

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. 11,353

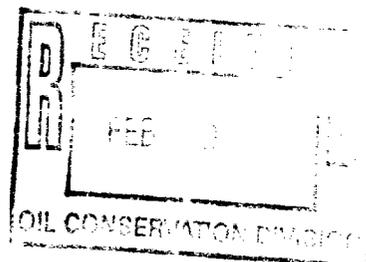
IN THE MATTER OF THE HEARING CALLED BY)
THE OIL CONSERVATION DIVISION TO AMEND)
RULE 303.C OF ITS GENERAL RULES AND)
REGULATIONS PERTAINING TO DOWNHOLE)
COMMINGLING)

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

COMMISSION HEARING

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



February 15th, 1996

Santa Fe, New Mexico

This matter came on for hearing before the Oil Conservation Commission on Thursday, February 15th, 1996, 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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February 15th, 1996
Commission Hearing
CASE NO. 11,353

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* * *

1 WHEREUPON, the following proceedings were had at
2 9:09 a.m.:

3 CHAIRMAN LEMAY: We will now call Case 11,353,
4 which is the matter called before the Commission to amend
5 Rule 303 of its General Rules and Regulations, generally
6 referred to as the commingling case.

7 Mr. Kellahin?

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

9 CHAIRMAN LEMAY: Appearances in the case?

10 MR. KELLAHIN: Mr. Chairman, I'm Tom Kellahin of
11 the Santa Fe law firm of Kellahin and Kellahin, appearing
12 this morning on behalf of the New Mexico Oil and Gas
13 Association; Conoco, Inc.; and Meridian Oil, Inc.

14 CHAIRMAN LEMAY: Thank you.

15 Mr. Carr?

16 MR. CARR: May it please the Commission, I'd like
17 to enter our appearance on behalf of Amoco Production
18 Company.

19 CHAIRMAN LEMAY: Okay. Mr. Bruce?

20 MR. BRUCE: Mr. Chairman, Jim Bruce. I'm
21 representing Santa Fe Energy Resources, Inc., and Pogo
22 Producing Company.

23 CHAIRMAN LEMAY: Okay. How many witnesses -- I'm
24 sorry, Mr. Carroll?

25 MR. CARROLL: Rand Carroll on behalf of the Oil

1 Conservation Division.

2 CHAIRMAN LEMAY: Do you have witnesses or just
3 statements?

4 MR. BRUCE: Just a statement.

5 CHAIRMAN LEMAY: Okay, this is a rulemaking. We
6 want to be casual. I think -- Mr. Kellahin, you've kind of
7 led the charge on this one. What's your preference on
8 presentation on this?

9 MR. KELLAHIN: Let me suggest a procedure for you
10 this morning.

11 On January 18th, the Commission heard for the
12 good part of the day a technical presentation from industry
13 witnesses.

14 Subsequent to that hearing, the Division then
15 drafted and circulated to the public -- about January 31st,
16 I believe -- a proposed rule.

17 The rule should be before you this morning. It
18 is formatted so that the existing Rule 303 is on the left
19 side of the legal page. On the right side of the legal
20 page represents the Division-proposed changes to Rule 303.

21 On behalf of NMOGA's Rule 303 committee -- We'll
22 provide those to you. There should be some in the back.

23 CHAIRMAN LEMAY: I was going to say, I'm not sure
24 we have those in front of us.

25 MR. KELLAHIN: Yeah, could somebody bring some to

1 the front, please?

2 The technical committee that presented the case
3 to you last -- on January 18th, has reviewed in detail the
4 proposed rule change. It has been widely circulated in the
5 industry.

6 Other than the policy decisions that go into that
7 rule change, we are not aware of any technical flaws in
8 terms of language, drafting errors or mistakes in how that
9 rule has been crafted. There is a suggestion, which I will
10 share with you in a moment on the notice issue.

11 In addition, at the January meeting you requested
12 that the New Mexico Oil and Gas Association poll its
13 membership with regards to certain policy issues. Ruth
14 Andrews has received those questionnaires, and she has
15 submitted them to the Commission, and she's tabulated them,
16 and she can comment on her tabulation.

17 We would like to suggest to you that any company
18 representative that's here this morning to comment either
19 on the policy changes or how the rule is crafted be able to
20 do that informally before you without the presentation of
21 testimony through the assistance of counsel. I think it
22 will expedite the process.

23 A number of us on that committee have spent an
24 incredible amount of time since the January hearing talking
25 to industry members about how the rule is supposed to

1 function and operate.

2 I've met on several occasions with Mr. Catanach
3 and Mr. Stone, so I think I have a pretty good
4 understanding of what the Division intends by the rule
5 draft, and if Mr. Catanach's not available or if Mr.
6 Carroll would like assistance, I'm happy to try to explain
7 to you how I think the proposed rule changes function.

8 With those comments, then, I would like, with
9 your permission, to ask Ruth Andrews to present the summary
10 of her questionnaire and then let the Chairman call upon
11 members of the audience to provide comments on the rule
12 changes, and hopefully at the end of that process, then,
13 you'll be comfortable enough to conclude this process and
14 go ahead and initiate action on the proposed rule change.

15 CHAIRMAN LEMAY: All right, thank you, Mr.
16 Kellahin.

17 Ms. Andrews?

18 MS. ANDREWS: This document went to approximately
19 200 companies. We received responses from 26 of those
20 companies. I don't think that indicates a lack of interest
21 but a lack of time to respond, or perhaps a mistaken idea
22 that someone else had responded for the company.

23 On the first question, oil allowables, we show
24 one company asking that the current rule be maintained, six
25 companies support triple the current rates, 15 companies

1 support rate equal to the top allowable for the shallowest
2 pool commingled. There were a few others who marked
3 "Other", and you can look through the attachments to see
4 what their comments were.

5 Economics, number two. Five companies support
6 substituting marginal for uneconomic, 21 companies support
7 deleting economic requirement in its entirety.

8 Water limit. One company supports maintaining
9 the current rule, 15 companies support deleting the current
10 rule in its entirety, five support a rate equal to twice
11 the top allowable for the shallowest pool commingled.

12 Number four, 50-percent pressure differential.
13 Eight companies support maintaining the current rule, five
14 support deletion of the current rule, and 11 support
15 relaxing the rule to allow crossflow provided allocation
16 formula is reliable, fluids compatible nor formation
17 damage, and a crossflow production is ultimately recovered.

18 Number five, notice to offsetting parties.
19 Currently Rule 303 provides that applicants for
20 administrative DHC shall notify all offsetting operators of
21 units around the entire spacing unit containing a proposed
22 DHC. NMOGA seeks to have notice limited to the working
23 royalty or ORR interest owners in the DHC spacing unit.
24 Eight companies support NMOGA's proposal to eliminate
25 notice, 14 companies oppose. Fifteen companies support

1 maintaining the current rule, one company opposes
2 maintaining the current rule.

3 That's all.

4 CHAIRMAN LEMAY: How about some questions from
5 the audience first on the survey Ms. Andrews has conducted
6 here, I guess, on behalf of NMOGA?

7 MS. ANDREWS: Uh-huh.

8 CHAIRMAN LEMAY: Fellow Commissioners, do you
9 have any questions on that? Commissioner Bailey?
10 Commissioner Weiss?

11 COMMISSIONER WEISS: I have no questions.

12 CHAIRMAN LEMAY: I guess I only have one, and
13 it's really kind of your assessment of the degree of
14 sophistication on the response. Do you think those that
15 responded kind of knew what they were responding in detail
16 or not?

17 MS. ANDREWS: I'm fearful that the right people
18 did not respond. The people who were actually doing the
19 work in these issues never saw the form. It went to their
20 management. So I'm not sure how valid the answers are.

21 CHAIRMAN LEMAY: I mean, as a Commission we like
22 to -- We're not taking popularity contests. We like to
23 know how industry feels on certain issues. But sometimes
24 if they don't get that involved with it, they may just kind
25 of shoot from the hip on a form and not really understand

1 what the options are.

2 MS. ANDREWS: And clearly, perhaps, in our notice
3 to our membership we should have asked that this be sent to
4 the people who are actually doing the work in this issue
5 and that they respond to it.

6 CHAIRMAN LEMAY: Well, I think it's helpful, and
7 we appreciate it. I know -- I think we requested some kind
8 of a --

9 MS. ANDREWS: I think you'll have comments from
10 some of our members on the survey.

11 CHAIRMAN LEMAY: Okay. Thank you, appreciate it.
12 Anything else?

13 You may be excused.

14 Mr. Kellahin, anything else?

15 MR. KELLAHIN: I'd prefer that the Commission
16 took comments from industry representatives --

17 CHAIRMAN LEMAY: Sure.

18 MR. KELLAHIN: -- at this point. I think it
19 might be helpful to all of us.

20 CHAIRMAN LEMAY: Well, I have you first on my
21 list. Do you have any companies that you'd like to have
22 make comment, or shall I just open it up for any comments?
23 I guess we can do that. I mean, you all -- All you lawyers
24 made an appearance. I don't know if you wanted to
25 introduce your companies for comments or whether we would

1 just throw this thing open.

2 MR. KELLAHIN: I'd like to see you just throw it
3 open --

4 CHAIRMAN LEMAY: Let's throw it open.

5 MR. KELLAHIN: -- for this issue.

6 CHAIRMAN LEMAY: Okay, how about some comments on
7 the draft and the survey or -- Yes?

8 MR. GRAY: Me?

9 CHAIRMAN LEMAY: Go ahead. Yeah, it's you,
10 Frank. Yeah, just introduce yourself, Frank, so the record
11 has it.

12 MR. GRAY: Okay, I'm Frank Gray with Texaco. I'm
13 a regulatory compliance manager for Texaco.

14 I would like to comment in particular on Section
15 F where we have an A and B option discussing the
16 requirement for notification of offset operators.

17 Texaco would like to recommend that strong
18 consideration be given to option B, which is an elimination
19 of the requirement to notify offset operators.

20 Our position is that there is absolutely no
21 regulatory value to this notification of offset operators.
22 In the history that we were able to uncover, or the
23 committee was able to uncover, there has never been an
24 objection to a downhole commingling.

25 Several of the people in the survey that Ruth has

1 just presented were contacted -- the ones that opposed
2 elimination of this offset -- and we found some to state
3 that the reason that they had opposed was that this was an
4 opportunity for them to use the research and homework done
5 by their offset operators and just save them some time from
6 having to go and dig out the information on the reservoir
7 and so forth, so it was a homework situation and not
8 something -- regulatory reason that they opposed it.

9 We didn't feel that t's our responsibility to do
10 the homework for our offset operators in our filing for an
11 application. This information is available on the public
12 record when it's submitted to the OCD and is still -- will
13 be posted in the *Statehouse Reporter* when action is taken,
14 when the downhole commingle is granted. So those people
15 will still have the opportunity to get their research with
16 just a little effort from the public record and off the
17 *Statehouse Reporter*.

18 We who are having to file the applications have a
19 considerable amount of wasted time and money in looking up
20 the names of our offsets, finding the addresses, certified
21 mailings, waiting the 15 to 20 days for protest that never
22 come, and we think that this is some wasted time and money
23 that we could eliminate if we didn't have to notify these
24 offset operators who never respond anyway.

25 So as a result, we would like to see option B

1 utilized, and that's paragraph F, and eliminate the
2 notification of offset operators.

3 If in spite of the lack of regulatory value of
4 this, it is decided that we must have offset operator
5 notification, we would like to see a clarification of what
6 does constitute an offset operator. We would like to see
7 something along the lines of the recently approved Rule
8 104, which specifically reflected a notification only to
9 affected parties.

10 There's some confusion in some of the companies
11 as to what is offset operator. I know within Texaco we had
12 a consideration that offset operators were all of those
13 offsets to our lease, and not the spacing unit. We find
14 that some companies did understand it, maybe the offset
15 operator was just the offset to the spacing unit.
16 Therefore, if it was an internal well to the section and
17 there was nobody else around, they didn't have to notify.
18 Texaco has always taken the other approach that it's all
19 offsets around.

20 So some clarification could be done in that area,
21 if we had to go with -- Texaco would still like to be on
22 the record as requesting adoption of option B, to eliminate
23 the notification of offset operators, because it has no
24 regulatory value.

25 CHAIRMAN LEMAY: Thanks, Frank.

1 Questions of Frank? Commissioner Bailey?

2 COMMISSIONER BAILEY: No.

3 CHAIRMAN LEMAY: Commissioner Weiss?

4 COMMISSIONER WEISS: I don't understand. What do
5 you have to tell the offset operators that requires this
6 homework? I thought all you had to do was notify them.

7 MR. GRAY: I think you -- If I understand
8 correctly, and I don't know the full process, but I think
9 we have to give them a copy of the Application. We might
10 ask for some clarification.

11 COMMISSIONER WEISS: Is that the problem, the
12 copy of the application? Or is it notifying?

13 MR. GRAY: It's really digging out the addresses,
14 making sure we have certified mail, the cost of certified
15 mailing. When we come in with the application, we have to
16 show proof that we've notified these people with a copy of
17 the certified mail receipt. All of that kind of
18 information that just takes some time and wasted money when
19 nothing is ever developed from it in the past.

20 The application is still going to be filled out,
21 and all of the reservoir data and everything done in either
22 case. So that's not the issue.

23 The issue is the wasted time and money and
24 getting the addresses and the names and doing the actual
25 mailing and waiting on something that never happens.

1 COMMISSIONER WEISS: Thank you.

2 CHAIRMAN LEMAY: Why do you think the majority of
3 people in the survey wanted to be notified?

4 MR. GRAY: As I say, I think they wanted to have
5 this research that when somebody next to them is doing a
6 downhole commingle, they can get a copy of the
7 application -- They're notified that an application is on
8 record; they can get it and use that data in filling out
9 their application then, and it's just an avoidance of them
10 having to go do the digging out to fill out the
11 application.

12 COMMISSIONER WEISS: But if I understand you
13 right, you can get it anyways?

14 MR. GRAY: They can get it through the public
15 record, right. And therefore we don't think that we need
16 to --

17 COMMISSIONER WEISS: Your application?

18 MR. GRAY: Right. By coming to the OCD office
19 it's in the public record.

20 COMMISSIONER WEISS: Yeah.

21 CHAIRMAN LEMAY: Is that 20-day delay for
22 approval because of possible objection, is that a
23 handicap --

24 MR. GRAY: Right --

25 CHAIRMAN LEMAY: -- built into --

1 MR. GRAY: -- for possible objection, and none

2 has ever happened before.

3 CHAIRMAN LEMAY: Anyone else have a question of
4 Frank? Yes?

5 MR. POLLARD: I'd like to make a statement after
6 Frank is done.

7 CHAIRMAN LEMAY: Sure. Thank you. Thank you,
8 Mr. Gray.

9 Please come on up and identify yourself for the
10 record, and let's hear what you have to say.

11 MR. POLLARD: Good morning, my name is Dick
12 Pollard. I'm employed with Marathon Oil Company in its
13 Midland, Texas, office.

14 I have extensively reviewed the proposed wording
15 of Rule 303 and would like to make a few comments, but
16 first I would like to commend the Commissioner and the
17 people on the committee for the fine job they did preparing
18 this document.

19 I, like Frank, would like to address the issue of
20 notifying offset operators. Marathon is also in favor of
21 the non-notification option, or option B. We feel that the
22 notification to offset operators serves no conservation or
23 correlative-rights purposes and is only required for the
24 benefit of the offset and not the benefit of the Commission
25 or the benefit of the person doing the commingling.

1 I polled -- When I got Ruth's questionnaire, I
2 polled my office people, received three responses. On the
3 first round, they responded as Ruth reported, as they would
4 like to be notified. I asked them in my survey why, and if
5 they knew of any reason that offset would encroach on us,
6 capture our reserves, et cetera. They could find no
7 reason, and the only reason they gave was, it would be nice
8 to know what our offsets are doing so we may want to do the
9 same thing.

10 When I turned around and asked them the question,
11 was that more important, to be notified, or was it more
12 important to have our applications when we wanted to
13 commingle expedited by 20-plus days, plus the time it takes
14 for us to go through the land records to find the operator,
15 all three people came back with a response that they would
16 prefer to have the non-notification to expedite our
17 applications and that they could get that information from
18 another source.

19 So as -- I think to try to emphasize why the
20 people want it, it depends who you sent the application to.
21 If you send it to the engineering section, they wanted to
22 know because they pick up good ideas from offsets. If you
23 talk about they put the shoe on the other foot and they're
24 the one doing the application, they want their application
25 to go through in a timely manner.

1 And that's been the effort of the industry and
2 the Commission for the last year or so, is to try to
3 expedite and streamline within the companies and the
4 Commission the process of getting approvals, and I think
5 this would help immensely.

6 However, as Frank mentioned, if option A is
7 decided, we agree that the -- needs some clarification as
8 to who we notify, and we favor similar language that was
9 just done in the revised 104 language.

10 That was a big improvement when 104 came out,
11 clarifying who you notified, although the similar language
12 could not be just lifted and put over. But the concept of
13 clarifying it to that degree is what we looked for, because
14 we found out from a little meeting yesterday that all three
15 companies had -- in the meeting that we had, had a
16 different concept of who we notified, and it was quite a
17 bit of difference in the extremes.

18 And it appears the Commission has either not
19 checked or accepted all three companies' interpretation of
20 who they notify without question, because it appears that
21 we've all had our own internal policy of what we notify for
22 years, and some are a lot more than others.

23 So we think that that would be an appropriate
24 time to either clarify it in this rule or somewhere else in
25 the OCD rules, and this afternoon I can address that some

1 more.

2 Thank you very much.

3 CHAIRMAN LEMAY: Thank you, Mr. Pollard.

4 There are some questions here. Yes?

5 MR. DAVES: I was just going to point out that in
6 the northwestern part of the state within the San Juan
7 Basin, the Aztec District Office has kept a database of all
8 of the pertinent information that is associated with the
9 commingles. It's publicly available to bring down,
10 probably ultimately through the Internet, to where all of
11 that data is up to date and timely.

12 So moving in that direction, they're no real
13 point in offset-operator notification, because that
14 database is available now. That's how we built the maps
15 that we testified off of.

16 So if the argument is that we want notification
17 because we want to know what's going on, the data is out
18 there now to know what's going on, so there really isn't
19 any point of notifying people, because that data is already
20 available in a very usable format.

21 CHAIRMAN LEMAY: Additional questions?

22 Commissioner Bailey?

23 COMMISSIONER BAILEY: No, not really.

24 CHAIRMAN LEMAY: Commissioner Weiss?

25 COMMISSIONER WEISS: It sounds, as I listen, that

1 the problem is, you guys don't want to look up and see who
2 the offset operators are.

3 What about a public-type notice? You put it in -
4 - I don't know what the forum might be. Maybe on the
5 Internet. Say, Hey, we're going to work on this well.

6 MR. POLLARD: We would be in support of that. Of
7 course, you say don't want to see Tom. We could talk to
8 about as many as 50 people in some cases --

9 COMMISSIONER WEISS: Yeah, I understand.

10 MR. POLLARD: -- all over the United States. And
11 when you get it back, you have to tabulate when you got it
12 back, you have to have a formal system to see if you get
13 the cards back and all this. And it just takes time on
14 people's part, and we think that time could be better spent
15 on other projects.

16 COMMISSIONER WEISS: Well, I think perhaps -- I'm
17 supportive of that, but I think it's the offset operator's
18 responsibility to keep track of what's going on. But he
19 has to somehow or another know about it.

20 MR. POLLARD: Correct, yes.

21 COMMISSIONER WEISS: Perhaps you don't have to
22 find him; it's his problem to find you.

23 MR. POLLARD: Right, that is our contention. And
24 right now we've giving him, you know, a certified
25 invitation and telling him what we're doing to benefit him.

1 And that has no benefit to us currently that we can see,
2 except it is currently by the rules to do.

3 COMMISSIONER WEISS: Is there --

4 MR. POLLARD: So we're making it easy for him.
5 But it does not benefit us or, as we can see, the
6 Commission to do that. It benefits the offset.

7 Now, when we are the offset, we get reciprocal
8 benefit down the road, but we feel that we monitor the
9 *Statehouse Reporter* and other such publications to stay on
10 top of this. And as offset, if he was a prudent operator,
11 he ought to be monitoring through these means, whether it
12 be the Internet or the hearing notices, et cetera, to pick
13 up this data.

14 COMMISSIONER WEISS: And currently the public
15 notification is done how? *Statehouse Reporter*, you said,
16 or -- I'm not familiar with that.

17 MR. POLLARD: Well, I mean --

18 MR. GRAY: Yeah, the *Statehouse Reporter* reports
19 everything that takes place in these hearings and the
20 administrative approvals that take place each month. So if
21 administrative approval is granted, it will be posted in
22 the *Statehouse Reporter* the following month. So it's --

23 COMMISSIONER WEISS: Is this 20-day period --
24 Does it fit in that framework?

25 MR. GRAY: I think it would, yeah. It follows

1 the docket or the action taken by the OCD. So it's a real
2 timely notification of administrative approval. They would
3 know that just real quickly.

4 And it might be more important to know all of
5 them that are -- after they've approved, rather than be
6 notified ahead of time. They might be withdrawn or any
7 number of things ahead of time. But if they know the ones
8 that have been approved, that's more valuable than to know
9 about everything.

10 COMMISSIONER WEISS: Thank you.

11 CHAIRMAN LEMAY: I don't have anything else.
12 Thank you very much.

13 How about it? Someone else want to give us their
14 impression of...

15 MR. ALEXANDER: Alan Alexander --

16 CHAIRMAN LEMAY: Alan.

17 MR. ALEXANDER: -- with Meridian Oil.

18 CHAIRMAN LEMAY: Yes, please.

19 MR. ALEXANDER: We too support the no-
20 notification requirement, and my remarks are specifically
21 aimed at northwestern New Mexico, San Juan Basin.

22 One of the problems that we've always had is that
23 we don't feel that we really have standing, even if we did
24 come into a hearing on a well that's commingled in complete
25 compliance with the rules.

1 We can currently drill two separate wellbores at
2 this location and complete those wells with no notice, so
3 therefore, you know, why shouldn't we be able to commingle
4 reservoirs at a complying location? As long as we're not
5 asking for something that's not already contained in the
6 rules or going outside of the rules, there really shouldn't
7 be any limitation in doing that.

8 So therefore if we come to the Commission and
9 say, No, we object to a commingling, you know, what grounds
10 do we do that on? We really -- We always have had a
11 problem with that, because we really don't have any grounds
12 to complain about it to begin with, because like I said, we
13 could go out and drill two wellbores to each of these
14 reservoirs with no notice to begin with. I just wanted to
15 bring that point up on our concerns there.

16 And I did want to very much thank the Commission
17 and all the people that have worked on revising this rule.
18 I think we're certainly going in the right direction.

19 CHAIRMAN LEMAY: Thank you. Any questions,
20 Commissioners?

21 COMMISSIONER BAILEY: No.

22 CHAIRMAN LEMAY: Commissioner Weiss?

23 COMMISSIONER WEISS: I don't.

24 CHAIRMAN LEMAY: Thank you.

25 It seems like -- This seems to be the only

1 controversial point in the draft. Let me ask all of you
2 out there, have you ever objected or received objection to
3 a commingling application or heard of one?

4 MR. GRAY: No.

5 CHAIRMAN LEMAY: Everyone is shaking their head
6 no. I've never heard of one, but there may be one out
7 there somewhere that I don't know about, but I'd like to
8 know about it if there is one.

9 So it looks like it's really a matter of -- I
10 like that comment, because I -- It's a pretty good quote,
11 and I think I would buy into that. It may be nice to know
12 what our offsets are doing, because we may want to do the
13 same thing. I think that is maybe the strongest reason for
14 those favoring, and probably the survey might reflect that,
15 the strongest reason people favoring current notification
16 requirements, although it seems like it's a lot of effort.

17 The same thing might be accomplished -- We can
18 talk about this later this morning or this afternoon, on
19 maybe a public-notice type of requirement that would be
20 easy to do and people would know what you're doing as an
21 offset operator.

22 Anyone else want to say anything on commingling?

23 Yes, Mr. Carr?

24 MR. CARR: Mr. Chairman, Amoco's witness has not
25 yet arrived. Because it was last on the docket they

1 decided to travel to Santa Fe this morning. I can't make

2 their comment, but I would request they be able to submit a
3 written statement following the hearing.

4 CHAIRMAN LEMAY: Sure. Yeah, I think given the
5 docket -- Mr. Bruce?

6 MR. BRUCE: On that notice thing, you know, a
7 couple of my clients are in favor of notice, and perhaps
8 it's just to know what's going on because the rule has been
9 substantially revised, and maybe until things get going
10 under this rule they'd like to know what's going on.

11 But perhaps -- You know, to make sure that people
12 know what's been approved, maybe the Division should
13 publish with its normal hearing docket a listing of
14 approved administrative orders.

15 CHAIRMAN LEMAY: Yeah, that's a good thought.
16 Bring these thoughts up again this afternoon.

17 In fact, we'll leave the record open for a week,
18 for -- because there may be some comment, like Mr. Carr
19 mentioned, for people that aren't here right now. They
20 might have thought this thing was coming up later.

21 Yes?

22 EXAMINER CATANACH: Bill, we -- I just wanted to
23 mention, we do have a database for these downhole
24 commingles that we probably could make available on the
25 Internet.

1 CHAIRMAN LEMAY: Yeah, thanks, David. That's
2 David Catanach, actually author of the draft.

3 Yeah, that's possible. And that's a way of
4 having notification. Both the application and the approval
5 of it, David? Have you got like a two-phase database
6 there?

7 EXAMINER CATANACH: Well, on the approval we've
8 got order numbers from when we approved --

9 CHAIRMAN LEMAY: Yeah.

10 EXAMINER CATANACH: -- on the database.

11 CHAIRMAN LEMAY: Yeah.

12 Is there anyone that sees value in being notified
13 prior to approval?

14 So when you want to know about this thing, you
15 don't care what the application is; you just want to know
16 that, number one, it's been approved and, two, it's
17 happened, I guess, huh? So you can do the same thing?
18 That's logical.

19 Anything more on commingling?

20 Mr. Kellahin?

21 MR. KELLAHIN: Just a closing comment, Mr.
22 Chairman.

23 CHAIRMAN LEMAY: Please.

24 MR. KELLAHIN: There were a number of principle
25 issues that the committee started with back in -- I guess

1 it was June of last year.

2 The first one was to address differences in
3 ownership within the common space- -- within the two
4 spacing units, and if that ownership was not common, it
5 required a hearing.

6 We appreciate the fact that the Commission
7 attended to that issue in September, and we now have the
8 ability to file for administratively approved commingling
9 cases, even in different ownership situations. We think
10 that that is the true correlative-rights issue, if there is
11 to be one in commingling, is that different ownership is
12 properly accounted for and they get their appropriate share
13 of the allocation.

14 One of the principal issues that we received lots
15 of comments on is the oil rate. I think we have satisfied
16 the industry's concerns about increasing the oil rate.
17 They unanimously want a higher oil rate than the current
18 303 allows. I think we have persuaded everybody that we've
19 talked to that using the depth bracket oil allowable for
20 the shallowest pool commingled makes some sense, it ties
21 into the depth bracket 303 table, it seems to have logic,
22 and I think everybody recognizes that that might be an
23 appropriate solution.

24 We have as a committee resisted those operators
25 that wanted a higher rate. Our concern was that in a pool

1 with a commingled well, if the rate is higher than the
2 commingled well would enjoy a competitive advantage in
3 terms of allowable. So we agree with the Division's
4 assessment of capping the oil allowable at the shallowest
5 pool.

6 We appreciate the fact that the Division has
7 adopted Scott Daves's proposed pressure rule. We've talked
8 to lots of engineers about that issue. They think it makes
9 a lot of sense, and they like the fact that you have -- and
10 the Division has used Scott's suggestion in that area.

11 We very much appreciate the fact that we're going
12 to be allowed to crossflow on gas-gas commingling. The
13 current rule does not permit that. We think that's a
14 substantial improvement in the rule, and what the Division
15 has crafted with regards to that is an appropriate
16 solution, we think.

17 The data that is to be submitted, I think Pam
18 Staley with Amoco said that we now have to submit seven
19 more items than we have to currently. No one has resisted
20 that. Everybody, in terms of obtaining OCD approval for
21 this issue, likes the form. We've received no comments
22 with regards to modifying the form insofar as it deals with
23 this agency's approval, and I think that's going to be a
24 benefit to all of us to use the same form.

25 The only topic of debate has been the one for

1 notice, and you've just heard all that discussion.

2 In terms of reviewing how the rule is crafted,
3 the proposed rule, there is one small item with regards to
4 notice. If you decide to delete the notice to offsets, Mr.
5 Catanach and I need to look at that to make sure we haven't
6 made a drafting mistake in how that is integrated into the
7 rule.

8 With that exception, however, and the fact that
9 operators would like it clarified that we're dealing with
10 notice to offsets to a spacing unit, those are the only
11 comments I've received with regards to drafting questions.
12 I think everything else has been widely circulated in the
13 industry, and we would like to ask you to take this under
14 advisement and to act on it.

15 CHAIRMAN LEMAY: Commissioner Bailey?

16 COMMISSIONER BAILEY: I'm disappointed that the
17 Land Office was not included in discussions concerning the
18 form that was developed, and it's apparent to the people in
19 the Land Office who have reviewed the form that just very
20 few minor word changes would comply with our own
21 requirements. I would hope that those minor wording
22 changes could be accomplished before that form is approved.

23 MR. KELLAHIN: Well, and we share your concern,
24 Commissioner Bailey. I delivered a letter to you on
25 Tuesday of this week, formally asking for a meeting with

1 the Land Office, so that the committee could meet with you
2 and the Land Office and discuss how we might accommodate
3 your concerns with regards to the OCD process. And
4 hopefully, we could come to some consensus on that
5 solution.

6 You would have the option, sitting on this
7 Commission, to go ahead and adopt this form now. It would
8 not be a hard process to amend the OCD form to accommodate
9 your needs. I think we have lots of choices on how to
10 address your concern.

11 I apologize to you and the Commission, Land
12 Commission, for not attending to your needs sooner. We
13 simply failed to do so, and the committee is prepared to
14 meet with you and would very much like to do so.

15 CHAIRMAN LEMAY: Commissioner Weiss?

16 COMMISSIONER WEISS: I have no comments.

17 CHAIRMAN LEMAY: Thanks very much, Tom. We want
18 to thank everyone.

19 Does anyone else have anything on commingling?

20 Okay, we'll leave the record open for seven days
21 and then take the matter under advisement.

22 I want to thank you all for the good job you've
23 done on this. This is a good process on rule-making.

24 I think we've left it out there long enough,
25 we've had some great ideas presented and some good reasons

1 for those ideas, and I like the process. I really feel
2 that we covered the ground well, and thanks again for your
3 help.

4 (Thereupon, these proceedings were concluded at
5 9:44 a.m.)

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20 I do hereby certify that the foregoing is
21 a complete record of the proceedings in
22 the Examiner hearing of Case No. _____,
23 heard by me on _____ 19____.

24 _____, Examiner
25 Oil Conservation Division

