

1 STATE OF NEW MEXICO
2 ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
3 OIL CONSERVATION DIVISION

4 IN THE MATTER OF THE HEARING CALLED
5 BY THE OIL CONSERVATION COMMISSION FOR
6 THE PURPOSE OF CONSIDERING:

7 APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION THROUGH THE SUPERVISOR OF DISTRICT II FOR AN EMERGENCY ORDER SUSPENDING CERTAIN APPROVED APPLICATIONS FOR PERMITS TO DRILL, AND FOR ADOPTION OF A SPECIAL RULE FOR DRILLING IN CERTAIN AREAS FOR THE PROTECTION OF FRESH WATER, CHAVES AND EDDY COUNTIES, NEW MEXICO. CASE NO. 15487

10

11 REPORTER'S TRANSCRIPT OF PROCEEDINGS

12 COMMISSIONER HEARING

13 DELIBERATIONS OF THE COMMISSION

14 January 4, 2017

15 Santa Fe, New Mexico

16 BEFORE: DAVID R. CATANACH, CHAIRPERSON
17 PATRICK PADILLA, COMMISSIONER
18 DR. ROBERT S. BALCH, COMMISSIONER
19 CHERYL BADA, ESQ.

20 This matter came on for hearing before the
21 New Mexico Oil Conservation Commission on Wednesday,
22 January 4, 2017, at the New Mexico Energy, Minerals and
23 Natural Resources Department, Wendell Chino Building,
24 1220 South St. Francis Drive, Porter Hall, Room 102,
25 Santa Fe, New Mexico.

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1 (10:41 a.m.)

2 CHAIRMAN CATANACH: Okay. So the next
3 order of business is the deliberation in Case Number
4 15487 as well, the application of the New Mexico Oil
5 Conservation Division through the supervisor of District
6 II for adoption of special rules for drilling in certain
7 areas, for the protection of fresh water, Chaves and
8 Eddy Counties, New Mexico. This case was originally
9 heard on December 5th, 2016. I believe it was a
10 multi-day hearing.

11 And, Mr. Feldewert, I know you were
12 involved in that one.

13 MR. FELDEWERT: Yes, sir.

14 CHAIRMAN CATANACH: We do have a substitute
15 Commission attorney, Cheryl Bada, who was the attorney
16 who initially sat in for that multi-day hearing.

17 So we welcome you to the process, Ms. Bada.

18 So, Commissioners, in that particular case,
19 we have a proposed rule that was put forth by the
20 Division, and we also have in that case modifications to
21 the Division rule by -- that were proposed by the joint
22 industry parties, Concho, Fasken, Devon Energy
23 Production, Mack Energy Corporation, EOG Y Resources,
24 Lime Rock Resources and the Independent Petroleum
25 Association of New Mexico and the New Mexico Oil and Gas

1 Association.

2 So as a starting point, I guess there is
3 really one huge major issue with regards to -- that we
4 can open up the discussion with. You know, the Division
5 wants to recommend that two casing -- two water
6 protection casing strings be utilized in this area for
7 oil and gas production. The industry is opposed to
8 that. They believe that a single water protection
9 string is adequate to protect the shallow aquifer and
10 the artesian aquifer in this area. And we can open up
11 the discussion with that. There was quite a bit of
12 evidence presented by both parties, and we can -- we can
13 begin on that note.

14 COMMISSIONER BALCH: Sure.

15 MS. BADA: Before we get started, I want to
16 make sure I have all of it. Where is the Division's
17 proposed rule?

18 COMMISSIONER BALCH: I have the Division's
19 proposed rule and Fifth Amended Application for
20 Rulemaking.

21 CHAIRMAN CATANACH: Do you need a copy,
22 Mr. Padilla?

23 COMMISSIONER PADILLA: I'm sure I have one.
24 I had one last time.

25 CHAIRMAN CATANACH: If not, we can make you

1 a copy of that.

2 COMMISSIONER BALCH: While Patrick is
3 looking, Mr. Chairman, a brief statement from me.

4 CHAIRMAN CATANACH: Go ahead.

5 COMMISSIONER BALCH: I think it's critical
6 in any rulemaking to allow best practices. And for this
7 particular case, we had continuing best practices, best
8 practices for drilling water wells, best practices for
9 drilling oil wells, and put forth were justifications
10 for adding or not adding additional strings for water
11 protection. And it seemed to me if you have a single
12 protection string cemented to surface and if you had an
13 intermediate oil production casing also cemented to
14 surface, that you would meet the goal of protecting the
15 water. You would have two layers of cement, so two
16 layers of casing between any groundwater and the
17 productive intervals.

18 CHAIRMAN CATANACH: So you're basically
19 talking about a single string of casing through the
20 shallow and artesian aquifer?

21 COMMISSIONER BALCH: One particularly for
22 water protection, which is the current best practice
23 right now, and then the intermediate string, according
24 to testimony, with typically cemented nearly to surface
25 anywhere to finish cementing that all the way to

1 surface, and that gives you your information on the fact
2 that the cement's --

3 CHAIRMAN CATANACH: So if I'm understanding
4 you correctly, your preference is to use two strings in
5 the whole well instead of a three-string situation?

6 COMMISSIONER BALCH: Cemented to surface.

7 CHAIRMAN CATANACH: And you're talking
8 about the production casing, not the intermediate?

9 COMMISSIONER BALCH: Well, we could have
10 two casing strings in the case of shallow protection.
11 Basically, the first two or largest two diameter casing
12 strings would be cemented to surface. That gives you
13 two layers of pipe, two layers of cement all the way
14 through the aquifer. And it fits in fairly well with
15 existing best practices for current development.

16 And one of the reasons I'd like to have a
17 cement to surface is I think there was sufficient
18 evidence demonstrated that the cement bond logs would be
19 misleading, and your best assurance really is to have
20 cement all the way to surface. It was presented by
21 people who talked about drilling water wells and oil
22 wells.

23 COMMISSIONER PADILLA: Right. I think the
24 unreliability of the CBL is a good point. That was
25 something that several witnesses touched on. And I have

1 a problem with the CBL as the metric that we use to
2 judge these things because of the timetable in which
3 those are effective or not, I guess is the best way to
4 put it, and the impact to development based on that.

5 One thing that I kept going back to, as I
6 re-read this stuff, is the fact that the Division should
7 be doing these things. I want to make sure whatever we
8 do gives the Director and the Division the flexibility
9 to substitute best practices while, at the same time,
10 making sure we're adequately protecting what we need to
11 protect.

12 CHAIRMAN CATANACH: So I guess if I'm
13 hearing correctly, again, you're also in favor of the
14 single string?

15 COMMISSIONER PADILLA: Yes.

16 CHAIRMAN CATANACH: Casing through the
17 artesian aquifer --

18 COMMISSIONER PADILLA: Yes.

19 CHAIRMAN CATANACH: -- cemented to surface?

20 COMMISSIONER PADILLA: Unless otherwise
21 specified by the Division.

22 CHAIRMAN CATANACH: One of the other issues
23 we talked about on the other side was communication
24 between the two aquifers during drilling operations.
25 That was, I think, one of the main issue that was

1 discussed as a reason for requiring an additional string
2 of casing. I think that the industry has shown that the
3 duration of that time period during drilling operations,
4 when the formation -- when the aquifers are exposed to
5 each other, it's very minimal, and I believe that that
6 is immediately -- when the casing is set, that is
7 generally immediately followed by cementing of the
8 casing to surface, which, in my opinion, permanently
9 shuts off all communication, provided that you have a
10 good cement job on that casing.

11 COMMISSIONER BALCH: Which is why I think
12 you have to take that second string and then also cement
13 it to surface. That gives you the assurance that you
14 have adequate protection of the freshwater resource.

15 COMMISSIONER PADILLA: You're talking about
16 in lieu of 500 feet to the top and that kind of --

17 COMMISSIONER BALCH: 500 feet to the top, I
18 mean, how do you measure that? That's the problem.

19 COMMISSIONER PADILLA: Right. Right.

20 CHAIRMAN CATANACH: I think the proposal
21 was 500 feet into the -- above the shoe of the surface
22 casing.

23 COMMISSIONER BALCH: There was testimony
24 also that best practices that are currently there
25 typically -- or not typically, but often get that second

1 string cemented to surface.

2 COMMISSIONER PADILLA: Right.

3 COMMISSIONER BALCH: So looking at a
4 solution, that gives you two cement layers, two steel
5 layers, and the only requirement that you're adding to
6 accompany in their best practices is a few more bags of
7 cement.

8 COMMISSIONER PADILLA: Right.

9 COMMISSIONER BALCH: And that does not have
10 a significant impact on economics and does not have an
11 impact on the waste or correlative rights.

12 COMMISSIONER PADILLA: I agree.

13 Just going back to be the issue of
14 communication between the two -- between the two
15 reservoirs that you brought up, Mr. Chairman, I think
16 that there was sufficient evidence presented during the
17 course of the hearing that there is ongoing
18 communication of a natural sort. And I think the
19 potential for any kind of material communication during
20 drilling, based on the time frames and best practices or
21 procedures as outlined during the hearing, indicates to
22 me that it's pretty minimal.

23 COMMISSIONER BALCH: Even in the case of
24 lost circulation, it would be a very short duration.

25 COMMISSIONER PADILLA: Correct.

1 COMMISSIONER BALCH: I noted as well a
2 number of points I wrote about. One that struck me is
3 the flow of both aquifers is dominated by the Pecos
4 River Valley drainage, and that tells me there is
5 probably communication, as you said, of a natural sort
6 along the length of the proposed special area.

7 CHAIRMAN CATANACH: Well, if you read the
8 two reports that were presented at the last part of that
9 hearing, you know, there are numerous instances in those
10 reports where they describe that aquitard as a leaky
11 barrier between the two, the shallow and the deeper
12 aquifer. I believe there is some natural-occurring
13 movement between those two aquifers that is affecting
14 the water quality in either reservoir. I think -- I
15 think the movement is both ways. It can go from shallow
16 to deep or from deep to shallow.

17 COMMISSIONER PADILLA: I think the
18 evidence -- the evidence backed that up with the
19 fluctuating levels.

20 COMMISSIONER BALCH: Seasonal variations.

21 COMMISSIONER PADILLA: Right.

22 CHAIRMAN CATANACH: And I think that
23 that -- you know, I don't know the magnitude of that
24 cross communication, but I believe that that's probably
25 a lot more substantial than an individual well

1 drilled -- you know, in a single well that could result
2 in -- in my mind, minimal communication, if any, between
3 the two reservoirs.

4 And, you know, given the fact that the
5 wells are drilled with fresh water in a freshwater
6 system, I think that -- you know, even if there is
7 communication, I think it is minimal, and I think
8 that -- I don't think you're introducing really -- I
9 don't think you're causing contamination of either
10 aquifer during drilling operations.

11 COMMISSIONER BALCH: And I remember
12 repeatedly asking witnesses if they could show any sort
13 of historical problem that has occurred from the
14 existing activity in the thousands of wells already
15 drilled through this aquifer in this area. And while
16 there hasn't been a systematic study looking for that
17 number, nobody has observed anything in an anecdotal
18 way. There is not any evidence showing a problem.

19 So I'm always concerned in rulemaking that
20 if you try and fix a problem that doesn't exist, that
21 you then create other issues, particularly with regard
22 to correlative rights and drilling expense time delays,
23 rig costs, quite substantial for the OCD proposal.

24 COMMISSIONER PADILLA: Yeah. The CBLs were
25 really the big sticking point, obviously, but at least

1 everything you just talked about, and I think that
2 prices these wells out of -- out of economic viability
3 pretty quickly.

4 COMMISSIONER BALCH: It certainly has the
5 potential.

6 COMMISSIONER PADILLA: Yeah.

7 COMMISSIONER BALCH: That would cause waste
8 and also impact the correlative rights of people
9 developing in that area.

10 CHAIRMAN CATANACH: Let me just say on
11 behalf of the Division and the Commission that, you
12 know, we take protection of fresh waters very seriously.
13 I mean, to me that's one of our main objectives in
14 regulating this industry. Having said that, I don't
15 think that there was enough evidence to show -- again,
16 you know, there was evidence that was presented. But
17 there are 9,000 wells that have been drilled in this
18 area, and I have not seen any evidence to show that
19 there was any contamination by any oil and gas well.

20 If that evidence exists or had existed, I
21 mean, I would have loved to see it, and, you know, the
22 outcome of this case may have been different, if there
23 could have been some evidence to show that there was
24 contamination being caused by these drilling operations.
25 But given the fact that there wasn't, I would tend to

1 believe that there is not -- if there has occurred any,
2 it's probably been minimal, and there is no evidence of
3 that contamination at this point.

4 COMMISSIONER BALCH: Certainly not large
5 scale systematically anyway. I think that would have
6 been offered for the record.

7 Now, I share your concern for fresh water,
8 and that's why I think that the second casing string,
9 whether it's intermediate or cemented to -- assurance
10 adequately protected groundwater from the --

11 COMMISSIONER PADILLA: There's one other
12 part I liked in the Respondents' proposal. Part D
13 reads: "Notwithstanding Paragraph (2) of Subsection
14 C" -- I won't read it all -- "the district supervisor of
15 the division's Artesia district office may require a
16 casing program that provides for a surface casing string
17 through the shallow aquifer and an intermediate casing
18 string through the deeper artesian aquifer." So the
19 district office and the Division really do have the
20 discretion to require this if they think it's necessary.

21 COMMISSIONER BALCH: And hopefully that
22 would be based on best practices, local knowledge, and
23 done in specific areas that require additional
24 protection.

25 COMMISSIONER PADILLA: Yeah. If you've got

1 well control, that says you need to do that. I think
2 it's absolutely legitimate.

3 CHAIRMAN CATANACH: You know, I think there
4 could be an issue with wells -- and there was some
5 testimony and evidence that there was some lost
6 circulation occurring when the deeper -- when the
7 artesian casing string was being cemented, and I think
8 that is an issue that we might want to deal with. If
9 you've got lost circulation or if you have other
10 problems or if you don't circulate the cement to surface
11 on that casing string, I think then it comes into play
12 what can we do -- what can we put in place to make sure
13 that that is a good cement job and that it does get
14 circulated to surface.

15 COMMISSIONER BALCH: And one reliable
16 factor that all the witnesses agreed upon for
17 reliability is circulate to surface.

18 COMMISSIONER PADILLA: Yeah. I think if
19 you have exceptions to the rule, then I would expect the
20 Division to get pretty heavily involved.

21 CHAIRMAN CATANACH: Well, I think maybe we
22 need to build something into the rule that says if you
23 don't circulate cement, this is what you need to do.
24 Maybe at that point you need to run a CBL, at least a
25 temperature survey, but I would probably prefer an CBL

1 and have the operator take actions that may be necessary
2 to make sure that cement is circulated.

3 COMMISSIONER PADILLA: I think if there is
4 a significant problem during drilling, that's probably
5 warranted.

6 CHAIRMAN CATANACH: But even if they don't
7 circulate, do you think it's warranted?

8 COMMISSIONER PADILLA: Well, I would say
9 that that would represent a significant problem, if they
10 do not circulate. And we've got an area where they know
11 there are considerations for groundwater impact.

12 COMMISSIONER BALCH: Requiring a CBL
13 because of the possibility of a false positive, and
14 then -- then you do spend a lot more money for problems
15 that may not exist or may not even be possible to fix
16 it. It's a small bubble, for example. So that's why I
17 propose circulating the first two strings, the
18 groundwater production and the intermediate protection
19 and deeper, all to surface.

20 COMMISSIONER PADILLA: Right. But, I
21 mean -- don't circulate to surface.

22 CHAIRMAN CATANACH: On the surface casing?

23 COMMISSIONER PADILLA: Yeah. Then they
24 need to have some assurance there isn't a problem there.

25 CHAIRMAN CATANACH: And I'm not sure a

1 temperature survey -- a temperature survey might be used
2 at the top of the cement, but it's not going to tell you
3 anything else about the quality of the cement, maybe the
4 upper portion of the -- of the casing. I mean, I would
5 feel better if they would run a CBL.

6 COMMISSIONER PADILLA: In cases where they
7 do not circulate to surface?

8 CHAIRMAN CATANACH: In cases where they do
9 not circulate.

10 And let me just say back when -- back as
11 far as I can remember, I mean, the Division always tried
12 to witness cement jobs on surface casings, and we did a
13 pretty good job, I think, for a long time. And I think
14 we got to the point where we just got way busy, and
15 really there were some operations that we just couldn't
16 witness anymore. And I would, certainly in this area --
17 I know it's not feasible to put it in a rule, but I
18 would encourage the Artesia District Office to try and
19 witness cement operations, cement casing in the special
20 area, and I can certainly convey that to the district
21 office. I think that's a good -- good way to tell and
22 to know if you have good circulation, if the cement
23 quality was good, and I think it really helps to make
24 sure that you know things are being done properly.

25 COMMISSIONER BALCH: I have in my

1 collection of final thoughts that also I agree with --
2 this is verbatim. "If you can't" -- "if you can't
3 circulate to surface, then you run the CBL." That is
4 probably your only viable option. I think the CBL is
5 not a perfect tool, but it's the only thing available in
6 that case where you don't circulate to surface.

7 COMMISSIONER PADILLA: Right.

8 CHAIRMAN CATANACH: You know, we might talk
9 a little bit about -- you know, there was some testimony
10 that there may be some hydrocarbons in the Artesia Group
11 that you drill through between the aquifers. I mean,
12 you know, I guess the way the rule would be written
13 would be that if you encounter a hydrocarbon zone,
14 that's when you would set that first string. That may
15 be above the artesian aquifer. This may be a little bit
16 hard to deal with, and maybe what do you in a situation
17 like that is you give the authority to the district
18 office to make their best determination on how to handle
19 that type of situation.

20 COMMISSIONER PADILLA: I think the district
21 office needs that flexibility, and that's why I don't --
22 I'm very hesitant to institute one-size-fits-all,
23 because I think there are a lot of cases where the
24 district office probably knows more than we do.

25 COMMISSIONER BALCH: And that goes back to

1 best practices where it's going to be effective and even
2 in places where it's not. So if we make a rule that
3 makes you do something in an area that doesn't need that
4 additional protection, then you cause waste and impact
5 correlative rights. We want to be able to assure, in
6 the areas that do need the protection, that there is
7 sufficient oversight from the Division and due diligence
8 by the company that those aquifers are protected.

9 CHAIRMAN CATANACH: Right.

10 And along those lines, I think it's
11 necessary to define this area. I think the special rule
12 is necessary. I don't want to just not have a special
13 rule and throw it back to what may be covered in other
14 Division rules. I think it's necessary. We do need a
15 special rule. This is a special area, and I think we
16 need to make sure that it -- we want it treated like we
17 want. So that's my opinion. I think the special rule
18 is a good idea. It's a special area. And, you know,
19 they've got it defined pretty good, and there was no
20 dispute among the parties about the extent of this area.
21 I think it's defined as well as it can be at this point,
22 and I think that we should leave the area that was
23 proposed intact for purposes of this rule.

24 COMMISSIONER BALCH: That would be
25 19.15.39.11A, "Designated area," (1) and (2).

1 CHAIRMAN CATANACH: Yeah. And where
2 they -- where they threw this in was -- in our rule
3 book, we have special rules for, I think -- in this
4 particular section, Section 39, I think we have some
5 special rules for different areas of the state. I
6 think, if I'm not mistaken, Otero, Mesa -- the rules for
7 Otero and Mesa are in there. So this is just another
8 area that I would think would constitute a special area
9 that should be in there.

10 And having defined the area, I think we can
11 go through and, you know, kind of make sure that
12 whatever we want -- whatever special requirements we
13 want are in there, are in the rule, including the
14 flexibility for the district offices to make changes in
15 casing programs, cementing programs, if those
16 circumstances arise.

17 COMMISSIONER BALCH: The other issue that
18 was brought up was the amount of annular space that
19 would be required for the casing joints for the cement
20 job. I think there was a fair amount of testimony from
21 industry representatives that current practices actually
22 make for a better cement job than having a narrower gap,
23 gives you your turbidity and better -- less bubbles and
24 gaps in your cement. I don't see a need for a
25 requirement of increasing the diameter of the open hole,

1 in the drilling components, particularly when it's going
2 to impact drilling practices of the wells in the area.

3 CHAIRMAN CATANACH: Well, in my opinion,
4 not only 9,000 wells, but 100,000 wells that have been
5 drilled. You know, this is not anything new. I think
6 the hole size and casing standards have been in place
7 for decades. And, you know, this is really the first
8 time that it's ever become an issue in my tenure with
9 the Division. I don't recall it ever was a major issue
10 or that it constituted a risk to any freshwater zones.
11 You know, companies drill through freshwater zones all
12 the time. This is nothing new. It's all in Lea County.
13 You've got the Ogallala. And this is the same type of
14 casing and cementing that's done everywhere. It's not
15 just this area. And I agree with -- with the premise
16 that you have to maintain a pressure and that's
17 turbidity, turbulent flow, to clean the pipe and to make
18 sure that there is adequate cement. I also agree that
19 it's not necessary to have a larger diameter hole.

20 COMMISSIONER PADILLA: Likewise. I think
21 that became pretty clear when you're basing your cement
22 job for a 45-foot joint on 18 inches of collar. Your
23 calculations are bound to be flawed for 95 percent of
24 that pipe. I just -- I can see why the Division
25 wrote -- would write that, but as a practical matter,

1 based on the testimony, I don't think that should be
2 part of it, because I do think it degrades the qualities
3 of the cement, based on a lot of testimony -- the
4 quality of the cement job, rather.

5 CHAIRMAN CATANACH: I do think that the
6 centralizers are a good idea, and I think it's common
7 practice for companies to use centralizers in their
8 casing, which helps.

9 I think that -- you know, even with all the
10 precautions you take, I think you're probably going to
11 get intervals that may not have cement in them, but I
12 don't think that you're going to have continuous
13 intervals up and down that casing string that would
14 allow any communication. I think the problem is going
15 to be intervals where maybe -- maybe there isn't cement
16 behind the casing. But, again, it's not going to be a
17 continuous channel up from one reservoir to the shallow
18 reservoir.

19 COMMISSIONER PADILLA: Are there
20 centralizers noted in any of these, or is that left to
21 the discretion of the district supervisor, something
22 that -- I don't think it gets down to that granular
23 level here, but --

24 CHAIRMAN CATANACH: You know, I think that
25 that's --

1 COMMISSIONER BALCH: Well, we asked
2 questions of several of the witnesses about their
3 practices, and I didn't hear any responses that sound
4 like we need to have a particular added to the rule to
5 address it. Basically, it's a known practice. People
6 do it.

7 COMMISSIONER PADILLA: If you want to get
8 your casing down, you're probably going to do it?

9 COMMISSIONER BALCH: Exactly.

10 CHAIRMAN CATANACH: Again, I think it's
11 maybe something we could leave to the district, because,
12 you know, you can put conditions of approval on an APD.
13 And we can -- I mean, they can include that --

14 COMMISSIONER PADILLA: Right.

15 CHAIRMAN CATANACH: -- as one of the
16 conditions, that centralizers be installed. I don't
17 think it needs to be in the rule.

18 And I will say one thing. You know, we've
19 had -- recently we've had a lot of issues with trying to
20 keep a geologist in the Artesia District Office, and
21 it's been, you know, several -- there have been several
22 gaps in that time frame where we've not had a geologist
23 due to different circumstances. I can tell you today
24 that we just hired a new one that started yesterday.
25 This particular gentleman in Artesia had previous work

1 experience with Yates for, I believe, 30 or so years and
2 is well aware of this whole area. And I think he'll do
3 a really good job of, you know, making sure that this
4 is -- that we do something more consistently than we
5 have in the past. So in that regard, I'm a little less
6 concerned about this whole issue because I think we'll
7 be in better hands going forward.

8 COMMISSIONER BALCH: Yes.

9 COMMISSIONER PADILLA: What kind of gaps do
10 you mean? Gaps as in -- I know some of the problems of
11 the permitting came up during the course of the original
12 hearing. Gaps in --

13 CHAIRMAN CATANACH: Well, I think --

14 COMMISSIONER PADILLA: -- manpower or --

15 CHAIRMAN CATANACH: Yeah. I think we've
16 had -- it seems like it's hard to keep a geologist in
17 Artesia. I'm not sure why. But it seems like off and
18 on through the years we've had difficulty retaining
19 them.

20 COMMISSIONER PADILLA: But in the absence
21 of a geologist, how does the process work?

22 CHAIRMAN CATANACH: Well, in the absence of
23 a geologist, you still have a district supervisor who
24 would basically approve the APDs. He generally will --
25 well, he generally has knowledge of the area, as well as

1 the geologist, but I think it's real critical that we
2 have somebody that knows the geology. And, I mean,
3 that's an expert in geology that can help us out in that
4 regard. The district supervisor may or may not be a
5 geologist. It just depends. The current supervisor is
6 not a geologist.

7 So are those really the main -- the main
8 issues?

9 COMMISSIONER BALCH: I think those are the
10 main issues. It's very short for our rule, as it is.
11 One thing that we might be able to do is work from one
12 of the draft proposals and adjust the language as we
13 think appropriate based on the testimony.

14 CHAIRMAN CATANACH: Yeah. In that regard,
15 I think that -- you know, the rule modifications that
16 were proposed by industry, I think are a better starting
17 point because I think they've, you know, taken out some
18 of the -- some of the language that the Division
19 initially proposed, you know, with regard to a second
20 string. So I think this is where --

21 COMMISSIONER BALCH: This is the
22 Respondents' showing notice of modification to special
23 rules, and that's the second part where it's not
24 red-lined, Attachment B.

25 CHAIRMAN CATANACH: I think it's the part

1 that is blue-lined. That's where the --

2 COMMISSIONER BALCH: Pardon me. Attachment
3 A is the blue-line version. Attachment B is what this
4 looks like without a blue line.

5 COMMISSIONER PADILLA: I think the blue
6 line is the place to start because then you see both.

7 CHAIRMAN CATANACH: I agree. That would
8 probably be better.

9 COMMISSIONER PADILLA: What was original
10 and what's been added.

11 COMMISSIONER BALCH: So 19.15.39.11A(1) and
12 (2), designation of special area. I don't think there
13 was anything represented to change that designation.
14 So --

15 COMMISSIONER PADILLA: I don't think there
16 are any changes between the two.

17 CHAIRMAN CATANACH: Yeah. Again, I think
18 that's the theory that can best be defined at this
19 point. I think that's -- we should leave that intact.

20 COMMISSIONER BALCH: Section A, we can
21 leave untouched. Section B, I think we can also leave
22 untouched. That's just the starting -- "Applicability."

23 COMMISSIONER PADILLA: I agree.

24 CHAIRMAN CATANACH: We might want to read
25 through that. I'm not quite sure what that means,

1 "which will penetrate the designated area above the San
2 Andres formation."

3 COMMISSIONER PADILLA: A directional well
4 just outside the boundary.

5 CHAIRMAN CATANACH: You guys feel like
6 that's necessary to leave it in?

7 COMMISSIONER BALCH: I'm in agreement with
8 Commissioner Padilla's interpretation of that.

9 COMMISSIONER PADILLA: What do you think --

10 COMMISSIONER BALCH: Outside the area --

11 COMMISSIONER PADILLA: That's what I mean.
12 Oh, you are in agreement?

13 COMMISSIONER BALCH: Yeah.

14 COMMISSIONER PADILLA: Oh. I heard that
15 wrong. I think it's fine to leave in. If the
16 subsurface area that we're talking about is within the
17 boundaries, I think that's the part, not the surface
18 location.

19 COMMISSIONER BALCH: Right. And there were
20 examples given particularly on the eastern boundary of
21 where the area is not exactly -- that could be in the
22 discretion of the Artesia District Office.

23 COMMISSIONER PADILLA: Uh-huh.

24 CHAIRMAN CATANACH: Okay. We can leave
25 that as is from there for changes.

1 Going to C, it gets a little confusing
2 there, because in the original proposal, there were two
3 sections, one that dealt with wells that penetrate the
4 shallow aquifer, and then Section E dealt with wells
5 that penetrate only the artesian aquifer.

6 COMMISSIONER PADILLA: And E is scratched
7 in the --

8 CHAIRMAN CATANACH: E is scratched. So I
9 think that we're just talking about the designated area,
10 and the designated area is the area that has both
11 shallow and deep reservoirs -- or aquifers in there. So
12 shall we -- can we change that to "wells that penetrate
13 the designated area"?

14 COMMISSIONER BALCH: There was a difference
15 in the original proposed rule between -- yes. I'm
16 thinking that might be easier to consolidate -- try to
17 consolidate the language.

18 CHAIRMAN CATANACH: Yeah.

19 COMMISSIONER BALCH: So that there is more
20 or less one type of well design for that area.

21 COMMISSIONER PADILLA: Yeah. I think the
22 intent here was to shrink the zone down to whatever that
23 geographic area -- that shallow aquifer was.

24 COMMISSIONER BALCH: And to treat the
25 deeper one.

1 COMMISSIONER PADILLA: Right. So if we say
2 "designated area" --

3 COMMISSIONER BALCH: I'm sure we will need
4 a Section C at that point.

5 COMMISSIONER PADILLA: Then you're
6 expanding that out past the areas where there may not --
7 or there are not, according to the State Engineer, two
8 aquifers. If we just call it the designated area,
9 you're targeting the area.

10 COMMISSIONER BALCH: "For wells that
11 penetrate the designated" -- "for wells that will
12 penetrate the designated area, as mapped by the office
13 of the state engineer, the operator shall include in the
14 casing program" -- a list of which items. And that way
15 we change the language there.

16 MS. BADA: I'm not sure that you want
17 "mapped by the Office of the State Engineer," since you
18 didn't have the designated area above.

19 COMMISSIONER BALCH: Or as 19.15.39.11A(1)
20 and (2) --

21 CHAIRMAN CATANACH: I think that's -- our
22 designated area is based on the State Engineer, but if
23 you don't want to tie it to that, then we can leave that
24 out.

25 COMMISSIONER BALCH: Are you taking notes

1 on these changes?

2 MS. BADA: Yes.

3 COMMISSIONER BALCH: And also I think it's
4 wise for us, in our deliberation today, if we leave the
5 record open and come back with a fresh doctrine and look
6 at that again before we finalize it.

7 CHAIRMAN CATANACH: I think that's a great
8 idea.

9 So what was your suggestion, Mr. Balch?

10 COMMISSIONER BALCH: "For wells that will
11 penetrate the designated area...." I think leave out
12 the "as mapped." Or I would say, "19.15.39.11A" --

13 CHAIRMAN CATANACH: If she's taking notes,
14 you might want to slow down.

15 COMMISSIONER BALCH: She writes pretty
16 fast.

17 "The operator shall include in the casing
18 program at least the following," and then we have a list
19 of items that we generate for Section C.

20 CHAIRMAN CATANACH: Do you have that? Can
21 you read it back to us?

22 MS. BADA: "For wells that penetrate the
23 designated area" -- "for wells that will penetrate the
24 designated area, defined in Subsection A of 19.15.39.11
25 NMAC, the operator shall include in the casing program a

1 list of following."

2 CHAIRMAN CATANACH: Okay.

3 COMMISSIONER PADILLA: Just so you
4 gentlemen are aware, we're changing that from -- in
5 Exhibit 1, this, as defined, shallow aquifer, as
6 designed by the State Engineer; (2) the designated area?

7 COMMISSIONER BALCH: So we're using a
8 listing of the designated area as 19.15.39.11A. So I
9 think counsel's recommendation to take out the State
10 Engineer's map is probably not a bad idea.

11 COMMISSIONER PADILLA: Yeah. Go ahead.
12 Get rid of that language.

13 COMMISSIONER BALCH: So next comes a list
14 of requirements.

15 CHAIRMAN CATANACH: Hang on a second. We
16 may have an issue.

17 COMMISSIONER PADILLA: Basically expanding
18 from this area to the entire designated area.

19 COMMISSIONER BALCH: Well -- or maybe not
20 expanding that. It's having one -- requirements that
21 cover the entire area.

22 COMMISSIONER PADILLA: I think that's what
23 we want to get at. Just make sure we remove any
24 reference to the shallow artesian --

25 COMMISSIONER BALCH: Yes.

1 COMMISSIONER PADILLA: -- and the State
2 Engineer and that we're talking about this will be a
3 blanket, for lack of a better term, over the entire --

4 COMMISSIONER BALCH: Area covered by both
5 aquifers.

6 COMMISSIONER PADILLA: Right. Right. We
7 need to make that clear somehow.

8 COMMISSIONER BALCH: Well, I think it's --
9 the definition in 39.11A would cover that.

10 COMMISSIONER PADILLA: As long as we just
11 use that and make sure that definition is uniform and
12 filters down, I think we're good.

13 CHAIRMAN CATANACH: Right. Because those
14 casing requirements are going to apply to both areas.

15 COMMISSIONER PADILLA: Right.

16 CHAIRMAN CATANACH: The shallow and the
17 artesian area.

18 COMMISSIONER PADILLA: Right.

19 CHAIRMAN CATANACH: Okay. Are we on C(1)?

20 COMMISSIONER BALCH: C(1).

21 COMMISSIONER PADILLA: Let me back up for a
22 second, Ms. Bada.

23 MS. BADA: "For wells that will penetrate
24 the designated area...." It just says, "For wells that
25 will penetrate the designated area, as defined in

1 Subsection A, 19.15.39.11 NMAC, the operator shall
2 include the casing" -- "in the casing program at least
3 the following." So you're going to need to modify the
4 one to this, change --

5 COMMISSIONER BALCH: The main thing is
6 that -- what we want to happen is best practices occur.

7 COMMISSIONER PADILLA: So this is the meat
8 and potatoes?

9 COMMISSIONER BALCH: Yes.

10 COMMISSIONER PADILLA: Okay. So on number
11 (1), "If a conductor pipe is used" --

12 CHAIRMAN CATANACH: "It will be adequately
13 cemented in place to prevent drainage of fluids from the
14 surface to formations into the shallow aquifer." Now,
15 that doesn't say they have to set a conductor string.
16 General practice is that they do. So is it -- is it --
17 is it a good idea to require that? I don't recall that
18 there was a lot of testimony on this.

19 COMMISSIONER BALCH: No. And really (1)
20 says if it's used, then you make sure it's cemented and
21 surfaced.

22 CHAIRMAN CATANACH: But do we want it to be
23 used? Do we want to make that a requirement? Does it
24 add a degree of safety to the shallow aquifer?

25 COMMISSIONER BALCH: Well, if we want to do

1 that, we have to go back to -- between the shallow and
2 deeper aquifers. I'm of the opinion that if you have
3 surface casing cemented to surface and then your next
4 string, whether it be intermediate or production, also
5 cemented to surface, that you will have the most
6 protection that you can give without impacting
7 correlative rights and waste.

8 COMMISSIONER PADILLA: I think it also
9 varies by location because there was some talk about in
10 areas of unconsolidated surface, you know, formation,
11 conductor pipes were used just to really give a -- for
12 further drilling. And in other cases, they're not
13 necessary because you've got good, tight surface rock.

14 COMMISSIONER BALCH: 9,000 wells in there
15 already -- adjacent wells needed or not, you leave it up
16 to the operator to design their well directly, and then
17 the OCD will have oversight on that if they --

18 COMMISSIONER PADILLA: Right.

19 CHAIRMAN CATANACH: And I think if you do
20 set conductor casing, it's going to be a relatively
21 shallow depth, 50 feet or 60 feet.

22 COMMISSIONER PADILLA: Right.

23 CHAIRMAN CATANACH: The shallow aquifer is
24 200 feet, gives you added protection. So I'd be in
25 favor of leaving it as it is.

1 COMMISSIONER PADILLA: Yeah. I think it's
2 fine.

3 COMMISSIONER BALCH: "If a conductor pipe
4 used, it will be adequately cemented in place to prevent
5 drainage of fluids from the surface to shallow
6 formations, into the shallow aquifer." I'm not sure if
7 the last part of that sentence is really --

8 COMMISSIONER PADILLA: "The shallow
9 aquifer" part?

10 COMMISSIONER BALCH: Yes.

11 MS. BADA: Or say "the shallow aquifer
12 where it is present."

13 COMMISSIONER BALCH: Well, the thing in my
14 mind is that the conductor casing will be used where
15 it's genuinely useful, best practices.

16 COMMISSIONER PADILLA: Right.

17 COMMISSIONER BALCH: So I'm not sure we
18 need to specify.

19 COMMISSIONER PADILLA: If it becomes
20 redundant, there is no --

21 COMMISSIONER BALCH: "If a conductor pipe
22 is used, it will be adequately cemented in place to
23 prevent drainage of fluids from the surface or to the
24 shallow formations."

25 COMMISSIONER PADILLA: Period.

1 COMMISSIONER BALCH: Period.

2 CHAIRMAN CATANACH: Okay.

3 COMMISSIONER PADILLA: Or "from the surface
4 to other shallow formations"?

5 COMMISSIONER BALCH: Sure. "To other
6 shallow formations."

7 Did you catch that one?

8 MS. BADA: Uh-huh.

9 COMMISSIONER PADILLA: I think (2) is what
10 you were talking about earlier, Mr. Chairman, the
11 hydrocarbon show.

12 CHAIRMAN CATANACH: Yeah. "The operator
13 shall set a surface casing string 50 feet below the base
14 of the deeper aquifer." We don't have an issue.

15 COMMISSIONER PADILLA: How about if we say
16 "the artesian aquifer," since we've kind of struck the
17 reference to two aquifers? Is there any ambiguity about
18 what the artesian aquifer is?

19 COMMISSIONER BALCH: I don't think it's the
20 entire area covered by the designated area, so we could
21 say "designated area."

22 COMMISSIONER PADILLA: Well -- but you're
23 talking about depth severance there.

24 COMMISSIONER BALCH: I think I'm actually
25 pretty comfortable with the language on (2) as proposed

1 by the joint notice. It will allow you to produce those
2 shallow hydrocarbons. Is that right?

3 COMMISSIONER PADILLA: Right. So strike
4 "deeper"?

5 COMMISSIONER BALCH: You're right. "Base
6 of the Artesian aquifer or not more than 50 feet above
7 the first show of hydrocarbons...."

8 COMMISSIONER PADILLA: Right.

9 COMMISSIONER BALCH: That would be a good
10 word to remove.

11 CHAIRMAN CATANACH: Take out "deeper"?

12 COMMISSIONER BALCH: "Deeper."

13 MS. BADA: I have a question before we go
14 on. In (2), the way it's currently -- in (1), the way
15 it's currently written, it would say, "If a conductor
16 pipe is used, it will be adequately cemented in place to
17 prevent drainage of fluids from the surface to other
18 shallow formations." You're not referring to any other
19 shallow formations, so shouldn't it just say "to shallow
20 formations"? Because you're prefacing -- there is not
21 another formation.

22 COMMISSIONER PADILLA: I think that makes
23 sense.

24 COMMISSIONER BALCH: So (2) is all we need.
25 "The operator shall set a surface casing string 50 feet

1 below the base of the Artesian aquifer or not more than
2 50 feet above the first show of hydrocarbons on a mud
3 log, such that the surface casing is landed in the first
4 competent formation, and circulate cement to surface,"
5 which I think provides you your first layer of
6 protection.

7 COMMISSIONER PADILLA: Right.

8 CHAIRMAN CATANACH: Okay.

9 COMMISSIONER PADILLA: So (3), having been
10 scratched entirely, is essentially what we've talked
11 about from the beginning.

12 CHAIRMAN CATANACH: Yeah. I think that's
13 what we're eliminating, is (3).

14 COMMISSIONER PADILLA: As far as the
15 requirement of the CBL, even though circulated to
16 surface, which is --

17 CHAIRMAN CATANACH: Yeah. But I think
18 before we move on from (2), (2) is going to need
19 whatever additional requirements we want in there. So I
20 don't know if that's going to be a 2(A), 2(B), 2(C).

21 COMMISSIONER PADILLA: 2(A), "if cement is
22 not circulated to surface" --

23 CHAIRMAN CATANACH: That's one of them, but
24 advising the district office so they can change the
25 casing program if necessary.

1 COMMISSIONER PADILLA: Well, that's in D.
2 D really lays all that out.

3 CHAIRMAN CATANACH: Okay. We can leave
4 that in the substance part. But, again, we have to --
5 whatever additional requirements we have to put under
6 (2), I think --

7 COMMISSIONER BALCH: So what I would like
8 to see in original (3), (4), (5) -- original (3), (4),
9 (4) is something that encompasses that the next adjacent
10 string be an intermediate hole production would be
11 cemented to the surface.

12 CHAIRMAN CATANACH: Right.

13 COMMISSIONER BALCH: That provides you a
14 second layer of protection.

15 CHAIRMAN CATANACH: Okay. I think we can
16 leave that. That's going to be left in the new (3), and
17 we can --

18 COMMISSIONER PADILLA: The blue (3)? Is
19 that what you mean?

20 CHAIRMAN CATANACH: The blue (3). It was
21 previously number (5), and it's now number (3).

22 COMMISSIONER PADILLA: Yeah. We just need
23 to change that to say "operator shall submit production
24 casing cement production casing to surface."

25 COMMISSIONER BALCH: Except there might be

1 an intermediate casing.

2 CHAIRMAN CATANACH: Yeah, but is that --
3 my -- my recollection is these Yeso wells basically, for
4 the most part, which are -- which would only be --
5 beside the surface casing, it would be one additional
6 casing string, the production string.

7 COMMISSIONER BALCH: So in that case, you
8 would cement to surface.

9 COMMISSIONER PADILLA: Right.

10 COMMISSIONER BALCH: And in the case of a
11 deeper well going through this area, below the Yeso --
12 you would set the intermediate string cemented to the
13 surface.

14 COMMISSIONER PADILLA: Correct.

15 CHAIRMAN CATANACH: Then we could say "the
16 production casing, or in the event an intermediate
17 string is set, the intermediate string shall be cemented
18 to surface."

19 COMMISSIONER PADILLA: "Either the
20 production string or the intermediate string, if such a
21 string exists, shall be circulated to surface."

22 COMMISSIONER BALCH: Then you have two
23 layers of cement, two layers of pipe. That's a lot of
24 protection.

25 CHAIRMAN CATANACH: Yeah. The only concern

1 I have about that is somebody later may want to convert
2 that to a water well. I guess they could still easily
3 do that through --

4 COMMISSIONER PADILLA: How often does that
5 happen?

6 CHAIRMAN CATANACH: You know, not -- we
7 don't -- it usually happens in the district, and we
8 don't necessarily know about all those instances up
9 here. I suspect it happens fairly rarely.

10 COMMISSIONER PADILLA: Well, with 9,000
11 other wells, we can pick one of those.

12 COMMISSIONER BALCH: We can pick one that
13 already exists. I mean, you could remediate the wells
14 each time to cut out some of that first casing string or
15 blast through it.

16 CHAIRMAN CATANACH: Let me ask the
17 Commission, what is your pleasure? Do you want to break
18 for lunch?

19 COMMISSIONER PADILLA: We have quite a ways
20 to go.

21 COMMISSIONER BALCH: Let's finish C and see
22 where we are. I think we might almost be done with the
23 C changes. We need to change the language for (3), make
24 sure the next adjacent production string be intermediate
25 production cement to surface. That leads us to (4).

1 CHAIRMAN CATANACH: We're not past (2) yet,
2 because (2) is what we want to put the additional
3 requirements of the CBL and if the cement is not
4 circulated. There may be a couple of other things we
5 need.

6 MS. BADA: Isn't that in (4)?

7 COMMISSIONER BALCH: That's in (4). We can
8 leave it in (4), "if not circulated to surface."

9 CHAIRMAN CATANACH: Or, you know, I think
10 we can move that up to 2(A) or 2(B). And, you know,
11 because that deals strictly with the surface casing that
12 we're talking about here. And there is going to be some
13 other things that we may want to put in in regards to
14 surface casing.

15 COMMISSIONER BALCH: Well, we can certainly
16 work on it now. If you want to take a break, we can do
17 that.

18 CHAIRMAN CATANACH: Let's go ahead and
19 break for lunch. I don't think it's going to be too
20 much longer, probably, after lunch. I'm sure we can get
21 through.

22 COMMISSIONER BALCH: I mean, we can take
23 (4), figure out the language for that, and then make (4)
24 an --

25 MS. BADA: If you have a "we." Otherwise,

1 it's just another sentence.

2 COMMISSIONER BALCH: Okay. Add another
3 sentence, as counsel recommends.

4 CHAIRMAN CATANACH: So maybe make (4)
5 number (3)? Is that what you're saying?

6 COMMISSIONER BALCH: Well, right now we're
7 defining surface casing and defining what happens at the
8 intermediate or production casing. And then at some
9 point or somewhere, we need to define what happens if
10 you can't circulate to surface. Right now they have it
11 as (4). We can leave that there and make sure we left
12 it in (2) and (3).

13 COMMISSIONER PADILLA: What would the new
14 (3) be? Sorry. That language about intermediate or
15 surface -- or production? Yeah.

16 COMMISSIONER BALCH: You could make a new
17 (4) that says, "If cement is not circulated to surface,
18 the surface or next feet adjacent production string" --
19 we're probably going to have to make a clause "shall
20 furnish" -- "at its option, shall furnish a temperature
21 survey or a cement bond log to the division's Artesia
22 district office, and shall not proceed with completion
23 until the division approves the cement bond log," which
24 it should be a fairly rare occurrence that you can't
25 circulate to surface.

1 COMMISSIONER PADILLA: Right.

2 COMMISSIONER BALCH: So while imposing a
3 delay at that point, it would be well specific.

4 COMMISSIONER PADILLA: Right. It would
5 definitely be in the minority.

6 COMMISSIONER BALCH: So I'm fairly
7 comfortable with the well language there. We may want
8 to work out the middle part of that sentence.

9 CHAIRMAN CATANACH: I think -- well, I
10 think I'd rather deal with (2), and then list everything
11 that we want to put in there, because I don't know if
12 we're going to have the same concerns with the
13 production casing as we do with the surface casing.

14 COMMISSIONER BALCH: Right. The
15 temperature survey may be sufficient for the production
16 or intermediate string, where the cement bond log might
17 be more appropriate for the surface casing.

18 CHAIRMAN CATANACH: Yeah. I think we
19 should deal with the surface casing, get that out of the
20 way, get everything we want in there, and then move to
21 the production casing or the intermediate casing. I
22 mean, there are some things I want to suggest to put in
23 there on the surface casing also. So we can --

24 COMMISSIONER PADILLA: Let's break now and
25 come back.

1 CHAIRMAN CATANACH: Let's do that. Let's
2 break until 1:00 and then reconvene.

3 (Recess 11:42 a.m. to 1:03 p.m.)

4 COMMISSIONER BALCH: So we were talking
5 about Section 2 and making sure we had the right
6 requirements.

7 COMMISSIONER PADILLA: Do we have to go
8 back into session?

9 CHAIRMAN CATANACH: I'll just call the
10 hearing back to order at this time, and turn it over to
11 Chairman Balch (laughter).

12 COMMISSIONER BALCH: You're not going to
13 get rid of that responsibility.

14 COMMISSIONER PADILLA: He's retiring.

15 CHAIRMAN CATANACH: Patrick said he wanted
16 to do that this year.

17 COMMISSIONER PADILLA: That's right.

18 CHAIRMAN CATANACH: He's running for
19 chairman.

20 COMMISSIONER BALCH: Running for chairman?

21 COMMISSIONER PADILLA: Totally.

22 COMMISSIONER BALCH: I'll vote for you,
23 Patrick.

24 (Laughter.)

25 COMMISSIONER PADILLA: Sounds good. It

1 will be two against one, right, if we get a yes vote.

2 Where were we?

3 COMMISSIONER BALCH: (2). We were going to
4 add language from (4) to (2).

5 CHAIRMAN CATANACH: Oh, yeah.

6 COMMISSIONER BALCH: I think if you just
7 start with (4), "If cement is not circulated to the
8 surface on the production casing, the operator shall
9 furnish" -- what?

10 COMMISSIONER PADILLA: I don't like that
11 "operator at its option."

12 COMMISSIONER BALCH: Yeah, I don't either.

13 CHAIRMAN CATANACH: Yeah. This is not
14 optional. I don't want to make that optional.

15 COMMISSIONER BALCH: Okay. There's no
16 added option.

17 MS. BADA: Right.

18 CHAIRMAN CATANACH: So is this going to be
19 designated -- this is number (3), or is it going to be
20 2(A)?

21 COMMISSIONER BALCH: I think this is just
22 the number of the sentence --

23 COMMISSIONER PADILLA: A continuation of 2.

24 COMMISSIONER BALCH: And then we'll take
25 (3), and we'll do the same with (3) with maybe a

1 slightly different set of --

2 CHAIRMAN CATANACH: But there may be some
3 other things I want to put in (2) that maybe it would
4 necessitate maybe an A, B, C.

5 COMMISSIONER BALCH: Let's hear it.

6 COMMISSIONER PADILLA: Why don't we let's
7 flesh out the rest of (2)?

8 COMMISSIONER BALCH: And that should make
9 (3) pretty easy.

10 COMMISSIONER PADILLA: Right. And then see
11 if you have other things you want to add to it.

12 CHAIRMAN CATANACH: Okay.

13 COMMISSIONER BALCH: So we continue (2)
14 with "If cement is not circulated to the surface on the
15 surface casing, the operator shall furnish" -- what?
16 "Cement bond log"?

17 CHAIRMAN CATANACH: "The operator shall
18 conduct or shall run a cement bond log"?

19 COMMISSIONER BALCH: So if we take out the
20 line of "temperature survey or a" and go straight to
21 "cement to the division's Artesia office and shall not
22 proceed with completion until the division approves the
23 cementing."

24 COMMISSIONER PADILLA: Yeah.

25 COMMISSIONER BALCH: That could be 2(A).

1 COMMISSIONER PADILLA: I thought we were
2 just running that --

3 COMMISSIONER BALCH: Well, if he wants --

4 CHAIRMAN CATANACH: Let's make that (A).

5 COMMISSIONER BALCH: So that would be 2(A).

6 MS. BADA: So will we have a (B)?

7 COMMISSIONER BALCH: We'll soon get to a
8 (B).

9 CHAIRMAN CATANACH: If the Commission wants
10 to add anything to that.

11 COMMISSIONER PADILLA: Chairman's got a
12 laundry list.

13 COMMISSIONER BALCH: Yes. He did his
14 preparation.

15 MS. BADA: And at the end, so I'm clear, it
16 says, "Until the division approves the cementing"?

17 COMMISSIONER BALCH: "Cementing."

18 CHAIRMAN CATANACH: Well, do we want to
19 take that a step further and say that "remedial cement
20 operations shall be required to bring the cement to
21 surface"?

22 COMMISSIONER PADILLA: Wouldn't that be
23 part of the Division approval of the cementing?

24 COMMISSIONER BALCH: I think that's
25 correct. You want to allow best practices, so in some

1 cases, it may be a squeeze job or others it may be --

2 COMMISSIONER PADILLA: I don't think we
3 want to tie it to a certain procedure, but with the
4 Division having to approve the cementing, whatever that
5 means, and whatever kind of remediation is required --

6 CHAIRMAN CATANACH: Well, it's already
7 included in (2) anyway. It's supposed to be circulated
8 to surface.

9 COMMISSIONER BALCH: Right.

10 CHAIRMAN CATANACH: Okay. So we can leave
11 that out.

12 COMMISSIONER BALCH: If it becomes an (A),
13 you can say, "If cement is not circulated to the
14 surface, the operator shall furnish a cement bond log to
15 the division's Artesia office, and shall not proceed
16 with completion until the division approves the
17 cementing." So we don't have to say it's surface casing
18 if it's (A).

19 So what would you have for (B)?

20 CHAIRMAN CATANACH: Well, let me tell you.
21 You know, I was a little concerned about -- about lost
22 lost-circulation zones. And, you know, they talked
23 about other -- other drilling problems that they may
24 encounter, although rare. They did say that they had
25 seen some of those drilling problems.

1 COMMISSIONER PADILLA: Such as?

2 CHAIRMAN CATANACH: You know, I don't
3 recall exactly what the drilling issues were that they
4 testified to, but --

5 COMMISSIONER PADILLA: There was some
6 testimony about surface location condition and
7 unstable -- unstable pads and things like that when
8 they're built on the alluvial strata in those kind of
9 sandier areas, but I don't recall any subsurface
10 drilling problems.

11 COMMISSIONER BALCH: A lot of testimony
12 really was on having fixed distances and the rule
13 because there were obviously exceptions where we had
14 hydrocarbons.

15 COMMISSIONER PADILLA: Right. Fix
16 differences --

17 COMMISSIONER BALCH: Especially in the
18 aquifer, right?

19 COMMISSIONER PADILLA: I think fix
20 differences from any sort of defined strat, because if
21 you say 50 feet from the first hydrocarbon show, I think
22 that's a fixed distance. But if you say --

23 COMMISSIONER BALCH: 50 feet below the
24 bottom of the San Andres.

25 COMMISSIONER PADILLA: Right. Right.

1 COMMISSIONER BALCH: Then you've ended it
2 to something that may not be geologically appropriate.

3 COMMISSIONER PADILLA: Right. Right.
4 Right.

5 COMMISSIONER BALCH: The others were
6 inconsistencies noted inside the boundary but close to
7 the edge and there wasn't an aquifer. So then you may
8 have additional requirements that you might not
9 otherwise have. But I think what we're doing right now
10 covers that anyway, that they would throw a few more
11 bags of cement in and circulate the second string
12 irregardless.

13 COMMISSIONER PADILLA: Right. It's surface
14 casing, which would be a surface casing anywhere. So
15 the extra burden is changing it from "cement from a
16 production casing to a depth not less than 500 feet
17 above the intermediate casing shoe." Now you're just
18 saying to surface.

19 COMMISSIONER BALCH: Correct. Which -- I
20 think it was one of the petroleum engineers -- drilling
21 engineers who testified they typically get to anyway.

22 COMMISSIONER PADILLA: Right.

23 COMMISSIONER BALCH: And most of it just
24 takes a few more bags of cement. Even if you spent
25 \$2,000 more on the cement, it's cheaper than stopping

1 everything and running a cement bond log.

2 CHAIRMAN CATANACH: You're talking about
3 the production string?

4 COMMISSIONER BALCH: Well, either
5 production or surface, but right now we're talking about
6 surface. What should we come up with?

7 CHAIRMAN CATANACH: So I guess my feeling
8 might possibly be if they encounter any lost-circulation
9 issues either during drilling or cementing, it must be
10 reported to the OCD. I think at that point we can get
11 involved in, you know, helping determine what remedial
12 actions the operator needs to take --

13 COMMISSIONER BALCH: If any.

14 CHAIRMAN CATANACH: -- if any.

15 And the other thing I was thinking of is
16 any influx of water into the mud pits that would
17 indicate flow into the wellbore during drilling
18 operations must be reported. You know, they said that
19 they never had any of that or at least whoever testified
20 to that said they have didn't have any issues with
21 regards to, you know, fluid flowing through the wellbore
22 where the artesian or the shallow aquifer --

23 COMMISSIONER PADILLA: Do you want to get
24 into mud weights?

25 CHAIRMAN CATANACH: No, I don't. I don't

1 want to get into mud weights.

2 COMMISSIONER PADILLA: It seems that's
3 where you're going. I mean, in a very generic sense, we
4 could just say something about sufficient mud weight to
5 prevent inflow from the reservoir or something like
6 that.

7 COMMISSIONER BALCH: But I think you won't
8 know that until -- if you have unexpected circulation,
9 it means you didn't have any in your plan.

10 COMMISSIONER PADILLA: You didn't have any,
11 yeah.

12 COMMISSIONER BALCH: So as somebody said,
13 it needs to be reported and something needs to be done
14 differently either on that well or future wells in that
15 area.

16 CHAIRMAN CATANACH: It makes me feel more
17 comfortable knowing whatever issues might come up, that
18 we be notified of it.

19 COMMISSIONER PADILLA: You want more of a
20 reporting requirement?

21 CHAIRMAN CATANACH: An immediate reporting
22 of that kind of incident and then have us work it out
23 with them.

24 COMMISSIONER PADILLA: Is there a threshold
25 for that? This is more your arena. So --

1 CHAIRMAN CATANACH: I don't know if you can
2 determine a threshold.

3 COMMISSIONER PADILLA: What constitutes
4 lost circulation?

5 COMMISSIONER BALCH: Right. How many
6 barrels do you lose before you --

7 COMMISSIONER PADILLA: Right. Because
8 generally the OCD does have thresholds for spills and
9 almost everything else. So --

10 CHAIRMAN CATANACH: I don't have a
11 threshold. I don't know that you can.

12 COMMISSIONER BALCH: So I'm going to
13 anticipate a concern from counsel here and that is that
14 nobody testified to those kinds of numbers or if they
15 were observable and how they would have observed that.
16 And we don't have anything in the record that would let
17 us assign a number to that, I believe.

18 Would that be correct?

19 MS. BADA: Not that I can recall.

20 CHAIRMAN CATANACH: Yeah. I don't think we
21 can assign a number to it, but it does concern me in
22 that I think it's a reportable event.

23 COMMISSIONER PADILLA: Or have it qualify
24 as a significant occurrence of lost circulation. It's
25 open to interpretation by the -- by the district office.

1 COMMISSIONER BALCH: So it won't be
2 reported unless the operator thinks it's significant.

3 COMMISSIONER PADILLA: True.

4 CHAIRMAN CATANACH: Then you get into
5 problems defining "significant."

6 COMMISSIONER BALCH: And as soon as you get
7 into defining "significant," then we don't have anything
8 in the record to support that.

9 COMMISSIONER PADILLA: There is no
10 threshold.

11 COMMISSIONER BALCH: So there is no basis
12 for it. Somebody had to either present it, or we had to
13 find it in cross-examination.

14 CHAIRMAN CATANACH: Well, it was presented
15 as evidence as a -- as a possible issue, because I
16 specifically asked them about lost circulation, and
17 there have been instances of lost circulation.

18 COMMISSIONER BALCH: Okay. So another way
19 out of this might be if you could refer back to another
20 piece of the code that says something about lost
21 circulation is significant if it's greater than 20
22 barrels or something like that --

23 COMMISSIONER PADILLA: Right.

24 COMMISSIONER BALCH: -- if there is
25 somewhere else in the statute that we can find a number

1 like that.

2 COMMISSIONER PADILLA: 10 percent of the
3 projected volume is called for in an AFE, something like
4 that.

5 CHAIRMAN CATANACH: Well, I don't think
6 it's defined anywhere else in our rules.

7 MS. BADA: No.

8 COMMISSIONER PADILLA: No from counselor.

9 COMMISSIONER BALCH: That's what counsel
10 says; no.

11 MS. BADA: I don't recall anything.

12 COMMISSIONER BALCH: It's kind of a gray
13 area. And nobody came and presented it to us as a
14 direct piece of testimony, a significant amount of lost
15 circulation is blank.

16 COMMISSIONER PADILLA: Right.

17 COMMISSIONER BALCH: Influx of fluid is
18 blank.

19 COMMISSIONER PADILLA: It's going to be --
20 I think we can answer that with the definition will be
21 generally left up to the operator as to what significant
22 means.

23 COMMISSIONER BALCH: Well, and also the
24 Division, when they're looking at the APDs, they can --
25 they can say a number. They can have their own

1 interpretation of what lost circulation would be, and
2 they can put that into the APD.

3 COMMISSIONER PADILLA: Does the Division
4 have an opinion aside from this case of what that might
5 be, what constitutes lost circulation?

6 CHAIRMAN CATANACH: I don't have a number.
7 I don't -- I don't know that the district has any
8 guidelines.

9 COMMISSIONER PADILLA: So that's maybe
10 going to have to be intentionally vague. We don't have
11 a threshold.

12 COMMISSIONER BALCH: We can say
13 "significant occurrences of lost circumstances (B), or
14 significant influx of fresh water into the mud bed."

15 COMMISSIONER PADILLA: Without a benchmark.

16 COMMISSIONER BALCH: Without a benchmark,
17 yeah. I think that's the only thing we could do. And
18 it takes it back to the district, which is probably
19 where it ought to be, to determine in their APDs what
20 would be an acceptable amount of lost circulation.

21 CHAIRMAN CATANACH: That would be fine. I
22 just would like that in there.

23 COMMISSIONER BALCH: I'm comfortable with
24 that as a (B) and (C).

25 COMMISSIONER PADILLA: Fine with me. And I

1 don't think we're going to get any more quantifiable as
2 far as what we can call it.

3 CHAIRMAN CATANACH: I agree.

4 So can we craft a (B) and (C) on that then?

5 COMMISSIONER PADILLA: I think Dr. Balch
6 just did.

7 CHAIRMAN CATANACH: Did you get
8 Mr. Balch's --

9 COMMISSIONER BALCH: So I have to do this?

10 COMMISSIONER PADILLA: Well, you said --

11 COMMISSIONER BALCH: (B) would be a
12 "significant loss of circulation" and "the well needs to
13 be reported to the Division" -- to the Division on
14 probably a C-108 or something like that?

15 CHAIRMAN CATANACH: No. I think that -- I
16 think they're talking about --

17 COMMISSIONER PADILLA: A C-108 is injector.
18 We need a C-103.

19 COMMISSIONER BALCH: C-103.

20 CHAIRMAN CATANACH: Yeah. I think they're
21 talking about -- if we wait a day or two to do a
22 particular form, it's too late for us to take action.

23 COMMISSIONER PADILLA: What's the rule with
24 spills? They have to be notified immediately at the
25 district level.

1 CHAIRMAN CATANACH: Yeah, if it's a spill
2 over a certain amount.

3 COMMISSIONER PADILLA: And so why don't we
4 just call it "a significant protocol."

5 COMMISSIONER BALCH: "If significant
6 amounts of lost circulation" -- "report it to the
7 district office."

8 CHAIRMAN CATANACH: Sounds good.

9 COMMISSIONER BALCH: That's the end of
10 that.

11 COMMISSIONER PADILLA: And that's how
12 spills are going to -- within 24 hours?

13 COMMISSIONER BALCH: It's completely open
14 to interpretation what a loss of circulation is, but
15 that can be worked into the APDs by the district office.

16 CHAIRMAN CATANACH: Well, I think once they
17 report it to the Division, the operator's going to have
18 to follow that with a form saying, This is how we intend
19 to fix it.

20 COMMISSIONER BALCH: Okay.

21 CHAIRMAN CATANACH: Probably get that
22 approved with a form. But I assume -- I would
23 anticipate that would happen really quickly. They don't
24 want to wait on all that.

25 COMMISSIONER PADILLA: Isn't that

1 essentially a C-141, immediate phone call followed by a
2 form?

3 COMMISSIONER BALCH: Well -- okay. If we
4 have a loss in circulation, the operator's going --
5 whoever is drilling the well, they're going to mud up
6 and try and stop it.

7 COMMISSIONER PADILLA: Right.

8 COMMISSIONER BALCH: So by the time they're
9 reporting it, they've already remediated it.

10 CHAIRMAN CATANACH: That's probably true.

11 COMMISSIONER BALCH: So it's really just an
12 informational thing as to this happened, we mudded up.
13 And in the next APD in the adjacent well location,
14 they'll use a higher mud weight. That's all you gain
15 from it.

16 COMMISSIONER PADILLA: Right. If nothing
17 else, it's important data to know geographically.

18 COMMISSIONER BALCH: It gives us
19 information that nobody has been able to give us before.

20 COMMISSIONER PADILLA: A change in mud
21 weight specifically would be really valuable to the OCD
22 to prevent future --

23 COMMISSIONER BALCH: We definitely don't
24 want them to have lost circulation, to stop everything
25 and get a lost-circulation report to the district

1 office.

2 CHAIRMAN CATANACH: No. I anticipate
3 they'll call us and they'll be working on it at the same
4 time and trying to resolve it themselves. And we'll
5 just verbally say, That's fine; that sounds like a plan;
6 go ahead.

7 COMMISSIONER BALCH: And if it happens a
8 lot and we start to realize it's an issue, you can look
9 into it. So that would be (B) pretty much the way we --

10 MS. BADA: "If the operator encounters
11 significant loss of circulation during drilling" --

12 COMMISSIONER BALCH: Yes.

13 MS. BADA: -- "the operator" --

14 COMMISSIONER BALCH: Actually, you want to
15 be specific that that's in the aquifer -- within the
16 aquifer.

17 CHAIRMAN CATANACH: Huh?

18 COMMISSIONER BALCH: If it happens 3,000
19 feet from the aquifer, it doesn't matter.

20 CHAIRMAN CATANACH: Oh, yeah. But we're
21 talking about surface casing.

22 COMMISSIONER BALCH: Surface casing, yeah.
23 It should be -- as long as it's a (B), it'll be all
24 right. So "if significant loss of circulation" -- "in
25 the case of significant loss of" -- no, that's not a

1 good way. You're a lawyer. You can make the words
2 right.

3 MS. BADA: "If the operator encounters
4 significant loss of circulation" --

5 COMMISSIONER BALCH: "Loss of circulation,
6 must be reported to the district office."

7 MS. BADA: -- "during drilling, the
8 operator shall immediately notify" --

9 COMMISSIONER BALCH: "District office."

10 And (C) would be the same thing, except for
11 "if significant, that flow of fresh water into the mud
12 pit is observed," same thing, "report immediately to
13 the" --

14 MS. BADA: "Significant flow" --
15 "inflow" --

16 COMMISSIONER BALCH: Basically the loss
17 of -- the opposite of loss of circulation.

18 MS. BADA: Into the pit?

19 COMMISSIONER BALCH: I don't anticipate
20 that ever really happening. I can't imagine sufficient
21 hydraulic head to do that.

22 CHAIRMAN CATANACH: Well, I don't know. I
23 think it's possible.

24 COMMISSIONER PADILLA: Water in the mud
25 pits.

1 COMMISSIONER BALCH: Fresh water coming out
2 of the well.

3 CHAIRMAN CATANACH: Coming out of the
4 artesian zone.

5 COMMISSIONER PADILLA: Pressured.

6 COMMISSIONER BALCH: Nowhere -- there is
7 nowhere right now -- well, I can't say nowhere, but it's
8 not like 100 years ago where you had artesian fountains
9 running around where your head is higher than your
10 ground level.

11 COMMISSIONER PADILLA: Right. Right.
12 Okay. So we have (A), (B), (C).

13 COMMISSIONER BALCH: (A), (B), (C).

14 Do you have a (D)?

15 CHAIRMAN CATANACH: I don't have a (D).

16 COMMISSIONER BALCH: All right.

17 CHAIRMAN CATANACH: I think that'll take
18 care of -- you know, I thought about, you know, when
19 they cement, that they have to notify, but I think
20 that's already in another rule. We generally are
21 notified.

22 COMMISSIONER PADILLA: I know from
23 experience that OCD's required to notice of cementing.

24 CHAIRMAN CATANACH: Yeah. I think 24 hours
25 in advance.

1 COMMISSIONER PADILLA: Yeah.

2 CHAIRMAN CATANACH: So we don't have to put
3 that in there.

4 COMMISSIONER PADILLA: I remember making
5 those calls.

6 CHAIRMAN CATANACH: But, again, I'm going
7 to try to get us out there to witness more on the cement
8 jobs.

9 COMMISSIONER BALCH: I think that's a good
10 idea, especially in a sensitive area.

11 CHAIRMAN CATANACH: Yeah. I don't want to
12 put it in the rule, but -- okay.

13 COMMISSIONER PADILLA: Well, you can't put
14 it in the rule because I think you'd be essentially
15 hamstringing the agency if you didn't have the personnel
16 to do it.

17 CHAIRMAN CATANACH: Right.

18 COMMISSIONER PADILLA: Which would then --

19 COMMISSIONER BALCH: If the rule would
20 force the OCD to hire more people, that would be great.

21 CHAIRMAN CATANACH: Well, I mean, I think
22 it's a good idea for us to be witnessing these. I wish
23 we could do them all. But --

24 COMMISSIONER PADILLA: So what about
25 getting someone hired who is strictly responsible for

1 cementing oversight or adding more environmental people
2 and adding that to the duty?

3 CHAIRMAN CATANACH: Because generally our
4 environmental folks are not wellbore people.

5 COMMISSIONER PADILLA: I don't know because
6 I've never seen an OCD person on location for a cement
7 job who would do that.

8 CHAIRMAN CATANACH: Our field -- our field
9 representatives, the compliance officers. We have a guy
10 in Artesia, a compliance officer, who has extensive
11 knowledge of cementing operations. He was with
12 Halliburton for a long time, and he -- I mean, he's an
13 expert on the stuff. So, I mean, if we could get him to
14 go out on all these jobs, I think that would be great,
15 but, you know, I don't know. We can sure try.

16 COMMISSIONER PADILLA: Right now, with only
17 32 rigs running, you've got a good chance of maybe
18 getting a -- for that program.

19 CHAIRMAN CATANACH: I agree. And I will
20 bring it up to the supervisor down there.

21 COMMISSIONER PADILLA: So are we on to (3)?

22 CHAIRMAN CATANACH: I think we are on to
23 (3).

24 COMMISSIONER BALCH: Would you care to
25 repeat that?

1 MS. BADA: "The operator shall cement
2 production casing or, if applicable, an intermediate
3 casing string to surface"?

4 COMMISSIONER BALCH: "Circulate cement to
5 surface." That gives you your two layers of cement, two
6 layers of water. It doesn't change much from what's
7 happening, and you make sure steel is between aquifers
8 and the --

9 COMMISSIONER PADILLA: An extra few hundred
10 feet of cement can go a long, long way.

11 COMMISSIONER BALCH: 50 bags of cement.

12 COMMISSIONER PADILLA: Yeah.

13 COMMISSIONER BALCH: And a lot of times it
14 appears that they're circulating to surface anyway
15 because they overestimate it.

16 And we could have something similar for
17 (A), (B) and (C) if you'd like because we're still
18 dealing with the artesian aquifer at that point,
19 potentially.

20 CHAIRMAN CATANACH: Can we read back what
21 we've got on there?

22 MS. BADA: "The operator shall cement
23 production casing or, if applicable, an intermediate
24 casing string to surface."

25 CHAIRMAN CATANACH: Well, should we address

1 the intermediate separate from the production? Is
2 that -- is that saying that the production needs to be
3 circulated?

4 COMMISSIONER BALCH: If there are only two
5 casing strings, then you circulate the production string
6 to surface. If there are three, then you circulate the
7 intermediate.

8 CHAIRMAN CATANACH: Well, should we say,
9 "If equipped, the intermediate casing string shall be
10 cemented to surface, and if not equipped with
11 intermediate casing, the production casing shall be
12 circulated to surface"?

13 COMMISSIONER BALCH: There you go.

14 MS. BADA: Okay. Repeat that. I can't
15 write that fast.

16 (The court reporter reads back.)

17 COMMISSIONER PADILLA: How about to be
18 absolutely clear: "If equipped with an intermediate
19 casing string, the intermediate casing string shall be
20 circulated to surface"?

21 COMMISSIONER BALCH: "If not equipped,
22 then" --

23 COMMISSIONER PADILLA: Because if you say
24 "not equipped" -- "with an intermediate casing string."

25 CHAIRMAN CATANACH: Well, should we -- that

1 leaves us with -- so if there is an intermediate casing
2 string, then what do you do with the production string?

3 COMMISSIONER BALCH: Just whatever you
4 would normally do.

5 COMMISSIONER PADILLA: Right. Because
6 that's well below -- if you've got an intermediate
7 string, it's going to be below the artesian because the
8 surface is already through the artesian. So your
9 intermediate is going to end at -- I don't know -- 2-,
10 3-, 4,000 feet. So then best practices probably dictate
11 that the intermediate casing is cemented to a depth of
12 not less than 500 feet above the intermediate casing
13 shoe.

14 COMMISSIONER BALCH: But I don't think we
15 have to specify it.

16 COMMISSIONER PADILLA: Right. I don't
17 think we have to specify the production casing -- I said
18 intermediate. I meant "production casing is cemented to
19 within 500 feet of the intermediate casing shoe." But I
20 agree; we don't have to specify that.

21 COMMISSIONER BALCH: It's already done.

22 COMMISSIONER PADILLA: Right.

23 COMMISSIONER BALCH: It's going to be
24 dependent upon --

25 COMMISSIONER PADILLA: Right. It's going

1 to be --

2 CHAIRMAN CATANACH: And I don't think
3 that's a requirement -- on the production string --

4 COMMISSIONER PADILLA: Because that's well
5 out of the -- I think that this is well out of the scope
6 of this rule, to get into --

7 COMMISSIONER BALCH: Definitely.

8 COMMISSIONER PADILLA: -- production zones.

9 COMMISSIONER BALCH: And telling them where
10 they have to cement them to.

11 COMMISSIONER PADILLA: Right.

12 COMMISSIONER BALCH: It's going to be based
13 on best practices. The only thing to accomplish is two
14 full layers to cement to surface.

15 COMMISSIONER PADILLA: If there is an
16 intermediate casing, I think the district should tell,
17 through the APD, the operator where they want that
18 production casing cemented.

19 MS. BADA: Okay. Let me read this and see
20 if this is what you intend. "If the well is equipped
21 with an intermediate casing string, the operator shall
22 circulate cement on the intermediate casing string to
23 surface. If the well is not equipped with an
24 intermediate casing string, the operator shall circulate
25 cement on the production casing string to surface."

1 COMMISSIONER PADILLA: Yup.

2 COMMISSIONER BALCH: Yeah.

3 CHAIRMAN CATANACH: Works.

4 COMMISSIONER BALCH: I think that does it.

5 CHAIRMAN CATANACH: But then you talked
6 about wanting to -- do you think we need to -- so what
7 happens if they don't circulate the intermediate?

8 COMMISSIONER BALCH: So that's maybe when
9 we have to have a (3) and a (4), one for casing the
10 intermediate and one for the casing where there is not.
11 And then we can --

12 COMMISSIONER PADILLA: As far as the
13 requirement of a CBL if it's not circulated to surface?

14 COMMISSIONER BALCH: No. In either case,
15 there's going to have to be a CBL.

16 COMMISSIONER PADILLA: Right. Well, but
17 wouldn't the first one cover it?

18 COMMISSIONER BALCH: Yeah. The second one
19 is not going to tell you anything more.

20 COMMISSIONER PADILLA: Right. If you don't
21 circulate to surface on that, either the surface or the
22 production/intermediate, you need a CBL.

23 CHAIRMAN CATANACH: Do we want a CBL for
24 the intermediate?

25 COMMISSIONER BALCH: I think on the

1 intermediate, you might be better off with a temperature
2 log.

3 CHAIRMAN CATANACH: I think it's less
4 critical on the intermediate to require a CBL.

5 COMMISSIONER PADILLA: So that'll leave the
6 cementing approval at the district office -- up to the
7 district office rather than tie it to a specific tool?

8 COMMISSIONER BALCH: How about this, if we
9 can have a 3(A) that says, "If cement is not circulated
10 to surface on the intermediate or production casing
11 string, notify the district office"?

12 COMMISSIONER PADILLA: Or do you want to
13 tie it to a specific process/tool, Mr. Chair?

14 CHAIRMAN CATANACH: I think generally they
15 run a temp survey on that.

16 COMMISSIONER BALCH: Temperature survey on
17 the casing on the intermediate string?

18 CHAIRMAN CATANACH: Yeah, or the production
19 string.

20 COMMISSIONER BALCH: Or production. So if
21 you want to decide on a particular tool, I'd be more
22 comfortable with the temperature survey.

23 CHAIRMAN CATANACH: Because they're going
24 to have to -- for their own benefit, they're going to
25 have to know where the cement top is if they're going to

1 circulate.

2 COMMISSIONER BALCH: And if they fail to
3 circulate to surface, run the temperature survey and
4 report it to the district office and then --

5 COMMISSIONER PADILLA: Right.

6 COMMISSIONER BALCH: -- the rest gets
7 sorted out at that level.

8 COMMISSIONER PADILLA: Maybe leave it open
9 to run the temperature survey or other processes
10 approved by the district office, because I'm kind of
11 hesitant to tie specific processes to these rules.

12 CHAIRMAN CATANACH: Or can we just say, "If
13 the cement is not circulated on the intermediate or the
14 production, the operator shall determine the cement top
15 and shall report that to the Division"?

16 COMMISSIONER BALCH: Yeah, that's great.

17 CHAIRMAN CATANACH: And we can figure
18 out -- the district can figure out what they need to do
19 at that point to bring it up to surface, if they need
20 to.

21 COMMISSIONER BALCH: I think that's a good
22 way to do it.

23 CHAIRMAN CATANACH: I think the testimony
24 in the case was a lot of times that the cement top was
25 within a short distance of the surface. And usually how

1 they fix that is they run a 1-inch and the cement down
2 the annulus. So that would work for me, if we just
3 worded it that way.

4 COMMISSIONER BALCH: Did you capture that?

5 MS. BADA: "If cement is not circulated to
6 surface on the intermediate casing string or the
7 production casing string, as applicable, the operator
8 shall determine the cement top and report it to the
9 division's district office."

10 COMMISSIONER BALCH: You said "division"
11 before. You want "district office" or --

12 CHAIRMAN CATANACH: Yeah, "district
13 office."

14 COMMISSIONER BALCH: "District office." I
15 think that sounds pretty good.

16 CHAIRMAN CATANACH: And let it go from
17 there. Let the district dictate what they need to do.

18 COMMISSIONER BALCH: The information is
19 most important part. So I think that takes care of
20 Section C.

21 COMMISSIONER PADILLA: Yup.

22 CHAIRMAN CATANACH: I think it does.

23 COMMISSIONER BALCH: I'm not sure if
24 Section D is even necessary because that -- that could
25 be taken care of it at the APD level. If they want

1 something different done, they will take that part of
2 the APD.

3 CHAIRMAN CATANACH: Well, this is --

4 COMMISSIONER PADILLA: I think it's good to
5 leave it in there because it does kind of -- it sets --
6 it really solidifies the idea that the district can
7 require these special things if they so desire. And we
8 heard a lot testimony to the effect the district does
9 already have that, so we're just solidifying that the
10 district does have the discretion.

11 COMMISSIONER BALCH: In that case, I think
12 I'm pretty comfortable with the language that's proposed
13 by the joint notice.

14 COMMISSIONER PADILLA: For D?

15 COMMISSIONER BALCH: Yeah.

16 COMMISSIONER PADILLA: Yeah. I don't have
17 any problem this version of D, joint -- joint notice --
18 Responders' joint notice, because it does give pretty
19 complete discretion back to the district.

20 COMMISSIONER BALCH: To where it should be.

21 COMMISSIONER PADILLA: Right.

22 CHAIRMAN CATANACH: Well, yeah. That's at
23 the APD level.

24 So what happens if you're drilling --
25 you're actually drilling and you encounter -- I brought

1 this up before. If you encounter a hydrocarbon zone in
2 between the two aquifers? I think at that point you may
3 have to change your casing program.

4 COMMISSIONER PADILLA: Well, the rule says
5 you have to set 50 feet above that, wherever you found
6 that. So, I mean, if they had a casing program that
7 didn't anticipate that and then they hit something 6- or
8 700 feet down, they would have to set that surface 50
9 feet above that.

10 CHAIRMAN CATANACH: Uh-huh. Okay.

11 COMMISSIONER PADILLA: The only thing I see
12 in D that may be kind of redundant is the last sentence.
13 "In any well for which an intermediate casing string is
14 required, the operator shall circulate cement on the
15 intermediate casing string to the surface." I think
16 we've already covered that in (2).

17 COMMISSIONER BALCH: So scratch the last
18 sentence of D?

19 COMMISSIONER PADILLA: Right.

20 COMMISSIONER BALCH: I think that would be
21 appropriate.

22 COMMISSIONER PADILLA: Because we've
23 already stated that's required.

24 COMMISSIONER BALCH: Yup. That's in C.

25 CHAIRMAN CATANACH: Okay. So what D is

1 saying is we would still have the authority to require
2 two casing strings, one through the shallow, one through
3 the deeper artesian, if we found that there were
4 circumstances that would warrant that. Is that what I'm
5 reading?

6 COMMISSIONER PADILLA: Yes.

7 COMMISSIONER BALCH: I think so.

8 CHAIRMAN CATANACH: I like that.

9 COMMISSIONER BALCH: So basically it's the
10 unusual circumstance that comes up. It will have its
11 own solution. I think that's good.

12 So on annular space.

13 MS. BADA: I have a question before we move
14 on. We no longer refer to both aquifers earlier in the
15 rule, so how do you want to address where it says
16 "through the deeper artesian aquifer"? That's the top
17 of the page. And then at the end of that sentence where
18 it says "from to either designated aquifer."

19 COMMISSIONER PADILLA: Well, I think just
20 because we talk about the designated area instead of the
21 individual aquifers doesn't mean we can't talk about the
22 individual aquifers later.

23 MS. BADA: You can, but it's the earlier
24 reference that probably needs to be clarified.

25 COMMISSIONER BALCH: We could say, "D.

1 District supervisor discretion notwithstanding
2 paragraph" -- we're going to have to change the
3 reference. "Paragraph 2 of Subsection C of this rule,
4 the district supervisor of the division's Artesia
5 district office may require a casing program" --

6 MS. BADA: I think that's okay.

7 COMMISSIONER BALCH: -- "an alternative
8 casing program if the district supervisor finds that the
9 proposed casing program is not reasonably sufficient to
10 prevent fluid movement into or out of the wellbore" --
11 just scratch out some of the language and make it more
12 concise.

13 COMMISSIONER PADILLA: Sure.

14 COMMISSIONER BALCH: Take out some of the
15 language, but the distinction between -- basically what
16 we really want to say is at the discretion of the
17 district office manager, they can come up with a
18 different program.

19 COMMISSIONER PADILLA: Right. Right.
20 Right. So you don't have to say you're doing it for X,
21 Y and Z.

22 COMMISSIONER BALCH: "Supervisor may
23 require a casing program" -- "may require a specific
24 casing program." I don't know.

25 MS. BADA: That's probably okay. My

1 concern is where we talked about designated aquifer
2 because we don't really designate.

3 COMMISSIONER BALCH: How about: "May
4 require multiple casing program if the district
5 supervisor finds that the first casing program is not
6 reasonably sufficient to prevent fluid movement into or
7 out of the wellbore" -- "into or out of" --

8 MS. BADA: Can we just say "either
9 aquifer"?

10 COMMISSIONER BALCH: Or just add "aquifer."

11 COMMISSIONER PADILLA: Or you could go back
12 to "designated area" and get rid of the "aquifers"
13 because we're just talking about the designated area.

14 COMMISSIONER BALCH: And then "the district
15 supervisor may require such conditions of approval as
16 his or her judgment are reasonably necessary to prevent
17 such fluid movement." Yeah. I think we would take out
18 the --

19 COMMISSIONER PADILLA: Yeah. But the
20 "intermediate casing" sentence at the end is redundant
21 to what we've already done in C.

22 CHAIRMAN CATANACH: Well, you could say,
23 "The district supervisor of the Division's Artesia
24 District Office may require an additional water
25 protection string."

1 COMMISSIONER BALCH: "If the district
2 office finds that the proposed casing program is not
3 reasonably sufficient to prevent fluid movement into or
4 out of the wellbore."

5 COMMISSIONER PADILLA: Sure.

6 CHAIRMAN CATANACH: "May require an
7 additional water protection string" --

8 COMMISSIONER BALCH: Yeah.

9 CHAIRMAN CATANACH: -- "casing string"?
10 Will that take care of it?

11 COMMISSIONER BALCH: I think it would.

12 COMMISSIONER PADILLA: "May require
13 additional casing requirements." Do you want to leave
14 it at that?

15 COMMISSIONER BALCH: "May require
16 additional casing" --

17 COMMISSIONER PADILLA: "Additional casing
18 requirements." Do you want to put the word "string" in
19 there?

20 CHAIRMAN CATANACH: Yeah. I kind of would
21 like it in there, "an additional protection string."

22 COMMISSIONER BALCH: That's the version
23 you're writing right now, Cheryl?

24 MS. BADA: What if we say, "Notwithstanding
25 Paragraph (2) of Subsection C of 19.15.39.11 NMAC, the

1 district supervisor of the division's Artesia district
2 office may require a casing program that provides for an
3 additional water protection casing string"?

4 COMMISSIONER BALCH: "If the district
5 supervisor finds that the first casing program is not
6 reasonably sufficient" --

7 MS. BADA: "To prevent fluid movement into
8 or out of the wellbore from" --

9 COMMISSIONER BALCH: I think if you say "in
10 or out of the wellbore" would take care of it.

11 MS. BADA: Well, but you're worrying about
12 the aquifers, right? Aren't there two aquifers in the
13 designated area?

14 COMMISSIONER BALCH: Except for I think
15 this would apply to (2) and (3) in C, potentially.

16 MS. BADA: Right, but if you say
17 "aquifers," aren't you covering all of them?

18 COMMISSIONER BALCH: You could say
19 "aquifers." Then the rest of the last sentence isn't
20 necessary?

21 MS. BADA: Right.

22 COMMISSIONER BALCH: Anything else in
23 there?

24 CHAIRMAN CATANACH: One more time on that.

25 MS. BADA: Okay.

1 CHAIRMAN CATANACH: First of all, is the
2 reference right?

3 COMMISSIONER BALCH: I think it's going to
4 be paragraph (2) and (3).

5 MS. BADA: Or you could just say
6 "notwithstanding Subsection C."

7 COMMISSIONER BALCH: Okay.

8 CHAIRMAN CATANACH: Okay.

9 MS. BADA: Okay. "Notwithstanding
10 Subsection C of 19.15.39.11 NMAC, the district
11 supervisor of the division's Artesia district office may
12 require a casing program that provides for an additional
13 water protection casing string if the district
14 supervisor finds that the proposed casing program is not
15 reasonably sufficient to prevent fluid movement into or
16 out of the wellbore from or to aquifers in the
17 designated area. The district supervisor may attach
18 such conditions of approval as in his or her judgment
19 are reasonably necessary to prevent such fluid
20 movement."

21 COMMISSIONER BALCH: That's pretty good.

22 COMMISSIONER PADILLA: Yeah. I like it.

23 COMMISSIONER BALCH: Which brings us to the
24 annular space paragraph. I'm wondering if that needs to
25 be in there at all.

1 CHAIRMAN CATANACH: You know, it's not --
2 to my recollection, it's not addressed in our -- in our
3 rules anywhere. Let me see something here.

4 COMMISSIONER BALCH: Basically, it says to
5 effectively seal off. It doesn't really specify a
6 particular diameter.

7 CHAIRMAN CATANACH: It's not in our -- it's
8 not in our general rules.

9 COMMISSIONER BALCH: But I think most of
10 the testimony we had from the people that were drilling
11 is that their programs are designed to allow the proper
12 circulation and turbidity of the cement and clean off
13 casing, and also to -- their goal is to circulate to
14 surface.

15 COMMISSIONER PADILLA: Maintain speed.

16 COMMISSIONER BALCH: Let them do what
17 they've been doing without, you know, saying a
18 particular diameter, which may be hard to measure
19 anyway. How do you know there are 2 inches everywhere
20 from the outer diameter of the casing string to the
21 wellbore?

22 COMMISSIONER PADILLA: Yeah. In an
23 unconsolidated reservoir, that gets tricky quickly.

24 COMMISSIONER BALCH: Yeah. Sluffing and
25 all types of stuff could happen.

1 COMMISSIONER PADILLA: Right.

2 What was the Division's point in including
3 that in the original proposal?

4 CHAIRMAN CATANACH: On the 2-inch annular
5 space? That actually -- there was -- there was some
6 talk of an agreement that we had reached with the State
7 Engineer on having the additional annular space in these
8 wells, but we really could never find where we had
9 agreed to that with the State Engineer, because I think
10 the State Engineer has that in their regs, if I'm not
11 mistaken.

12 COMMISSIONER BALCH: Yeah, for water wells.

13 CHAIRMAN CATANACH: For water wells, right.

14 COMMISSIONER BALCH: Yeah. These aren't
15 water wells.

16 COMMISSIONER PADILLA: So we don't know
17 what the basis for it was.

18 COMMISSIONER BALCH: I'd rather scratch it.

19 COMMISSIONER PADILLA: Especially the
20 testimony about the -- compared with the cement job.

21 COMMISSIONER BALCH: Leave it to drillers
22 when they design their APD.

23 CHAIRMAN CATANACH: Yeah. And when we look
24 at the APD, if the hole size is too small, we can always
25 make changes to the APD.

1 COMMISSIONER PADILLA: Right.

2 CHAIRMAN CATANACH: That's during the
3 course of the normal business that we examine all those
4 details, so yeah. I mean, if we decided we don't want
5 it in there, I don't think it's necessary to put it in
6 there at all.

7 COMMISSIONER BALCH: So E is gone. And F
8 becomes E and G becomes F. And those are just
9 boilerplate statements.

10 COMMISSIONER PADILLA: Yeah. Those haven't
11 changed.

12 CHAIRMAN CATANACH: I'd like to focus a
13 little bit on the transitional provisions, just to make
14 sure we have that in the APD.

15 COMMISSIONER PADILLA: The provision to
16 amend an APD within 30 days, is that a cutoff, that they
17 only have 30 days to amend the APDs?

18 COMMISSIONER BALCH: So the two scenarios
19 are they have an APD that was suspended, and it's either
20 immediately approved or it has to be slightly altered.

21 COMMISSIONER PADILLA: Uh-huh.

22 COMMISSIONER BALCH: Probably all are as a
23 result of additional cement on the intermediate casing.

24 CHAIRMAN CATANACH: Well, does it really
25 matter when they amend it? I mean, they're not going to

1 be able to drill until they amend their APD.

2 COMMISSIONER PADILLA: Right. That's what
3 I'm saying. I don't want that to be a cutoff, to say if
4 you didn't do it in the first 30 days, your APD is
5 thrown out, which is kind of how it reads.

6 COMMISSIONER BALCH: Yes. That's the
7 implication.

8 COMMISSIONER PADILLA: Right.

9 CHAIRMAN CATANACH: We can say, "The
10 operator may then amend any such APD prior to commencing
11 drilling operations." Would that take care of that?
12 That wouldn't give them -- that wouldn't give them a
13 deadline. Then we could say they have to amend -- you
14 have to amend your APD before you start drilling.

15 COMMISSIONER BALCH: So then that brings in
16 the next sentence. "If the division reinstates or
17 approves as amended a previously suspended APD, the APD
18 shall continue in force for two years from the date of
19 original approval, plus the number of days that such APD
20 was suspended." So if you give them --

21 COMMISSIONER PADILLA: See, but I think
22 we're short-circuiting two problems, because, number
23 one, not all these APDs -- there is no way the Division
24 is going to have them out in 30 days. It's just not
25 going to happen.

1 CHAIRMAN CATANACH: You don't think?

2 COMMISSIONER BALCH: I think he said the
3 words "no way."

4 COMMISSIONER PADILLA: No way. It's not
5 going to happen.

6 CHAIRMAN CATANACH: We're pretty good at
7 that.

8 COMMISSIONER PADILLA: So you're -- you're
9 extending the time for both the Division and the
10 operators to get this backlog out and taken care of.
11 And then your APD remains in suspended status until it's
12 approved. So it doesn't matter what that time frame is
13 because those suspended days could add it to the two
14 years of original issuance for the APD.

15 COMMISSIONER BALCH: Okay. I'm comfortable
16 with that, if the Division is comfortable with it.

17 COMMISSIONER PADILLA: I mean, you may want
18 to put a final stop on it. If you haven't amended it
19 within a year, forget it.

20 COMMISSIONER BALCH: That's the part that
21 concerns me, that four years later they say, Oh, I have
22 this suspended APD.

23 COMMISSIONER PADILLA: Right. 30 days, I
24 think, is minimal.

25 Uh-oh. Cheryl's looking at me.

1 MS. BADA: I have a question. Even if they
2 don't amend their APD, couldn't they apply for a new
3 one?

4 COMMISSIONER BALCH: They could.

5 COMMISSIONER PADILLA: They could.

6 MS. BADA: So does it really matter if we
7 put a timeline that they can amend it or --

8 COMMISSIONER PADILLA: Well, if it's
9 federal land, it's \$97 to refile or to file a new one.

10 COMMISSIONER BALCH: That's to start the
11 whole process, which could be a year long.

12 COMMISSIONER PADILLA: I think a federal
13 APD is pretty golden.

14 MS. BADA: Are they going to go back and
15 amend that?

16 COMMISSIONER PADILLA: Somewhat, but it's
17 not --

18 MS. BADA: But it doesn't make them pay
19 another fee?

20 COMMISSIONER BALCH: It doesn't reset the
21 process.

22 COMMISSIONER PADILLA: Right.

23 COMMISSIONER BALCH: So do you want to put
24 a one-year timeline as an effective date?

25 COMMISSIONER PADILLA: I think one year is

1 reasonable.

2 COMMISSIONER BALCH: Instead of 30 days,
3 one year.

4 COMMISSIONER PADILLA: That way we get them
5 in the system. The clock is ticking on a regular
6 two-year -- you have two years, and if it doesn't get
7 done, it goes away naturally. You had this suspension
8 period, and we're giving both the Division and the
9 industry a grace period, because the 30-day thing is
10 just -- to me it's not doable, to just say, Here's this
11 huge stack of APDs; you've got to have them out by
12 February 5th. Oh, and by the way, here are the new
13 regulations you have to comply with (laughter).

14 CHAIRMAN CATANACH: I'm comfortable with a
15 year if you want a year.

16 COMMISSIONER BALCH: So "within one year of
17 the effective date." I think that's fine. That gives
18 the district office a little time to figure out how they
19 want to deal with the new regulation as well.

20 COMMISSIONER PADILLA: Right.

21 COMMISSIONER BALCH: And if there are areas
22 they want to focus on for additional water protection
23 strings, then they need to figure that out.

24 What I would suggest is that we let Cheryl
25 draft up a new version and we look at it again in

1 another meeting, unless it's so pressing you want to
2 wait a half hour while someone does that and we can look
3 at it right now.

4 CHAIRMAN CATANACH: Well, we have a meeting
5 on Monday.

6 COMMISSIONER BALCH: We do have a meeting
7 on Monday.

8 CHAIRMAN CATANACH: We could --

9 COMMISSIONER BALCH: Make Cheryl drive to
10 Eunice.

11 MS. BADA: What's today? We have 72 hours
12 to post it on the agenda.

13 CHAIRMAN CATANACH: Will that work? It
14 seems to me like it's mostly written right now. It
15 doesn't seem like much work to make the necessary
16 changes.

17 COMMISSIONER BALCH: The main thing is just
18 to make sure we have a fresh set of eyes on the complete
19 document, change a couple of words, and that'll be it.
20 It won't take very long.

21 CHAIRMAN CATANACH: Because the next
22 meeting will be February 8th or 9th.

23 COMMISSIONER BALCH: 28th through the 1st,
24 right?

25 MS. DAVIDSON: No. February 8th, to begin

1 with, and February 28th will be the March meeting.

2 CHAIRMAN CATANACH: It looks like the
3 February 8th hearing.

4 COMMISSIONER BALCH: Right. Right. We are
5 having the February 8th meeting. You're right. And
6 that's going to be a continuation of the Eunice case,
7 right?

8 CHAIRMAN CATANACH: Correct.

9 COMMISSIONER BALCH: Okay. There was
10 something else at the end of February.

11 CHAIRMAN CATANACH: Oh, that was the other
12 fight.

13 COMMISSIONER BALCH: I think we can take
14 care of this either on Monday --

15 CHAIRMAN CATANACH: Yeah. I think if we
16 can legally get it.

17 MS. BADA: That's what I was asking, if she
18 had already posted the --

19 MS. DAVIDSON: It has to be 72 hours before
20 the 8th or 9th.

21 COMMISSIONER BALCH: 72 hours. Does that
22 include weekends?

23 MS. DAVIDSON: I don't --

24 COMMISSIONER BALCH: Thursday, Friday,
25 Saturday, Sunday. Working days?

1 MS. BADA: Haven't posted a final agenda.

2 COMMISSIONER BALCH: You'd have to get it
3 done before Friday at 8:00 a.m. That should be
4 possible.

5 MS. DAVIDSON: No, it should be.

6 CHAIRMAN CATANACH: I'm going to let her
7 answer that.

8 COMMISSIONER BALCH: So I take it we can
9 deal with it in Eunice on Monday?

10 MS. BADA: Well, you'll have to have a
11 statement of reasons drafted on that, and it's not going
12 to happen by Monday.

13 COMMISSIONER BALCH: But we can approve --

14 MS. BADA: But you can approve --

15 COMMISSIONER BALCH: -- the language, and
16 that gives us until February 8th to completely finalize
17 everything.

18 CHAIRMAN CATANACH: We're additionally
19 going to ask for -- are we going to ask for a statement
20 of reasons?

21 MS. BADA: We have them, so --

22 CHAIRMAN CATANACH: Oh, we already have
23 them. That's right.

24 COMMISSIONER BALCH: Is there anything
25 additional besides what's provided in their statements?

1 CHAIRMAN CATANACH: We're going to need a
2 draft order.

3 MS. BADA: You might want some language
4 regarding the reporting requirements.

5 COMMISSIONER BALCH: And that's a month.
6 February 8th, that's a month. So there's plenty of time
7 to give them a couple of weeks, to give that to -- still
8 get it done by the 8th, the draft order.

9 MS. BADA: Yeah.

10 CHAIRMAN CATANACH: Okay. Well, let's --

11 COMMISSIONER BALCH: We can put a bow on it
12 on February 8th, potentially.

13 CHAIRMAN CATANACH: Okay. The plan is to
14 put it on the 9th hearing -- at the start of the January
15 9th hearing, and just review the changes?

16 MS. BADA: (Indicating.)

17 CHAIRMAN CATANACH: And then when are we
18 going to ask for draft orders? Do we do that now?

19 COMMISSIONER BALCH: I think we do it now.

20 MS. BADA: We can do it now and just
21 however long.

22 COMMISSIONER BALCH: Well, Mr. Feldewert is
23 in the back of the room.

24 CHAIRMAN CATANACH: Well, I don't like to
25 ask him for draft orders because he --

1 COMMISSIONER BALCH: Because he embarrasses
2 you in public (laughter).

3 How fast can you get draft recommendations?

4 MR. FELDEWERT: Well, we submitted -- I
5 guess I'm not -- I don't know if I have a good handle --
6 or either one of us have a good handle on what you would
7 want in your order to accommodate your final decision on
8 the rules.

9 COMMISSIONER BALCH: I presume you were
10 taking notes, so you know the basic form of what we've
11 come up with. But we can probably get you a draft of
12 that pretty quick, I would guess.

13 MS. BADA: A draft.

14 COMMISSIONER BALCH: A draft of the rule.

15 MR. FELDEWERT: I think the question is
16 what the Commission feels it needs to have within the
17 order to support the decision.

18 COMMISSIONER BALCH: That's why counsel
19 needs to write the final order.

20 MR. FELDEWERT: I think so. That would be
21 my thought. I hate to do that to you, Cheryl.

22 But we submitted proposed findings and
23 conclusions -- both parties have submitted that. I'm a
24 little uncomfortable writing the Commission's order.

25 COMMISSIONER BALCH: That's two for two.

1 CHAIRMAN CATANACH: I know. I told you I
2 didn't like to ask him (laughter).

3 No, it's funny, though. We were discussing
4 that this morning in a different case, that I think it's
5 important for the Commission to verbalize why it's doing
6 something in its Commission orders.

7 MR. FELDEWERT: Yeah.

8 CHAIRMAN CATANACH: And that's not
9 always -- you don't always have that information.

10 MR. FELDEWERT: No.

11 CHAIRMAN CATANACH: So I think it's
12 important that we add to that and connect it to the
13 orders.

14 MR. FELDEWERT: You know, I think -- I was
15 just thinking back and I think what they did at the last
16 rulemaking was they took the findings -- proposed
17 findings and conclusions and put that into a -- Bill
18 wrote the last one and created the Commission's order.
19 So the only question is how much you feel you need to
20 articulate in the order the basis of your final rule
21 given the transcript that's going to be available.

22 COMMISSIONER BALCH: Which is really your
23 job, Cheryl.

24 MS. BADA: Yes.

25 CHAIRMAN CATANACH: Yeah. I think the

1 statement of reasons -- there are plenty of statement of
2 reasons that we can pick and choose from to put in the
3 order.

4 COMMISSIONER BALCH: Well, I think we
5 started this deliberation with all of us basically
6 putting forth our reasons, so that should be on the
7 record at least.

8 MS. BADA: Let me ask Florene a question.
9 How soon do we get the transcript?

10 MS. DAVIDSON: Excuse me?

11 (The court reporter responds.)

12 COMMISSIONER BALCH: So don't close the
13 record and pick it back up on Monday?

14 CHAIRMAN CATANACH: Is that what we do?

15 MS. BADA: (Indicating.)

16 COMMISSIONER BALCH: We don't close the
17 record until we have a final rulemaking.

18 CHAIRMAN CATANACH: Yeah. We don't close
19 the record on this case. So just leave the record open.

20 MS. BADA: Well, you can close the record
21 unless you're asking for additional evidence.

22 CHAIRMAN CATANACH: Well, we're not asking
23 for additional evidence. We're just --

24 COMMISSIONER BALCH: We're just making sure
25 we fix all the typos.

1 MS. BADA: You're not making a final
2 decision on the rule, so you're not closing your
3 deliberations.

4 CHAIRMAN CATANACH: Right. The record is
5 already closed. I think we closed that.

6 MS. BADA: I don't know that you did, so
7 you probably --

8 COMMISSIONER BALCH: So we'll continue
9 deliberations on Monday, the 8th -- Monday, the 9th of
10 January.

11 MS. BADA: Yes.

12 CHAIRMAN CATANACH: And if we didn't close
13 the record, we need to close it now? Is that what
14 you're saying?

15 MS. BADA: Yes.

16 CHAIRMAN CATANACH: So is that just a
17 statement that the --

18 MS. BADA: Yes.

19 CHAIRMAN CATANACH: So the record in this
20 case is closed.

21 That's pretty easy.

22 And deliberations on this case will
23 continue on January 9th at the January 9th Commission
24 hearing at the Community Center in Eunice, New Mexico.

25 Is there any other business to attend to

1 today, Commissioners?

2 COMMISSIONER BALCH: 8:00 a.m. in Eunice?

3 CHAIRMAN CATANACH: 8:00 a.m.

4 COMMISSIONER BALCH: That means Sunday
5 driving down there.

6 CHAIRMAN CATANACH: Yes, sir.

7 So no other business?

8 COMMISSIONER PADILLA: None from me.

9 CHAIRMAN CATANACH: Then we will adjourn
10 the hearing.

11 (The proceedings conclude, 2:05 p.m.)

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1 STATE OF NEW MEXICO
2 COUNTY OF BERNALILLO

3

4 CERTIFICATE OF COURT REPORTER

5 I, MARY C. HANKINS, Certified Court
6 Reporter, New Mexico Certified Court Reporter No. 20,
7 and Registered Professional Reporter, do hereby certify
8 that I reported the foregoing proceedings in
9 stenographic shorthand and that the foregoing pages are
10 a true and correct transcript of those proceedings that
11 were reduced to printed form by me to the best of my
12 ability.

13 I FURTHER CERTIFY that the Reporter's
14 Record of the proceedings truly and accurately reflects
15 the exhibits, if any, offered by the respective parties.

16 I FURTHER CERTIFY that I am neither
17 employed by nor related to any of the parties or
18 attorneys in this case and that I have no interest in
19 the final disposition of this case.

20

21

22 MARY C. HANKINS, CCR, RPR
23 Certified Court Reporter
24 New Mexico CCR No. 20
25 Date of CCR Expiration: 12/31/2017
Paul Baca Professional Court Reporters

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