

STATE OF NEW MEXICO

ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

OIL CONSERVATION COMMISSION

IN THE MATTER OF THE HEARING)
 CALLED BY THE OIL CONSERVATION)
 COMMISSION FOR THE PURPOSE OF)
 CONSIDERING:) CASE NO. 11,273
)
 HEARING CALLED BY THE OIL)
 CONSERVATION DIVISION ON ITS OWN)
 MOTION FOR AN ORDER ADOPTING)
 RULES TO IMPLEMENT THE RECENTLY)
 PASSED PRODUCTION RESTORATION)
 INCENTIVE AND WORKOVER SEVERANCE)
 TAX EXEMPTION ACT (HB-65))
 _____)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

COMMISSION HEARING
ORIGINAL

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

September 28th, 1995

Santa Fe, New Mexico

This matter came on for hearing before the Oil Conservation Commission on Thursday, September 28th, 1995, at the New Mexico Energy, Minerals and Natural Resources Department, Porter Hall, 2040 South Pacheco, Santa Fe, New Mexico, Steven T. Brenner, Certified Court Reporter No. 7 for the State of New Mexico.

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 Commission Hearing
 CASE NO. 11,273

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A P P E A R A N C E S

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By: EDMUND H. KENDRICK

ALSO PRESENT:

FRANK T. CHAVEZ
District Supervisor
Oil Conservation Division
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* * *

1 WHEREUPON, the following proceedings were had at
2 1:35 p.m.:

3 CHAIRMAN LEMAY: We'll reconvene the Oil
4 Conservation Commission meeting and now call Case Number
5 11,273, which is the matter of the hearing called by the
6 Oil Conservation Division on its own motion to adopt rules
7 and regulations implementing the Production Restoration
8 Incentive and Workover Severance Tax Exemption Act, which
9 was House Bill 65.

10 And I'll now call for appearances in Case 11,273.
11 Mr. Carroll?

12 MR. CARROLL: Yes, Mr. Chairman, my name is Rand
13 Carroll, appearing on behalf of the New Mexico Oil
14 Conservation Division in presenting the recommendation of
15 the Production, Restoration and Workover Incentive
16 Committee.

17 CHAIRMAN LEMAY: Thank you. How many witnesses
18 will you have?

19 MR. CARROLL: I'll just have one witness.

20 CHAIRMAN LEMAY: One witness?

21 Additional appearances?

22 MR. KENDRICK: Ned Kendrick with the Montgomery
23 and Andrews law firm, representing El Paso Natural Gas
24 Company. We have two witnesses.

25 CHAIRMAN LEMAY: Thank you, Mr. Kendrick.

1 Additional appearances?

2 Okay, will those witnesses that will be giving
3 testimony please rise and raise your right hand, please?

4 (Thereupon, the witnesses were sworn.)

5 CHAIRMAN LEMAY: Mr. Carroll, you may begin.

6 MR. CARROLL: Yes, I call Mr. William F. Carr to
7 the stand.

8 WILLIAM F. CARR,

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

11 EXAMINATION

12 BY MR. CARROLL:

13 Q. Mr. Carr, will you please state your name?

14 A. My name is William F. Carr.

15 Q. Are you the chairman of the Oil Conservation
16 Division's Production, Restoration and Workover Incentive
17 Committee?

18 A. I am.

19 Q. And are you prepared to make recommendations to
20 the Commission concerning rules to implement the Natural
21 Gas and Crude Oil Production Incentive Act?

22 A. Yes, I am.

23 Q. What is the Natural Gas and Crude Oil Production
24 Incentive Act?

25 A. This Act was House Bill 65 during the last

1 Legislature. It was enacted and signed by the Governor,
2 effective June the 16th, 1995.

3 Basically, it provides for two separate tax
4 incentives to oil and gas producers.

5 The first one is the incentive for production
6 restoration projects. This tax incentive is in fact a tax
7 exemption from the Oil and Gas Severance Tax. It applies
8 for a ten-year period of time, or as long as the annual
9 average price of west Texas intermediate crude oil stays
10 below \$24 a barrel. The incentive is available for any
11 well, where any process has been used to return the well to
12 production if that well had less than 30 days' production
13 between January 1, 1993, and December 31, 1994.

14 The other part of the bill involves well workover
15 projects. It's a more complicated portion of the Act. It
16 applies to procedures undertaken by an operator of a
17 natural gas or an oil well that is intended to increase
18 production from that well. The tax incentive is a 50-
19 percent reduction in the base severance tax from 3 3/4
20 percent down to 1 7/8 percent. It is available only for
21 the incremental production, as certified by the Oil
22 Conservation Division. And again, this tax incentive
23 remains in place as long as the price of intermediate
24 crude, west Texas intermediate crude, stays below \$24 a
25 barrel.

1 Q. Mr. Carr, what was the Production Restoration and
2 Workover Incentive Committee directed to do?

3 A. This Committee was appointed on May 11th of this
4 year by Mr. LeMay. It consisted of representatives from, I
5 think, a broad segment of the industry.

6 The Independent Petroleum Association was
7 represented by their director, Will Waggoner.

8 The New Mexico Oil and Gas Association was
9 represented at our meetings by Deborah Seligman, who
10 attended and participated in all of those meetings.

11 The other members were Larry Van Ryan, Travis
12 Stice, Perry Pearce, Dick Pollard and Eileen Campbell from
13 Marathon, Randy Patterson with Yates, Frank Gray with
14 Texaco, and Mickey Kline, an independent from Midland.

15 Michael Stogner also participated in all
16 committee meetings for the Division.

17 And we were charged with the development of
18 proposed rules and regulations to implement House Bill 65
19 and to make recommendations concerning proposed rules to
20 you on this date.

21 Q. What did the committee do to carry out Mr.
22 LeMay's directive?

23 A. We met here in Santa Fe on June 27th, the 19th
24 [sic], and again on August the 4th.

25 And then following those meetings, after we had

1 developed preliminary rules, we met with representatives of
2 the Department of Taxation and Revenue at the offices of
3 the New Mexico Oil and Gas Association on August the 8th.

4 We developed rules, and we also developed forms
5 that we recommend be adopted by the Commission that will be
6 used by operators in making application for these tax
7 incentives. These proposed rules and forms were sent to
8 the industry with the August 24th OCD docket, and we
9 received comments from a number of members or a number of
10 companies concerning the proposed rules.

11 Q. Mr. Carr, has the committee completed its work
12 and is it prepared to make its recommendation to the
13 Commission?

14 A. Yes, we've completed the assignment and we're
15 prepared to recommend to you rules and forms to implement
16 this Act.

17 Q. And could you please describe to the Commission
18 how the committee approached the assignment?

19 A. Basically, the way we approached the assignment
20 was to develop rules and regulations that complied with the
21 Act. But also we were attempting to develop rules that
22 would provide or create as little additional burden on the
23 Oil Conservation Division as possible. And the real reason
24 for that was that, one, in many ways the Statute was very
25 clear, but one thing the Legislature did not do and that

1 was, they did not appropriate any funds to offset the
2 additional burden that the agency would have to incur in
3 administering the Act.

4 So the -- While trying to comply with the
5 statute, we also tried to come up with a system that was
6 simple for the agency and also would be easy for operators
7 to work with.

8 Q. Mr. Carr, would you please identify what has been
9 marked for identification as Oil Conservation Division
10 Exhibit Number 1?

11 A. Exhibit Number 1 is a copy of the recommended
12 rules and procedures for qualification of production
13 restoration projects, and also for certification of this
14 project for the incentive tax rate.

15 And attached to that will be -- is also marked as
16 our Exhibit 2, a form that will be used, we hope, to -- by
17 operators seeking the exemption.

18 Q. Who may apply for this exemption?

19 A. The exemption -- Only one person may apply under
20 the Statute for the exemption, and that is the operator.
21 And it is our understanding and belief that the operator of
22 a well must apply and that that application is for all
23 working interest owners in that individual well.

24 Q. Now, Mr. Carr, will you please review the
25 proposed rules?

1 A. If we look at these rules -- and the rules for
2 the restoration projects are simpler than the next set that
3 we'll look at for well workover projects -- in terms of
4 format there may be state rule requirements or some
5 procedures that will require adjustment for the format, but
6 the format is based on the rules that were adopted by the
7 Division in 1992 to implement the Enhanced Oil Recovery
8 Act.

9 Basically what we have is, we have a general
10 statement identifying the Act, and it states that --
11 There's a blank there for the Division or the Commission to
12 insert the date after which applications will be accepted.

13 The next section, styled "Applicability",
14 provides that you may apply only if there were 30 days less
15 production from your well during the period January 1,
16 1993, to December 31, 1994. And I think it's important to
17 remember that that is the period of time set by the
18 Legislature. If you had 30 days or less production from
19 July the 15th, 1993, to July the 15th, 19-- -- to a shorter
20 period of time or a different period of time, you simply
21 are outside the statute, and you cannot apply for the tax
22 incentive.

23 We also have throughout these recommendations
24 used as the date for the applicability of the rules, for
25 implementing a workover project or, here, a restoration

1 project, the date the bill became effective, June 16, 1995.

2 I think it's important to note that these rules
3 don't just tell an operator that if their records show them
4 that they have less than 30 days' production during this
5 two-year window, that they may make application. The
6 Statute says that the Oil Conservation Division records
7 must show that you had less than 30 days' production.

8 So we contacted ONGARD representatives, and they
9 have advised us that they will be able to provide an ONGARD
10 list that they believe will identify those wells that fall
11 within this category.

12 So when an operator is called upon to make an
13 application and state that the OCD records show that they
14 qualify, they will be able to simply refer to this ONGARD
15 well list.

16 If for some reason they do not have the well
17 they're interested in on that list, the only other way we
18 believe they can show you that they qualify would be to
19 direct you to the C-115s. And again, then, they would show
20 that in your records, based on your records, they qualify
21 under the Act.

22 If we go to the definition section, you'll see
23 that the definitions are generally drawn from statute.
24 "Production Restoration Project" is taken right -- that
25 definition is taken right out of the statute.

1 But there is a term in here that will actually be
2 more important when we talk about well workover projects,
3 but it's the definition of the word "well". It is not
4 defined by the statute. But the committee is recommending
5 that you adopt a definition for the term "well" to mean a
6 wellbore with single or multiple completions, including all
7 horizons and producing formations from surface to total
8 depth. I'll go into that in more depth as it relates to
9 workovers.

10 But the reason we felt that term had to be
11 included, it's consistent with the Statute. The Department
12 of Taxation and Revenue treats each individual producing
13 formation within a well as a separate well, and when you
14 compare that definition to statute, Tax and Revenue's
15 definition just does not work. And when we look at
16 workover, we'll show you the reasons for that. But what
17 we're recommending is that you define the well being
18 surface to total depth in the wellbore.

19 Q. Mr. Carr, what are the procedures that an
20 applicant must follow to comply with?

21 A. First of all, as we noted, only the operator
22 files. They can't file for any project they commenced
23 prior to June 16, 1995.

24 The rules provide that you must file within 12
25 months of the production restoration, and there is a reason

1 for that 12-month window. Tax and Revenue commented that
2 they were concerned that this could allow an inordinate
3 number of amendments to the tax return.

4 We're not sure, and we're not in a position to
5 make a call on what that impact might be, except we do know
6 that when you are reporting to them monthly on, say, gas
7 production, that you almost always amend your return once
8 anyway.

9 But throughout this effort, we have been trying
10 to draft rules which are consistent with what really has
11 been the directive to us by the primary sponsors of the
12 bill, and that is to be sure that operators can file for
13 these at any time after the effective date of the Act,
14 which was June the 16th of this year.

15 That means that there has to be some provision
16 for retroactive filing. If you have, as to production
17 restoration projects, an effective date for these rules,
18 June the 16th, if you'll accept applications after that
19 date, and if you provide a window of time within which an
20 operator may file, any operator in the state who has a well
21 on the ONGARD list or C-115s that support it can make an
22 application now or anytime until the 16th of next June and
23 qualify their well as a project under the Act. It will be
24 retroactive, and it will comport with what we understand
25 the intention of the primary sponsors to be, as expressed

1 to Mr. LeMay and others at the Revenue Stabilization and
2 Tax Policy Committee hearings this summer. So that's why
3 that window is there.

4 But the window also has another -- There's
5 another side to it. It's a two-edged sword. It means that
6 you can't do something, you can't have a well on the list
7 and sit back and wait until, you know, 2001 and decide that
8 you've got enough of a credit that it's worth filing.
9 You've got to get with it and you've got to file it. We
10 recommend a one-year period of time.

11 There were also companies who advised us that the
12 tax credit might not be enough to warrant constantly filing
13 these things and that from a company administrative point
14 of view, it could be easier for them to once a year sit
15 down, identify projects both for this tax incentive and
16 also for workovers, and file those at one time.

17 In our meetings with the Tax and Revenue people,
18 there was some question about how they would apply it at
19 their end. We asked them to participate, to comment, but
20 they have not done that, as to the question of how it will
21 apply. I will note, however, that the Statute talks about
22 the tax incentive functioning as a credit on future tax
23 liability.

24 One of the things that I think may be an issue
25 that the Commission will have to decide is that we also are

1 recommending that these applications be filed with the
2 district office. Each district supervisor was contacted by
3 a member of the committee, and each indicated that they
4 could do it, each felt it would be important to take as
5 much discretion out of it as possible, and when you look at
6 the Act and this assignment, I think we were able to do
7 that.

8 But the real reason for doing that was to spread
9 the administrative burden. Every time there's a new act,
10 every time there's some new responsibility for the agency,
11 it gets dumped in the Santa Fe office. The staff does not
12 increase, and it was -- We're recommending that it be done
13 by the district for that reason, that it will spread the
14 administrative burden. And the application, again, the
15 details of that are spread out throughout these particular
16 rules.

17 The Legislature told the Oil Conservation
18 Division that they need to approve production restoration
19 projects, that they need to issue a certificate of approval
20 to the operator and that they have to then immediately
21 notify the Department of Taxation and Revenue of this
22 certification.

23 And so what we have done is, we have prepared a
24 form. We recommend that it be filed in triplicate with the
25 District. The certification from the agency, as you'll see

1 in a minute, is on the back of that. It can be signed by
2 the appropriate Division personnel. A couple of dates can
3 be inserted. One can be retained by the Division, a copy
4 can be returned to the operator as the certificate of
5 approval that you're directed by statute to send to them,
6 and then below that there is a provision whereby you verify
7 that a copy of this form with the attached certificate of
8 approval has been provided to the Department of Taxation
9 and Revenue.

10 We think one form in triplicate can serve as not
11 only the application but the certification and the
12 notification to the Department of Taxation and Revenue.

13 Q. Now, when does the tax exemption become
14 effective?

15 A. The tax exemption is effective the first day of
16 the month following your certification, so it's necessarily
17 going to be retroactive.

18 What happens is, you return the well to
19 production, you make an application to the Division. The
20 Division -- You return it, say, in October. The Division
21 certifies this in November, but it would -- the date would
22 be the date it was returned to production, the tax would be
23 effective the first of October. So there's an up-front
24 slight retroactive application, the way it's set up in the
25 Statute.

1 Q. Mr. Carr, may operators request a hearing upon an
2 application for a production restoration project?

3 A. The Statute provides in Section 4 that the
4 Division shall consider and approve applications without
5 holding hearings on the application, so it's a statutory
6 administrative procedure.

7 The Statute also says only after the application
8 is denied may an operator request an examiner hearing -- or
9 a hearing on the application. So until the agency denies
10 the application, you have no right to take it to hearing.

11 What the committee is recommending is that if no
12 action is taken on an application within 30 days of the
13 date it's filed, that it be deemed denied for the purpose
14 of these rules.

15 Now, very frankly, the concern was that you can
16 file an application -- and if you get an ONGARD list, and a
17 lot of these are filed, these things can disappear sort of
18 in an administrative black hole. You have no right to seek
19 a hearing. There you are. You filed it and you sit.

20 And so in fact, the purpose of the provision that
21 it will be considered denied for the purpose of this rule
22 is to prod the district offices to get the applications
23 approved.

24 Now, you may decide that's appropriate, you may
25 decide it's not. But that's the reason that is included in

1 the recommendation; it is to give the operators a chance to
2 ask for a hearing if no action is going on, and -- "you"
3 being the Santa Fe office. And we suspect that if a number
4 of operators ask that they be set for hearing, it would
5 encourage the districts to approve them. That's the reason
6 for that.

7 MR. CARROLL: Mr. Chairman, Mr. Carr has already
8 referred you to what has been marked as Oil Conservation
9 Division Exhibit Number 2, which is the form to be filed.

10 Q. (By Mr. Carroll) Mr. Carr, is the use of this
11 form required under these proposed rules?

12 A. Under the rules, you -- if you're going to apply
13 for a production restoration project, you must use this
14 form. And it is, as you can see, signed by the operator.

15 The intent here, again, is to provide the
16 information in the top part of this form as required by
17 statute. There is under Roman numeral VI a box you check
18 if in fact this is on the ONGARD list, or if you have to
19 look in the C-115s, and they check those.

20 They're not required to submit the forms. They
21 just tell you where in your records the supporting
22 information -- the data that supports this application can
23 be found.

24 And there's an affidavit that the operator must
25 sign just basically saying that the information submitted

1 is true and correct. And the intent there is to put the
2 monkey on the operator's back, not on the Division's. You
3 don't have to go back out and check it. And if you do
4 check it, it's not because -- I mean, if -- You don't have
5 to have a member of your staff go check the C-115s; you're
6 relying on the operator. And if the operator has not done
7 that and misrepresents this and hey get audited, it is
8 something that is their problem and should not be a problem
9 for the Division.

10 And then on the second page, which will be the
11 back of this form, is a space for use by the Division, and
12 it is a certification to be signed by the district
13 supervisor, simply stating that the well qualifies and the
14 date of that qualification.

15 And then below that is a date that shows what
16 date this certification was sent to the Department of
17 Taxation and Revenue. We shared this with Tax and Revenue;
18 we did not have an objection to this approach being used to
19 notify them.

20 Q. Now, Mr. Carr, do you have anything further to
21 add regarding production restoration projects and the tax
22 exemption?

23 A. No, that concludes our recommendation concerning
24 production restoration projects.

25 MR. CARROLL: Mr. Chairman, if I could turn the

1 Commission's attention to what has been marked as OCD
2 Exhibit Number 3 --

3 CHAIRMAN LEMAY: Do we want to take questions on
4 this separate, or go on to both of them and --

5 THE WITNESS: Any time, any time.

6 MR. CARROLL: It's up to you, I think. Any time
7 is fine.

8 CHAIRMAN LEMAY: Well, why don't we do this one
9 first? Because I think it would be easier if we take this,
10 two separate parts; then we won't get them confused.

11 I think Commissioner Weiss had a question.

12 EXAMINATION

13 BY COMMISSIONER WEISS:

14 Q. It wasn't clear to me when you submit these. Is
15 it before or after you restore your well?

16 A. We are anticipating that these forms will be
17 submitted after you return the well to production.

18 Q. Does it say that it has to be that way, or can
19 you turn it in and then go work on the well?

20 A. Well, I mean, the certification from the OCD and
21 the Statute require that you provide the date the well
22 was -- production was restored on, and you include the
23 date. So you really have to do this one after the fact.

24 COMMISSIONER WEISS: Okay, thank you.

25 CHAIRMAN LEMAY: Any other questions of Mr. Carr

1 concerning this production restoration? Commissioner
2 Bailey, anything?

3 EXAMINATION

4 BY COMMISSIONER BAILEY:

5 Q. Is there any way the Division would know that
6 this well has already first delivered at some point in the
7 past?

8 A. The Department of Taxation and Revenue has
9 requested that on each of these forms -- I was going to
10 cover that later, kind of as a catch-all -- that we provide
11 the date the well last produced. They felt that would be
12 helpful to them.

13 CHAIRMAN LEMAY: Any questions from the audience?

14 EXAMINATION

15 BY CHAIRMAN LEMAY:

16 Q. Could you check on -- Bill, on these -- from
17 Taxation and Revenue, whether they needed things like a PUN
18 number or any other designation like -- for their records
19 to be on the form?

20 A. The only thing they requested was the date that
21 the well last produced. They're concerned about the
22 proration unit numbers because they assign a different PUN
23 to each interval open in the wellbore. And if you've got a
24 Morrow completion, they'll have a 320-acre proration unit
25 number. If you're up in a shallower zone that's on a 160,

1 they'll have a separate PUN for that.

2 And their staff has expressed real concern about
3 how they're going to administer -- I mean, we didn't tell
4 them how to do their job, but we did suggest that if they
5 read the Statute and you -- It applies more to workovers
6 than --

7 Q. Yeah.

8 A. -- restoration projects, but that if you open a
9 new zone, they're going to have to assign probably a zero
10 to that shallower zone.

11 Q. But they've had a chance to comment on the forms?

12 A. They have.

13 Q. So they could add something if they needed it?

14 A. Yes.

15 CHAIRMAN LEMAY: Okay. Anything else on this
16 particular -- Bill? Frank?

17 MR. CHAVEZ: Mr. Chairman, just on the form
18 itself, with the ONGARD system going there, it might be
19 good application or reason to allow places for other code
20 beside the oil-grade code, perhaps the property code, since
21 the PUN is based on the property code and the API number,
22 the property code should -- may not be included in here,
23 and that's something else for us to explore.

24 CHAIRMAN LEMAY: That's what I wanted, was
25 property -- Has this been run by ONGARD?

1 THE WITNESS: No, it has not.

2 MR. CHAVEZ: The property code and the pool code.

3 CHAIRMAN LEMAY: And the pool code, I wonder
4 about those two codes, whether they would be important.
5 Okay, we'll look at that, property.

6 That identifies about everything you needed to
7 know about the well, doesn't it? The pool code and the
8 property code, along with the API number and OGRID?

9 MR. CHAVEZ; Yes, sir.

10 CHAIRMAN LEMAY: Anything else on the form or
11 anything else on the administration of the Act, of the
12 rules as proposed?

13 Okay, that's the easy one, Mr. Carr.

14 THE WITNESS: That's the easy one.

15 CHAIRMAN LEMAY: If you want to go on to the next
16 one, we'll be happy.

17 MR. CARROLL: Mr. Chairman, if I could turn the
18 Commission's attention to what has been marked as OCD
19 Exhibit Number 3.

20 EXAMINATION (Resumed)

21 BY MR. CARROLL:

22 Q. Mr. Carr, could you please identify what has been
23 marked as OCD, Division Exhibit Number 3?

24 A. Exhibit Number 3 are our proposed procedures for
25 qualification of workover projects.

1 Q. Could you review these proposed rules for the
2 Commission?

3 A. These are similar to the rules for production
4 restoration, but they're more complicated. Again, these
5 rules would apply, and you could qualify a project if in
6 fact you commenced your operations on or after June 16,
7 1995.

8 The definitions, again, are to the extent
9 possible taken from statute. The definition of production
10 projection is taken from statute, and you are required to
11 determine what the production would have been for the well
12 prior to the operator performing workover procedures on the
13 well.

14 Section -- The seventh definition in these rules
15 is of the term "routine maintenance". We've decided we had
16 to define this term, because you can qualify the well for
17 workover procedures that are not, they say, routine
18 maintenance. They don't define the term in the statute.

19 And so what we have recommended as a definition
20 for routine maintenance means repair of a well or like-for-
21 like replacement of downhole equipment or any other
22 procedure performed by an operator to maintain the well's
23 current production. Repair is not workover. If you're
24 repairing your -- whatever in the well, that shouldn't
25 qualify.

1 Like-for-like replacement is a term we drew from
2 rules adopted for similar incentives from the Oklahoma
3 regulations. But if you're replacing -- I don't know what
4 it would be, a certain kind of packer or whatever you might
5 have in the well -- you can't come in and just replace
6 equipment and contend you're actually doing a workover on
7 the well, and you have got -- and you will not qualify if
8 you're only attempting to maintain the well's current
9 production level. You wouldn't get the tax credit anyway.
10 We think it ought to be fairly self-evident what is routine
11 maintenance, but we felt the term needed to be defined.

12 We then get again to the question about, you
13 know, what is meant by the term "well". I covered that a
14 few minutes ago, but it's more important here, because as
15 workovers are defined by this statute you really have got
16 to have the term "well" mean surface to total depth.
17 Taxation and Revenue does assign a separate proration unit
18 number, as we mentioned a minute ago, to every zone.

19 But when we look at the Statute, it defines
20 workovers as including, among other things, drilling
21 deeper. Now, if you're drilling deeper, you've got
22 multiple zones that are involved in a workover project.

23 It also defines workovers as including
24 recompletion by reperforation of the zone from which
25 natural gas or oil has been produced, or by perforation of

1 a different zone.

2 So the Statute with those two provisions in it
3 absolutely dictates that the definition of "well" include
4 everything from surface to total depth. And so that's the
5 reason we have used that definition in the proposed rules.

6 We also have Subpart 11 on page 2, a definition
7 of "workover". This is drawn from the Statute. A through
8 E is right out of the Statute. E, there needs -- it needs
9 to be edited. It talks about procedures done to a wellbore
10 in order to establish, continue or increase production. To
11 qualify as a workover it would have to be re-establish
12 production. But basically A through E are right out of the
13 statute.

14 We added F and G that are really follow-ups and
15 tie into the definition of routine maintenance. If like-
16 for-like replacement is routine maintenance, replacement of
17 unlike equipment ought not to be. And we also included
18 installation of artificial lift equipment to a flowing well
19 or a well that is no longer capable of flowing.

20 And those are the two that we recommend over and
21 above what is contained in the Statute. And this is going
22 to be important later on, because we've got a timing
23 problem in the Statute that we think we've addressed with
24 these rules, and I'll come back to this definition at a
25 later time.

1 Procedures similar to those again that we talked
2 about for production restoration projects, you need to file
3 within 12 months. They're filed by the operator.

4 And we have provided in these rules a provision
5 on page 3, paragraph 5, that the data utilized to make the
6 production projection for the well shall be retained by the
7 operator in its files during the period of time the well
8 qualifies for and receives the well workover incentive tax
9 rate.

10 We have received comments from Dugan Production
11 Company and others, and they really feel that if you're
12 going to require that data, instead of just telling them to
13 keep it, it ought to be filed with you at the time they
14 make the application.

15 Our intent with this provision is not to require
16 an operator to bring an awful lot of material and then
17 attach it to applications so you can keep it forever in
18 your file.

19 The intent was to alert them that you may get
20 audited someday and you'd better keep the data you're using
21 that you're basing this claim for lower tax rate on. And
22 so the intent was to alert them. And it may be that this
23 needs to be amended to say you shall keep it for however
24 many years you have to keep it after you no longer get the
25 tax credit.

1 It was merely to flag it for them so they feel
2 when they get something back signed by Frank Chavez that
3 they're home free and they never have to fool with it
4 again, that won't satisfy the Department of Taxation and
5 Revenue if they are concerned about an abuse and come back
6 at a later date. And we thought some operators would know
7 that, but some might [sic], and it was not inappropriate to
8 somehow flag that for them in the rules.

9 The OCD form again must be used. It says the --
10 needs to provide and set out the date that the workover
11 procedures were commenced and were completed. It requires
12 a description of the procedure undertaken that's intended
13 to increase production from the well.

14 And most importantly, and the thing which I think
15 we spent the most time on in the committee, is that it
16 requires that a decline curve or other appropriate method
17 specifying producing intervals involved be provided, so you
18 have a decline curve on the existing well's ability to
19 produce, and also we have to have this information in a
20 tabulated form so it can be utilized by the people at
21 Taxation and Revenue.

22 And what the operator has to do is estimate the
23 production rate of natural gas or oil from the well, based
24 on at least 12 months of established production, which
25 shows the future rate of production from that well, based

1 on its performance prior to performing the workover. You
2 have to come in with a baseline figure.

3 And the operator has to come in, and we felt the
4 way to do that was simply with a decline curve, showing you
5 that if we hadn't worked over the well, this line will show
6 you what the well would have produced, and that you then
7 have to translate that into a tabular format and provide
8 that so Tax and Revenue has something other than the
9 decline curve to look at.

10 You then have to provide a description of the
11 method used to project this future rate of production. And
12 on our committee, everybody told us that now they had the
13 computer that would do it, smallest operator to the largest
14 operator. And based on what we could come up with, the
15 only people who do not have this computer capability are
16 the Oil Conservation Division and their district offices.

17 In any event, if they're going to do it by some
18 decline curve analysis, they can say so, if they don't
19 identify a computer program to you that they utilize to
20 make this projection. Again, there's an affidavit, and the
21 affidavit basically says that all production records have
22 been reviewed, that the data is complete and correct and
23 sound engineering principles have been used.

24 Again, it's on the operator's back if he's
25 audited and he's going to make this affidavit to you. But

1 in view of the number of applications and number of staff,
2 we thought it was appropriate to leave that with the
3 operator, and if they get called to task on it, it's going
4 to be up to them to come back and justify -- to justify
5 this. And so that's what we've done. Again, it has a
6 similar approval and certification provision that we've
7 included on the form.

8 Q. Mr. Carr, if I could refer you to what has been
9 marked OCD Exhibit Number 4, can you identify that for the
10 Commission, please?

11 A. Okay, Exhibit Number 4 is the form. And aside
12 from a printing error in this, where I need to move some
13 language over, this is the format that we're recommending
14 be utilized. Again, as Frank Chavez indicated, there may
15 need to be some additional numbers that tie this more
16 closely to the ONGARD system.

17 The affidavit is again included. And if you will
18 note, the affidavit, paragraph 3, says that the operator is
19 stating that to the best of his knowledge, the data used to
20 prepare this project was complete and accurate, the
21 attached production projection.

22 Originally, it was -- we were asking -- we
23 proposed or the earlier drafts of this form provided the
24 operator would certify that the data used was complete and
25 accurate.

1 And there seemed to be a resistance on the part
2 of some. They said they would do their best, but they
3 wanted to be able to qualify it, saying that to the best of
4 their knowledge they had included everything, in case there
5 were some amendments to production figures or something
6 later on. They thought that it was safer from an operator
7 point of view, if they were going to be asked to swear to
8 this, to put that qualifier in. That's why it's in the
9 form.

10 Again, the affidavit is very similar to what we
11 used before. All the Division in fact has to do when they
12 receive one of these is look at the production decline,
13 confirm that it's reasonable, sign and date this, send one
14 back to the operator and send one on to the Department of
15 Taxation and Revenue.

16 Q. Now, Mr. Carr, under the committee's
17 recommendation, how many times must the operator obtain
18 Division approval of a well workover project?

19 A. In most cases, once, and I want to emphasize
20 "most cases", because we've gotten here to what was the
21 most difficult thing we tried to wrestle with in developing
22 these rules.

23 If we look at the Act, the Act says that a well
24 shall be approved as a workover project if, and I quote,
25 the Division determine that the procedure proposed to be

1 undertaken by the operator of the well is a procedure
2 intended to increase production from the well.

3 "Proposed to be undertaken". This implies or
4 suggests that an operator comes to you before they
5 undertake a workover procedure.

6 The statute then goes on and it identifies, and
7 they're in the definition section, a number of things that
8 would be included within the term "well workover". It
9 says, shall include, but is not limited to, the following.
10 And the list of things that are included is really
11 extremely broad. It's in statute, but it includes re-entry
12 in the well to drill deeper, to sidetrack to a different
13 location or to recomplete the well for production,
14 recompletion by reperforation of a zone from which natural
15 gas or oil has been produced or by perforation of a
16 different zone.

17 It goes on to include repair or replacement of
18 faulty or damaged casing or related downhole equipment,
19 fracturing, acidizing, installing compression equipment,
20 squeezing, cementing and installing equipment necessary for
21 removal of excessive water, brine or condensate from the
22 wellbore in order to -- and it says, establish continued
23 production from the well. It's a very broad list that's in
24 the statute.

25 So first of all, this bill says they need to come

1 in -- or it at least says you've got to determine that the
2 procedure they propose to use is acceptable. It then
3 defines what workover means.

4 But later in the Statute it says that the
5 certification to the Department shall contain the date that
6 the well workover has been completed. So there you get to
7 a second kind of a filing. If you require each individual
8 to come in first and say this is what we propose, you say
9 that's okay, we go do it, and then we come back.

10 The problem is, that's not even practical from an
11 operator perspective. If I'm out on a well and I'm
12 acidizing a formation or reperforating and it doesn't work,
13 while I've got a workover rig I may want to come up, I may
14 want to try and perforate another zone, I may want to
15 acidize another zone, you know, we may want to -- And while
16 you're on the well it doesn't make sense to have to come
17 back and interrupt the Division over and over again and
18 make you sort of their partner in working over the well.

19 But this created a dilemma. It was raised by
20 several operators. There was concern about multiple
21 filings, which is really inconsistent with how the at least
22 principal sponsors of the bill have described the bill. It
23 creates an administrative burden, and we think from an
24 operator point of view it creates a situation which is
25 impractical.

1 Q. Mr. Carr, do you have a recommendation as to how
2 this problem can be resolved?

3 A. We received comments on this, Arco made a
4 suggestion which is not a committee recommendation, but it
5 does seem to make sense, and let me tell you simply what it
6 is.

7 We would recommend -- Their recommendation is
8 that the order entered by the Commission identify those
9 procedures which if proposed by an operator are approved.
10 All you would be asked to do is in your order say that if
11 you propose to fracture, acidize, recomplete, exactly
12 what's in the Statute, there are two more in the rules that
13 you'll have to make a call on.

14 But if the order says if you're proposing these,
15 they're approved and the rule is effective the 16th of
16 June, coupled with a 12-month filing window, you have dealt
17 with the question of an operator being able to
18 retroactively apply for this exemption back to the 16th of
19 June.

20 And when you think about it and look at that, it
21 would comply with the terms of the statute, it would allow
22 for retroactive filing back to June the 16th, it would
23 enable operators to file one time after the fact if they
24 were doing one of the things that the Legislature and
25 Statute said was an acceptable workover procedure, and I

1 believe it would work.

2 Now, there's an exception to that, and I said
3 they would come to the Division almost once -- or in most
4 cases only once. And as you know, there are some creative
5 people out there, and, you know, if they decide they want
6 to do something like pour Clorox down their well or
7 whatever it might be, you know, that's not defined by the
8 Statute, and it would not be defined by the rule.

9 And if they think that would qualify as a well
10 workover procedure, they would have the option under the
11 statute and under the order adopted, I suggest, to come in
12 and get that pre-approved so that they're not out doing
13 something, assuming they will be able to qualify for the
14 tax incentive, and then not get there with it. You still
15 would have the option if they do that without getting it
16 approved first, to simply deny it after the fact.

17 Q. And you believe this is consistent with the bill
18 that was enacted?

19 A. I think this absolutely comports with the
20 language of House Bill 65.

21 Q. Mr. Carr, from whom have comments been received
22 regarding your proposed rules?

23 A. Comments have been received from Arco, Dugan
24 Production Company, Phillips, the Energy and Minerals
25 Department, the Department of Taxation and Revenue, and

1 copies of all of the comments we have received are included
2 in what is marked Oil Conservation Division Exhibit Number
3 5.

4 Q. And have you reviewed all these comments in the
5 course of this testimony?

6 A. No. The comments range all the way from whether
7 you should have a comma or a semicolon to serious questions
8 about whether an application could be approved or deemed
9 approved if the Division didn't act on the application.

10 I've tried to touch on those that were matters
11 that had been discussed in the committee, or that might
12 have a real impact on the order and the rules that would be
13 adopted.

14 There are a number of other comments,
15 particularly from Dugan and the Energy and Minerals
16 Department, that make wording changes that I think are
17 appropriate but don't really change the recommendation that
18 we're bringing to you here today.

19 Dugan pointed out that in one place in the rules
20 we say you can qualify for any project commenced after June
21 the 16th, and others say on or before, and there's a
22 question there, they need to be pulled into line. But
23 they're set out in the comments that are provided as our
24 Exhibit Number 5.

25 Q. Mr. Carr, can you please identify what has been

1 marked as Oil Conservation Division Exhibit Number 6?

2 A. Exhibit Number 6 is a copy of the minutes of the
3 first two committee meetings. Frank Gray served as our
4 secretary, and we relieved him of any responsibility for
5 minutes the last time, at our last meeting, because all we
6 were doing was going line by line through the rules and the
7 forms, and all of our activity is reflected in that. But
8 those are the minutes of our first two committee meetings.

9 Q. Mr. Carr, were Exhibits Number 1 through 6
10 compiled by you?

11 A. Yes, they were.

12 Q. Do you have anything further to add in this case?

13 A. That concludes my direct presentation.

14 MR. CARROLL: Mr. Chairman, I offer what has been
15 marked OCD Exhibits 1 through 6 into the record.

16 CHAIRMAN LEMAY: Without objection, Exhibits 1
17 through 6 will be admitted into the record.

18 Questions of Mr. Carr?

19 Mr. Chavez?

20 EXAMINATION

21 BY MR. CHAVEZ:

22 Q. Mr. Carr, you're right, we don't have quite the
23 capability that most operators do for juggling or at least
24 working with data to get the information we need.

25 Many times, though, I've looked at some

1 information -- for example, 12-month decline curve -- and
2 the data has been rather indeterminate. That and other
3 information required so far may not be adequate.

4 Is there some way the rule could be written so
5 that if the Division thought that more information was
6 necessary than was required, that they could ask for that?
7 I know it says at least 12 months, but -- And it also says
8 the operator has the option of supplying more, but it
9 doesn't say the Division can ask for more information.
10 Would it be helpful to --

11 A. I mean, I would think that you're in a position
12 to act on the application, and I think if you take no
13 action -- if no action is taken in 30 days, it's deemed
14 denied for the rule.

15 But it would seem to me that a request from the
16 OCD for additional information, you could write them and
17 tell them that you're suspending consideration pending the
18 submission of additional production data, and I would think
19 that would be consistent with whatever --

20 Q. That falls into what's already written?

21 A. I'd have to look at that, Frank, but it certainly
22 is consistent with everybody's intent, and I think we ought
23 to check to be sure that that is in there, so that you
24 don't just find yourself trying to get adequate information
25 and it's denied and somebody's saying that you're sitting

1 on it and they need to have a hearing in Santa Fe on it.

2 Q. The second thing is, the issue of definition of
3 "well", including everything in the wellbore. I'm unclear.
4 Is that from the Statute or --

5 A. Yes.

6 Q. -- is that --

7 A. No, that's -- The definition itself is from -- is
8 the committee recommendation.

9 But we had really two options, to treat each --
10 you know, to treat each formation as if it were an
11 individual well, like it really is treated at Tax and
12 Revenue, or go surface to total depth.

13 And when the rule provides that a well workover
14 will involve perforation of a different zone in the
15 wellbore, that dictated really coming up with a definition
16 that included everything to total depth, because everything
17 in that interval might be the other zone somebody tries to
18 perforate.

19 Q. Okay. Some of the activities that do increase
20 production from a well, we've found, are -- may increase
21 production from more than one well.

22 For example, if an operator has his own gathering
23 system, he has more than one well in that. It might be
24 more economical for him to install a centralized
25 compression zone.

1 Do you foresee that that's covered under this, so
2 that centralized compression facility is also recognized as
3 contributing to that one well?

4 A. I think you've got to look at the facts of the
5 individual compression facility.

6 But there are two, I think, hallmark things in
7 this Statute.

8 One is that a well workover procedure must be
9 instituted by the operator. I mean if the operator hires a
10 company to come out and install compression on one well or
11 multiple wells, I don't think that makes any difference, as
12 long as it's initiated by the operator.

13 And if it is a company that comes out and puts a
14 compressor that serves three wells or comes out and
15 constructs whatever needs to be done to serve more than
16 that, ten wells, I don't think that distinction in terms of
17 the number of wells tied to the facility really makes any
18 difference. It needs to be initiated by the operator, paid
19 for by the operator. And if it's compression, then it's
20 covered by the Act and it's covered by the Statute. I
21 mean, it's expressly set out there.

22 So I would think you could do that. I wouldn't
23 think it would be one compressor, one well. I think it's
24 broader than that, as long as the operator is the person
25 who does that or initiates it.

1 Q. Thank you. Of course, there are a lot of
2 situations in New Mexico where we have an operator who
3 creates a -- for gas gathering, and that type of
4 relationship, you think, would also be covered, as long as
5 the operator somehow certifies in his application that he
6 initiated this?

7 A. I think if the operator is doing that -- I mean,
8 is -- I think that's the key, I think the operator has to
9 initiate it.

10 And I think that -- I don't know, if Operator A,
11 contacts El Paso and El Paso has a presentation and El Paso
12 installs compression that serves one well or ten wells, and
13 the operator asks for it and the operator is paying for it,
14 either directly or in a monthly charge or an MCF charge,
15 that probably qualifies under this Act.

16 And you can start with with's obvious, one well,
17 compression installed workover, and you can go to two
18 wells, one compressor workover, you know. I mean, you can
19 just start step by step by step.

20 I think if the operator has a question, they
21 should check beforehand. But I think in that basic
22 scenario, you don't have to have one compressor for one
23 well to qualify.

24 Q. Okay. Do you think the documentation you have is
25 adequate to show operator initiation of that?

1 A. I think that's right. I think it's clear in the
2 rule that the operator is the person who must make the
3 application for all working interest owners, and the
4 compression qualifies under the statute.

5 And I would think those are the two critical
6 things that must be shown, and that it was done with the
7 intention of increasing production from the well. And if
8 you've done that, I think you've touched all the stones.

9 Q. I didn't understand one thing there on -- I don't
10 know what the exhibit number is, but it's for the -- You
11 have under 11 E -- you talk about the wording of
12 "squeezing, cementing or installing equipment necessary for
13 removal of excessive water..." You talk about "to
14 establish". You said something about re-establish?

15 A. Yeah, if we think, you know, if it's a workover
16 you're re-establishing, and that's just -- We're trying to
17 correct a word that the Legislature used that we think
18 might be -- The correct term, we think, is probably
19 "re-establish". It probably doesn't mean anything, but we
20 think it's more correct.

21 MR. CHAVEZ: Thank you.

22 CHAIRMAN LEMAY: Thank you. Additional questions
23 of Mr. Carr?

24 MS. LEACH: I don't have a question, Mr. Carr,
25 but I have a procedural point.

1 You haven't moved the introduction of the
2 exhibits yet, but I have a distinct problem, because one of
3 the attachments in Exhibit 5 is an internal document from
4 me and Mr. Carroll, and I'm in the uncomfortable position,
5 if that is offered as evidence in this matter and I'm in
6 the position of being counsel to the Commission and
7 supposed to be independent, I'm in an absolute conflict.
8 And I really am not real happy that that was even brought
9 to this hearing today.

10 THE WITNESS: Well, we were trying to include all
11 comments we had received from all sources. We might --
12 Also, I might add, there is one in there from Taxation and
13 Revenue, and if you'd like to remove both of those --

14 MS. LEACH: That's fine, they're not acting --

15 THE WITNESS: -- we have --

16 MS. LEACH: -- they're not acting as counsel for
17 the Commission.

18 THE WITNESS: Well, that's true.

19 MS. LEACH: That's my problem.

20 THE WITNESS: That's true. We can certainly
21 remove that. We haven't discussed it in any way. And we
22 can delete that from, I believe, Exhibit Number 5.

23 MS. LEACH: That needs to be --

24 MR. CARROLL: Okay, I did move them into the
25 record, and I would like to delete that page from Exhibit

1 Number 5.

2 CHAIRMAN LEMAY: Okay, the record will include
3 all exhibits, with the exception of the deletion from the
4 Department's comments, I think, that Ms. Leach referred to,
5 so that will be out of the record.

6 Any objection to that? Okay.

7 Anything else, Carol?

8 MS. LEACH: Nothing.

9 CHAIRMAN LEMAY: Mr. Weiss, Commissioner Weiss?

10 COMMISSIONER WEISS: I have no questions.

11 CHAIRMAN LEMAY: Commissioner Bailey?

12 EXAMINATION

13 BY COMMISSIONER BAILEY:

14 Q. Is there a potential conflict with OCD
15 commingling orders, as for the future, as far as allocation
16 formulas are concerned?

17 A. I don't think so, because I think what you have
18 to do is look at the well and look at what it can produce.
19 And if you've got, you know, a downhole commingling, you've
20 got that situation. I think if you've got a surface commi-
21 -- or where you're segreg- -- Well, no, this is downhole
22 commingling, you take the total stream, I think you would
23 have to, to comply with this statute.

24 Q. Okay, and surface commingling, there wouldn't be,
25 as far as -- ?

1 A. Surface commingling, I don't think you would have
2 the problem. You would still, again, have to estimate the
3 total producing capability of the well. That's what you've
4 got to come up with. You've got to show what it would do
5 before you did this workover.

6 Q. Want to make sure all the bases were covered.

7 A. Yeah, I think that's a worthwhile thing, because,
8 I mean, we have in our own mind thought about one zone and
9 its decline.

10 But it is on a well-by-well basis, and when we
11 take the definition of "well", certainly if you've got two
12 zones open, you've got to project what they together will
13 do before you go in and work them over.

14 COMMISSIONER BAILEY: That's all I have.

15 EXAMINATION

16 BY CHAIRMAN LEMAY:

17 Q. Mr. Carr, a couple points I guess I would like to
18 raise.

19 In terms of a gas well, you're talking about
20 compression, but you're also talking about what I'm
21 assuming over a 12-month period of time may be varying line
22 pressures. Do you visualize these decline curves that
23 don't fit the normal mold as being something that requires
24 our interpretation, or do you visualize putting out
25 guidelines, the Division putting out guidelines, what are

1 acceptable declines? How do you visualize handling those
2 situations that don't fit into a neat little package?

3 A. Well, I'll tell you, it seems to me that the way
4 the rule is drafted, it says at least 12 months, and I
5 would think that the operator has to come in with that or
6 more and would have to satisfy you on a well-by-well basis
7 that in fact their projection is realistic. And if they
8 don't, you deny it. And then they can come to hearing and
9 then you can address that.

10 But again, the intent was to try and not increase
11 the administrative burden, since you don't have, you know,
12 any additional staff to deal with this and there could be a
13 substantial number of applications.

14 So my thought would be, to follow up on Frank
15 Chavez's comment, that you probably do need to insert in
16 the rule a provision that authorizes a request for
17 additional data. And that would toll the running of the
18 30-day period if, in fact, you decide to go with that.

19 But instead of trying to come in and prepare some
20 sort of guidelines or rules for what are, you know, an
21 infinite variety of fact situations, I think, again, you
22 look to the operator, and if it just doesn't look right,
23 you're not asked to go and conduct some sort of an in-depth
24 study on what the well could do at various line pressures
25 or how much changes in pressure affect that curve.

1 You say additional data or no, and then it can be
2 sorted out case by case at that time.

3 Q. Well, I guess it comes into more the definition
4 of a decline curve.

5 A. Uh-huh.

6 Q. Would you assume, for cases of ridiculousness, an
7 incline in a coal seam gas well? If that was what was
8 presented, you could incline that curve further, and that
9 would be a decline curve? I mean, all these things maybe
10 need to be sorted out through the hearing process, but you
11 can visualize lots of scenarios.

12 A. In a Fruitland Coal gas well with an incline, if
13 you did something that resulted in substantial -- or an
14 increase in production, I think the fact that you call
15 these curves decline curves shouldn't preclude that well
16 from qualifying.

17 Call it a production curve --

18 Q. Production curve.

19 A. -- production projection -- I think the term is
20 "production projection" --

21 Q. Okay.

22 A. -- and so we might take "decline curve" out of
23 the rule and out of the form.

24 Q. But "decline curve" is the normal terminology --

25 A. Yeah.

1 Q. -- used by engineers to show past production,
2 so...

3 A. And lawyers don't know what any of those things
4 mean anyway.

5 CHAIRMAN LEMAY: Sometimes geologists don't
6 either.

7 Okay, anything else from Mr. Carr?
8 Frank?

9 MR. CHAVEZ: Just one thing.

10 FURTHER EXAMINATION

11 BY MR. CHAVEZ:

12 Q. Would it be inappropriate or difficult to maybe
13 put together a couple of typical example applications, what
14 one would look like? I mean, you could even just use some
15 phony wells or use some real wells, so we could have a
16 look-see, this is what this application will look like, and
17 maybe just put a couple together?

18 A. And I think during the -- one of our committee
19 hearings, I think we had a sample decline curve or two.

20 DEBORAH SELIGMAN: We sent them to --

21 THE WITNESS: And we -- Yeah, we did, that's
22 right. We sent them to Tax and Revenue to show them what
23 they would look like, and that really convinced them they
24 needed the information in a tabular format. But we could
25 do that. So the sample application could go with the

1 rules.

2 There was also one other comment that might be
3 important, and that was that if you looked just at the
4 rules you would not know what tax incentive you might be
5 entitled to, and if you could -- and not only say to
6 implement the Act but it was suggested that the rule
7 include the production restoration tax exemption, which
8 will apply for ten years, or define it in the rules so that
9 if an operator takes it they can look at it without being
10 in, you know, Loco Hills and not having statutes and not
11 having any idea what the tax incentive was. And that's
12 probably an appropriate change.

13 We didn't change it because these exhibits, we
14 wanted to have them match what went out with the docket.

15 FURTHER EXAMINATION

16 BY CHAIRMAN LEMAY:

17 Q. Would there be any problem in adding to the rules
18 those things that are in the Act that aren't covered, the
19 \$24-a-barrel max, the ten-year period and what you're
20 referring to in terms of --

21 A. And I think it could -- Mr. Chairman, I think it
22 could either -- It could probably go either under the
23 general provisions section at the beginning, or it could
24 even -- Well, that's where I think where it probably ought
25 to go, and explain what the tax incentive actually is. And

1 it could be inserted right there.

2 CHAIRMAN LEMAY: Thank you.

3 Yes, Commissioner Weiss?

4 COMMISSIONER WEISS: I do have one question.

5 FURTHER EXAMINATION

6 BY COMMISSIONER WEISS:

7 Q. How often are audits performed?

8 A. I have no idea.

9 Q. Has anybody ever been audited?

10 A. I don't know.

11 [laughter]

12 THE WITNESS: Some people, I gather from the
13 audience, have been audited. So far, I have missed it
14 myself. I don't know.

15 CHAIRMAN LEMAY: Is there anyone from Taxation
16 and Revenue here that would like to make some comments?

17 THE WITNESS: We invited them to participate even
18 in our committee process, and they did not.

19 We did have one meeting with them, and even their
20 comments have been qualified by the fact that they haven't
21 been reviewed by Jim O'Neill, who really is, as you know,
22 one of the key people in bringing all of these -- when
23 you're trying to sort of integrate tax policy with other
24 kinds of administrative action. So he hasn't looked at
25 them, and we do not know what sort of rules or procedures

1 they may be intending to implement.

2 I will tell you that we did take to them a form,
3 this form, and that also below the box, "For OCD use only",
4 had a section, "For Tax and Revenue use only", and it
5 covered the provisions of the statute that go to Tax and
6 Revenue. And we had, you know, instead of three copies,
7 four. And we had one form that could go from beginning to
8 end, including Tax and Revenue. They asked us to take that
9 off.

10 CHAIRMAN LEMAY: I might, for what it's worth --
11 I'm looking in the room to see if anyone else was at that
12 meeting. But at the independent meeting, IPA of New
13 Mexico, Jim O'Neill was there discussing it, and he talked
14 about percentages of tax relief under this bill that -- You
15 know, I'm not sure he's clued into this, to the Act,
16 because that is not what this Act says, and I don't know if
17 they're equipped to understand what they have to do.

18 I mean, we have a big burden here, but Tax and
19 Revenue has really a bigger one, and they don't have the
20 discretion or -- What they would like to do and what they
21 can do appear to be two different things.

22 THE WITNESS: And there are, Mr. Chairman,
23 provisions in the Act that talk about a person responsible
24 for payment of severance tax on a natural gas or oil well
25 that has been approved as a well workover project, and it

1 says they may file a claim for refund in accordance with
2 the Act.

3 And then it goes on to talk about this incentive
4 or refund shall be granted in the form of a credit against
5 any future oil and gas severance tax liability incurred by
6 the taxpayer.

7 So it's our thought that when they start trying
8 to implement the Act, it won't be something that is a
9 monthly or a percentage adjustment, but it will be more in
10 the form of a refund and tax credit.

11 But again, we've only had a meeting with them and
12 invited them to participate, and the result of that was one
13 meeting.

14 CHAIRMAN LEMAY: Have they given any indication
15 that they were going to have anything additional in terms
16 of rules, regulations, procedures that industry would
17 comply with, that would interfere with what we're doing?

18 MS. SELIGMAN: I think that basically right now
19 they're trying to go by guidelines.

20 CHAIRMAN LEMAY: Uh-huh.

21 MS. SELIGMAN: That's how they did the Indian tax
22 credit, and that's what they're looking at for, the --

23 CHAIRMAN LEMAY: Okay. Well, they've been
24 invited, and they've been included. That's our main
25 purpose, to have input from them if they need to get it in

1 our rules.

2 Anything else?

3 Okay, thank you very much, Mr. Carr. We
4 appreciate your testimony and the job you and the committee
5 did.

6 THE WITNESS: Thank you. The committee -- Every
7 single member of the committee actively participated.

8 CHAIRMAN LEMAY: On behalf of the Commission, I
9 want to thank you and the committee, because you did an
10 excellent job.

11 El Paso?

12 MR. KENDRICK: Okay, we're going to talk about
13 compression.

14 (Off the record)

15 MR. KELLAHIN: Mr. Kendrick?

16 MR. KENDRICK: Okay. Ned Kendrick, appearing on
17 behalf of El Paso Natural Gas Company.

18 I think really what we're going to be presenting
19 here today is reinforcing points made by Bill Carr as to
20 what kinds of compression facilities should qualify as well
21 workovers. And it's our view that the proposed regulations
22 could be a little clearer to state that the compression
23 facilities eligible for the tax incentive include off-lease
24 kinds of compression installed on laterals and gathering
25 systems.

1 So I'm going to call as our first witness Nestor
2 Maldonado.

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

6 EXAMINATION

7 BY MR. KENDRICK:

8 Q. Could you please state your name?

9 A. Yeah, my name is Nestor Maldonado.

10 Q. And by whom are you employed?

11 A. El Paso Natural Gas Company.

12 Q. And what is your job title and your duties with
13 El Paso?

14 A. I'm the manager of gas supply, and I'm
15 responsible for the reservoir engineering work for El Paso.

16 Q. Is that -- Which basins do you cover?

17 A. I'm responsible for all basins we're involved in,
18 San Juan Basin, Anadarko Basin, Delaware Basin and Permian
19 Basin.

20 Q. And what is your education?

21 A. I have a bachelor of science in chemical
22 engineering from the University of New Mexico.

23 Q. And do you have any professional affiliations,
24 credentials?

25 A. Yeah, I have -- I'm a PE in the State of Texas,

1 and I have been since 1986.

2 Q. Okay, and have you testified before the Oil
3 Conservation Division as an expert in reservoir
4 engineering?

5 A. Yes, I have.

6 Q. Have you testified in federal court as an expert
7 in reservoir engineering?

8 A. Yes, I have.

9 Q. Could you just give a kind of thumbnail sketch of
10 your previous job experience?

11 A. I went to work for Amoco right out of college, I
12 worked up in the Powder River Basin for a year, couldn't
13 stand the cold too much so I headed south and worked for
14 Conoco for two years in Hobbs, New Mexico, as a production
15 engineer.

16 In 1977, then, I went to work for El Paso in
17 Farmington, New Mexico, as a production engineer in the San
18 Juan Basin. I did production engineering work for a couple
19 of years and then moved over to the drilling department and
20 I drilled wells and, you know, completed wells and that
21 kind of thing.

22 After a year in drilling I got promoted to senior
23 reservoir engineer and moved down to El Paso, and I've been
24 there for, you know, 15 years. And I've been in basically
25 reservoir engineering for the last 15 years, in various

1 positions up to the one I hold now.

2 Q. Could you just amplify a little bit on your
3 duties as manager of gas supply?

4 A. We're responsible for calculating reserves,
5 generating forecasts of future production. We are also
6 responsible for estimating increased production whenever
7 compression is installed in any of our facilities.

8 MR. KENDRICK: Mr. Chairman, are Mr. Maldonado's
9 credentials acceptable as an expert in the field of
10 reservoir engineering?

11 CHAIRMAN LEMAY: His credentials are acceptable.

12 Q. (By Mr. Kendrick) Mr. Maldonado, could you
13 briefly explain what El Paso is requesting at this
14 proceeding?

15 A. Yes, we're just requesting a clarification, I
16 think, to the compression, you know, and the workover
17 incentive rules.

18 Compression -- Installing compression is
19 considered workover, and we just wanted to clarify it a
20 little bit and say that -- add a definition that defines
21 compression as not only compression that's installed at the
22 wellhead or near the wellhead, but compression installed at
23 the gathering system at the request of the operator.

24 Q. Could you explain generally the impact of the
25 installation of compression equipment on production?

1 A. Well, I think everybody's pretty aware of this
2 but when you install compression, then you lower line
3 pressures and wells produce more.

4 Q. Okay. Did you prepare certain exhibits today --

5 A. Yes.

6 Q. -- for this proceeding?

7 A. Yes, I did.

8 Q. Could you go through Exhibit 1 and tell us what
9 it says?

10 A. Okay, Exhibit 1 is -- just explains the -- or
11 defines the definition as we're proposing. It's definition
12 number 12.

13 And then we also have a little write-up
14 explaining, you know, why we wanted to add that definition.

15 Exhibit 2 is a -- Can I talk about Exhibit 2 also
16 for just --

17 Q. Maybe just pause a minute on Exhibit 1.

18 A. Okay.

19 Q. Could you discuss a little bit the factors that
20 dictate -- that might dictate the installation of
21 compression equipment attached to a lateral or a gathering
22 system, as opposed to installing wellhead compression?
23 When is one more appropriate than the other?

24 A. Well, I think that, you know, the operators need
25 the flexibility to either install wellhead compression or

1 more lateral compression, or what do you want to call it,
2 compression on the gathering system, because there are
3 situations where you might have 20 Mesaverde wells on a
4 lateral, and it's more economic to install one compressor
5 that affects all those wells. Mesaverde wells are more
6 responsive to lowering line pressures.

7 In another situation you might have 20 Dakota
8 wells, which are higher pressure, along with one Mesaverde
9 well. In that situation you're probably better off
10 installing a wellhead compressor. I'm talking about the
11 operator doing -- you know, either requesting it or doing
12 it himself.

13 Q. Okay. Could you please refer to what has been
14 marked as Exhibit 2 and explain to us what it shows?

15 A. Yes, the purpose of this Exhibit 2 is to show you
16 that when you install compression on laterals, it increases
17 production substantially, just as if you installed it on
18 the well itself.

19 This particular project we refer to as the Angel
20 Peak project. It involved 50 wells and was requested by
21 operators, and El Paso Natural Gas installed two
22 compressors, a 750-horsepower and a 1000-horsepower.

23 And you can -- The line with the little circles
24 is daily gas production for each month from January of 1993
25 through July of 1995.

1 And as you can see -- Well, and the dashed line
2 is the line pressure that -- the average line pressure for
3 those wells. The line pressure dropped from about 170
4 pounds after compression down to about 70 pounds, and
5 production increased from about 4 million a day to about
6 7.5 million, for an increase of about 3.5 million cubic
7 feet of gas a day.

8 So as you can see, the increases can be
9 substantial.

10 Q. Why wasn't wellhead compression installed at each
11 well?

12 A. Well, as an example, as I mentioned, we installed
13 1700 horsepower.

14 If you were to install the minimum size wellhead
15 compressor on each one of these wells, it would have taken
16 anywhere between 3000 and 4000 horsepower on an individual
17 well basis.

18 So it makes more economic sense to have done what
19 we did, what the operator requested us to do here.

20 Q. Are you saying it's about half the total
21 horsepower?

22 A. It's less than half the horsepower, to do the
23 same thing.

24 Q. Okay. Do you have any other -- anything further
25 to add to your testimony?

1 A. No, I don't.

2 MR. KENDRICK: Okay. I'd like at this time to
3 move for admission into evidence of El Paso Exhibits 1 and
4 2.

5 CHAIRMAN LEMAY: Without objection, El Paso
6 Exhibit 1 and 2 will be entered into the record.

7 Any questions of Mr. Maldonado?

8 Commissioner Weiss?

9 EXAMINATION

10 BY COMMISSIONER WEISS:

11 Q. Who pays?

12 A. The operator does.

13 COMMISSIONER WEISS: The operator, thanks.

14 My only question, thank you.

15 CHAIRMAN LEMAY: Okay. Commissioner Bailey?

16 EXAMINATION

17 BY COMMISSIONER BAILEY:

18 Q. This language would be tremendously beneficial to
19 the unit operators throughout the state, wouldn't it?

20 All of the unitized areas, the many that we have,
21 wouldn't this --

22 A. I'm not sure. I have to think about that, but
23 I'm not sure on that. In what respect are you thinking or
24 what -- In what way?

25 Q. I'm thinking if compressors are set with all of

1 these units, increasing production, lowering taxes, it's
2 going to have a huge financial impact, isn't it, to the
3 operators of these units?

4 A. It would have an impact, yes.

5 CHAIRMAN LEMAY: Anything else?

6 COMMISSIONER BAILEY: That's all.

7 EXAMINATION

8 BY CHAIRMAN LEMAY:

9 Q. Are you suggesting that compression -- your
10 definition be substituted for the one in the draft? Is
11 that your recommendation?

12 A. Well, there's not a definition, I don't think, in
13 the draft on compression. It mentions compression as a
14 workover, but we're just proposing that as part of the
15 definitions we add a number 12 or wherever you want to add
16 it, but define compression, what that means, so that in the
17 future whenever an operator, you know, requests centralized
18 compression or lateral compression and applies for the
19 credit, that it's clear what that means. That includes
20 areas rather than just individual wells.

21 Q. In a practical sense, you're talking about
22 anything short of the inlet to the plant. What happens if
23 El Paso reduces line pressure? Would that be a function of
24 every well that goes into its main line?

25 A. It has to be something that's requested by the

1 operator, is what we're thinking. And more than likely
2 it's going to be out in the field, I mean, upstream of the
3 plant, is our thinking on that.

4 Q. Yeah. El Paso gathering, do you happen to know
5 anything about their particular relationships with their
6 operators?

7 In other words, I think I heard Mr. Carr say that
8 in order for -- The procedure must be initiated and paid
9 for by the operator, being a critical ingredient.

10 Many times -- I don't know how your gathering
11 agreements are, but I'm not sure -- I mean, I'm just
12 pointing out that that would have to be a provision. Maybe
13 your second witness --

14 THE WITNESS: Our second witness --

15 MR. KENDRICK: Our second witness --

16 CHAIRMAN LEMAY: Okay.

17 MR. KENDRICK: -- is the person who negotiates
18 with operators and --

19 CHAIRMAN LEMAY: Okay, that's all the questions I
20 have.

21 Anything else? Thank you, Mr. Maldonado.

22 THE WITNESS: Thank you.

23 CHAIRMAN LEMAY: Appreciate it.

24 MR. KENDRICK: Our next witness is Mr. Kyle
25 Beedy.

1 training program.

2 Throughout my career I've worked in the rates
3 department, accounting, doing financial analysis, customer
4 services, mainline transportation and exchange department,
5 and field services.

6 Q. And I think I heard you say that you have
7 experience in contractual arrangements between producers
8 and El Paso concerning the installation of compressor
9 stations?

10 A. Yes, I do.

11 Q. And are you familiar with the proposed regulation
12 that is the subject of this proceeding?

13 A. Yes, I am.

14 MR. KENDRICK: Mr. Chairman, are this witness's
15 credentials acceptable for this --

16 CHAIRMAN LEMAY: His qualifications are
17 acceptable.

18 Q. (By Mr. Kendrick) How do compressor projects
19 come about?

20 A. Historically and today, compressor projects have
21 come about through the request of the operator.

22 Historically, operators have requested that they
23 be allowed to install compression on El Paso's facilities,
24 which has happened.

25 More recently, producers and operators have come

1 to us identifying various areas on our system where, for
2 whatever reasons, they feel like they need lower line
3 pressures and would get a substantial amount of increase in
4 production, and from that we -- my group works with Ray and
5 various other groups within El Paso Natural Gas to identify
6 whether those sites are the most appropriate sites. In
7 most cases, it is. Sometimes we change them, move them
8 downstream a little bit to include a few other operators,
9 possibly, or a few more wells for whatever reason, just to
10 minimize some downstream pressure impacts.

11 But all compression projects in some form or
12 fashion, whether we do them on behalf of the operator,
13 whether the operator puts them on our system, have been
14 requested by the operator.

15 Q. And I think I heard you say that El Paso does not
16 always install the compression, that the operator sometimes
17 installs --

18 A. Yes, that has occurred on our system, yes, sir.

19 Q. Is it always the case that installing compression
20 on gathering systems makes sense? Is it sometimes true
21 that it should be installed on -- It makes economic sense
22 to install at the wellhead?

23 A. Yes, it does. We've seen in our system various
24 areas -- Out on the tail end of the system you may have a
25 single well or a couple of wells that may be producing into

1 a 4-inch line that -- Everything downstream may be
2 producing into an 8-inch, 10-inch, whatever, and therefore
3 their pressures are relatively good. Those two wells may
4 be experiencing high pressure because they're flowing into
5 a rather small line. There it makes perfect sense to put
6 in wellhead compression.

7 Centralized compression makes more sense, as I
8 think Mr. Maldonado indicated earlier, when you have
9 several wells in an area with -- that all have the same
10 characteristics and the operator is looking for uplift in
11 all those wells. Therefore it makes sense to put in one
12 centralized compression facility, rather than several
13 wellhead compressors.

14 Q. And does the operator always pay for this
15 compression?

16 A. Yes, he does. A couple of ways that the operator
17 can pay for it is through -- Typically what we have done
18 this year, we've been a lot more active in the compression
19 business, at least from an El Paso Field Services
20 standpoint, this year, and what we have done in negotiating
21 with operators is a per-MMBTU compression fee, in exchange
22 for -- The way all of our compression projects that are
23 working right now is, if the operator has looked at it and
24 determined, this is what I want to do, El Paso, I'd like to
25 put this compression on your system.

1 We turned around and said, Would you consider
2 letting us do it for a fee?

3 And they said, Sure, depends on what that fee is.

4 And so we've gotten together, we've negotiated
5 the fee. The fee, at least in the last project we did, was
6 acceptable, and so they paid a per-MMBTU fee.

7 What we've also done is, on some of the smaller
8 compression, when we're looking at using 500-horsepower
9 units or less, we have a menu of services that basically
10 says, you tell us what -- where you want it, what size of
11 compression you want, and we'll just charge you a monthly
12 fee.

13 The per-MMBTU fee, you have to really negotiate
14 what the volume's going to be, both current and future.
15 And as Ray can attest, Mr. Maldonado can attest, that takes
16 a long time. And for the bigger projects, that makes
17 sense. For smaller projects, it makes sense just to -- for
18 the operator to tell us, This is the size of unit I want, I
19 think I'm going to get this much volume, and we'll just
20 charge them a monthly fee for that compression service.

21 Q. In conclusion, why is El Paso requesting this
22 clarification of the definition of compression?

23 A. Well, I think the operators typically -- Well, I
24 know they do. They look at their economics. I mean,
25 obviously in today's depressed gas prices, compression is

1 one of the cheapest ways of increasing production for the
2 operators.

3 They can't be -- They can't afford to be spending
4 a lot of money recompleting wells a lot of times, although
5 I do understand that makes a lot of sense, but sometimes
6 compression can be a very cheap way of increasing
7 production.

8 And we don't want to drive operators to choose
9 a -- what can ultimately be a more costly wellhead
10 compression facility over a centralized, just because of
11 the tax incentives. I mean, we clearly think the bill
12 recognizes centralized compression, but I think we wanted
13 to make it clear that it does.

14 We want the operator to get -- to know that he's
15 going to receive the tax incentive, no matter which route
16 he goes, therefore he needs to be able to choose what's
17 most appropriate.

18 You know, a couple of wellhead compressors, in
19 that instance, yes, probably a couple of wellhead
20 compressors. In the case where Mr. Maldonado's Exhibit 2
21 showed, he had 50 wells, it makes a lot more sense to put
22 in one -- I think in that case we had two compression units
23 that totaled 1700 horsepower -- rather than putting in
24 fifty 60-horsepower units.

25 Q. Do you have any further comments you would like

1 to make?

2 A. I just want to address one comment that
3 Commissioner Bailey made on the unitized.

4 I'm not sure that on the unitized basis that they
5 would necessarily receive any greater benefit, and maybe I
6 don't understand -- You may be right, and I may not
7 understand.

8 But the way we envision it is that whether it's a
9 unitized or it's just each individual operator paying a
10 compression fee, it's going to be a compression fee. And
11 every operator that wants the service, or really every
12 operator that wants the tax incentive, has to be on board
13 with our project, either paying a monthly fee as the
14 operator, or paying a per-MMBTU charge.

15 So maybe I didn't need to really bring that up,
16 but I think, yes, they very much unitized operators. I
17 think it may be in the monthly fee. I think for the
18 unitized operators it could be a lot easier for them to
19 just take that monthly fee, because everybody has the same
20 working interest percent in the unitized units. I believe
21 that's what you're referring to. And it would be a lot
22 easier for them to set in just one centralized compression
23 and everybody knows exactly what fee they're going to pay
24 based on their working interest.

25 So I don't know if that answers your question,

1 but I thought I would address it.

2 MR. KENDRICK: Okay, that concludes our direct
3 examination.

4 CHAIRMAN LEMAY: Questions of Mr. Beedy?
5 Frank?

6 EXAMINATION

7 BY MR. CHAVEZ:

8 Q. I was just curious if you know whether these
9 extra charges or these gathering charges that increase for
10 this compression somehow reduce in any way the amount of
11 royalties that might otherwise be paid because they're
12 taken off at one point prior to the sale of the product.
13 Are you aware of how that's done?

14 A. No, I'm really not. We have talked about that
15 with operators, but I have never gotten a real clear
16 indication of how they handled the fee versus the -- the
17 monthly fee, versus if they were to actually install it
18 themselves.

19 CHAIRMAN LEMAY: Commissioner Bailey? Additional
20 questions?

21 COMMISSIONER BAILEY: No.

22 CHAIRMAN LEMAY: Commissioner Weiss?

23 EXAMINATION

24 BY COMMISSIONER WEISS:

25 Q. I don't know if this is appropriate or not, but I

1 think there's a lot of competition amongst compressor
2 companies if they're selling wellhead compressors. Is
3 there competition in your deal?

4 A. Among the compression companies?

5 Q. Yeah.

6 A. Yes, sir.

7 Q. Is somebody else doing the same thing you're
8 proposing to do?

9 A. On our system or on their own system?

10 Q. However. To hook up 50 wells at once and --

11 A. Well, in the most recent case that we've done,
12 Hart Canyon Compression Agreement, Meridian and -- Well,
13 Meridian had gotten together -- or had developed their own
14 plan.

15 We basically did that project the way Meridian
16 came to us and they said, We've got three sites we want to
17 do. They had already gone out and gotten bids from a
18 compression company as to what it would cost them. And
19 they came to us asking us, Can we put this compression on
20 your system at these three sites?

21 That's when we stepped in and said, What if we
22 did it and charged you a fee?

23 And they said, Well, depending on what that fee
24 is.

25 And they had -- Once they had developed their own

1 plan, they had gotten some of the other operators, about
2 three or four other operators in that area -- because
3 between three or four operators, I think, they operate 96
4 percent of the volumes in this particular area -- they had
5 gotten together with these other operators, gotten their
6 approval to do it.

7 And that's -- Like I say, that's when we stepped
8 in. And then we started working with the group of
9 operators, and we actually ended up using a different
10 compression company, but we sent it out to bid among about
11 three compression companies, I believe.

12 So I'm not sure that really answers your
13 question, but I think --

14 Q. Well, I think --

15 A. -- from our standpoint, it is --

16 Q. -- competition.

17 A. Yes, it's very competitive.

18 COMMISSIONER WEISS: Thank you.

19 CHAIRMAN LEMAY: Additional questions? Frank?

20 FURTHER EXAMINATION

21 BY MR. CHAVEZ:

22 Q. It has to do with the issue of commencement date,
23 because there were so many things going on, I know, in the
24 San Juan across this June 16th period.

25 This Hart Canyon activity, which is so big, what

1 would you say in your opinion would be the commencement
2 date? Would that be when plans were initiated or when
3 discussions started, or what would you say was the
4 commencement date for that activity?

5 A. Commencement date, in my opinion, could be no
6 earlier than when the first unit came up, up and running,
7 operational, because the contract clearly sets guidelines
8 for El Paso that we have to have it up and running by a
9 certain date, or the operator's going to cancel the
10 agreement.

11 The first unit came up -- It was up and running
12 approximately around September 8th. I'm not sure of the
13 exact date, but it was supposed to be September 8th. And
14 whether we made that, I can't really remember at this
15 point.

16 The next unit, the next site -- as I mentioned
17 earlier, there was three sites, was later on, and then the
18 third one will be sometime in probably the November-
19 December time frame.

20 But I guess from my opinion, because of the
21 contractual nature of how that contract was done, would be
22 when the compression is actually up and running, not so
23 much on when the contract was signed, because even the
24 contract can be null and void if we are not able to receive
25 all the air permits that we need in order to install that

1 compression.

2 MR. CHAVEZ: Thank you.

3 CHAIRMAN LEMAY: Thank you. Be looking at 50
4 decline curves rather rapidly.

5 That's all I have, Mr. Beedy. Thank you very
6 much.

7 THE WITNESS: Thank you.

8 MR. KENDRICK: And just to clarify this
9 definition, it's not part of the definition of "workover",
10 it's -- we aren't changing any of the items enumerated as
11 what qualifies as a workover. We're just taking the word
12 "compression" and putting it at the end of C as number 12,
13 to kind of provide more detail as to what compression
14 entails.

15 CHAIRMAN LEMAY: Is it fair to say that your main
16 concern that "compression" be included -- if the definition
17 is included, that we include it in our interpretation of
18 the rules so that compression on the gathering system will
19 qualify for the wells behind it?

20 MR. KENDRICK: Yes, exactly.

21 CHAIRMAN LEMAY: Anything else, Mr. Kendrick?

22 MR. KENDRICK: No.

23 CHAIRMAN LEMAY: Thank you very much, appreciate
24 your presentation.

25 I've got a couple questions, maybe, as we go

1 along sometimes -- I've got one question. Mr. Carr?

2 MR. CARR: Yes, sir, Mr. Chairman.

3 CHAIRMAN LEMAY: Just a word jumped up in my
4 mind, the word "recavitation". Would you put that in maybe
5 11 B, after "re-perforation", as a type of completion, or
6 would you include it, because it wasn't part of the exact
7 wording of the bill, as something else, H or something?

8 MR. CARR: Clearly recavitation would be a
9 workover.

10 CHAIRMAN LEMAY: It would be a workover, and it's
11 being done, I know, in a lot of coal-seam wells, and I just
12 wondered -- It would certainly be easier to list something
13 like that in the rule than to do something later with that
14 term.

15 MR. CARR: I don't know if it's a re-entry to
16 recomplete for production or not --

17 CHAIRMAN LEMAY: It tends to be a recompletion
18 procedure.

19 MR. CARR: -- because under A, a workover is
20 defined as a re-entry to recomplete for production. It
21 might fall there.

22 CHAIRMAN LEMAY: So you think that could be
23 included without including the word "recavitation"?

24 I see Meridian really shaking their heads up and
25 down. They like to see the word.

1 CHAIRMAN LEMAY: We'll leave the record open.
2 Maybe -- You know, if it should be included, find out where
3 it should be included.

4 My point is, if you used A through E strictly off
5 the Bill itself, you wouldn't want to fuss with the
6 verbiage of it, you might want to include it as an
7 extension, F, G, H.

8 Or if you don't think it would hurt to have it in
9 there somewhere, that would be...

10 Frank?

11 MR. CHAVEZ: Mr. Commissioner, I think that
12 recavitation is, in a big way, a form of reperforation,
13 working on the producing interval of the well.

14 It accomplishes basically the same nature of the
15 work, and as we can define topography to include Indian
16 ruins, I think reperforation -- we can define
17 reperforation, say that it includes something like
18 cavitation very easily.

19 CHAIRMAN LEMAY: Or I suggested -- I mean --
20 but -- recompletion by reperforation or recavitation of a
21 zone.

22 But the reason why I was hesitant is, I didn't
23 know if Mr. Carr wanted to include only the language A
24 through E that was used in the Act so that it isn't
25 diluted, and anything additional would be added after that

1 A through E. That was my only point.

2 You're right, it could be interpreted, certainly,
3 and fit under that category. It was just a function of
4 editing, yeah.

5 Commissioner Weiss?

6 COMMISSIONER WEISS: I want to say, along the
7 same lines, squeezing, now, it seems to me we've heard
8 things from -- I think it was Marathon, where they wanted
9 to squeeze things with polymers to shut the water off.

10 I guess that fits, squeezing? That's what that's
11 in there?

12 MR. CARR: I would think that's what that's
13 intended to cover.

14 COMMISSIONER WEISS: Okay.

15 CHAIRMAN LEMAY: Okay. Anything else? Sometimes
16 these ideas hit you as we're going. Might as well discuss
17 the intent of the committee here.

18 Anything additional?

19 Okay. We're going to have the comment period
20 shortened here.

21 The reason why I say that is, the Legislative
22 Interim Committee is very anxious to get a Commission order
23 out, so I'd just like to just leave the comment period for
24 ten days. I know that doesn't leave you a lot of room.

25 But anything you've got, hopefully you can submit

1 in ten days, we'll close the case and take it under
2 advisement, and hopefully have a rather quick order out.

3 And I thank you all for the work you've done.

4 Case will be taken under advisement for ten days.

5 (Thereupon, these proceedings were concluded at
6 3:05 p.m.)

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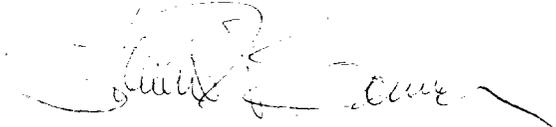
CERTIFICATE OF REPORTER

STATE OF NEW MEXICO)
) ss.
 COUNTY OF SANTA FE)

I, Steven T. Brenner, Certified Court Reporter and Notary Public, HEREBY CERTIFY that the foregoing transcript of proceedings before the Oil Conservation Commission was reported by me; that I transcribed my notes; and that the foregoing is a true and accurate record of the proceedings.

I FURTHER CERTIFY that I am not a relative or employee of any of the parties or attorneys involved in this matter and that I have no personal interest in the final disposition of this matter.

WITNESS MY HAND AND SEAL October 10th, 1995.



STEVEN T. BRENNER
 CCR No. 7

My commission expires: October 14, 1998