

Order Nos. 112-103
1-134



BEFORE THE OIL AND GAS CONSERVATION COMMISSION
OF THE STATE OF COLORADO

1-29

1-2

IN THE MATTER TO GOVERN) Cause Nos. 1 and 112
OPERATIONS IN THE IGNACIO-BLANCO) Docket Nos. 9-7-4
FIELD, LA PLATA COUNTY, COLORADO) 9-7-5
9-33

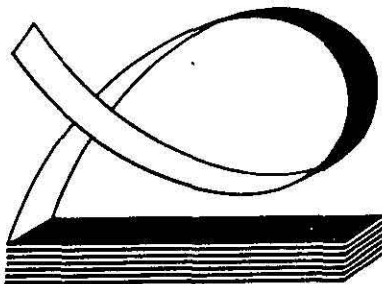
PURSUANT TO NOTICE to all parties in interest,
the above-entitled matter came duly on for hearing at the
State Education Building, Room 101, 201 East Colfax
Avenue, Denver, Colorado 80203, on September 21, 1992.

BEFORE:

Chairman Truman Anderson
Commissioner Rogers Johnson
Commissioner Logan MacMillan
Commissioner Mary Larson
Commissioner Martin Buys
Commissioner John A. Campbell

1-29

Dennis Bicknell, Director
Patricia C. Beaver, Technical Secretary
Tim Monahan, Assistant Attorney General
David E. Smink Staff



Patterson Reporting

1	I N D E X	
2	EXAMINATION	PAGE
3	WITNESSES:	
4	Billy Ray Clary	
5	Examination by Mr. Zarlengo	37
6	Examination by Mr. McKim	38
7		
8	EXHIBITS	INITIAL REFERENCE
9	A Map of Ignacio-Blanco	27
10	Field-Causes 3, 45, 112,	
11	112-60	
12	1 Waiver and Consent	38
13		
14	(Attached to original transcript.)	
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

P R O C E E D I N G S

1
2 CHAIRMAN ANDERSON: We have two more
3 applications by the Clarys. We also are at about
4 lunchtime.

5 Mr. Zarlengo, could you give me an overview of
6 what you think remains in terms of time and discussion?

7 MR. ZARLENGO: Well, let me just briefly
8 discuss what the three remaining issues are and, you
9 know, you may or may not feel you have jurisdiction over
10 these, either.

11 The next matter is No. 9-7-4. This concerns
12 an issue that has come up relative to the fact that gas
13 from the Clary No. 1 Well--here I'm speaking of the
14 Mesaverde Clary No. 1--has been taken for a long number
15 of years across the lease line, across the unit line,
16 south side, the drilling units for the well. It has been
17 consumed on neighboring property, and we would intend to
18 show that that fact occurred, that it has been occurring
19 for many, many years, that that particular portion of the
20 production was never properly metered, that it was never
21 reported to the Commission, that it was never reported to
22 severance tax people, and we are entitled to royalty on
23 the value of the gas taken for that long number of
24 years.

25 Now, how that fits into the definition of

1 "proceeds" that the Commission just applied, in my own
2 mind is not clear, but that's what it is.

3 CHAIRMAN ANDERSON: Okay. The remaining two,
4 the 9-7-5 and 9-33--

5 MR. ZARLENGO: 9-7-5 is a similar matter to
6 9-7-4. Again, we have a situation where Amoco says that
7 No. 1 Well was shut in and never produced. We intend to
8 prove that, in fact, there is a connection to the well
9 and that, again, the surface owner is using said well for
10 extensive amounts of gas to run a rather large,
11 complicated irrigation system, and we think that we are
12 entitled to royalty on the gas that irrigation system
13 consumes. So that's sort of related to the one that I
14 described under 9-7-4.

15 As to 9-33, this is a matter where the
16 Commission had previously allowed that Weaselskin No. 1
17 Well to be drilled off location and to produce until it
18 had produced between--I believe it's 50 to 75 percent of
19 its ultimate capacity. We intend to show that that
20 particular well is draining an excessive and unfair
21 amount of gas, south half of Section 18, and that it
22 should be shut in until a corresponding well in Section
23 18 is allowed to be drilled.

24 So those are the three remaining applications
25 that we have before this Commission at this time.

1 CHAIRMAN ANDERSON: Well, it sounds like at
2 least two of them, the 9-7-4 and the 7-5 have the same
3 problems as the matters that we just heard.

4 MR. ZARLENGO: I can't comment on whether you
5 feel you have jurisdiction or not over those matters,
6 sir.

7 CHAIRMAN ANDERSON: My inclination is I
8 believe that we are going to have the same problems and
9 that, therefore, we don't need to hear them.

10 Is that--

11 MR. MONAHAN: What you might do is take
12 Mr. Zarlengo's statements as an offer of proof and allow
13 Mr. McKim to respond to them and the Commission can
14 recall on the jurisdiction issue.

15 CHAIRMAN ANDERSON: Okay.

16 MR. ZARLENGO: That's fine. I'll be happy to
17 make an offer of proof.

18 CHAIRMAN ANDERSON: All right.

19 Mr. Zarlengo.

20 MR. ZARLENGO: Okay. With respect to the next
21 Amoco application, Docket No. 9-7-5, again, I'll make an
22 offer of proof with respect to this particular matter.
23 This is the Isgar No. 1 Well, which was drilled and
24 completed by Amoco and has been shut in. It is alleged
25 that it's shut in waiting for a market. We think there

1 is a dispute as to that, but that's not here today. What
2 has happened is that Amoco has allowed the surface owner
3 there, a gentleman named Art Isgar, to hook up a line
4 from the well, which he uses gas from that particular
5 well, not for his residence--or in addition to his
6 residence, he uses it to run a rather extensive and large
7 irrigation system with which he irrigates at least 80
8 acres of land. Those types of irrigation systems consume
9 large amounts of gas. That production has never been
10 metered. There has never been any type of a Form 7 or
11 any type of report filed with respect to this particular
12 well. Again, as far as Amoco is concerned, it's shut in,
13 never produced, but we intend to prove there has been an
14 extensive amount of gas that has been taken from that
15 particular well for surface use, and the Clarys will
16 argue that they are entitled to royalty on that amount of
17 gas, which we feel we can establish, and we will further
18 argue that if Mr. Isgar gets unlimited surface use of gas
19 from that well, that Mr. Clary, Mrs. Clary should be
20 allowed the same privileges.

21 And so that's my offer of proof with respect
22 to that particular matter. And we would raise our same
23 objection that we had with respect to the application of
24 Rule 508, as to that matter as well.

25 CHAIRMAN ANDERSON: This was the failure of

1 payment of the fee?

2 MR. ZARLENGO: Yes, sir, the \$45 filing fee.

3 CHAIRMAN ANDERSON: Mr. McKim.

4 MR. McKIM: Mr. Chairman, I find myself in the
5 uncomfortable position of having to admit he's right with
6 respect to that gas being used. We, in response to this
7 application, investigated it and, in fact, it appears
8 that a hookup has been made to that well even though it
9 was shut in. We will be notifying Mr. Isgar that he
10 can't take that gas off of there.

11 With respect to the issue of whether royalties
12 are supposed to be paid on this, on the gas that has been
13 taken to Mr. Clary--and that's a question under the
14 lease, whether he's entitled to payment for royalty on
15 that. That's a legal issue that we feel is beyond the
16 scope of this Commission. So that the Commission knows,
17 we're--we have discovered that fact, he is taking gas off
18 of that well, and we object to it as well. We will be
19 notifying him and turning off that hookup. And as to the
20 payment of that royalty, that's a legal issue.

21 COMMISSIONER MacMILLAN: How long has that
22 been occurring?

23 MR. McKIM: We don't know. We're
24 investigating ongoing. We looked into it. We got the
25 application and started looking into it a week or two

1 weeks ago and got a call from one of our field people and
2 said, there is a gas hookup on this. He's been taking
3 this gas. We don't know where all it's going, but the
4 terms of that lease for the use of that gas are very
5 limited, so on virtually anything he's taking it for it
6 is going to be under the terms of that lease, so we will
7 be shutting off that gas.

8 MR. ZARLENGO: I believe I can answer the
9 question. As part of our offer of proof, we will
10 be--would have been able to establish that this has
11 occurred for a minimum of two years. We would be able to
12 establish that, in fact, it was Amoco personnel that
13 arranged for the hookup and allowed it to occur and, in
14 fact, did it, and we also would--you know, we would also
15 present evidence that the inspection reports done by the
16 Commission's own staff more that a year and a half ago
17 actually reflected the existence of this line.

18 MR. MCKIM: All I can say is if it's a
19 question of prudent operations or negligence or something
20 along those line, it's a question for the court whether
21 we pay royalty on that.

22 CHAIRMAN ANDERSON: But if this well, in fact,
23 has been on production for a year or two, there is some
24 amount of production probably--may be undisputed with
25 respect to royalty that is due Mr. Clary that has not

1 been paid.

2 MR. MCKIM: If there is production for that
3 long--like I said, we are investigating when that was
4 done. Not--there is no production, but there is the
5 meter that that's producing the free gas. If it's been
6 going for that long, then Mr. Isgar has been getting that
7 free gas, I'd assume that we will evaluate the situation
8 and probably make an offer to the Clarys to try and
9 resolve the dispute, but the dispute itself is subject
10 for litigation. Mr. Zarlengo and I can work together on
11 trying to resolve that dispute.

12 COMMISSIONER JOHNSON: You have no knowledge
13 of the granting of permission to Mr. Isgar?

14 MR. MCKIM: We have no knowledge of granting
15 permission to Mr. Isgar, but the fact of the matter is
16 our field personnel did report that it appeared that it
17 was an Amoco hookup. So we are trying to find who in
18 Amoco went out and hooked up Mr. Isgar to a shut-in well.

19 I'm being candid. We messed up and we are
20 trying to investigate it, and hopefully we can come to
21 some sort of good resolution, good settlement. But the
22 issue itself, the ultimate issue of whether royalty
23 should be paid is a question for the courts.

24 CHAIRMAN ANDERSON: Mr. Zarlengo.

25 MR. ZARLENGO: Mr. Chairman, if it please the

1 Commission, Mr. Clary would like to make a brief
2 statement about that.

3 MR. CLARY: I talked to the production manager
4 and assistant manager about that stuff, and Amoco knows
5 all about it. They knew about it for two years and they
6 are the ones that hooked the line up theirselves, and I'm
7 not trying to keep Mr. Isgar from getting gas to water
8 his grass, but if he has those privileges on the north
9 half of 18 and the south half of 18, I want them, too,
10 and--some day, I might be up there and could use gas.
11 Now, I can't. It ain't no way that I can and I may never
12 use any, but I'd like for my kids to be able to when me
13 and my wife is dead and gone, if them wells are still
14 there.

15 And I want to put it on the record that I'm
16 not trying to stop him from using it. I'd like to get
17 paid my royalty on it when he is, because I'm not using
18 any, and I'm not trying to get them to stop gas to
19 irrigate his grass with, and he's irrigated two summers
20 now, and I just came from there and it's green and the
21 grass all around it is dead. And I'm not trying to
22 create no hardships for him. Don't get me wrong, but I
23 feel like I ought to get paid for it.

24 CHAIRMAN ANDERSON: All right.

25 MR. ZARLENGO: I believe that concludes our

1 presentation as to Docket No. 9-7-5.

2 CHAIRMAN ANDERSON: Okay.

3 Dennis, what time did we tell people we would
4 begin this afternoon?

5 MR. BICKNELL: After lunch.

6 CHAIRMAN ANDERSON: You didn't mention what
7 time lunch was, did you?

8 MS. BEAVER: I said about 1:30.

9 CHAIRMAN ANDERSON: All right. Well, it
10 sounds like there are some issues there that are beyond
11 the jurisdiction of the Commission, but there is also a
12 problem here that does--one that does lie within the
13 jurisdiction of the Commission. I don't know. Should we
14 be hearing that?

15 MR. MONAHAN: Which issue do you think lies
16 within the jurisdiction?

17 CHAIRMAN ANDERSON: Well, I'm concerned
18 about--sounds like there has been production and sounds
19 like there is an understanding--an obligation to
20 pay--undisputed obligation to pay royalties to the
21 Clarys.

22 MR. MCKIM: I'm sorry. Mr. Chairman, I'm not
23 sure that that's correct.

24 CHAIRMAN ANDERSON: All right.

25 MR. MCKIM: What I've said is we are

1 investigating. We have a shut-in well. Under definition
2 of production, there has not been any sales of any gas
3 from that well. It has just been free gas, and the
4 question is whether--the one is we are taking the
5 position that we should be producing--we shouldn't be
6 allowing the lessor to take free gas because the well is
7 shut in. We have failed to enforce that, being imprudent
8 or whatever you want to call it, and given that, there is
9 an obligation to pay some royalty on the excessive use of
10 free gas--exists, and I think our feeling is we need to
11 investigate it. If it has been going on as long as the
12 Clarys say, then I think Mr. Zarlengo and I need to try
13 to negotiate some sort of settlement.

14 COMMISSIONER ANDERSON: Can we set that aside,
15 then, perhaps rather than dismissing it?

16 MR. MCKIM: I think that's a good idea, to
17 continue it for a couple of months and allow us to work
18 through it.

19 CHAIRMAN ANDERSON: I'm reluctant to dismiss
20 that one.

21 MR. ZARLENGO: We are prepared to, you know,
22 present some evidence as to what the amount of royalty
23 due is. I'd like that to be part of my offer of proof as
24 well.

25 CHAIRMAN ANDERSON: It doesn't sound like

1 Amoco is ready.

2 MR. McKIM: Mr. Chairman, we are conducting
3 our investigation. I mean, I think if Mr. Zarlengo can
4 hold off for a couple of months, we can try and
5 correspond and hopefully leave the Commission out of this
6 one.

7 CHAIRMAN ANDERSON: Can we continue that one,
8 then, for 60 days?

9 MR. ZARLENGO: Our preference would be to go
10 ahead and present our evidence as to how much it is.
11 They have a Rule 508 problem, anyway, in terms of their
12 participation in the thing. I don't mean to say that we
13 wouldn't be willing to, you know, try to work out any
14 dispute as to what the amounts are, but we are here. We
15 are ready to go. If you feel you have jurisdiction over
16 it, we think it's appropriate that the evidence be heard.

17 CHAIRMAN ANDERSON: Comments?

18 MR. MONAHAN: Continuance is up to the
19 Commission, whether or not you would wish to grant it.
20 You do have an applicant who is ready, but you have got a
21 respondent here saying that they just discovered the
22 problem and would like some additional time in which to
23 respond.

24 CHAIRMAN ANDERSON: My preference would be to
25 continue this unless there is an objection from the

1 Commission.

2 MR. MONAHAN: I would add Mr. Zarlengo's
3 right, setting the other aside for a moment--Amoco would
4 be responsible for any additional interest for further
5 delay.

6 CHAIRMAN ANDERSON: All right.

7 COMMISSIONER MacMILLAN: In addition to
8 questions about prudent operatorship of this well.

9 MR. McKIM: Which is a legal question.

10 COMMISSIONER MacMILLAN: It's within the
11 jurisdiction of this Commission, particularly with the
12 operations of oil and gas in the state, and if, in fact,
13 the operators of wells have been in violation of the
14 rules and regulations of the state of Colorado, we have
15 and will continue to act and find operators that are not
16 in compliance with the rules and regulations.

17 CHAIRMAN ANDERSON: Okay. On this one, I
18 think the commission--you have a couple--

19 COMMISSIONER BUYS: I think it should be
20 continued.

21 CHAIRMAN ANDERSON: I think because of the
22 possibility here that there are issues that might be
23 within the jurisdiction of the Commission, without taking
24 a position on that, I think that we ought to continue
25 this to the November hearing. And if it can be resolved

1 between the parties between then, that's fine. Any
2 objection to that? Okay.

3 COMMISSIONER JOHNSON: I agree with that, but
4 I think it should be in the record that the applicant is
5 not asking for the continuance, in that on the issue of
6 compensation, the applicant would receive interest on
7 that as well.

8 CHAIRMAN ANDERSON: All right. The last
9 matter was Cause No. 112, Docket 9-33, and this was a
10 request to shut in a well.

11 MR. ZARLENGO: That's correct, Mr. Chairman.
12 This involves a well which is the Weaselskin No. 1 Well.
13 There has already been an order entered with respect to
14 this well, and we would simply like this Commission to
15 reconsider that order. We would like to present some
16 evidence to the effect that it really is taking an unfair
17 share of the gas from the neighboring spacing units.

18 COMMISSIONER ANDERSON: So this is not a
19 payment of proceeds claim?

20 MR. ZARLENGO: This is not a payment of
21 proceeds problem.

22 CHAIRMAN ANDERSON: There were a number of
23 wells that Amoco had drilled prior to the spacing out,
24 and those wells turned out to be out of pattern with
25 respect to spacing; is that correct?

1 MR. ZARLENGO: I'm not sure that this was one
2 of those wells. This well is extremely close to the
3 corner section line. It's within a few hundred feet, and
4 the Commission allowed that, you know, subject to certain
5 restrictions, and basically what the restriction is, you
6 can produce it until it's, you know, depleted 50 percent
7 of the reservoir. Well, we are in a position where we
8 would just like to state to the Commission that we don't
9 think that's adequate protection for the people in the
10 neighboring section.

11 CHAIRMAN ANDERSON: Okay. How long do you
12 think that will take?

13 MR. ZARLENGO: I don't believe this will be a
14 long matter. We should be able to get through it in 30
15 or 40 minutes at the most.

16 CHAIRMAN ANDERSON: All right. My inclination
17 is to stop for lunch at this stage. I'm concerned about
18 the time for the remaining matter on the agenda this
19 afternoon. This sounds like an issue that we are going
20 to have to hear.

21 MR. MONAHAN: Yes.

22 CHAIRMAN ANDERSON: So I think we can eat in
23 45 minutes and be back, find a sandwich place, and get
24 back here. We just have to reconvene here at 2 o'clock
25 and see if we can be done at 2:30.

1 MR. ZARLENGO: Well, do we have any
2 determination as to matter 9-7-4, which is the one
3 involving Hardscrabble and Associates, which was not an
4 Amoco problem? This is the one where there is gas being
5 taken, in fact, off the drill site spacing unit and being
6 used for extensive surface purposes on the neighboring
7 property.

8 CHAIRMAN ANDERSON: We are going to have to go
9 through the offer of proof on that one as well.

10 MR. MONAHAN: That would be advisable.

11 Is someone here from Hardscrabble?

12 MR. ODELL: Bill Odell. I represent P & M
13 Petroleum Management, who I guess we could say would be a
14 successor to Hardscrabble, and I appear to protest.

15 I think this is the same dance, maybe a little
16 different tune, maybe the same tune, question
17 involving--there is a free gas clause in the oil and gas
18 lease and it's a question to what extent that may have
19 been violated or not violated. I think these are matters
20 of contract and I would say it would be appropriate to
21 dispose of this the same way as the Amoco matters.

22 CHAIRMAN ANDERSON: Mr. Zarlengo, would you
23 proceed on that one?

24 MR. ZARLENGO: Yes, Mr. Chairman. I'm not
25 making an offer of proof relative to Docket 9-7-4. The

1 Clarys are prepared to show that the well described here,
2 the Clary No. 1 Well which produces from the Mesaverde
3 Formation, was completed on January 1, 1979, has been
4 producing ever since.

5 Shortly after the well was completed, a line
6 was run from the wellhead across the lease line, outside
7 the drill site spacing unit for the well to a neighboring
8 tract of land, the drill site spacing being the west half
9 of Section 19. The property that I'm talking about is
10 the east half of Section 19. This line was prior to the
11 meter, and gas was taken from this well beginning at that
12 time and, in fact, was either never metered at all or was
13 only metered for a particular residence, when, in fact,
14 there are extensive facilities on this property, a large
15 irrigation system, other houses, very large outbuilding,
16 other types of facilities with respect to which we feel
17 gas from this well has been used for these many--13 years
18 or close to that.

19 In any event, the record will reflect that
20 this usage was never reported to the Commission except
21 for a brief six-month period, and it was only in June of
22 1991 when Mr. Odell's client, P & M Management, actually
23 put an appropriate meter at the wellhead. Until that
24 time, the gas was virtually unmetered. Any meter that
25 existed out there was read by the resident, Mr. Thurston,

1 who then reported it to Kimbark Oil and Gas Company,
2 which he also owned a significant interest in, who then
3 billed him for the gas he used operating his own meter
4 if, in fact, there was one out there in the first
5 instance.

6 We think that's inappropriate, and we would be
7 able to show that this has occurred for many years. We
8 have reliable evidence as to the amount of gas that was
9 used for this purpose. We have reliable evidence as to
10 its value and the proceeds that are due the Clarys for
11 royalty payments on that gas.

12 Now, as to the free gas clause, my client's
13 lease covers the west half of the west half of Section
14 19. All of this occurred on the east half of Section 19
15 and includes a free gas clause, gas from my client's west
16 half of west half cannot be used outside the leased land
17 and certainly not outside the spacing units.

18 So our proof would be that this has been
19 occurring for a long number of years. We have reliable
20 estimates as to how much gas was taken. We have a
21 reliable value for that gas, and we feel as though we
22 would be able to show that the royalty due the Clarys on
23 that gas, you know, should be paid. And that's what this
24 case is about.

25 CHAIRMAN ANDERSON: Excuse me. You are?

1 MR. LOWRY: Walt Lowry. I'm the general
2 counsel for Hallador Petroleum, and I just wanted to make
3 an appearance. You have--I think each of you have before
4 you my response to Mr. Zarlengo's and Mr. Clary's
5 application. I don't think the action was brought
6 timely. Hallador assigned its operatorship of the well
7 to P & M Management in February of 1990, and I think
8 pursuant to 3461715, actions of this sort must be brought
9 within a year. It's been over two years, so I would
10 recommend that the Commission dismiss Hallador, Kimbark,
11 and Rincon from operating in this matter.

12 CHAIRMAN ANDERSON: I would allow Mr. Zarlengo
13 to respond.

14 MR. KIRKPATRICK: Bruce Kirkpatrick from
15 Durango, and I represent William Thurston, whose name has
16 been mentioned earlier today, from the well--allegedly
17 using the gas outside the terms and condition of the free
18 gas. We have come up here today with considerable
19 documentation concerning the use of gas, the amount of
20 gas used, and the payment by the surface owner, who also
21 was a mineral owner on this well, too, the operator at
22 the fair market value, which in 1983 was \$3 and some odd
23 cents an MCF and eventually became about \$1.30 in the
24 year of--last year, 1987. We are here under subpoena and
25 also by appearance. The thing is that we have the

1 information available here, in our opinion, to
2 successfully show that on the merits, if we ever get to
3 the merits, that the gas has been purchased in finite
4 terms--in interminable amounts used in agreement between
5 the user and the operator of gas purchase agreement just
6 like you would have anywhere else. Consequently, the
7 allegation is without merit. We would like if the
8 Commission is going to accept jurisdiction on that issue
9 to proceed in our defense at this time.

10 CHAIRMAN ANDERSON: Mr. Zarlengo.

11 MR. ZARLENGO: Yes, Mr. Chairman. I need to
12 make two objections for the record. I again would like
13 to object as to the participation of Mr. Thurston,
14 Weaselskin Corporation for the same reason I described
15 before for Amoco. They have not filed an adequate
16 protest, nor paid the \$45 filing fee. The same is true
17 for Hallador. The only respondent in the case who has
18 done that is Mr. Odell and his client, and I think that
19 the Commission's rules is perfectly clear and ought to be
20 enforced. I'd like to state those things for the record.
21 We are prepared to address all of the issues raised by
22 Mr. Lauer and by Mr.--and by Mr. Kirkpatrick.

23 CHAIRMAN ANDERSON: Mr. Odell?

24 MR. ODELL: Mr. Lauer raises a very
25 interesting point that cuts through all of these

1 hearings, is the applicant's ability of Section 118.5,
2 one year statute of limitations for actions of violations
3 of any provisions of this article. We are not standing
4 on the statute at this point in time. However, I do
5 think that anything that Mr. Zarlengo is complaining
6 about with respect to actions of my client relates to
7 interpretation of free gas clause and those matters are
8 matter of contract. We are prepared to show that at
9 least the last--since January of 1990, P & M, who has
10 been the operator of the well, has not only metered the
11 gas, they pay for every bit of gas that's been sold.
12 They have also metered any gas used by Mr. Thurston for
13 his domestic operations, which he may have--probably was
14 entitled to under the free gas clauses in his leases. He
15 is a successor and has an interest to Clary for the
16 surface of some of this land, so any right to the free
17 gas is obviously without--I believe would be to surface
18 ownership.

19 CHAIRMAN ANDERSON: All right.

20 COMMISSIONER BUYS: I guess I have a question
21 of Mr. Monahan. Does the Commission have direct
22 authority over gas used--free gas leases, for lack of a
23 better term? I think it's probably--

24 MR. MONAHAN: Again, to stick with the
25 Commission definition of the term "proceeds," those are

1 contractual issues that the Commission has indicated that
2 they don't want to address because they feel it's outside
3 their jurisdiction. Going back to my preface, if you had
4 wanted to take a much broader view of the term
5 "proceeds," you probably could have addressed that type
6 of issue. But given the definition that you have given
7 proceeds, I don't think it's within your jurisdiction.

8 COMMISSIONER BUYS: Okay.

9 MR. MONAHAN: As to the matters concerning
10 508, whether or not the one-year statute of limitation
11 applies to this, I was just provided with that
12 information today. If the Commission wants, I can go
13 back and research the issue, but I'm not prepared to give
14 advice on those particular matters.

15 CHAIRMAN ANDERSON: I think those issues are
16 other--and interesting issues, but to me the central
17 issue or question is whether or not the Commission has
18 jurisdiction here, and I don't think that it does. And
19 since I don't think that it does, I'm not--I don't see
20 why the other issues make any difference. So I don't
21 know what effect it would have on our behavior here and
22 decisions we might make. In each instance, I think that
23 we are being asked to do that which is beyond what the
24 payment of proceeds legislation was intended to do and
25 says we should.

1 MR. MONAHAN: If you answer the jurisdiction
2 question first, it will put the other issues--

3 CHAIRMAN ANDERSON: That's where I think we
4 are. I think that we don't have the jurisdiction, so any
5 other problems that people might raise have become
6 irrelevant.

7 MR. ZARLENGO: Mr. Chairman, may I indulge the
8 Commission and allow Mr. Clary to make a brief
9 statement?

10 CHAIRMAN ANDERSON: Yes, please.

11 MR. CLARY: He's used this gas in seven
12 houses. He's used it on six sprinklers, I mean, big
13 rolling sprinklers. He's used it to pump water from a
14 tailwater pit down from the southeast corner of this 320
15 acres that he bought from Donnie Cowan, and he's--and
16 every bit of that Donnie told me was in cultivation
17 except 40 acres. It was in pasture. He bought 20 acres
18 more besides that and built a rodeo arena on it and he's
19 been heating and cooling that with it. And he bought 9
20 acres from somebody else. And all that together comes up
21 to close to 300 acres that he's been irrigating, and it's
22 not right. It's just not right, and I don't know whether
23 he's running tractors on it or not, but I'm sure he's
24 got, like, plants and welding machines and everything
25 else, because he can buy me 50 times and I've got welding

1 machines. I've got a welding machine at home. And it's
2 just not right. Now, if you all can do something for
3 me--

4 CHAIRMAN ANDERSON: I think that's--I don't
5 think that you should come away with the conclusion that
6 the Commission is looking the other way while something
7 that's not right is going on.

8 MR. CLARY: That--

9 CHAIRMAN ANDERSON: We are constrained by what
10 we believe to be our legal capacity. And I don't think
11 that you ought to interpret the Commission's reluctance
12 to deal with these issues as a judgment on our part that
13 any of your complaints are unwarranted. We are simply
14 saying that we don't think that this is a proper forum
15 for you to deal with those.

16 MR. CLARY: He's taking that gas off of this
17 lease. He's using it in 18 and the east part of 19, and
18 it's been going on for about 14 years. I've called him
19 on it, wrote him letters on it. I come up and seen P & M
20 about it. I come up and seen--I made half a dozen trips
21 up here trying to get it straightened out before I come
22 to the Oil and Gas Commission and I came to you all and
23 somebody pulled a rug out from under me on the deal, and
24 it's just not right. It's stealing gas, is what it is.

25 CHAIRMAN ANDERSON: All right. Well, again, I



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1 appreciate it and I am--I know this has been a difficult
2 process for you. It's been difficult for us. We are
3 interested in making sure that your legal rights are
4 protected. But, unfortunately, the Oil and Gas
5 Commission is the kind of creature that it is, and if you
6 feel that you have been taken advantage of, I don't want
7 you to interpret anything that we do here and the manner
8 in which it's done to be a judgment that you might not
9 have a case. All right. I think we are done on that.

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2/2

10 With respect to--

11 MR. MONAHAN: You should have a motion to
12 dismiss.

13 CHAIRMAN ANDERSON: With Cause No. 1, Docket
14 No. 9-7-4, I think we what we need here is a motion to
15 dismiss.

16 COMMISSIONER CAMPBELL: I so move.

17 CHAIRMAN ANDERSON: Is there a second?

18 COMMISSIONER LARSON: Seconded.

19 CHAIRMAN ANDERSON: All those in favor,
20 indicate by saying aye.

21 Those opposed, the same.

22 COMMISSIONER MacMILLAN: Aye.

23 CHAIRMAN ANDERSON: This motion carries.

24 We have one remaining matter to hear with
25 Mr. Clary. Would you like to do take that up at 2:15?

1 MR. ZARLENGO: That's acceptable.

2 CHAIRMAN ANDERSON: And then we will try to
3 get through that as quickly as we can because we have
4 another major issue to deal with thereafter. We'll be
5 back in 45 minutes.

6 We need a motion to go into executive session.

7 COMMISSIONER CAMPBELL: I move.

8 COMMISSIONER LARSON: Second.

9 CHAIRMAN ANDERSON: All those in favor,
10 indicate by saying aye.

11 (All commissioners responded by saying aye.)

12 (Lunch break was taken.)

13 (Deposition Exhibit A was marked.)

14 CHAIRMAN ANDERSON: The Commission during the
15 lunch break had an executive session in which we
16 discussed the litigation between Amoco and the Southern
17 Ute, and having completed that discussion, I think we
18 need a motion to end the executive session.

19 COMMISSIONER JOHNSON: I move that we end the
20 executive session.

21 CHAIRMAN ANDERSON: Is there a second?

22 COMMISSIONER LARSON: Second.

23 CHAIRMAN ANDERSON: All those in favor,
24 indicate by saying eye.

25 (All commissioners responded by saying aye.)

1 CHAIRMAN ANDERSON: Those opposed, same sign.
2 Motion is approved.

3 All right, we have one matter remaining from
4 the list of issues that we were hearing from the Clarys
5 before lunch, and that is Cause No. 112, Docket 9-33.
6 This is an application by the Clarys to shut in the
7 Weaselskin No. 1 Well located in the southeast quarter of
8 Section 18, Township 34 North, Range 9 West until an
9 offset well can be drilled.

10 This has been protested by Amoco Production
11 Company. I will take appearances on this one.

12 MR. ZARLENGO: Good afternoon. May it please
13 the Commission, my name is Dante Zarlengo. I represent
14 Billy and Louise Clary.

15 MR. MCKIM: Brad McKim on behalf of Amoco
16 Production Company.

17 CHAIRMAN ANDERSON: Okay. Somebody else?
18 All right. Mr. Zarlengo.

19 MR. ZARLENGO: I thank you, Mr. Chairman. I
20 will have a brief opening statement. This matter
21 concerns the Weaselskin No. 1 Well located in the
22 northeast corner of Section 19 of Township 34 North,
23 Range 9 West. The well was drilled as an exception
24 location in Matter No. 112-72. The commission allowed
25 this well to be drilled at an off-pattern spot. The well

1 is drilled very close to the lease line in Section 20 and
2 very close to the lease line in Section 18. In issuing
3 its order, the Commission allowed that well to be drilled
4 there and that--and further stated that they recover from
5 the well 7.61 percent of the ultimate recovery and that a
6 production limit would be reviewed after 50 to 75 percent
7 of the approved amount had been produced from the
8 Weaselskin well. In the meantime, however, the well can
9 be and has produced at the maximum amount that Amoco
10 produces to produce it.

11 In the meantime, the wells located in the
12 southwest quarter of Section 18, namely, the Clary No. 1,
13 which produces from the same formation, has been produced
14 only sporadically. It's been shut in for extended
15 periods of time and, in fact, production from that well
16 has been seriously affected by the location of the
17 Weaselskin well. And even more to the point, the amount
18 of production that is being drained from the south half
19 of Section 18 by that well being located at that
20 particular location is, we think, a very unfair amount.

21 As I said, the existing order allows Amoco to
22 produce almost 80 percent of the ultimate recovery
23 and--but in the meantime, there are no production
24 restrictions on the well, and the well is continuing to
25 produce gas from the south half of Section 18. The net

1 effect of that would be if the Clary well were ever to be
2 produced, you know, fully, the amount of gas that it will
3 be able to produce would be seriously impaired by this.
4 We would, therefore, like the Commission--and I think you
5 have the full authority to review your order in terms of
6 whether or not this Weaselskin well should be allowed to
7 continue to produce since it has for all this period of
8 time with unrestricted production in as much as it is
9 located so close to the other lease lines and in as much
10 as it appears to be draining gas from the south half of
11 Section 18, as the wells in the west half of 18 and the
12 west half of 19 are shut in and are not producing.

13 With that opening statement, I'd like to call
14 our witness. We only have one witness today and it is
15 Mr. Clary, and I'd like to have him sworn.

16 CHAIRMAN ANDERSON: Before we do that, is
17 there an opening statement from--

18 MR. ZARLENGO: I'm sorry.

19 CHAIRMAN ANDERSON: --Amoco?

20 MR. McKIM: Yeah. I'll be real brief,
21 Mr. Chairman. With regard to this application,
22 Mr. Chairman, Amoco has basically two defenses. One that
23 we will submit is Exhibit 1, a waiver and consent that
24 was signed by Mr. and Mrs. Clary with respect to the
25 drilling and completing and producing of this well. And

1 there was no objection to the production restrictions.
2 Secondly, if you choose to go beyond that, the--Bill
3 Hawkins is here and will testify as to the history of the
4 production restriction, why this location of this well,
5 in fact, actually helps the Clary No. 1 Well as opposed
6 to interfering with drainage from that well. Thank you.

7 MR. ZARLENGO: Mr. Chairman, I'd like to state
8 for the record again that Amoco has filed a protest, has
9 not paid the \$45 filing fee, and we have a Rule 508
10 problem again here.

11 CHAIRMAN ANDERSON: All right. I think we
12 heard this morning that we are not prepared--at least the
13 attorney general isn't prepared to give us an opinion on
14 that matter.

15 MR. MONAHAN: Not in the context of proceeds
16 hearing. That's a little bit different than the context
17 of our standard hearings. I don't understand quite why
18 Amoco would not pay the \$45 to protest a matter that's
19 just subject to our standard application procedures--

20 CHAIRMAN ANDERSON: All right.

21 MR. MONAHAN: --and our regulation is rather
22 specific.

23 CHAIRMAN ANDERSON: Mr. Bicknell.

24 MR. BICKNELL: I think the record should be
25 corrected to show that Amoco paid \$45, Cause 9-33.

1 MR. ZARLENGO: Okay. They did pay it.

2 CHAIRMAN ANDERSON: That takes care of that
3 one.

4 MR. ZARLENGO: Well, I apologize to the
5 Commission. I was unable to find that receipt in the
6 file at the time I looked.

7 CHAIRMAN ANDERSON: Okay. Mr. Zarlengo, then,
8 you're going to be presenting testimony from Mr. Clary
9 and this will be your only witness?

10 MR. ZARLENGO: Yes, sir.

11 CHAIRMAN ANDERSON: Do you know how long that
12 will go?

13 MR. ZARLENGO: I don't anticipate this is
14 going to take longer than about 15 or 20 minutes. Well,
15 I don't anticipate that my testimony will take longer
16 than, you know, five or ten minutes at the most. I don't
17 know how long Mr. McKim's testimony will take. I
18 anticipated this morning the whole thing shouldn't take
19 longer than 30 minutes.

20 CHAIRMAN ANDERSON: I think my concern is that
21 the nature of the complaint that you have is one that I
22 think is going to be best dealt with through technical
23 testimony, and the question of whether or not Mr. Clary's
24 rights have been impaired is going to be a question
25 having to do with the nature of the reservoir and

1 production levels and drainage, and I'm not sure
2 Mr. Clary is going to be able to help us.

3 MR. ZARLENGO: I understand your point,
4 Mr. Chairman. Mr. Clary feels that he is, you know,
5 capable of offering good, illustrative testimony on this
6 particular topic. He has--we have made the decision not
7 to hire an engineer at this particular point in time. We
8 feel that in the event that--if at some point in time in
9 the future he chose to do so--

10 CHAIRMAN ANDERSON: I'd like to hear from
11 Mr. Clary, but I think he should make his comments
12 relatively brief, to the extent they can't deal with the
13 technical issues that the Commission is going to have to
14 look at.

15 I would like to ask you a couple of questions.
16 As I recall, there were a number of wells where Amoco was
17 in this situation, where there was a location which was
18 off pattern with respect to the spacing decision that the
19 Commission made several years ago, and that in this--in a
20 number of other wells, a determination was made as to the
21 total amount of ultimate gas that could be produced by
22 Amoco. That amount, then, would be reviewed by the
23 Commission on an annual update of which we have had two,
24 I think.

25 MR. ZARLENGO: Yes, of which there is one.

1 CHAIRMAN ANDERSON: Just one? All right. And
2 this is one of those wells?

3 MR. ZARLENGO: Yes, sir.

4 CHAIRMAN ANDERSON: And this particular well
5 was then granted a restriction, but the ultimate
6 production could not be any more than 78 percent of
7 whatever number was assigned to the total ultimate
8 recoverable reserves, but that until that amount was
9 produced, whatever the well was capable of producing,
10 could be produced. And as of the last report, the amount
11 of gas produced relative to the ultimate recoverable
12 reserves was on the order of what, do you know?

13 MR. ZARLENGO: That, I don't know.

14 MR. HAWKINS: Bill Hawkins with Amoco. The
15 latest figure that I have is about 240 million cubic feet
16 of gas, and that was through May of 1992.

17 CHAIRMAN ANDERSON: That's the numerator.
18 What's the denominator? What's the--do you know what--

19 MR. HAWKINS: The ultimate recovery we
20 estimated to be about 9 BCF, roughly, is what we
21 expected. The limit was set at about 7 BCF.

22 CHAIRMAN ANDERSON: So the
23 well--what?--produced about 3 percent of its estimated
24 ultimate recoverable reserves?

25 MR. HAWKINS: Maybe, yes. Something like

1 that.

2 CHAIRMAN ANDERSON: Okay. All right,
3 Mr. Clary. I want to swear you in.

4 (Whereupon, the witness was sworn in by the
5 chairman.)

6 THE WITNESS: I put 30 years in the oil field
7 and the gas field and I put about 25 years in that whole
8 Four Corners area down there, and I know it is as good as
9 any engineer that ever was, and the fact of the
10 business--I helped drill the wells right around my place
11 there, and what I am saying is that formation is going
12 down just like this. You can go about three miles north
13 of my place and you can look up the mountainside there
14 and you can see those coal formations a-going down. And
15 they surface up there about three or four miles north.
16 And this particular well, it's in 380 feet of the south
17 half of 18, and when you go in there and drill a well
18 down, say, in that--say, in 18 and then you frac
19 it--well, naturally when you frac it, the pressure is
20 going to be more pressure that's going to go uphill
21 because it's less water this way than it is this way, and
22 the same a-way about producing it. When you produce
23 it--when you frac it, well, they frac above the coal
24 formation and at the coal formation and they catch right
25 below it and a lot of times they are not that perfect

1 where they are fracking. They will frac right in between
2 it, and they will frac up above it sometimes and then
3 they get down below it and frac it, and if there is more
4 water downhill here, all in this frac--see, water kills
5 gas. Water kills gas--it's going to be pulling just as
6 much gas off of 18 up here as it's pulling off of 19, and
7 it's also pulling just as much gas off of the section
8 east of it and this one over here. 19 is producing gas
9 more--more gas off of it than it is on 19, and it's not
10 fair. I'm not asking you all to give me something and
11 I'm not asking Amoco to give me something. I'm asking
12 you all to just shut that down until they can drill to
13 offset it. It takes four days to drill those wells.
14 They drill them in four days.

15 CHAIRMAN ANDERSON: You're asking the
16 Commission to shut in Amoco's wells?

17 THE WITNESS: Have them shut it down until
18 they drill an offset and then produce it right up even
19 with that one and then turn--

20 CHAIRMAN ANDERSON: And order Amoco to drill
21 another well?

22 THE WITNESS: Yes. They can drill it in the
23 east half of 18, the south half of 18, just right
24 across--just offset right north of the Weaselskin, and
25 that's nothing but fair

1 EXAMINATION

2 BY MR. ZARLENSO:

3 Q. Now, let me ask you another question. How has
4 Amoco's production practices on the Clary No. 1 Well in
5 Section 18 and the Billy Ray No. 1 Well in Section 19
6 affected the points you're trying to make to the
7 Commission as to the production from the Weaselskin well?

8 A. How's that now?

9 Q. How has the amount of production that they
10 have gotten from the Billy Ray and the Clary affected the
11 amount of production that is--that is being made from the
12 Weaselskin?

13 A. Well, they have been producing that Weaselskin
14 well wide open and they have had that pump jack going.
15 If it's 31 days in the month, they have had it going 31
16 days. On the Billy Ray No. 1 and the Clary No. 1, I
17 don't know what they have done just now, but, you know,
18 within the spring when I come up here and filed that
19 deal--and I got after them about it before then, for the
20 last year, they have been producing that--run them pump
21 jacks for about--it was doing it 24 hours and they do it
22 14 hours and shut it down the rest of the month. And
23 it's--they are producing about 10 percent of their
24 capacity and that Weaselskin Well is going wide open.
25 And that's not right. It's not right. It's not right.

1 CHAIRMAN ANDERSON: All right. Mr. McKim, do
2 you have any questions?

3 MR. MCKIM: Just one, Mr. Chairman.

4 MR. ZARLENGO: This is for purposes of
5 cross-examination; is that right?

6 MR. MCKIM: Yes.

7 THE WITNESS: Could I make a statement on
8 this, sir?

9 MR. MCKIM: I can inquire.

10 MR. ZARLENGO: Just answer questions.

11 EXAMINATION

12 BY MR. MCKIM:

13 Q. Is that your signature that appears on Exhibit
14 1?

15 A. That's my signature. You know why I signed
16 that?

17 MR. MCKIM: No further questions,
18 Mr. Chairman.

19 CHAIRMAN ANDERSON: All right.

20 THE WITNESS: They sent Art Isgar down to my
21 house in Texas.

22 CHAIRMAN ANDERSON: Can we have just a minute
23 here. We would like to read it.

24 It says that you as an owner and operator of
25 the lands toward which the Weaselskin Gas Unit No. 1 was

1 moved, hereby grants a waiver of objection and consent
2 for the drilling, completing, and producing of the
3 Weaselskin Gas Unit No. 1. I take it it is your view
4 this prevents the objection that he's making?

5 MR. MCKIM: Yes, Mr. Chairman.

6 THE WITNESS: They sent Art--

7 Does he want me to talk?

8 CHAIRMAN ANDERSON: Well, you got one down
9 there, Tim?

10 MR. MONAHAN: Yes.

11 CHAIRMAN ANDERSON: He's waived objection to
12 drilling the well.

13 MR. MONAHAN: He's waived objection to
14 production of the Weaselskin No. 1, waiver of objection
15 of consent for the drilling of, completion of, production
16 of Weaselskin Gas No. 1.

17 Mr. Zarlengo, why wouldn't this waiver and
18 consent preclude Mr. Clary from bringing this action
19 now?

20 MR. ZARLENGO: Well, let me--let me clarify
21 what's going on here. At that time, Mr. Clary did,
22 indeed, consent to the drilling of the well off location
23 and to its production. At that time, the Commission put
24 certain restrictions in the form of allowing the well to
25 produce only part of what it would otherwise produce.

1 Our only purpose here today is to ask the Commission to
2 reconsider what was decided at that time.

3 Now, at that particular point in time, that's
4 what the Commission felt was appropriate, that's what
5 Amoco felt was appropriate, and that's what the Clarys
6 felt was appropriate, apparently, but that doesn't mean
7 that we can't come forward later and say, look, this
8 hasn't worked the way we anticipate that it would. It
9 needs to be reexamined. I think the Commission has the
10 power and authority and the jurisdiction at any time it
11 wishes to amend an order based upon the actual practice
12 that's occurred after the order has been entered, and
13 that's why we are here and that's our whole focus with
14 respect to this particular application. We are not
15 trying to say the application--that the drilling of the
16 well was improper or even that the--or even that the
17 restrictions that were imposed were somehow
18 inappropriate.

19 All we are saying is that, you know, given the
20 experience we have had since the well was drilled and is
21 being produced, we would like this matter--restrictions
22 to be reexamined in light of what's happened out there.
23 I don't think there is anything in this that says they
24 can't come forward to the Commission and say this hasn't
25 worked the way any of us has anticipated, we would like

1 to be reexamined.

2 THE WITNESS: Can I tell why I signed that?

3 MR. ZARLENGO: Yes, in a minute.

4 CHAIRMAN ANDERSON: If you do it briefly.

5 THE WITNESS: Okay. Amoco sent--I wasn't--I
6 wouldn't sign it. See, I had it and just kept it. I
7 wouldn't sign. Amoco sent Art Isgar down there and I
8 imagine they bribed him by telling him that they won't
9 have gas, but I don't know whether they did or not.
10 Anyway, he come down there and begged me into it. Said,
11 they will not turn Billy Ray No. 1 on until you do sign
12 it. It says you won't get no gas. That's what he told
13 me. So help me God, I'm a-dying.

14 CHAIRMAN ANDERSON: Okay.

15 THE WITNESS: And he says they are going to
16 shut that Clary No. 1 down and they have done everything
17 but shut it plumb down. They have harassed me with it,
18 and the Billy Ray both.

19 CHAIRMAN ANDERSON: All right. Well, can
20 we--I think for me an important issue here is that the
21 Commission has an ongoing process of reviewing these.
22 This was one of a number of wells that Amoco came to the
23 Commission with several years ago in which an effort was
24 made to deal with the problems created by wells that were
25 off pattern. I think the Commission would be prepared to

1 listen to argument that there is something wrong with the
2 reserve numbers or the production levels or the formulas
3 in every single one of these, in addition to an
4 independent from the annual reviews in which that occurs,
5 but I think for us to do that clearly and well, we are
6 going to have to rely on--if not expert testimony, at
7 least on testimony that is more directly informative on
8 the potential for use of Mr. Clary's rights.

9 Any interesting comments from the other
10 commissioners?

11 COMMISSIONER JOHNSON: What is the date of
12 this agreement?

13 THE WITNESS: It ain't got no date on it.

14 MR. MCKIM: Mr. Johnson, the best I can do for
15 you is the original, which has been marked as Exhibit 1,
16 has the envelope with that return with the postage date
17 of February 9, 1990.

18 MR. ZARLENGO: Mr. Chairman, I do have one
19 exhibit I'd like to put in before I rest. May I put it
20 in now?

21 CHAIRMAN ANDERSON: Yes, please do.

22 MR. ZARLENGO: I would just like to submit
23 what's been marked as Exhibit A, which is merely a
24 photographic copy of the Commission's map in this area,
25 and the only purpose of this is to show the commissioners

1 where this well is located relative to the other wells in
2 the field.

3 CHAIRMAN ANDERSON: Can you point them out on
4 the map for us?

5 MR. ZARLENGO: Weaselskin No. 1 is located at
6 the farther northeast corner of Section 19, and the Billy
7 Ray No. 1 and the Clary No. 1 are located in the
8 southwest quarter of Section 18, in the northwest quarter
9 of Section 19 respectively. Mr. Clary owns the minerals
10 underlying the west half of the west half of each of
11 those sections, basically.

12 CHAIRMAN ANDERSON: Thank you. Okay.

13 MR. BICKNELL: Mr. Chairman, I'd like to ask,
14 if I may, Mr. Zarlengo or Mr. Clary, what is it that has
15 not worked with the existing order that's in place?

16 MR. ZARLENGO: I think the basic answer to
17 that is it's our position there is simply too much gas
18 being taken too fast off of the south half of Section 18
19 with no compensation for it at all.

20 MR. BICKNELL: What are we going to do, then,
21 about the wells in the west half of 17, the wells in 20,
22 the other well in 19?

23 MR. ZARLENGO: Well, I don't think that any of
24 those wells are before the Commission at this particular
25 point in time. All we are saying is let's figure out a

1 way to even out the production between the wells in
2 Section 18 and the wells in Section 19 because the way it
3 is right now, what's going on is the Weaselskin is being
4 produced, as Mr. Clary testified, at full bore, whereas
5 the other wells, which are some distance away, are being
6 produced only sporadically. Once that gas is gone, of
7 course, it can't come back.

8 CHAIRMAN ANDERSON: Of course. That was the
9 point of production restriction, was it not, restriction
10 on total volume, and it may well be that number is
11 incorrect. But just on its face, if you have got a
12 reservoir where so far 3 percent of the estimated total
13 reserves had been produced, it doesn't feel like you are
14 in imminent danger at the very least.

15 MR. ZARLENGO: Well, in the meantime, though,
16 what the order allows is for the Weaselskin well to be
17 produced at full capacity. At the very least, it seems
18 that that rate ought to be slowed down or reduced.

19 CHAIRMAN ANDERSON: All right. Any further
20 comments on this, Mr. McKim?

21 MR. MCKIM: I don't have anything.

22 MR. ZARLENGO: We'll rest, Mr. Chairman.

23 CHAIRMAN ANDERSON: All right. Thank you.

24 COMMISSIONER MacMILLAN: Is it the Clarys'
25 position that the minerals that they own in the west half

1 of the west half of Section 18 and the west half, west
2 half of Section 19 are being impacted by the production
3 in the Weaselskin well?

4 THE WITNESS: That's true, Your Honor, uh-hum.

5 COMMISSIONER MacMILLAN: Those are the only
6 minerals you own in this township?

7 THE WITNESS: I own them and I own 80 acres
8 that sits in the west half of 30 and the northwest corner
9 of the west half of 30. And all I'm asking is to treat
10 me fair. I'm asking you all to treat me fair and they
11 can have another--they can have another well drilled
12 within a week's time to offset that, and I'm not asking
13 them to give me nothing. I'm asking you all to be fair
14 with me. They have been--they have been a-pumping the
15 water out of those wells down there for the Clary No. 1
16 in 18 and the Billy Ray 1 in 19, and you can draw them
17 production records, and everywhere when they run them
18 pumps on that gas charts, it just goes like that, just
19 solid. When it--when they shut that pump off, it
20 produces about a tent as much. You all know that and I
21 do, too. They are not pulling my leg.

22 CHAIRMAN ANDERSON: Okay.

23 COMMISSIONER MacMILLAN: I have some other--I
24 guess they are questions or comments or something along
25 those lines. In this particular thing that we are

1 looking at right now, on 9-33, you haven't presented to
2 me or the Commission which formations which arises--these
3 wells are producing from, nor have you presented to us
4 the production histories to either show a match or not a
5 match. Essentially what you are doing is asking me and
6 the rest of the commissioners to look at the proximity
7 that this particular well is with location to the lease
8 line, and I think from my view of it, getting me to
9 recognize that that thing was closer than what the
10 allowable was. Well, the previous commissioners thought
11 that allowable exception location was adequate, that it
12 was going to be covered, but I haven't seen any
13 documentation that you presented at all that shows that
14 two--first of all, that the minerals that you own in the
15 west half, west half of 18 or 19 are at all impacted by
16 the production from the Weaselskin, first of all.

17 Secondly, that the two wells that are the
18 closest to that Weaselskin production, you're already
19 under.

20 THE WITNESS: Well, let me explain this to
21 you. See, the east half of 18 is drawing production off
22 of the west half of 18 there. Everybody in--say,
23 Thurston is--and Amoco is drawing production off of the
24 west half of 18 from the east half. See what I'm getting
25 at?

1 COMMISSIONER MacMILLAN: But I don't see any
2 wells in your exhibit--I don't see any wells located on
3 the east half of Section 18. Is this incorrect?

4 THE WITNESS: It ain't on the east half. See,
5 and that's what I'm trying to get them to drill on the
6 east--to drill each 160 acres to offset that one, offset
7 that one, and everybody will be happy. Well, Amoco will
8 make more money and the people in the east half of 18
9 will make more money, too, won't they?

10 MR. ZARLENGO: Let me add this. I think I can
11 maybe answer your question a little bit better. The
12 spacing up towards the Billy Ray well is the south half
13 of Section 18. So that by virtue of our ownership in
14 that south half of Section 18, wherever the land might be
15 located--in fact, there is a significant amount of gas
16 that's being taken from the south half of Section 18 that
17 ultimately is going to affect the amount of gas that
18 belongs to my client because of the pooling order. That
19 covers the whole south half of the section. So even
20 though there might not be, we contend there is even
21 though there is no direct relationship between Weaselskin
22 well--or might not be direct relationship between the
23 Weaselskin well and wells over in the western part of the
24 section, that ultimately is going to affect the amount of
25 production that's going to be attributable to the Billy

1 Ray well by virtue of the configuration of the space
2 unit.

3 THE WITNESS: When I met with the Commission
4 before--was about--what?--two months ago or--I believe it
5 was in June, wasn't it? Three months, maybe. When I met
6 with you all before, you all said that you all was
7 turning it loose to where they could drill on every 160.
8 That's what you all said.

9 CHAIRMAN ANDERSON: And--

10 THE WITNESS: Did you--

11 CHAIRMAN ANDERSON: I don't remember that.

12 THE WITNESS: I remember it, because we was
13 talking about drilling the east end of--drilling the east
14 end of 19 and on the west side and the--and on--and the
15 east end of 19, on the east side.

16 CHAIRMAN ANDERSON: I think we need to come to
17 an end here. I don't know if you want to finish up the
18 questions.

19 COMMISSIONER MacMILLAN: That's it. Thank
20 you.

21 MR. McKIM: Mr. Chairman, I don't know if we
22 can go through our Exhibit 2. Mr. Hawkins is here to
23 testify with respect to that. It's whether you want to
24 hear it or not.

25 CHAIRMAN ANDERSON: Well, do I have a reaction

1 yet from the Commission here on where you think we are?
2 I have the same problem that Logan just expressed, and
3 that is there is a mechanism for reviewing this on an
4 annual basis, and it may well be that at some point in
5 time the amount of estimated recoverable reserves has to
6 be changed, that the ultimate recovery permit has to
7 change, and it's possible that we'll have to impose
8 production restrictions, but I don't think we have heard
9 sufficient clear evidence today for the Commission to
10 take that action. It doesn't prevent our doing that in
11 the future, but I didn't hear enough persuasion for me to
12 do that. Mr. Zarlengo.

13 MR. ZARLENGO: No.

14 CHAIRMAN ANDERSON: Okay. So disagreements
15 with that or arguments or motions?

16 MR. BICKNELL: I'd like to point out that the
17 production from this well has been reviewed twice before
18 the commission, early in April--most recently in April of
19 1992. It doesn't seem appropriate that should anyone
20 have questions or problems with either the volumes or the
21 method that that would be the appropriate--any time prior
22 to that so the Commission could consider it. Indeed, at
23 that time, there are production volumes presented, which
24 Commissioner MacMillan brought to our attention, that
25 heard the mechanism under which it's done, so it would

1 seem that anytime any person who is unhappy with those
2 restrictions or questions them could put their material
3 together and have it to the Commission prior to the April
4 hearing. They could send it any time and should there be
5 emergency type changes with those bonds, we would greatly
6 appreciate that, why, we can bring it to your attention.
7 But this is reviewed and I would think that's the
8 appropriate time to do it.

9 CHAIRMAN ANDERSON: Thank you.

10 Logan.

11 COMMISSIONER MacMILLAN: Is it appropriate now
12 to entertain motions?

13 CHAIRMAN ANDERSON: I think so.

14 COMMISSIONER MacMILLAN: I move that we deny
15 the request to shut in the Weaselskin No. 1 Well, Docket
16 No. 9-33, and that we request of staff in their normal
17 annual operations that the Weaselskin No. 1 Well be
18 brought up for its annual review presumably April, 1993,
19 for specific review.

20 CHAIRMAN ANDERSON: All right.

21 COMMISSIONER CAMPBELL: Second.

22 CHAIRMAN ANDERSON: All right. It's been
23 moved and seconded that the application be denied.
24 Denial is based, however, on the understanding that this
25 well presumably, with all the other wells that are in the

1 same category, would be subjected to annual review which
2 is--should happen in April. Is that all right? Okay.
3 All right. We have a motion that's been seconded.
4 Motion has been made and seconded. All those in favor,
5 signify by saying aye.

6 (All commissioners responded by saying aye.)

7 CHAIRMAN ANDERSON: Those opposed, same sign.
8 The application is denied.

9 (Thereupon this portion of the proceedings was
10 concluded.)

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1 STATE OF COLORADO)

2) ss. REPORTER'S CERTIFICATE

3 COUNTY OF DENVER)

4 I, Karen M. Carter, do hereby certify that
5 I am a Registered Professional Reporter and Notary Public
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7 I further certify that these proceedings were
8 taken in shorthand by me at the time and place herein set
9 forth and was thereafter reduced to typewritten form, and
10 that the foregoing constitutes a true and correct
11 transcript and that I am neither attorney nor counsel,
12 nor in any way connected with any attorney or counsel for
13 any of the parties to said action or otherwise interested
14 in the event.

15 In witness whereof, I have affixed my
16 signature this 14th day of October, 1992.

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Karen Carter
PATTERSON REPORTING SERVICE
Karen M. Carter
Registered Professional Reporter
and Notary Public