. PEARCE: I have a statement
15 I'd like to make, if I may, sir.

16 MR. STAMETS: Well, let me --
17 let me finish what I started, then.

18 I don't believe that this case
19 needs to be readvertised but it does need to be continued to
20 the next hearing so that these revised rules may be circu-
21 lated and hopefully the guidance also circulated, and we
22 will do that.

23 Mr. Pearce.

24 MR. PEARCE: Thank you, Mr.
25 Stamets, if I may late in the game enter my appearance, I am

1 W. Perry Pearce of the Santa Fe law firm of Montgomery and
2 Andrews, appearing on behalf of El Paso Natural Gas Company,
3 and I rise to make a brief statement in support of the posi-
4 tion proposed by the Oil Conservation Division staff.

5 We -- we don't like to go to
6 more work than is necessary, however, after listening to the
7 discussion this morning on this record, it appears to us
8 that any proposal to set guidelines for standards and attach
9 them to the present pit registration process will force us
10 into another no pit hearing situation. If a standard is
11 adopted it has been our position all along that that has to
12 be an appropriate standard; it has to be based on fact. We un-
13 derstand that the present process requires the exercise of
14 some judgment on behalf of -- on the part of the OCD staff;
15 however, at this time we think that is much more appropriate
16 than requiring the Division staff and all the industry re-
17 presentatives to once more enter the fray with their energy
18 and their pocketbooks to define a problem that we don't know
19 the extent of yet, and we would like some experience with
20 the judgment of the Oil Conservation Division staff before
21 we're ready to make a decision of whether or not we think
22 that expenditure of time and dollars is justified.

23 We'd prefer not to have to.

24 MR. STAMETS: Mr. Carr.

25 MR. CARR: Mr. Stamets, North-

1 west Pipeline Corporation appreciates the efforts that have
2 been made by the Division staff, particularly Miss Bailey,
3 in formulating the proposals that are here before you today.

4 We believe that the testimony
5 here today shows the stated purpose of the rules is really
6 focussed on the disposal of large volumes of fluids outside
7 the vulnerable area.

8 We're concerned that the rule
9 as proposed, however, will result in a great deal of
10 unnecessary work for you and for us. We believe that the
11 purpose is directed at large volumes and yet the vast major-
12 ity of the work that will result from your proposal if it
13 becomes a rule will, in fact, be reporting of extremely
14 small volumes to you. We believe, therefore, to that extent
15 the rule is inappropriate in that it doesn't really address
16 the stated purpose and results in substantial unnecessary
17 work.

18 I think if we remember, we went
19 through the hearing process, you adopted an order and estab-
20 lishment of a vulnerable area, and promulgated certain rules
21 for that area; that over a year and a half of work went into
22 this; that there was technical evidence supporting your
23 rule. We think that here today there is none of that.
24 There is a long term study committee; they seem not to have
25 been involved in this and you have a group in place right

1 now to take a look at what's going on outside the vulnerable
2 area.

3 If you enter an order, we sub-
4 mit, based on what's presented here today, you've entered an
5 order which is really an arbitrary decision, which is a step
6 toward extending a no-pit rule throughout the basin. It
7 puts in place rules that if fully implemented could in fact
8 result in more stringent rules outside the vulnerable area.

9 We look forward to working with
10 the Division between now and April to address these prob-
11 lems. We really do think that the purpose of the rule, what
12 it could and in fact will result in, that it may not be an
13 appropriate response to the problem as stated here.

14 MR. STAMETS: I'm certain that
15 the Division staff would appreciate any help they might re-
16 ceive from Northwest Pipeline to -- to establish some sort
17 of a threshold which will eliminate the vast majority of un-
18 necessary filings.

19 Ms. Aubrey?

20 MS. AUBREY: Thank you. Mr.
21 Stamets, Tenneco Oil Company also wants to thank the Commis-
22 sion and the Division staff for the time and effort that has
23 gone into examining the problem situation outside the vul-
24 nerable area.

25 One of the problems, however,

1 that we have with the rule as it presently exists, is that
2 if in fact it is intended to regulate large volumes of pro-
3 duced water it should say so, and it does not.

4 We would be happy to work with
5 the Division staff to establish some criteria for pit regis-
6 tration so that the Division isn't inundated with pit regis-
7 tration applications for small volumes of water which are
8 not intended to be covered by the rule.

9 Tenneco believes that by asking
10 for criteria by which to decide whether or not a pit should
11 be registered or whether these pits are covered by the rule,
12 we 're not asking the Division to lose the ability to use
13 their discretion and technical expertise in deciding how to
14 regulate these pits. We, however, believe that by setting
15 some parameters that are fair and reasonable, and that
16 reasonably reflect the concern, and the legitimate concern
17 that the Commission over the protection of groundwater, that
18 we will be aiding the Commission and the Division in accom-
19 plishing that task rather than becoming bogged down in tech-
20 nical reviews as hundreds of submittals of -- for pits that
21 cannot possibly be hazardous to groundwater.

22 We would appreciate in the next
23 six weeks working with Ms. Bailey and the other members of
24 the environmental staff in achieving some sort of consensus
25 on what is actually intended to be covered by the rules and

1 whether or not we can set out something that will satisfy
2 the Commission's concern about hazards to groundwater by
3 pits in this area.

4 MR. STAMETS: We appreciate it.

5 Does anyone have anything else
6 they wish to add at this time?

7 We will then continue this case
8 until the April 9th Commission Hearing.

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10 (Hearing concluded.)

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C E R T I F I C A T E

I, SALLY W. BOYD, C.S.R., DO
HEREBY CERTIFY the foregoing Transcript of Hearing before
the Oil Conservation Division (Commission) was reported by
me; that the said transcript is a full, true, and correct
record of the hearing, prepared by me to the best of my
ability.

Sally W. Boyd CSR