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1

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

JUN 18 1997

3
4 IN THE MATTER OF THE REQUEST TO FIND) CAUSE NO. 1
5 JOHN H. CHILSON THE "RESPONSIBLE) Docket 2-1-12
6 PARTY FOR THE PLUGGING AND ABANDONMENT)
7 OF THE CHILSON NO. 16-1 WELL AND FIND)
8 MR. CHILSON IN VIOLATION OF RULE NOS.) 1.66
9 304, 312, 319.B.3 AND 326.B.1 IN)
10 LARIMER COUNTY, COLORADO) 1 of 6

11 PURSUANT TO NOTICE to all parties in
12 interest, the above-entitled matter came duly on
13 for hearing at the offices of the Colorado Oil and
14 Gas Conservation Commission, Room 801, 1120 Lincoln,
15 Street, Denver Colorado 80203, on Monday,
16 February 11, 1997, commencing at 8:30 a.m.

17 BEFORE:

18 CHAIRMAN ALLAN HEINLE

19 VICE CHAIR MIKE MATHESON

20 COMMISSIONER LOGAN MacMILLAN

21 COMMISSIONER CAROLINE BLACKWELL

22 COMMISSIONER BRUCE JOHNSON

23 COMMISSIONER CLAUDIA REBNE

24 COMMISSIONER MARLA WILLIAMS

25 Richard Griebeling, Director

Brian Macke, Deputy Director

Patricia Beaver, Manager of Commissioner Affairs

1 CHAIRMAN HEINLE: We're back on record.
2 The next item on the agenda is Cause No.
3 1, Docket No. 2-1-12, Larimer County. This is a
4 matter brought forward by staff, and it's a request to
5 find Mr. John Chilson the responsible party for
6 plugging and abandonment of the Chilson No. 16-1 well,
7 and find Mr. Chilson in violation of Rules No. 304,
8 312, 319.b, subparagraph three, and 326.b,
9 subparagraph 1, assessing the fine of \$3,250.00.

10 This was a matter that was continued
11 from the January hearing. Mr. Chilson, you are here.
12 Come forward, please. And I guess the way we'll
13 proceed here is we'll have Mr. Shelton, I assume, from
14 staff, will be presenting the matter. And,
15 Mr. Chilson, you will have an opportunity to respond
16 and provide any information that you would like.
17 Before I get started, I would like to swear you in.

18 MR. CHILSON: Yes. Thank you. May I
19 start with a couple of questions?

20 CHAIRMAN HEINLE: Certainly.

21 MR. CHILSON: I've never been here
22 before, never. I'm not an oil and gas person, but, I
23 am being charged. I guess this proceeding is to let
24 me -- to prove I had a fine. That's the potential; is
25 that right?

1 CHAIRMAN HEINLE: There's two parts.
2 One is to find -- to determine whether you are the
3 party that should be responsible for plugging and
4 abandoning the Chilson No. 16-1 well. That's the
5 first part. Then the second part is one of finding a
6 violation against certain rules of the commission and
7 what the staff is going to -- will do is they will
8 present their case, if you will. The commissioners
9 and you will have an opportunity to cross examine
10 them. Then you have the opportunity to provide
11 whatever information you have, or would like to
12 present. The commissioners will probably be
13 questioning and then the commission will come to some
14 decision as to whether, one, you are the appropriate
15 responsible party. Then, two, whether the fines are
16 appropriate to be levied.

17 MR. CHILSON: Okay.

18 CHAIRMAN HEINLE: So, like I said, I
19 will give you an opportunity to cross examine and
20 question staff. Mr. Chilson, you are an attorney?

21 MR. CHILSON: Yes, I am.

22 CHAIRMAN HEINLE: Okay. Very good. So,
23 you probably got a better legal foundation on some of
24 the stuff than I do.

25 MR. CHILSON: Not in this ballpark here.

1 CHAIRMAN HEINLE: Other procedures are
2 not that dissimilar. You were here yesterday. You
3 saw the procedure that we're using, so, it's not that
4 different, perhaps, from the court, in terms of direct
5 and cross and so forth. Rich, is Mr. Shelton going to
6 be your --

7 MR. GRIEBLING: Yes. Primary witness.

8 CHAIRMAN HEINLE: Is he going to be
9 presenting the case?

10 MR. GRIEBLING: Yes.

11 CHAIRMAN HEINLE: Why don't I go ahead
12 and swear you in too.

13 (Whereupon the witness was sworn.)

14 CHAIRMAN HEINLE: Okay. All right.
15 Rich.

16 MR. GRIEBLING: I will just go ahead and
17 turn it over to Dave.

18 MR. SHELTON: Okay. Do you want a brief
19 summary at this point?

20 CHAIRMAN HEINLE: Why don't you run down
21 the facts and what the staff is asking the commission.

22 MR. SHELTON: Okay. The Chilson 16-1 is
23 the well in question. This well was operated by
24 Phoenix Petroleum in the mid-'80s. Phoenix apparently
25 went bankrupt, and owed back taxes to Larimer County.

1 The Larimer county treasurer sold the well to Jenex
2 Petroleum in 1987 at a tax sale to recover back taxes.
3 Jenex Petroleum submitted a Form 10 to the commission.
4 They were a properly bonded operator, and they did
5 operate the well for a few months in 1987.

6 Mr. John Chilson, who is the landowner
7 and mineral holder, sued Jenex Petroleum, Larimer
8 County treasurer and some other parties saying,
9 basically, that he owns the well and that the
10 treasurer of Larimer County did not have the right to
11 sell his mineral interests as part of the tax sale;
12 thereby voiding Jenex's right to operate the well.

13 In 1990, Jenex and Mr. Chilson came to
14 an agreement to quiet title and Jenex basically
15 removed some of the equipment that they brought on,
16 had no further operations on the well.

17 MR. MONAHAN: Was the county part of
18 that agreement as well?

19 MR. SHELTON: I am not sure of that. I
20 believe that they were. I think that all of the
21 issues were resolved, or payments made, and not being
22 a lawyer, it's kind of hard for me to sort through
23 exactly what all took place and what was actually
24 agreed to.

25 From 1990 to 1994, the staff had various

1 correspondence with Mr. Chilson and Jenex, and in an
2 attempt to resolve the problem, and, basically, it was
3 Jenex's position that they were no longer the
4 operator. They no longer had a right to do anything
5 to the well. That, basically, it was Mr. Chilson's
6 well. And in February of '96, in an effort to resolve
7 the dispute, I issued notice of the alleged violation
8 to both Mr. Chilson and Jenex, and, basically, got the
9 same response that we have been getting for years,
10 Jenex stipulating that they would be willing to work
11 with the commission to get the well plugged, but that
12 they really had no right to do anything to the well.

13 MR. MONAHAN: What was Mr. Chilson's
14 response to that notice?

15 MR. SHELTON: Mr. Chilson's basic
16 response was that he didn't feel that he owned the
17 well. His position was that, in his lawsuit against
18 Jenex and Larimer County, that he was just suing to
19 obtain his mineral rights back; that the treasurer did
20 not have a right to sell the mineral rights to Jenex;
21 and that he never intended to take over as owner of
22 the well.

23 Later, in '96, Lori Coulter with the
24 AG's office, sent a settlement proposal to both
25 parties, and Lori basically stipulated that both

1 parties be 50 percent responsible for the plugging of
2 the well, and asked them to come to an -- that
3 agreement, and get the well plugged. Jenex was
4 willing to do so. Mr. Chilson did not sign any
5 agreement. And then, in December of '96, it became
6 clear to me that, without some type of written
7 agreement, written signatures on some type of an
8 agreement, that we would not get the well plugged
9 without commission hearings.

10 So, I basically wrote out what I wanted
11 each party to be responsible for, which was basically
12 the 50-50 proposition that Lori proposed, with some
13 additional wording on who would be responsible for
14 surface reclamation, that type of thing, and asked
15 both parties to sign that. Again, Jenex signed. They
16 were willing to coordinate with the plugging
17 contractor and have the well plugged. Mr. Chilson did
18 not want to sign, so, the matter was docketed for the
19 January 1997 hearing, and we were ready to go to
20 hearing at that time.

21 Mr. Chilson called on that day and
22 informed the staff he could not make it to the
23 hearing. We were going to go ahead with the
24 procedures, and, at that point, Mr. Chilson indicated
25 that he would sign the agreement. So, with a slight

1 modification -- and I obtained approval from Jenex to
2 go ahead with the slightly modified agreement -- faxed
3 a copy to Mr. Chilson at which time he expressed an
4 additional concern, and, at that point I decided that
5 it just needed to go to commissioner hearing for a
6 ruling.

7 CHAIRMAN HEINLE: Any questions from the
8 commissioners of Mr. Shelton?

9 MR. MONAHAN: Mr. Shelton, when was
10 this -- when did production cease from this particular
11 well?

12 MR. SHELTON: Sometime in 1987, if I
13 remember correctly. It was -- the last reported
14 production to us was November of 1987.

15 MR. MONAHAN: No production?

16 MR. SHELTON: Yes.

17 MR. MONAHAN: Has the commission
18 received a request for shut-in or temporary
19 abandonment status?

20 MR. SHELTON: Not yet, we have not.

21 MR. MONAHAN: You said that the last
22 Form 10 that was on file was filed by Jenex?

23 MR. SHELTON: Correct.

24 MR. MONAHAN: Has a Form 10 been filed
25 indicating Mr. Chilson is the owner-operator of this

1 well?

2 MR. SHELTON: No.

3 MR. MONAHAN: To your knowledge, has the
4 well been plugged in correspondence with oil and gas
5 conservation commission standards?

6 MR. SHELTON: We have no evidence that
7 the well has been plugged. There's still a wellhead
8 that exists, and it looks like it's just a shut-in,
9 temporarily abandoned well, without any production
10 equipment on site.

11 CHAIRMAN HEINLE: Is there a plugging
12 bond that's applicable to this particular well filed
13 by either Jenex or Mr. Chilson?

14 MR. SHELTON: We have never released
15 Jenex from their responsibility for this well? So,
16 Jenex does still have the valid \$30,000 plugging bond
17 with this commission.

18 MR. MONAHAN: That's a statewide bond?

19 MR. SHELTON: Yes, sir.

20 CHAIRMAN HEINLE: As I understand, they
21 are the last operator of record.

22 MR. SHELTON: Correct.

23 MR. MONAHAN: Do you know if a
24 mechanical integrity test has been performed on this
25 well since it was evidently shut-in in 1987?

1 MR. SHELTON: Apparently not. We have
2 gotten no paperwork indicating that the mechanical
3 integrity test was done, and I received no
4 notification that it was done.

5 CHAIRMAN HEINLE: Any further questions?

6 MR. MONAHAN: No.

7 CHAIRMAN HEINLE: Commissioner Matheson.

8 COMMISSIONER MATHESON: Your sequence of
9 events tells that us that -- is it being used as a
10 domestic gas supply well?

11 MR. SHELTON: One of the documents that
12 was part of the original lawsuit brought by
13 Mr. Chilson, let's see, back on page 42 of the
14 complaint and quiet title, declaratory judgment and
15 damages, it does stipulate that he installed the gas
16 line on the property, which did not belong to Phoenix
17 Petroleum, which was the company that went bankrupt.
18 And that said the pipe delivers gas to the residence
19 dwelling on plaintiff's property.

20 So, in Mr. Chilson's lawsuit, he did
21 stipulate that he installed a flow line and was using
22 the well for domestic purposes.

23 COMMISSIONER MATHESON: If the well
24 underwent an MIT satisfactory, could that practice
25 continue or could the well be brought back onto

1 production?

2 MR. SHELTON: Well, if it's being used
3 for a domestic gas source, then the mechanical
4 integrity clause would be invalid, because we consider
5 that to be -- we consider a domestic well to be an
6 active producer, and as long as it's properly bonded,
7 then we would waive the MIT requirement, as long as
8 the domestic owner was submitting the necessary
9 paperwork to us. They do have to report production on
10 the Form 7s, like a normal operator would.

11 MR. GRIEBLING: If I could, in answer to
12 your question, Commissioner Matheson, I would refer
13 you to page 22, copy of the notice of alleged
14 violation, and the pass an MIT and proposed abatement
15 action. At this point in time, when the well was not
16 producing, NOAV provided that if, one, you pass a
17 mechanical integrity test, and two, it's been properly
18 plugged and abandoned, or, three, put back on
19 production with certain requirements, such as form
20 being filed, bond being sent; is that reasonable?

21 MR. SHELTON: Right. In a situation
22 like this, where you were not getting any paperwork or
23 anything, you just make an assumption, based on your
24 inspection, the well looked like it was temporarily
25 abandoned, was incapable of production, and had not

1 been producing. You cannot say with 100 percent
2 certainty. It could be flowing some gas up the casing
3 and going somewhere.

4 So, when we are in a situation like
5 this, usually we'll issue an NOAV, with a lot of
6 either-or stipulations, trying to cover all of the
7 rules and regulations that might apply.

8 CHAIRMAN HEINLE: Commissioner Williams.

9 COMMISSIONER WILLIAMS: What is your
10 basis for concluding that Mr. Chilson is the operator
11 of the well?

12 MR. SHELTON: The fact that he
13 stipulated that he was -- he denies all flow line --
14 using the well for domestic gas purposes, per the
15 statute, that defines him as a operator; the fact that
16 he sued to gain possession of the well and --

17 COMMISSIONER WILLIAMS: Was that suit
18 successful?

19 MR. SHELTON: They settled.

20 COMMISSIONER WILLIAMS: What were the
21 terms of the settlement?

22 MR. SHELTON: Well, it condemned all of
23 the flow line.

24 MR. MONAHAN: I looked at the packet
25 that was provided. I think the staff is relying,

1 essentially, on an admission against interests by
2 Mr. Chilson with regard to ownership of the rights to
3 produce and operate that particular well, or that
4 particular area. He has claimed, throughout the
5 litigation, that he is the party that has the right to
6 produce it and no one else has the right to produce
7 it. I think that was incorporated into the settlement
8 between Mr. Chilson and Jenex. Jenex has, in fact,
9 acquiesced in the fact that Mr. Chilson has the right
10 to operate or produce that particular piece of ground.

11 COMMISSIONER WILLIAMS: We just received
12 these materials, so I haven't -- where is that
13 settlement provision that gives ownership of the well
14 to Mr. Chilson?

15 MR. CHILSON: May I ask a question?

16 CHAIRMAN HEINLE: Certainly.

17 MR. CHILSON: This gentleman is who?

18 CHAIRMAN HEINLE: This is Mr. Monahan.

19 He is the representative from the attorney general's
20 office, for the State of Colorado.

21 MR. CHILSON: Do we object in these
22 proceedings?

23 MR. MONAHAN: You certainly can.

24 MR. CHILSON: Then, I want to object,
25 because what he stated totally mischaracterizes the

1 documents.

2 CHAIRMAN HEINLE: I am going to give you
3 an opportunity for --

4 MR. CHILSON: The documents should speak
5 for themselves, so I object to counsel
6 mischaracterizing what the documents, in fact, say.

7 COMMISSIONER WILLIAMS: He was
8 characterizing that as staff's position, and, as our
9 lawyer, we have to rely on him to do that. You will
10 have your chance.

11 MR. CHILSON: As long as he is
12 characterizing what the staff is saying, not the
13 documents, I don't have an objection.

14 CHAIRMAN HEINLE: As soon as we're done
15 with Mr. Chilson, I would give you an opportunity to
16 present your case, speaking. I am sure you will be
17 questioned by commissioners.

18 MR. MONAHAN: If you look at what starts
19 on page 45.

20 MR. SHELTON: I was going to say the
21 stipulation on page 45, which was presented on behalf
22 of John Chilson as plaintiff.

23 MR. MONAHAN: I also think it's
24 instructive to look at the complaint, quiet title,
25 prejudgment of damages, which begins on page 39.

1 COMMISSIONER WILLIAMS: I am just
2 asking, what he alleges he owns and what a court might
3 determine he owns could be two different things. If
4 we don't have court determination, I want to know, did
5 the parties resolve it between themselves. So I am
6 looking at a stipulation between Chilson and Jenex
7 that is executed by -- those were the lawyers for
8 Mr. Chilson?

9 MR. MONAHAN: (Nodding in the
10 affirmative.)

11 COMMISSIONER WILLIAMS: And is part -- I
12 want to read the part I can't read.

13 MR. SHELTON: Which part -- is that page
14 45?

15 COMMISSIONER WILLIAMS: Yes.

16 MR. SHELTON: That is one place where
17 the plaintiff, John Chilson, has stated that plaintiff
18 is -- someone has written in "currently," and
19 initialed -- is currently the owner of the oil and gas
20 well known as the Chilson 16-1 well, located in
21 Larimer County, Colorado. It didn't say anything
22 about the owner, the mineral rights or his wanting to
23 get the mineral rights. He says he is the owner of
24 the well.

25 COMMISSIONER BLACKWELL: Do we have a

1 signed stipulation? This one doesn't look like it's
2 fully executed.

3 MR. SHELTON: I never received anything.
4 You know, this thing is ten years old. That was one
5 problem I was dealing with, was that I was getting
6 bits and pieces of various documents. Some of them
7 were signed. Some of them were not signed, and I was
8 just not able to obtain --

9 COMMISSIONER BLACKWELL: Do you have any
10 executed document that indicates that Chilson
11 stipulated that he was an owner of this well?

12 MR. SHELTON: Well, I would assume that
13 this is a valid document. Even -- it is signed by
14 Mr. Jenson, with Jenex. He did receive a copy of it.
15 So, I assume it was presented to him for signature.
16 And it looks like it was prepared by Mr. Chilson's
17 attorneys, so --

18 COMMISSIONER BLACKWELL: Does it have
19 their signature? It doesn't.

20 MR. SHELTON: It does not, no.

21 COMMISSIONER BLACKWELL: My concern in
22 relying on the document, I guess. Do you have any
23 other documents?

24 MR. SHELTON: I do not.

25 MR. MONAHAN: Well, I think if you will

1 look at the quiet title, that is, in fact, signed by
2 Mr. Chilson, and does contain numerous allegations
3 regarding his ownership.

4 COMMISSIONER BLACKWELL: What page is
5 that on?

6 MR. MONAHAN: That begins on page 39.
7 Claim for quiet title.

8 CHAIRMAN HEINLE: I might just address,
9 while the commissioners are reading, I think, for
10 future purposes, that I don't know when this package
11 was put together, but for future hearings, it would be
12 helpful if we could get the information prior to the
13 time, in advance -- if we would have gotten it
14 yesterday, for example. You may not have known that
15 it was going to be heard today. We could have taken
16 it home. Had the evening and read it, so, to the
17 extent that can --

18 MR. SHELTON: It was prepared for the
19 January hearing. So, I have had it. I wish I would
20 have known.

21 CHAIRMAN HEINLE: If it was that far in
22 advance, just as a matter of practice, on any of these
23 matters. I think that the further in advance we can
24 get the material, that's the less time we have to
25 take.

1 MR. MONAHAN: What's the location of the
2 Chilson 16 -- the legal location?

3 MR. SHELTON: Northwest northwest of 5
4 North 68 West.

5 COMMISSIONER BLACKWELL: 16, did you
6 say?

7 MR. SHELTON: Yes. Section 16.

8 CHAIRMAN HEINLE: Any others questions
9 of Mr. Chilson at this time? I guess not. Okay.
10 Mr. Chilson.

11 MR. CHILSON: First, beginning, what I
12 am going to do is move to dismiss any claim that I
13 have violated any of the rules as operator. There's
14 been no testimony by staff. There's nothing in the
15 memorandums.

16 CHAIRMAN HEINLE: It doesn't excuse --

17 MR. CHILSON: There's no testimony by
18 staff, there's nothing in the documents presented to
19 you that indicated that I had ever stated that I was
20 or agreed to become the operator of this well. The
21 simple fact of building a flow line to the well
22 without evidence as to when that was done, when the
23 well was in operation, by whom the well was operated,
24 under what terms of agreement the flow line to take
25 gas from the well was made, is insufficient to

1 establish me as exercising the right to conduct oil
2 and gas operations, which is the definition of an
3 operator.

4 There's, under the circumstances,
5 absolutely nothing I can document or testimony that at
6 any time did I become an operator or did I exercise a
7 right to control the conduct of the oil and gas
8 operation, as that term is defined in the statute.
9 That term says conduct of oil and gas operations means
10 exploration, conduct of seismic operations, drilling,
11 deepening, recompletion, reworking, abandonment,
12 production operations related to any such well,
13 including installation of flow lines and gathering
14 systems.

15 Now, without evidence that I installed
16 this flow line at the time I had controlled the
17 conduct of the production of this well does not make
18 me an operator. I never was. Therefore, I move to
19 dismiss that part right now, if such a notion is
20 proper. I don't know if you will do this here. I
21 guess I am just trying to do what I think you
22 ordinarily do. I do some work in front of planning
23 and zoning boards. That's the nature of my practice.
24 I don't know. You operate under a different set of
25 rules, your state agency -- I mean, municipality.

1 CHAIRMAN HEINLE: I certainly -- I
2 think, certainly, at the heart of the matter is the
3 determination of whether you are the operator of the
4 well. I think that Commissioner Williams brought that
5 up. I think that's the road we're going down right
6 now.

7 What I would like to do, at this point,
8 if you have additional testimony you would like to
9 provide later on, I will certainly grant that, but I
10 think we have to get past this first hurdle. I am
11 sure there is some questions that the commissioners
12 might want to ask you at this time, and so I am going
13 to open it up for questions. Commissioner Williams.

14 COMMISSIONER WILLIAMS: I guess my
15 questions really go directly to, No. 1, do you claim
16 to own this well today, as we sit here?

17 MR. CHILSON: Yeah. I think I am the
18 owner. I don't know. It looks -- I must be. I don't
19 know these statutes. I am not familiar with this
20 field.

21 Let me tell you what happened here. My
22 interests in this, first of all, is I have never been
23 an operator, but, you have need to get the well
24 capped. I have need to get the well capped, and get
25 the gas hooked up. It's been sitting there for all

1 these years, and I think our interests are the same.
2 I think the only question before us is who should do
3 that. So, having made my portion, if it's all right,
4 I will go back and lead you through what happened, if
5 this is the appropriate time to do it. Should I be
6 just answering questions based upon staff's
7 presentation?

8 COMMISSIONER WILLIAMS: Mr. Chairman, I
9 think, since determining the operator is the heart of
10 the matter, anything you want to add to that
11 particular -- excuse me -- to that particular item,
12 right now, go ahead and do that. I think there are a
13 number of questions that the commissioners want
14 answered, but if there's something you would like to
15 address relative to that point, yeah, go, ahead.

16 MR. CHILSON: Okay. Can we go back to
17 your question? Would you restate your question?

18 COMMISSIONER WILLIAMS: Do you own the
19 well?

20 MR. CHILSON: I guess I do. I am not
21 sure, but having now read your regulations, it looks
22 like I am in a position of being owner, yeah.

23 COMMISSIONER WILLIAMS: I guess I asked
24 my question, not in light of our regulations, but in
25 light of property law of the State of Colorado, did

1 you consider yourself the owner of the well?

2 MR. CHILSON: No, I really don't. I
3 consider myself to have been, at all times, the owner
4 of the land and owner of the mineral rights, which I
5 leased to Phoenix Petroleum. And I had a lease with
6 them, and they went belly up, and disappeared. We
7 couldn't find them. I mean, I still, to this day, I
8 don't know where they went. They didn't pay their
9 taxes on the equipment. The county levied and
10 restrained the equipment, and then sold it at tax
11 sale. I didn't get any notice of that sale. They
12 never notified me that they were having a tax sale.

13 COMMISSIONER WILLIAMS: In the material,
14 there's a stipulation which you -- that one of the
15 recitations in that stipulation is that you are the
16 owner of the well and this appears to be a stipulation
17 that was entered into in 1989.

18 MR. CHILSON: Which page is that?

19 COMMISSIONER WILLIAMS: In our
20 materials, it would be 45, and it's a little bit
21 obliterated. I think you can read through that.

22 MR. CHILSON: I have a copy I can
23 furnish you, and I can read for you what that
24 particular document said. Paragraph 1 says the
25 plaintiff is currently the owner of the oil and gas

1 well known as the Chilson 16-1 well, located in
2 Larimer County, Colorado. That's what that says, yes.

3 COMMISSIONER WILLIAMS: Yeah. When you
4 made this statement in 1989, it was true?

5 MR. CHILSON: Yeah. Except I didn't
6 know what an owner meant in oil and gas terms. This
7 case was over real property.

8 COMMISSIONER WILLIAMS: I am not asking
9 about operators. I am asking about ownership here.
10 If someone came in in the night and stole that well,
11 would you consider yourself robbed?

12 MR. CHILSON: No, I don't.

13 COMMISSIONER WILLIAMS: If Jenex came in
14 and took the equipment, that would be theirs to take?

15 MR. CHILSON: Yes.

16 COMMISSIONER WILLIAMS: What did you
17 mean when you said you were the owner of the well
18 here?

19 MR. CHILSON: That I was the owner of
20 the land; that the outfit that had leased it had gone
21 away; that Jenex had acquired the pumping equipment
22 and the tanks through a tax sale, okay, and that was
23 theirs. They were trespassing on my property when
24 they started operating again. I had no lease with
25 them. I had no agreement with them that they could

1 come in and start pumping that well, okay. They just
2 appeared on the scene, and because the pumps were
3 there, they started pumping oil, and in claiming to be
4 the owner, my concept was they had no right to be on
5 my property operating this well, earning this well,
6 running this well.

7 COMMISSIONER WILLIAMS: That was what
8 the lawsuit was about, to try and settle those issues?

9 MR. CHILSON: The lawsuit was bought --
10 three things. First of all, to terminate Phoenix's
11 lease, because they had disappeared. The lease was
12 recorded; and, therefore, I had to quiet title against
13 Phoenix. They had just walked off and abandoned the
14 thing.

15 Second thing I had to do, the treasurer
16 of Larimer County, when she issued the Certificate of
17 Purchase on the equipment, inserted a clause that I
18 have never ever seen before in a Certificate of
19 Purchase, including not only the equipment but all
20 future production from the well, well, future
21 production from the well means the oil that's down in
22 the ground, that's my -- under my land. Well, the
23 county has no -- cannot tax oil in place in the
24 ground, first of all. It has no lien on oil in place
25 in the ground, and it had no legal right to purport to

1 sell to Jenex all of the oil and gas down there under
2 my land.

3 COMMISSIONER WILLIAMS: I understand
4 that.

5 MR. CHILSON: So, I had to knock that
6 out.

7 COMMISSIONER MATHESON: What was the
8 resolution of that lawsuit?

9 MR. CHILSON: The treasurer stipulated
10 that it did not have the authority to have sold the
11 future production on the well to Jenex. There was a
12 big dispute over who owed what amount of taxes on
13 production that had occurred from the well, both
14 during the time that Phoenix had operated and during
15 the time that Jenex had operated, and who owed those
16 taxes. We arrived at a settlement on the amount of
17 money that was to be paid to the treasurer, and who
18 paid it. Jenex paid part of it. I paid part of it.
19 Part of it was satisfied by the money that the county
20 got from Jenex when they bought the pumping equipment
21 on the well.

22 The third battle, then, was between
23 myself and Jenex. No. 1, to get them out of there;
24 and, No. 2, there was oil in the tanks at the time
25 that Phoenix went belly up. It just sat there. It

1 sat there for a period of five to six months, because
2 the Phoenix people just disappeared. When I first
3 drove by and saw the wells pumping again, I thought
4 somebody from Jenex had come back. There was nobody
5 around -- or not from Jenex, from Phoenix. So, I
6 again tried to make contact. Nobody from Phoenix is
7 around.

8 So, finally I catch a guy out there on
9 the well. I do not live on this property. This is a
10 farm that I own, but I don't live on. I was driving
11 by one day. Here's a guy out at the well. The pumper
12 is going up and down. I drive in and he is operating
13 the pumper for Jenex. This is the first time I know
14 who's doing this. Who is running the pumps? He tells
15 me it's Jenex Petroleum. He gives me a phone number,
16 and I call them. I go, after that, I went over to the
17 tanks, just to check all of the oil that was -- there
18 was almost a full tank -- is gone. It's just gone.
19 So, I called Jenex. I said, what happened to the oil
20 that was in the tanks? We don't know. We didn't do
21 anything with it. How are you in here? Why are you
22 pumping this well? We bought the well at a tax sale.
23 Oh, when did that happen? Well, that happened about a
24 month ago.

25 COMMISSIONER WILLIAMS: I am sorry. I

1 don't mean to cut you off, but my question was really
2 more specific. I know that you disagreed with Jenex
3 about whether or not the treasurer's tax deed was
4 valid as to your mineral interests. My question is
5 much simpler than that. My question is simply, how
6 did you and Jenex resolve that? What was the
7 resolution, because, as I read a stipulation in here,
8 that it says you were the owner of the well. That's
9 what it said. I don't know. You may have meant
10 something else, but that's what it says. You are the
11 owner of the well. And Jenex is saying they don't
12 have any right to -- they don't own the well. They
13 don't have the right to your minerals, so you all must
14 have reached an agreement or the court entered an
15 order specific --

16 MR. CHILSON: We did.

17 COMMISSIONER WILLIAMS: I want to know
18 which it is, and what it said. Very narrow question.

19 MR. CHILSON: Am I owner of the well?

20 COMMISSIONER WILLIAMS: That wasn't my
21 question. My question, now, what's the resolution of
22 your quiet title lawsuit? Do we have a document in
23 front of us, that settlement agreement or document
24 that says what you guys agreed to?

25 MR. CHILSON: Here's what the resolution

1 of the lawsuit was. Jenex, during the pendency of the
2 case, claims between me and Jenex, were accounting for
3 the oil that was produced on the property and the oil
4 that was in the tanks that was removed. The second
5 issue was whether or not they had a right to continue
6 on the property to operate the well. Okay. And the
7 third was what happens when they get off. Now, not
8 necessarily in order of importance, just how I
9 remember it. Those are the issues.

10 How were they resolved? Jenex wrote me
11 a letter said, okay, we will get off. We will agree
12 to get off. We will give you a quitclaim deed to the
13 property and the well, and we agree to get off. That
14 was the first thing that -- agreement that was
15 reached. The second agreement that was reached was
16 that when we get off, we will give you the option of
17 either keeping the casing and becoming the operator of
18 the well, and doing whatever, or at such time as you
19 desire, we will come in, we will pull the casing and
20 we will plug the well, clean it up.

21 COMMISSIONER WILLIAMS: That was via
22 letter?

23 MR. CHILSON: Yes.

24 COMMISSIONER WILLIAMS: Do you have a
25 copy of that?

1 MR. CHILSON: Yes. I have copies of all
2 of that. What I want to do, if I may put this all
3 in -- I gather we're making a record here. I have all
4 of these things to be marked in the order in which
5 they occurred. Do you want me to pull that out and
6 show you that letter right now?

7 COMMISSIONER WILLIAMS: This is the crux
8 of the matter here, is whether he -- not so much that
9 the deal with Jenex is important, but, I guess what I
10 want to know here, Mr. Chairman, is whether -- how we
11 proceed is up to you -- but if we're going to say --
12 if there's a determination he's operator of the well,
13 we have to agree -- we have to have a basis for that.
14 I guess the allegations of his complaint, while they
15 might be relevant, I don't think it's the final word
16 of what the ultimate legal resolution of that question
17 is.

18 So, if he has language in there where
19 Jenex, as part of their settlement, retained
20 obligation to plug the well, I think that's relevant,
21 and I would like to see that. I think we all agree.

22 COMMISSIONER JOHNSON: Especially if it
23 was agreed to and they accepted their letter.

24 MR. SHELTON: I don't think Jenex has
25 ever tried to get out of their -- I won't say

1 responsibility, because I am not really sure they are
2 responsible for it, but they have always been willing
3 to go in and plug this well, and they are -- their
4 argument was that they had no right to do anything on
5 that property without Mr. Chilson's approval. And
6 Mr. Chilson is the one that signed the agreement,
7 which I think we can get the well plugged for nothing,
8 basically, but, he's the one that signed the
9 agreement. Because there was a chance that it might
10 cost him some money, the way the agreement was
11 written --

12 MR. CHILSON: That's not exactly
13 accurate. The agreement that was proposed by staff
14 was to pull the casing use, the value of the casing to
15 get somebody to plug the well, which I fully agreed
16 with. But it was then that all of the responsibility
17 of restoring the site was mine. Jenex wasn't going
18 for participate in that at all, and that's what I
19 objected to, and that's why I am here.

20 CHAIRMAN HEINLE: I think this letter is
21 important that you're referring to. It depends on
22 what they said they would do, or what the letter says.
23 Could you make some copies of it?

24 COMMISSIONER WILLIAMS: Is the quitclaim
25 deed attached? Yes.



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1 MR. CHILSON: It's there someplace. Can
2 I get a glass of water?

3 MR. MONAHAN: Mr. Chilson -- another
4 thing I might point out, Mr. Chairman, it appears that
5 the commission is drawing a distinction between owners
6 and operators, and the regulations may be somewhat
7 confusing in that regard, because I believe that they
8 use the terms interchangeably. In fact, some of the
9 regulations that are cited as violations here cite to
10 owners having the responsibility. And there are, in
11 fact, other regulations that cite to operators as
12 having the responsibility, but, an operator is defined
13 under your particular regulation -- and it's
14 Regulation 301, it's not defined specifically -- but
15 it refers to a person who has been designated as an
16 operator by the owner or the owners of the lease for
17 the well. So, I think that now, you know, in many
18 instances his responsibilities flow both to the
19 owner-operator, and it's not simply for only the two.
20 It's a party that's going to be defined as the
21 operator of the well.

22 CHAIRMAN HEINLE: Well, while we're
23 waiting, Mr. Chilson, perhaps I could ask a question.

24 MR. CHILSON: Sure.

25 CHAIRMAN HEINLE: When Director

1 Griebeling comes back in, in the middle, just go on. I
2 guess the question I have got for you is, did you lay
3 a gathering line or a flow line from the well --

4 MR. CHILSON: I didn't do that. Here's
5 what happened.

6 CHAIRMAN HEINLE: -- for your use?

7 MR. CHILSON: Phoenix put it in for me.

8 CHAIRMAN HEINLE: So, the well was --

9 MR. CHILSON: At the time the well was
10 operating, Phoenix put a line in, said, do you want
11 some gas for your house over here, because we can't --
12 we have nowhere to go with the gas. We're just
13 flaring it.

14 CHAIRMAN HEINLE: That particular flow
15 line had been in for some time.

16 MR. CHILSON: It was put in while
17 Phoenix operated it, yes. They put it in. And you
18 have to get some piece of equipment at the house -- I
19 don't even know what it did -- but, that piece of
20 equipment was what made the thing work. It did
21 something to the gas, somehow. We could never get it
22 to work. It never ever did work. The reason I put
23 that in my complaint was to show the court that -- the
24 wrongness of what the county did in selling everything
25 out there, including future production and all lines

1 because, they didn't own all of that. All right?

2 CHAIRMAN HEINLE: Did you ever use the
3 gas from the well for domestic use?

4 MR. CHILSON: No. We tried it. We
5 tried it. It never did work. And I can -- if you
6 want, I can give you my Public Service Company bills
7 all of the way through that period of time.

8 COMMISSIONER WILLIAMS: That line was
9 installed at your expense?

10 MR. CHILSON: Yes. I paid for the line.
11 They put it in.

12 COMMISSIONER WILLIAMS: They actually
13 did the work?

14 MR. CHILSON: Yes.

15 COMMISSIONER WILLIAMS: That was your
16 understanding; that that was under the -- this was
17 with Phoenix, right?

18 MR. CHILSON: Yes.

19 COMMISSIONER WILLIAMS: That was under
20 the domestic gas use clause of your lease?

21 MR. CHILSON: Yes, right.

22 COMMISSIONER WILLIAMS: Okay. What was
23 your response -- this letter, Mr. Chilson, did you
24 give a written response to this letter?

25 MR. CHILSON: No. I called Mr. Jensen.

1 I said that will be fine. That will eliminate the
2 issues as far as --

3 COMMISSIONER WILLIAMS: When you say
4 that will be fine, there's an option in this letter.
5 They say you can do -- we will be pleased to do one of
6 two things. If you desire to keep the well, then we
7 will remove the remaining equipment and clean up the
8 well site, upon receipt, by you, of a full release and
9 dismissal of your claims. The other one is we also
10 will be pleased to remove the casing, plug and
11 abandon, and clean the well site, if you disavow any
12 future interest in the well, and give us a release to
13 that effect. Which of those did you do?

14 MR. CHILSON: Okay. I did the second,
15 because we still had pending claims that will be
16 unresolved at that time. So, I couldn't give a
17 dismissal of all claims. That subsequently did occur,
18 under the stipulation.

19 COMMISSIONER WILLIAMS: So, you view the
20 stipulation as the release to the effect that that --

21 MR. CHILSON: Then they could come in
22 and clean up the well, plug it, plug the well, and
23 clean it up.

24 COMMISSIONER WILLIAMS: This letter
25 says, if you disavow any further interest in the well,

1 then they will do this. But your release says, I own
2 the well. I don't see disavowal of that interest. I
3 think there's a little disconnect here.

4 MR. CHILSON: Well, this disavowal, why
5 would they come in and plug the well and clean it up
6 if I were to disavow any interest? In other words --

7 COMMISSIONER WILLIAMS: Well, if you are
8 going to claim the right to salvage value of the well,
9 they are not going to come in and clean it up. All
10 they were asking you to do is to release any interest
11 you might have in the well.

12 MR. CHILSON: I told them that's fine.
13 You pull the casing and plug the well, and clean up
14 the well site, and that's fine, we'll do that, but I
15 am not dismissing all of the other claims against you,
16 because we still hadn't had an accounting for all of
17 the oil that had been produced under the lease and the
18 oil that had been there before they came in and
19 started pumping.

20 COMMISSIONER WILLIAMS: Let me ask a
21 question back to the staff here.

22 CHAIRMAN HEINLE: Sure. Go ahead.

23 COMMISSIONER WILLIAMS: Let me -- I am
24 going to ask you a hypothetical question. I am not
25 trying to make your life difficult. Let's assume that

1 Jenex never entered into this arrangement. Let's
2 assume that Phoenix just disappeared, left this well,
3 this man's property, the lease terminated for lack of
4 production. Would it be your -- would you have
5 pursued Mr. Chilson to P&A that well?

6 MR. SHELTON: In that particular
7 scenario, we wouldn't have, because we would have an
8 operator of record, Phoenix. Mr. Chilson wouldn't
9 have filed the lawsuit to gain control of the well, or
10 the mineral rights, and, basically we would have used
11 Phoenix's bond to plug the well and restore the site.

12 COMMISSIONER WILLIAMS: Is the action
13 that caused you to release Phoenix's bond the filing
14 of the bond by Jenex?

15 MR. SHELTON: Correct.

16 MR. CHILSON: That's correct.

17 MR. SHELTON: Because, at the time Jenex
18 filed their Form 10, they were a valid operator. They
19 were bonded. We had no reason to believe that there
20 would be any problem with releasing Phoenix's bond.
21 That was done in 1987, I believe it was, as kind of
22 our position that by suing to gain control of the
23 well, then Mr. Chilson effectively removed Jenex's
24 right to do anything to the well.

25 COMMISSIONER WILLIAMS: Jenex offered in

1 came in and remove the well.

2 MR. CHILSON: No. The equipment.
3 They -- it was -- see, they had already removed.

4 COMMISSIONER WILLIAMS: The surface
5 equipment?

6 MR. CHILSON: The surface equipment.

7 COMMISSIONER WILLIAMS: We're talking
8 about the well.

9 MR. CHILSON: That was there. That was
10 never mine. I never made a claim to them.

11 COMMISSIONER WILLIAMS: But you filed a
12 lawsuit that said they didn't have any right, so they
13 got a deed that was a bum deed from the beginning.
14 How could they possibly become owner of the well? You
15 challenged their ownership to that well?

16 MR. CHILSON: I never thought that
17 necessarily they were owners. I don't know what
18 owners are. They were operators. They were the ones
19 who were producing the oil and gas. They were
20 operating the well.

21 COMMISSIONER WILLIAMS: Is Jenex still
22 willing to do this, to plug this well?

23 MR. SHELTON: They are. They signed an
24 agreement to be -- well, let's go back a little bit to
25 Lori's original settlement proposal, and she's --

1 look at their letters. Jenex says we aren't going to
2 do it. We aren't the operator anymore.

3 COMMISSIONER WILLIAMS: Jenex asked you
4 to do something, which was to give an indication that
5 you weren't claiming an interest in that well; that I
6 don't see any indication that you ever gave them that
7 assurance.

8 MR. CHILSON: This stipulation --

9 COMMISSIONER WILLIAMS: Says that I own
10 the well.

11 MR. CHILSON: -- says I own the well.

12 COMMISSIONER WILLIAMS: They asked you
13 to release your ownership interest in the well so they
14 could clean it up.

15 MR. CHILSON: That's not my
16 understanding of what they were asking.

17 COMMISSIONER WILLIAMS: I don't know how
18 else to read it.

19 MR. CHILSON: I am not very smart in
20 this stuff. My understanding was, of this deal, Jenex
21 would do one of two things. They would either, right
22 then and there, if I would give up my interest in the
23 well, they -- who would I give it up to?

24 COMMISSIONER WILLIAMS: To Jenex, so you
25 couldn't accuse them of stealing from you when they

1 this letter, that as long as Mr. Chilson said you are
2 not stealing my property by pulling the casing and
3 plugging this well and reclaiming the property -- is
4 Jenex still willing to do that?

5 MR. SHELTON: Oh, yeah. I think they
6 have always been willing to do that.

7 COMMISSIONER WILLIAMS: What is your
8 objection to that, Mr. Chilson?

9 MR. CHILSON: That they wanted me to
10 bear the sole expense of cleanup.

11 COMMISSIONER WILLIAMS: Forget what they
12 want. I am looking at what Jenex offered you.

13 MR. CHILSON: I am absolutely in favor
14 of that. I am absolutely in favor of that.

15 COMMISSIONER WILLIAMS: I don't
16 understand why this is a dispute.

17 MR. CHILSON: I thought Jenex was going
18 to come in and plug this well and clean up this site.
19 That was our agreement. That was my understanding of
20 our agreement; that we end up dismissing --
21 stipulating and dismissing this lawsuit, and Jenex was
22 going to do that. The staff makes a demand on Jenex,
23 which is reflected in their letters, saying okay.
24 Let's -- this well has been abandoned. You are the
25 operator. Get him to do it. Jenex says uh-huh. They

1 basically, that's page 11. She basically asked both
2 parties to be 50 percent responsible. Okay. Now, if
3 they can recover 5,000 feet of casing, then we got a
4 contractor that will plug the well for free. The
5 surface restoration is pretty minimal. There's a
6 little piping out there, a little debris left, and
7 concrete skim pit. Jenex was willing to go along with
8 Lori's agreement. We couldn't get approval from
9 Mr. Chilson.

10 CHAIRMAN HEINLE: That's a different
11 agreement.

12 COMMISSIONER WILLIAMS: That's a
13 different agreement than what Jenex offered to do.
14 Why did they back off on their original offer?

15 MR. SHELTON: He never clarified what he
16 wanted them to do at the time.

17 COMMISSIONER WILLIAMS: I am not making
18 Jenex the bugger here. I am trying to figure out
19 where they stand, what they are willing to do, if they
20 are still willing to do this on these terms. I don't
21 think, Mr. Chilson, you gave them what they were
22 asking for. That's my opinion. They asked for you to
23 release -- disavow your interest in the well. I see
24 nowhere where you showed them that courtesy.

25 MR. CHILSON: Maybe I didn't.

1 COMMISSIONER WILLIAMS: If they are
2 still willing to do it, and you are willing to say
3 it's not your well, they can have access to your
4 property to properly restore, at least on a go-forward
5 basis, we have a solution. We haven't addressed the
6 issue of whether there have been violations. It seems
7 like a bit of a mountain out of a molehill when you've
8 got one party, and saying you are willing to come in
9 and do such and such when you disavow the well, and
10 you are coming in and saying I don't own this well.
11 That's why I am -- boy, I am not saying what the
12 problem is.

13 MR. SHELTON: Well, I agree that this
14 should never have come to the commission for hearing,
15 and I guess staff reached a point where we're looking
16 at what's impeding getting this well plugged. That's
17 our only goal. It seemed to us that Jenex was working
18 with us. They were willing to go in and do what they
19 needed to do. But, obviously, they couldn't go in
20 without some agreement from Mr. Chilson to allow them
21 onto their property.

22 MR. CHILSON: Well, Mr. Shelton, I
23 believe it was you I talked to. I said I am fully in
24 agreement with having Jenex -- with having some -- we
25 were talking about some other contractor -- I can't

1 remember their name -- coming in and pulling the
2 casing. If there was 5,000 feet or more, they would
3 take the casing and they would plug the well.

4 MR. SHELTON: Uh-hum.

5 MR. CHILSON: I told you I fully agreed
6 with doing that.

7 MR. SHELTON: Uh-hum.

8 MR. CHILSON: All right. I told you one
9 issue that I had, that I didn't agree with, was that
10 all of the site restoration expense fell on me, didn't
11 I?

12 MR. SHELTON: Yes.

13 MR. CHILSON: All right. That's why
14 we're here, because that was not to be my
15 responsibility. That's what Jenex agreed to do. Now,
16 I don't know what I did or didn't do that prevented
17 them from coming in. I never told them they couldn't
18 come in to plug the well, and clean up the site. I
19 never said that. When they told me, they wanted me to
20 disavow ownership of the well. That meant to me that
21 they wanted me to give them some part of that well.
22 That they wanted to own or control some part of that
23 well, not as an operator but as some ownership
24 interest in that well. And I wasn't about to disavow
25 that well because it's on my land. But it's, as far

1 as getting access --

2 COMMISSIONER WILLIAMS: You can't have
3 it both ways, Mr. Chilson. You cannot say I am not
4 going to say I don't own it, when Jenex asked you to
5 say that, then come before the commission and say I
6 don't own it.

7 MR. CHILSON: I think I do. My trouble
8 is I am a lawyer, okay. I like finiteness. I like to
9 understand when I am, I say, the owner of something, I
10 know what that means. I didn't know what it means
11 here. I didn't know what it meant when I said it in
12 my complaint, when I said I was the owner. I meant I
13 was the owner of that land, I was the owner of that
14 mineral rights and that nobody had a lease on it,
15 because Phoenix had gone away. So, nobody had a lease
16 on that at that time. That's what I meant to say.

17 When I say I think I am a owner, because
18 I have had an opportunity to read your oil and gas
19 regulations since this thing came up, and it looks
20 like I qualify under those things as owner, but I am
21 not. I know there are cases out there that talk about
22 ownership, and what all that means. I haven't read
23 them, and I don't know what they are.

24 CHAIRMAN HEINLE: I am just wondering
25 here whether, you know, this letter is still out here.

1 And I don't know what Jenex would say if you contacted
2 them and said, look, I will give you a release or sign
3 whatever saying that you basically could take the
4 casing, plug the well and restore. I am not the owner
5 of the well; that you can come in and do that. I
6 mean, are they going to say no? Are they going to say
7 yes and, if necessary, yes, and plug it. At least
8 that part of the issue is gone away, and perhaps even
9 the violation side, the fine and --

10 COMMISSIONER WILLIAMS: At one point in
11 time, it looks likes Jenex offered to do everything
12 that we are trying to accomplish, which is plug the
13 well and reclaim the surface. That's what they
14 offered to do in this letter. Now, that was going on
15 ten years ago, so, I don't know if Jenex is still
16 willing to do that.

17 MR. GRIEBLING: I might clarify, their
18 offer was to remove the casing, plug and abandon and
19 clean this well site, written in March of 1988. And,
20 "clean this well site," as it was understood in March
21 of 1988, is a little different than reclaim the well
22 site according to our 1996 rules and 1997 rules and
23 regulations.

24 COMMISSIONER WILLIAMS: You think they
25 meant just pick up the trash?

1 MR. GRIEBLING: I not sure what they
2 meant. I would interpret that as perhaps being
3 limited to less than well site reclamation and
4 restoration.

5 CHAIRMAN HEINLE: Commissioner Johnson.

6 COMMISSIONER JOHNSON: As I see it, I
7 think I hear what's been said, and maybe I am a little
8 wet, but the last thing that you had indicated about
9 cleanup, and the testimony was that basically the site
10 is reclaimed except for some cleanup activity. So,
11 you know, we're talking about one and the same thing
12 by cleaning up. That's, in my mind, that's really not
13 a issue.

14 The other thing I think is probably a
15 more important issue, and this puts me in a kind of
16 awkward position, this is from a country-boy approach.
17 I see it -- it appears to my mind, anyway, that you
18 had some doubt as to what the word "ownership of the
19 well" really means, and I guess that maybe in the
20 auspices of a quick claim deed, and if it was specific
21 to the activity of the wellbore and the related
22 activities thereto, you probably wouldn't have a
23 problem giving up whatever rights you may have to
24 that, but whenever you look at a broader term of
25 ownership of the well, it has something to do with, as

1 I think you may have in mind, of the oil and future
2 production from the oil, which may come up out of a
3 well, am I reading into where I think you may be
4 having a problem?

5 MR. CHILSON: You sure are.

6 COMMISSIONER JOHNSON: I guess that's
7 more in terms of your profession of being crafty, how
8 you would craft those kind of things to make you feel
9 comfortable and still make us feel comfortable. Am I
10 off base on this?

11 COMMISSIONER WILLIAMS: I think that's a
12 good point, because you can separate ownership of the
13 well as a piece of equipment situated on a piece of
14 property that you own versus the right to produce that
15 well, which goes with the mineral rights, and I want
16 to separate those two. We have the well as a piece of
17 equipment, some of it downhole and attached to their,
18 you know, is now a fixture of the real property. Then
19 we have the right to produce minerals, which is a
20 different right that you own exclusively, and I
21 understand Jenex and no one else at this point is
22 challenging that right. When we get to the well
23 itself, you know, that is because you can all own
24 wells without owning the mineral rights. As you know,
25 he can lease the mineral rights. There are other

1 ways, but I think you are right, there may be some
2 confusion about that, what that kind of ownership
3 means, but, you know, we still have to answer the
4 question of whether owner versus operator, whether
5 ownership under these kind of circumstances does place
6 liability on Mr. Chilson.

7 CHAIRMAN HEINLE: I might just add, that
8 stipulation was drafted by the -- written by the
9 attorney. It does say "well," and it goes on to
10 specify, "Chilson's 16-1," so regardless of what you
11 thought ownership was, it's pretty clear in the
12 stipulation what was said, in my mind.

13 COMMISSIONER WILLIAMS: I think, yeah.
14 My definition of ownership, you own the well. And,
15 so, my question was whether that has somehow shifted
16 to Jenex's part of the settlement, and I don't see any
17 evidence that it did. To the contrary. I see the
18 latest printout, that being the stipulation, that was
19 still the parties understanding at that point, that
20 Mr. Chilson owned the well. So, I don't think --

21 MR. MONAHAN: I think you can also look
22 at the quitclaim deed itself. It indicates he's the
23 owner of the property and all of the appurtenances.
24 That has a particular legal meaning.

25 COMMISSIONER WILLIAMS: I guess, then,

1 the next question that we have to decide is whether --
2 that we either need to find him also an operator or
3 determine whether ownership is enough to make him
4 subject to our -- to compliance with our regulations.

5 MR. MONAHAN: I think, again, I go back
6 to my previous comments. The regulations are perhaps
7 not as clear as they could be with regard to this
8 particular issue of ownership versus operator. If you
9 read the regulations in their entirety, some of them
10 use the term "owner," some of them use the term
11 "operator," and I think probably what happened is that
12 that term is used interchangeably to assign
13 responsibility for particular activities under the
14 regulations, particularly when you look at the
15 responsibility to plug and abandon wells. Ultimately,
16 it has to be done. Someone has to have the
17 responsibility to plug and abandon this particular
18 well. If you don't have an operator, who else is
19 going to have that responsibility but the owner, the
20 party that has the right to produce the oil and gas
21 and to receive all proceeds from that production.
22 It's sort of, I would like to have my cake and eat it
23 too. I want to be owner, and I get all of those
24 rights, but I don't have any responsibility.

25 CHAIRMAN HEINLE: We have had many an

1 orphan well situation in the past, where we have not
2 held the landowner liable for plugging and
3 reclamation. They haven't claimed ownership of the
4 well either.

5 COMMISSIONER WILLIAMS: They do own the
6 well. They own it because nobody else owns it. It's
7 on their property, and it's appurtenant to their
8 property. Any time the lease expires and lessee has
9 not done what he needs to do, the landowner owns
10 what's out there, it reverts to him. We have never,
11 in that situation, that I am aware of, held a
12 landowner liable for reclamation and compliance with
13 our reclamation rules. I am not saying we can't. I
14 am just saying that's a little different than we have
15 done before. This is not a situation where
16 Mr. Chilson took over the well and operated it for
17 profit after Phoenix disappeared, as I understand the
18 facts. And that I think would be a very clear
19 situation; that filing a bond or not, he would be
20 liable. Those aren't our facts.

21 CHAIRMAN HEINLE: Commissioner Matheson.

22 COMMISSIONER MATHESON: I want to be
23 clear on that, Mr. Chilson. At any time, did you ever
24 flip the switch pump into a tank and sell the
25 hydrocarbons from the tank yourself?

1 MR. CHILSON: No, never at all.

2 COMMISSIONER MATHESON: Never at all?

3 You received, basically, proceedings from Jenex and
4 Phoenix on production as part of your royalty mineral
5 interests?

6 MR. CHILSON: I had a lease with --
7 Phoenix gave me 16 percent. Jenex comes along and
8 files a division order that gives me 8 percent.

9 COMMISSIONER MATHESON: It was never
10 your understanding that they were the operator, per
11 se, that you were responsible for the functions of
12 that well itself? All you were trying to do were to
13 retain your mineral rights.

14 MR. CHILSON: All I ever got was royalty
15 payment from Total and Asamera. I never sold any oil.
16 I never flipped a switch. I never did anything out
17 there.

18 COMMISSIONER MATHESON: Is there any
19 indication there's significant environmental
20 contamination on this property that might cause an
21 increase to cost on reclamation of the site?

22 MR. SHELTON: I have no reason to
23 believe that there would be.

24 COMMISSIONER MATHESON: It's basically
25 equipment removal that we're looking at.

1 MR. SHELTON: Actually, the equipment is
2 gone. We're looking at maybe some aboveground riser
3 and piping that remains. There is a concrete skim pit
4 that's still out there.

5 COMMISSIONER WILLIAMS: Do you know who
6 took the equipment?

7 MR. SHELTON: Jenex took the equipment.

8 COMMISSIONER WILLIAMS: Was it Phoenix's
9 equipment, or was it equipment they had placed on the
10 well?

11 MR. SHELTON: My understanding, it was
12 equipment that Jenex put on the well.

13 MR. CHILSON: That's wrong. The same
14 pump and same equipment that Phoenix had put on there,
15 when Jenex bought it at tax sale, they simply came in
16 and began pumping with it. When they gave me the
17 quitclaim deed and left, they just pulled it all up.
18 They left their piping. They left a big stand pipe,
19 the concrete things he's talking about, a whole bunch
20 of pipe, whole bunch of tubing. The site is a mess.

21 COMMISSIONER MATHESON: Couple quick
22 questions here. What's approximately the size of this
23 site?

24 MR. SHELTON: We just have a wellhead,
25 basically. And then there was a tank battery area,

1 about 600 feet to the southwest that I -- as I recall.
2 It was about the same size of a normal tank battery,
3 because it's been a while since I have actually been
4 out there.

5 COMMISSIONER MATHESON: There's no oil
6 contamination you have been able to observe?

7 MR. SHELTON: Unless the concrete skim
8 pit has leaked, which you can't tell until you dig the
9 thing up.

10 COMMISSIONER MATHESON: You might have a
11 half acre of compactualization and reseeding to do,
12 and, under the rules, that's about it.

13 MR. SHELTON: Even that much.

14 COMMISSIONER MATHESON: There's no major
15 skim pits or production pits, anything like that?

16 MR. SHELTON: No pits are left, no.

17 MR. CHILSON: It is 4/10s of an acre, is
18 how much the site is.

19 COMMISSIONER MATHESON: Would you be
20 willing to provide Jenex access to the site to
21 basically complete the work there, not relinquishing
22 your mineral rights, so on and so forth?

23 MR. CHILSON: You bet. I thought they
24 had the right to access. I thought, under your guys'
25 regulations, when they left, they had the right to

1 come in and the right and duty to clean up the well.
2 That was what I had been told. That I had never
3 thought I had or could do anything to prevent that.

4 CHAIRMAN HEINLE: Could I interject? I
5 am just wondering -- and if this is not the situation,
6 please tell me -- but I am wondering if you heard
7 enough testimony, at this point, to go around the
8 commissioners and address this issue of whether
9 Mr. Chilson is the operator of the well?

10 COMMISSIONER WILLIAMS: Can I ask one
11 more question?

12 CHAIRMAN HEINLE: Yes.

13 COMMISSIONER WILLIAMS: Mr. Chilson,
14 after Jenex stopped operating the well, and, of
15 course, by now, Phoenix is long gone and Jenex has
16 agreed they shouldn't be there either, did you try to
17 obtain any other -- did you try to bring anyone else
18 to operate this well or --

19 MR. CHILSON: No.

20 COMMISSIONER WILLIAMS: No?

21 CHAIRMAN HEINLE: Commissioner
22 MacMillan.

23 COMMISSIONER MacMILLAN: Mr. Chilson, do
24 you not own the surface here also?

25 MR. CHILSON: Yes.

1 COMMISSIONER MacMILLAN: So, the whole
2 thing is, in fact, under your ownership?

3 MR. CHILSON: Yes.

4 COMMISSIONER MacMILLAN: Full 40 acres?

5 MR. CHILSON: Well, it's an 80-acre
6 farm.

7 CHAIRMAN HEINLE: Rich, do you have a
8 question?

9 MR. GRIEBLING: Two quick questions.
10 Mr. Chilson, you testified you reached a settlement
11 that resulted in you receiving an ownership of the oil
12 under your property?

13 MR. CHILSON: Well, I always owned that.
14 I don't think I received it. I think what I did is I
15 knocked out anybody's else claim to it.

16 MR. GRIEBLING: That settlement was
17 reached at a point in time when a considerable amount
18 of oil had been produced from the well on your
19 property, and the remaining reserves -- it would be
20 very unlikely to justify the drilling of another well
21 for economic recovery of oil. And I just want to be
22 sure that you understand that -- do you understand
23 that in order to recover oil from underneath the
24 property, the well on your property would have to have
25 been used to recover the oil economically?

1 MR. CHILSON: I am sorry. I am not sure
2 I understand.

3 MR. GRIEBLING: The question is, do you
4 understand that at the time you reached the
5 settlement, allowing you to recover -- making it clear
6 that you had the ownership rights to recover the oil
7 underneath your surface property, the economic means
8 of recovering that would have been to use the well
9 that was existing there at the time, the well in
10 question in this hearing?

11 MR. CHILSON: I don't know the answer to
12 that. I mean --

13 MR. GRIEBLING: Do you know another way
14 to get oil out beneath your land?

15 MR. CHILSON: I don't know if it would
16 have been more economical to use that. I think the
17 spacing in that area was 40 acres. To drill another
18 well over on the next site, I don't know which would
19 have been more economical.

20 MR. GRIEBLING: Then one other question
21 on another issue. You testified that you installed a
22 flow line and attempted to produce gas.

23 MR. CHILSON: Not produce it. I
24 attempted to use it.

25 MR. GRIEBLING: Okay. In your terms,

1 use it. In our terms, that's produce it. If an
2 operator --

3 MR. CHILSON: Wait.

4 MR. GRIEBLING: Oil company installs a
5 line, and attempts to use or produce oil or gas, we
6 consider them to be an operator. Why would you be
7 different?

8 MR. CHILSON: Okay. Your oil and gas
9 company comes in and drills a well, right?

10 MR. GRIEBLING: Many times they buy an
11 old well.

12 MR. CHILSON: Here they buy an existing
13 well. They got a line that takes the gas -- or the
14 oil to the tank, and, I guess, puts the gas aside.
15 That's the production that's sold. They are operating
16 the well. They decide when to turn the pump on, when
17 to turn the pump off. They are the ones who regulate
18 the flow of it. They are the ones who maintain the
19 well and keep it going or don't. I didn't do any of
20 that. I didn't have any choice in that, and I didn't
21 have any control over any of that. All I had was a
22 line that went to a residence there that we thought
23 would be cheaper than paying Public Service Company.
24 It didn't turn out to work. It never did.

25 If I am an operator under those

1 circumstances, then there's a lot of foreign people
2 out in this country that are operators who have done
3 exactly what I did. I think you ought to tell them
4 they're operators. If you are going to make them an
5 operator, they are going to have to plug the well.
6 And they are going to have to clean up the site, and
7 they are going to incur all liability that operators
8 incur under your oil and gas regulations.

9 MR. GRIEBLING: We do treat them as
10 operators. They have to bond wells.

11 MR. CHILSON: Those farmers, when they
12 put a little line to your house.

13 MR. GRIEBLING: (Nodding in the
14 affirmative.)

15 MR. CHILSON: Nobody did that with me.
16 Nobody told me that was going to be the case.

17 COMMISSIONER WILLIAMS: Phoenix had a
18 bond. He was, under the domestic use clause, was
19 using the gas. Of course, in this case, he said he
20 never used it because it didn't work. You would
21 require -- this staff requires a separate bonding --
22 separate bond of operatorship in that circumstance.

23 MR. GRIEBLING: As I understand, when he
24 installed the flow line, Phoenix wasn't producing the
25 well?

1 COMMISSIONER WILLIAMS: Yes, it was.

2 Phoenix installed --

3 MR. CHILSON: Phoenix installed it.

4 Phoenix put it in.

5 MR. GRIEBLING: It's signed, I believe,
6 the document in this stack says -- it says that you
7 installed it.

8 COMMISSIONER WILLIAMS: He said it was
9 at his expense. He paid for it, but Phoenix did the
10 work. That was his testimony. Cheaper to use the gas
11 than Public Service.

12 MR. GRIEBLING: Plaintiff had, at its
13 own expense, installed the gas line piping on his own
14 property.

15 COMMISSIONER WILLIAMS: I asked him some
16 questions. Phoenix did the work and he paid for it
17 and the process never worked.

18 MR. GRIEBLING: Is there a difference
19 whether Phoenix installed it or whether he installed
20 it himself?

21 COMMISSIONER WILLIAMS: I am just trying
22 to separate -- you said that it's been the
23 commission's policy or staff's policy to require
24 bonding and operatorship, and I am asking, under a
25 lessor's domestic use clause, under the lease, there's

1 many a farmer out there that they don't -- they are
2 not the bonded operator of the well, but they do have
3 domestic use, right? And I am asking, in that
4 situation, do we require separate bonding from them,
5 and require separate designation of operators from
6 them?

7 MR. GRIEBLING: Not when there's an
8 operator approved on Form 10 that's currently
9 operating the well. It wasn't my understanding that
10 there was a, at that time, an operator approved and
11 producing the well.

12 COMMISSIONER REBNE: A quick question.
13 When was the last time you used or tried to use the
14 gas from that well?

15 MR. CHILSON: It was back in -- it was
16 in the first month after Phoenix began production from
17 the well, after they drilled it. It was right towards
18 the end of the first month of their pumping the well.
19 They said they had gas, and they had nowhere to go
20 with it, did I want to use some of it? And I said,
21 sure. And they said, you got to pay for the line to
22 your house. You got to buy the little thing that you
23 put on the end of the line at the house to make it
24 work for a gas furnace. I said, fine. I said, we'll
25 put it in now. I said, great. Send me the bill.

1 They did. I paid it. We tried it. We converted
2 over. We had to get different jets because the jets
3 were Public Service Company gas jets, wouldn't be the
4 same you could use in your furnace for this kind of
5 stuff. We tried to convert it over and it would never
6 work. Now, we just, flat, that was it. We tried it,
7 I think, for a week to ten days, and it never did --
8 it never happened.

9 CHAIRMAN HEINLE: I really, unless
10 there's some additional questions, maybe I am just
11 misreading this, but I think we're perhaps at a point
12 where we can go to the commissioners and decide the
13 issue, whether, indeed, Mr. Chilson is the responsible
14 party in this case, and I would like to do that. We
15 are going to have to break in about ten or fifteen
16 minutes for lunch. So, if it's all right with the
17 commissioners --

18 COMMISSIONER BLACKWELL: Can I ask one
19 more question?

20 CHAIRMAN HEINLE: Yeah. Commissioner
21 Johnson's got a question. Commissioner Matheson's got
22 a question. We can ask a lot of questions. I don't
23 want to discourage it. If you think it's really
24 important to you making a decision, yes, ask a
25 question, but it better be important. My patience is



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1 getting worn real thin.

2 COMMISSIONER BLACKWELL: What happened
3 to Phoenix's bond?

4 MR. SHELTON: It was released in
5 September of 1987.

6 COMMISSIONER JOHNSON: This is while
7 they were still an operator?

8 MR. MONAHAN: When Jenex signed the
9 operator form, that was released.

10 COMMISSIONER MATHESON: Jenex still
11 exists?

12 MR. SHELTON: Yes, they do.

13 COMMISSIONER MATHESON: How many wells
14 do they operate in the state?

15 MR. SHELTON: I believe they are trying
16 to get out of being an operator in this state. It's
17 my understanding that they requested a release on
18 their bond, which was unrelated to this issue.

19 COMMISSIONER MATHESON: Don't do it yet.

20 MR. SHELTON: No, we haven't. No, we
21 haven't, certainly. We'll get this resolved.

22 CHAIRMAN HEINLE: Are we ready? I am
23 going to start with Commissioner Williams.

24 COMMISSIONER WILLIAMS: I guess I don't
25 feel that it's been established that Mr. Chilson is

1 operator. Setting flow lines for domestic use, I
2 think, is a common practice, and if we deem that
3 operatorship, then I think we have got problems in
4 Weld County and other places where we have a lot of
5 farmers who use the domestic use clause very often in
6 oil and gas leases, and they take advantage of that.
7 And that fact, by itself -- and I don't have any
8 reason to doubt, from Chilson's testimony, that that
9 actual installation was done because that's typically
10 how it's done by the operator. And that the
11 installation occurred while Phoenix was bonded and the
12 self-declared operator of the well. I just -- I don't
13 see that we have any evidence that rebuts that.
14 Mr. Chilson's own allegation that it was down at his
15 expense, later, when he was challenged, the ownership,
16 I think, is not inconsistent with that testimony.

17 I do think, however, he's the owner of
18 the well. And I guess the question that follows from
19 that is, so what? Where does that take us? And I
20 certainly agree with the assistant attorney general,
21 that our regulations speak sometimes circuitously
22 about owners and operators and interchangeably. I am
23 a little concerned because I don't think, had Jenex
24 never entered the picture and Phoenix had simply
25 disappeared, I don't think it's been the commission's

1 practice to hold landowners liable for orphan wells
2 simply because they happened to own the surface and/or
3 owned the minerals, unleased, unproducing minerals
4 when the request for restoration is made.

5 It's unfortunate that we released
6 Phoenix's bond because Phoenix is the party that is
7 liable here, No. 1, the most obvious person. We
8 release their bond in reliance on Jenex's
9 representation that they are the operator. Jenex, in
10 fact, operated the well, and it was later determined,
11 or at least under threat of lawsuit from Mr. Chilson,
12 it was agreed that Jenex would cease those operations.
13 I don't think that means that they weren't an
14 operator. I don't think it means they didn't have the
15 obligations of an operator under our rules and
16 regulations. So, I think that Jenex, you know, their
17 responsibility is clear. The question is, does
18 Mr. Chilson also have some responsibility?

19 I think one of the reasons is because
20 you and your lawyer decided that you were not taking
21 Jenex's offer, and I think -- do think you have added
22 a lot of confusion to this situation. I really do. I
23 am not -- but, at the end of the day, I don't think
24 that, having caused that confusion, I am having a
25 problem finding out -- we would make him liable in a

1 manner consistent with our other treatment of orphan
2 wells.

3 CHAIRMAN HEINLE: Commissioner
4 MacMillan.

5 COMMISSIONER MacMILLAN: I also believe
6 that the information that's been provided suggests
7 that Mr. Chilson is the owner, and I also am persuaded
8 by Mr. Monahan, there's a relationship between
9 ownership and operatorship.

10 I probably disagree with Commissioner
11 Williams' opinion in how I would lean, not yet
12 decided, but lean as far as responsible parties. I
13 think that was part of the question that you asked,
14 not only asked for our thoughts on ownership but also
15 responsible party. And I am extremely intrigued by
16 Commissioner Williams' suggestion that we do, in fact,
17 treat orphan wells in a particular way, and also am
18 persuaded by her argument that, from a standpoint of
19 loss of operatorship by our state record, then would
20 automatically cause the reverse of that, the ownership
21 of the well to go back to the landowner, and we have
22 chosen, with input from many others -- significant
23 parties -- to deal with those matters in another way.

24 So, I am holding off on responsible
25 party, because I think there are other options that

1 may be available to us. The most persuasive to me is
2 that the oil and gas commission staff has put in the
3 time and effort to come up with a remedy for this,
4 solution, for all parties, and I am particularly
5 disturbed by Mr. Chilson's failure to respond to
6 questions by commission staff for a period of well
7 over four years, in either providing documents,
8 documentation, or working with the staff.

9 So, I think I have given you some ideas
10 that would suggest that, yeah, we have, we being the
11 oil and gas commission, in particularly, staff, have
12 tried to work with the parties, understanding and
13 recognizing some of the information that either has
14 been available or piece it together ourselves, and I
15 have been disappointed with the record that's been
16 presented, with Mr. Chilson's failure to respond to
17 the requests by staff. Ownership/operatorship, yes, I
18 have answered that. Responsible party, I haven't yet.

19 CHAIRMAN HEINLE: Commissioner Rebne.

20 COMMISSIONER REBNE: I agree with a lot
21 of what's already been said. I think Mr. Chilson is
22 the owner, but, I don't believe he ever had any
23 intention of operating, and our practice, in the past,
24 has been to not make those types of people responsible
25 for plugging and abandonment. I agree with

1 Commissioner MacMillan that there's probably a way to
2 get this done. That's involving Jenex, again, and
3 some agreement on Mr. Chilson's part.

4 CHAIRMAN HEINLE: Commissioner Johnson.

5 COMMISSIONER JOHNSON: In my mind, this
6 proposal is probably one of the clearest things I have
7 seen in this commission, and maybe it's from its
8 simplicity, thinking I can't see beyond. To me, it's
9 real clear that Chilson is the owner. All quiet
10 titles, quitclaims, everything it's been through, to
11 me, that's a black-and-white situation, in my mind.

12 It's also just as clear in my mind,
13 Jenex has acted as the operator in that it took
14 over -- took possession of their equipment, operated
15 the equipment, and until they were told to terminate
16 through actions on behalf of Mr. Chilson. They also
17 acted on behalf -- as an operator and it's the
18 responsibility of the operator, and in their
19 documents, they are willing to plug and abandon it and
20 reclaim the site. That's behavior of a responsible
21 operator. But again, that is clear in my mind. That
22 takes care of my third point. They are willing to do
23 a P&A and that's, in my mind, is cut and tried.
24 However, I see that Mr. Chilson has been an obstacle
25 in this process, because of all of the battlement of

1 this ownership of the well. They naturally want to
2 get him to release them from any liability that he may
3 want to come after them down the road. That's -- I
4 think you can understand, as an attorney, that's all I
5 see they are asking for in this disavowing.

6 In my mind, you need to get out of the
7 way so we can get on with the program. As that is in
8 the way, as I see it, if that doesn't happen soon, you
9 are just as responsible as anybody in getting this
10 thing cleaned up.

11 COMMISSIONER MATHESON: I agree with
12 about everything that's been said. I don't think
13 Mr. Chilson is the responsible party at this point. I
14 think Mr -- I think Jenex -- Mr. Chilson, you should
15 provide Jenex access to the property so they can get
16 the job done. I am also very concerned about this
17 notion of, if an operator disappears and someone has a
18 gas tap that's taking a couple of cubic feet per day,
19 you have a well that produces half a million a day,
20 suddenly they become the operator and are responsible
21 for plug and abandonment and reclamation. No, I don't
22 feel that should be the case at all. So, there is --

23 CHAIRMAN HEINLE: Commissioner
24 Blackwell.

25 COMMISSIONER BLACKWELL: Well, I think

1 it's clear, as others have said, that Mr. Chilson is
2 the owner of the well, and I think it's also clear
3 that Jenex operated the well for a certain period.
4 It's clear that, looks like in December of 1987,
5 pursuant to the stipulation, Jenex discontinued
6 becoming the operator of the well. So, that's where
7 things -- my perception started to fall apart, and the
8 question is, with Mr. Chilson continuing along as
9 owner, what, if any obligation did he have as an
10 operator as well.

11 And I understand some of the concerns
12 that have been raised about orphan wells. We probably
13 don't typically leave the landowner holding the bag
14 when an operator walks away, but, to me, in my mind,
15 in this situation, it's a little bit different.
16 Mr. Chilson was very involved in this. There were
17 disputes. There is litigation. He sought ownership
18 of the well, which he got clarified. Then it was
19 always very clear to him, or should have been clear to
20 him, in the stipulation, that Jenex was no longer
21 going to operate the well. And they attempted to come
22 in and plug and abandon the well, under certain
23 conditions, which he didn't grant to them. So, I see
24 him as acting as an obstacle in this situation, and
25 not quite in the same position as the innocent

1 landowner who had the operator walk away.

2 So, I am more inclined to perhaps not
3 give him the full status of an operator in terms of
4 saying to him, you come in and plug and abandon this
5 well. Certainly, in this situation, with Jenex, who's
6 able to do that, there's apparently some salvage value
7 in the casing. We can get that done, but I do hold
8 him responsible for the fact that this well went
9 unmanaged for so long; that he knew that Jenex was no
10 longer the operator, or should have known, and should
11 have known, then, that some other individual would
12 either need to be retained or hired as the operator,
13 or that responsibility would fall to him.

14 So, I guess I am not quite sure where I
15 am going with this, but, I think an equitable
16 resolution would be Jenex comes in and plugs and
17 abandons the well, but I think that -- I think that
18 Mr. Chilson does have some responsibility for
19 violation of our rules.

20 CHAIRMAN HEINLE: Well, I find a number
21 of Commissioner Blackwell's arguments very persuasive.
22 The stipulation that was entered into with legal
23 advice -- Mr. Chilson, himself, is an attorney -- he
24 clearly became the owner of the well. I think the
25 pattern also indicated that Jenex was going to be out

1 of the picture, and the only thing that didn't happen
2 was Mr. Chilson didn't file the Form 10 to officially
3 become the operator on the well. So, I am somewhat in
4 the middle here. I can see both sides of the
5 argument, but I see this a little bit different than
6 the normal situation, where we get an orphan well and
7 a landowner that didn't go through quite a bit of
8 work, lawsuits, and so forth, to change the picture.

9 I don't think, under normal
10 circumstances, it's been the history of this
11 commission to hold the landowner responsible for
12 plugging and abandoning the well. It's what the
13 orphan well fund has been developed for. That's what
14 we have been using it for. And, in a way, this is an
15 orphan well situation, where the last operator of
16 record, Jenex, is still around, and has a bond posted.
17 So, I guess that's where I am at. That's probably as
18 unclear a statement as anything.

19 But, I do find Commissioner Blackwell's
20 arguments persuasive, and I feel that Mr. Chilson
21 bears some of the responsibility for plugging and
22 abandoning the well. I think the compromise that was
23 worked on by staff is a fair compromise.

24 Assistant Attorney General Monahan, do
25 you have anything you would like to add before we see

1 if there's a motion?

2 MR. MONAHAN: Just a couple of things,
3 and I want to draw the commission's attention to their
4 own regulations, to get back to the issue of the
5 owner-operator distinction under the regulations. And
6 I don't want to take too much of the commission's
7 time. I just want to indicate, for the commission's
8 information, when you look at the specific regulations
9 that are involved here, if you start with Rule 304, it
10 places a burden upon the owner. It doesn't say
11 operator. It says the owner should submit a bond. If
12 you look at Regulation 310, it doesn't say owner or
13 operator, but it refers to a producer. If you look at
14 Regulation 319.b, it uses owner/operator
15 interchangeably between the sections of the
16 regulation, which is somewhat confusing. If you look
17 at Regulation 326.b, it doesn't specifically direct
18 the obligations that are set forth therein to either
19 the owner or the operator. It just indicates if a
20 well is abandoned, temporarily abandoned, it has to go
21 through a mechanical integrity test. It doesn't say
22 who's going to conduct it.

23 In light of the fact that your
24 regulations indicate that sometimes the owner is
25 responsible, sometimes the operator is responsible,

1 the past practice of not holding owners responsible
2 under the regulation seems somewhat inconsistent with
3 the language of your own regulations. I can only
4 indicate to you I have represented a number of
5 environmental clients on behalf of the State of
6 Colorado, and the owner/operator issue is one that is
7 specifically addressed in all of those areas. It's
8 air pollution, water pollution, regulation of
9 hazardous waste, and the responsibilities under those
10 particular acts is shared by the owner/operator. Most
11 of those implementing agencies, to my knowledge, do
12 look towards the operator as the owner, responsible
13 party of first resort, but, ultimately, if the
14 operator isn't there to shoulder the responsibilities,
15 those agencies look to the owners.

16 However the commission decides this
17 particular issue, whether or not Mr. Chilson is
18 responsible, I think that a review of the regulations
19 is warranted, so that the commission is clear with
20 regard to who should bear these responsibilities.
21 Should owners bear them? Should operators bear them?
22 Should owners bear them only as a matter of last
23 resort? These are the types of issues that you could
24 certainly put into your regulations.

25 CHAIRMAN HEINLE: Theoretically, if I

1 follow your argument, we don't need an ERF fund, if
2 you buy off that either the owner or the operator is
3 responsible for plugging the well.

4 MR. MONAHAN: Theoretically, that's
5 right. Quite frankly, you can argue that the ERF fund
6 is only used when you got an owner that is financially
7 incapable of shouldering its responsibilities at that
8 time.

9 MR. CHILSON: Mr. Chairman, I have not
10 completed putting in my evidence, so if you are going
11 to make a decision, I need to make an offer of proof,
12 if you will not let me proceed to put in all of the
13 rest of my evidence.

14 MR. MONAHAN: Sure. That's appropriate.
15 You can do that.

16 CHAIRMAN HEINLE: Let's break for lunch.

17 MR. GRIEBLING: I want to make sure that
18 the distinction is understood between Chilson 16-1 and
19 typical orphan wells, and I think Commissioner
20 Blackwell was saying the way we would categorize it --
21 I want to make sure it's clear -- that I think there's
22 a concern -- it was unfortunate we released Phoenix's
23 bond; that it was normal course of operations. A new
24 bond was posted by Jenex, and change of operator form
25 was filed, and we released Phoenix's bond as a result

1 of that. That's the way we do business, and today we
2 would do business that way. We still have the Jenex
3 bond in place. So, from our standpoint, we wouldn't
4 really be calling this an orphan well, because we have
5 financial assurance in place.

6 Here's a problem that hasn't been
7 understood. If we were to call Jenex's bond, that we
8 hadn't released -- I think it's arguable we should
9 have released it -- but we haven't had Mr. Chilson
10 fulfill his obligation of posting another bond as
11 owner. We will, if you direct us to call this
12 financial assurance, I think we're looking at a
13 hearing by the owner of the financial assurance, the
14 provider of the financial assurance, that company that
15 would come here and say here's the quitclaim deed, my
16 client doesn't own this well anymore. Granted my --
17 our financial assurance is still posted, but you, as a
18 commission, have the obligation to force the new owner
19 of that well to post financial assurance and mine
20 shouldn't be utilized to solve your problems. I want
21 to make sure you're aware of what that report
22 reflects.

23 CHAIRMAN HEINLE: We're going to break
24 for lunch, and when we come back, after lunch, we'll
25 let's Mr. Chilson put whatever else he feels he needs

1 to in the record. I assume it has to go to the issue
2 of responsible party, not violation.

3 MR. CHILSON: Well, are we dealing with
4 violation in this hearing?

5 CHAIRMAN HEINLE: Well, it depends. I
6 mean, if we find you a responsible party, yes, we will
7 be dealing with violations.

8 MR. CHILSON: How can I avoid dealing
9 with both issues?

10 CHAIRMAN HEINLE: One is tied to the
11 other? If we find you the responsible party, I guess
12 what I intended you to do was allow you the
13 opportunity to put forth additional testimony,
14 relative to the violation aspects of it. If the
15 commission finds that you were not the responsible
16 party, I think the violation issue goes away.

17 MR. CHILSON: It will be -- then, as
18 long as that's the case, it will be only to the issue
19 of responsible party.

20 CHAIRMAN HEINLE: Well, in that case, I
21 am going to at least make a try here to see whether
22 any of the commissioners have a motion they want to
23 propose prior to going to lunch?

24 MR. CHILSON: No.

25 MR. MONAHAN: Mr. Chilson would like to

1 make an offer of proof.

2 MR. CHILSON: I've got to make my record
3 and submit my evidence to you on the issue of
4 responsible party. All I have done is answer your
5 questions. You haven't given me any opportunity --

6 CHAIRMAN HEINLE: We'll break for lunch
7 and reconvene at -- we'll try for 1:30, and we'll
8 proceed then.

9 (Recess.)

10 CHAIRMAN HEINLE: Let's go back on
11 record. Mr. Chilson, I guess what we're going to do
12 as soon as we have a -- we haven't had an opportunity
13 to do that, but bits and pieces, go ahead and present
14 your case in its entirety.

15 MR. CHILSON: Thank you, Mr. Chairman.
16 I am John Chilson, the respondent. It was a benefit
17 to me to hear you discuss this case before I was given
18 the opportunity to present my side. I feel -- I am
19 very distressed that certain of you are evidently
20 angry at me for feeling that I have been destructive.
21 I am distressed that some of you -- it seems important
22 that I am and was, at that time, an attorney; and,
23 therefore, was supposedly very cognizant of everything
24 that was going on.

25 To address those concerns, there are

1 certain things you need to know. Up until January of
2 1996, I was a very cognizant of things that were going
3 on. I was actively engaged in the practice of law.
4 January 14, I had an accident which my hand was torn,
5 my wrist, with a hemp rope. I went through five
6 surgeries to have that hand be reattached. Those
7 surgeries occurred over -- from over a period from
8 1986 until 1989. It didn't work, as much as we tried
9 to save it. And the damage to the nerves and to the
10 tissue is because it wasn't a cut. It was a tear,
11 proved that it wouldn't work and I ended up having my
12 hand finally amputated in 1990. I did not get
13 closure -- I am not going to show it to you. That
14 would be grandstanding, but I did not get closure on
15 this wound and on this hand and get grafting until
16 late in 1992. My entire legs -- and I could show you
17 that too -- have been stripped of skin. It's grown
18 back, but the scars -- my entire legs were stripped of
19 skin to graft this.

20 During that period of time, I was on
21 heavy medication for infection and pain throughout
22 that entire period. I was not competent to know
23 everything that was going on. That's why I hired Art
24 March, the March & Myatt firm, to represent me in this
25 case. I was not aware of issues dealing with the oil

1 and gas commission during this litigation between
2 myself and Jenex. I had no idea of what an operator
3 was, as far as you're concerned, or what an owner was,
4 as far as you are concerned. That doesn't enter into
5 it in any way of thinking at all.

6 I got a letter in 1990 from the oil and
7 gas commission, a copy of which -- a letter addressed
8 to Jenex Petroleum, saying we have got to get this
9 well plugged. I thought, yes, you do. Good. I am
10 glad to hear somebody finally is moving on this
11 because what happened in the story is this.

12 In 1983, my mother owned half interest
13 in a farm. I owned a half interest in the farm. We
14 signed an oil and gas lease that is Respondent's
15 Exhibit A, which I tender into evidence at this time.
16 I don't know how you to wish to proceed. I will just
17 pass it to the nearest person. That was with Phoenix
18 Petroleum. If you want to compare -- if you want to
19 look at the signature of mine, my mother was not a
20 competent person at that time, and I had her power of
21 attorney, and I signed for both of us. I would draw
22 your attention to my signature at that time because
23 that was when I was right handed.

24 That lease was entered into, Phoenix
25 went into and drilled a well on the property, hit

1 production, put on the tanks, put on the pumper, and
2 began producing oil and produced oil, really, from
3 1984 on into about 1986, or thereabouts. I am not
4 exactly sure when they left because I didn't know they
5 had left and they did. I was unaware of it. The next
6 thing that I hear is that the county treasurer has
7 restrained this property and has sold it, at tax sale
8 of the property, being, as I understood, the pumps and
9 tanks and what was aboveground. The restraint and
10 destraint and the sheriff or Certificate of Sale from
11 the treasurer are marked as Exhibits B and C. I
12 introduce those into evidence.

13 I didn't really understand the
14 ramifications of that until I finally received a -- I
15 went up to the treasurer's office and got a copy. One
16 was not sent to me. I was totally unaware of the
17 sale. Nobody told me. I didn't have a chance to go
18 and bid or anything. As a result of that, seeing
19 that, where they purport to sell my mineral interests,
20 I said, wait a minute. So, I went to Art March, who
21 is the attorney, and said, what do I do about this
22 situation? I need your advice. He advised me to
23 write a letter. He prepared it, and I put it on my
24 stationery and I signed it, and that is Exhibit --
25 Respondent's Exhibit D, which I had also introduced

1 into evidence.

2 And I would direct your attention to my
3 signature on that document, compare it to Exhibit A.
4 You will see the transformation that took place in the
5 period of time -- during that period, is also a time
6 that I was -- made contact with the fellow at the well
7 site who was the pumper. The guy who goes out, turns
8 the pump on and off, I guess, maintains the well,
9 whatever. That was the first contact I had with
10 anybody who knew what happened. Phoenix Petroleum had
11 left, had gone.

12 I had tried to make telephone contact
13 with Harry Cates, who was the president of Phoenix.
14 He had a hardware business in Denver. He was not in
15 his office. Finally, I was told he had left the
16 state. During that period of time, the well was shut
17 down. When I finally saw the wells pumping and made
18 contact with this fellow, it was some time in February
19 or March of 1987 -- I don't have a specific date. He
20 told me that Jenex Petroleum had bought the well.

21 Shortly after that, and shortly after
22 writing this letter to the treasurer, when I found out
23 about the tax sale, I was sent by Asamera Oil what is
24 exhibit -- Respondent's Exhibit E. This is the, I
25 guess, a provision order. It's a letter to them

1 showing that, according to Jenex Petroleum, I had a
2 .080 royalty interest in this well. Now, I will
3 introduce Exhibit E into evidence. My lease with
4 Phoenix Petroleum had given me 16 percent royalty
5 interest. When I finally was in contact with Jenex
6 Petroleum, they informed me that they had the right to
7 produce the well and paid me on that royalty. They
8 did not have to honor the lease obligations of Phoenix
9 to the royalty that I had negotiated with them to
10 receive from this well, and that there was nothing at
11 all that I could do about that because the county
12 treasurer had sold them my mineral rights.

13 CHAIRMAN HEINLE: Can I ask a question?
14 The royalty that Jenex said that they were obligated
15 to pay, was that as a result of a new oil and gas
16 lease that you had with them or some separate
17 agreement?

18 MR. CHILSON: I never had a lease with
19 them. I never had an agreement with them. When they
20 filed their Certificate of Purchase from the county
21 treasurer, without ever contacting me, they went out
22 to the site and they turned on the pumps and began
23 pumping oil.

24 CHAIRMAN HEINLE: How long was that time
25 period between when the well was shut in by Phoenix to

1 when Jenex turned it on?

2 MR. CHILSON: I don't know how long that
3 was. All I know, the first time I saw the pumps
4 moving, okay -- I don't know how long they had been
5 out there before I happened to drive by and see the
6 pumps going on again.

7 CHAIRMAN HEINLE: Do you know the
8 proximate period? Was it a year? Two years?

9 MR. CHILSON: I can tell you that,
10 well -- when Phoenix disappeared, the well was shut
11 down for a period of about six months, roughly.
12 That's my best guess.

13 CHAIRMAN HEINLE: Okay. Thank you.

14 MR. CHILSON: I was then, as any of you
15 would be, faced with owning a piece of property. I
16 thought I had an oil and gas lease. I thought I had a
17 16 percent royalty. I thought I had -- what I now
18 find out, an operator, and they go away. They just
19 disappear, and I am -- I have got somebody I have
20 never dealt with that's in there, on my property,
21 saying we're only going to pay you .08 percent, with
22 no agreement with me, no lease with me, no
23 understanding of anything. I didn't know that they
24 had come to this oil and gas commission and had
25 cancelled out Phoenix's bond and put up their own. I

1 didn't know any of this. All I knew was that somebody
2 I had no agreement with was pumping my -- what I
3 thought were my mineral rights, my oil down there, and
4 I wasn't getting what I bargained to get when I had
5 given a lease on the property.

6 So, I went to Mr. March and asked him if
7 he would help me in this case and represent me,
8 because I was not competent to practice law. As a
9 matter of fact, from 1986 until 1988, I didn't
10 practice law. I was totally inactive at that time.
11 Mr. March took the case over. He was the one who
12 filed the complaint, drafted the complaint, drafted
13 all of the pleadings for me. When it says that I was
14 an owner, now that I read your regulations -- and I
15 have got a couple of questions down the line -- but it
16 appears that I was an owner under your regulations,
17 then I -- it would have entered my mind, when I had
18 read that, what you had written before I signed off or
19 approved -- I never thought of being an owner in terms
20 of having to do things as an -- under oil and gas
21 regulations. All I was concerned with was getting
22 somebody off of my property who was pumping what I
23 thought was my oil with no lease and offering to pay
24 me a whole lot less than what I had under my lease.
25 And also get it declared that the county treasurer

1 didn't have the right to sell my mineral rights,
2 because that's what -- Jenex was claiming they had
3 bought them.

4 So, Mr. March filed a suit for me. The
5 Complaint is Respondent's Exhibit F. It was filed
6 July 12 of 1987, and I introduce that into evidence.
7 During the course of this litigation, Jenex, at the
8 start of it, asserted that they had the right to stay
9 in and pump with no lease from me, no consent on my
10 part for them to do it, as owner of the surface. It
11 was only through Mr. March's negotiations with their
12 attorney, that they finally backed off of that
13 position. I didn't take part in those negotiations.
14 Mr. March did that for me, but they finally backed off
15 of that. And as you have seen, they gave me a
16 quitclaim -- well, I am getting ahead of myself.
17 Before I had these in chronological order, so, okay.
18 As lawsuits go, there was, I guess, interrogatories
19 and discovery and discussion between the attorneys,
20 and all of that. I was not representing myself at
21 that time. I did not take part in that. There was a
22 stipulation agreed to, and that's Respondent's Exhibit
23 G, and that was dated in March, or, excuse me, the
24 20th day of November, 1989.

25 That was a stipulation to some of the

1 issues in the suit, governing who got what share of
2 the money. Mr. March obtained a restraining order or
3 injunction against Jenex and the county treasurer, and
4 had the money from the production from the well paid
5 into the registry of the court. So, we had that sum
6 of money. This Exhibit G is a stipulation as to how
7 that money was to be divided. There was -- that was
8 put in the registry of the court, okay, and, so,
9 that's Exhibit G.

10 Now, that issue was resolved after we
11 got the quitclaim deed from Jenex. Before that
12 stipulation was entered into, Jenex finally relented
13 and said we aren't going in anymore, that we don't
14 have the right to be on your land without your
15 consent, so, we'll take our pumps off and get off.
16 And we had negotiated through -- Mr. March and I had
17 tried to negotiate with Jenex to get a lease with them
18 where they would pay me the same royalty that Phoenix
19 had agreed to pay me. They said they would not do
20 that, and this took place in the context of the
21 negotiations to settle the lawsuit. We do a lease,
22 you get in, everybody is fine, because I thought it
23 was a great idea to have an oil well on the property
24 and be pumping and produce money. I didn't want it
25 shutdown, but they said, we will not pay you your 16

1 percent that you had with Phoenix. No way. We don't
2 have to. And that's --

3 COMMISSIONER REBNE: Can I ask a
4 question? You said your mother had a half interest.

5 MR. CHILSON: Yeah. She died in -- 1986
6 was not a good year. She died in March of 1986, and I
7 inherited her half of the interest in the property
8 from her.

9 COMMISSIONER REBNE: So, there wasn't
10 the division order, the other 8 percent wasn't in her
11 name?

12 MR. CHILSON: No, no. By the time that
13 division order came out, her -- I had inherited the
14 property from her, and that was proposed solely to me.
15 Okay. We tried -- okay. We tried to get a lease,
16 were unable to do that. Then Jenex backed off of
17 their claim, said, okay, we'll give you a quitclaim
18 deed, pack up and leave. And also, about that time, I
19 got the letter -- I should have that marked. Maybe I
20 do. The March 30th letter, I do have that marked.
21 Excuse me, that is marked as Respondent's Exhibit I.
22 This is the letter we previously discussed here. It's
23 to me from Jenex Petroleum about their giving up the
24 well and having recorded the quitclaim deed and the
25 provision where it says, we'll be pleased to do one of

1 two things, if you desire to keep the well, remove any
2 remaining equipment, clean up the well site and so on.
3 So, I will introduce that into evidence. You all have
4 a copy, but we ought to probably keep all of that
5 together. All right.

6 It was never an issue in the lawsuit as
7 to who had the obligation to plug and clean the well.
8 That was -- you can look through all of the pleadings
9 and all of the stipulations, and everything, every
10 trial data certificate, and all, but I will be
11 introducing here, and you will see that was never a
12 dispute, because, according to Mr. March's
13 understanding, my understanding, confirmed by Jenex's
14 letter, Jenex had a bond, or there was a bond up -- I
15 wasn't sure exactly whose bond was up, but somebody
16 had a bond up with the oil and gas commission to take
17 care of that. So, it was never a dispute as to who
18 had the duty to shut in the well and plug it and clean
19 up the site, because my understanding was that that
20 was going to be done through the bond that was placed
21 with the oil and gas commission. When Jenex gave us
22 that letter and said that they would bear that
23 responsibility, then the case after that, and not
24 because of that -- but it was just not an issue in the
25 case. It wasn't anything even said about it.

1 The stipulation of settlement and
2 dismissal is Exhibit H, which I introduce into
3 evidence, and that's the stipulation, and it revolves
4 on -- around the payment of money, how we finally
5 divide the proceeds from this oil that was produced by
6 Jenex during the time they were on the property. That
7 was the only issue left to be resolved in the case,
8 and that's what the stipulation did. And then the
9 case was dismissed as a result of that.

10 You will see from Exhibits J and K,
11 which are trial data certificates filed by the
12 parties, Mr. March, on behalf of me, and Mr. Julian
13 Jensen on behalf of Jenex Petroleum, and I will
14 introduce Exhibits J and K, and into evidence, you can
15 review those and you will see that there was
16 absolutely nothing in the suit that discussed no
17 issues raised, no evidence to be presented on the
18 duties of plugging and cleaning up. It just wasn't in
19 the lawsuit. Nobody contemplated it even being in the
20 lawsuit.

21 After the dismissal was given, I
22 received a letter from Mr. Julian Jensen, attorney for
23 Jenex Oil, dated April 5, 1990, and in which he sent
24 me a proposed mutual general release. Now, that's a
25 document that was submitted to you by the staff. That

1 document is purported, by my signing, it's purported
2 to say that I released Jenex from all obligations for
3 the cleaning up and plugging of this well; that I, in
4 essence, would become operator of this well.

5 I took this to Mr. March. He told me,
6 no way, because the suit is settled. They are on the
7 hook for the cleanup. You know, do not sign that, do
8 not send that in. I have the original of Mr. Jensen's
9 letter, and I can tell you that that stipulation or
10 mutual general release document, attached to Exhibit
11 L, was never signed by me, and the reason is -- I have
12 the original right here, attached to his letter, just
13 the way it came, and it is unsigned, and it never was
14 signed by me. I never ever entered into any agreement
15 to release Jenex on their obligations to clean up and
16 plug this well, and I will introduce Exhibit L.

17 Now, that's about what I remember from
18 that period of time. I was not worrying about it a
19 whole lot. I had other things that I was trying to
20 deal with after that. I just thought that the thing
21 was over, and, at some point in time, Jenex would come
22 in and clean up the well, and plug it. It sat there.
23 I was trying to cope with living. I was trying to
24 cope with getting back into a law practice. Then they
25 made the decision I couldn't keep my hand, I went back

1 in, amputation. I was back into medication. I was
2 back into a period of very vague thinking, and I don't
3 remember much of it. I didn't even think about this
4 thing. That well sat there. And I was not concerned
5 about it because I figured, at some point, sometime,
6 somebody is going to clean it up. Nobody ever asked
7 me permission to come in or said I was holding up
8 anything. I was unaware I was holding up anything, if
9 I was. All I was doing was trying to get on with my
10 life and get back to where I could go practice law
11 again.

12 That did not occur after 1989, until
13 closure of the wound. I finally got released in 1992.
14 That's when I went back to the practice of law. So,
15 yes, I think, having read your regulations, yeah, I
16 think I got a couple of questions of the director, but
17 it looks like, as I tried to answer the question
18 before, somewhere in there, I guess I became ill.
19 Totally unaware that I was, and not even concerned
20 about that, that wasn't the issue.

21 Finally, I get this letter from the oil
22 and gas commission in 1990. This is from Mr. Edwards,
23 that's Exhibit M, which I would introduce into
24 evidence, and that's a letter to Jenex Petroleum, a
25 copy to me. And that tells Jenex that they want the



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1 well plugged, and I thought, great, at last, and I
2 thought about the, oh, great somebody is going to come
3 in and plug this thing and restore the surface, and
4 haul away all the junk and scrap and -- that's sitting
5 out there. I didn't think I had to do anything. It
6 didn't indicate to me -- it didn't say at that time,
7 that I had to do anything. I thought the oil and gas
8 commission was handling it, okay? So, I didn't
9 respond. I was unaware of any other correspondence at
10 that time; that there was a letter written by Jenex
11 dated July 16, 1990, to a Caroline Ralfman of the oil
12 and gas commission. That's Exhibit N, as in November,
13 which stated -- and I was not given a copy of this or
14 anything. Jenex says we're no longer the operator,
15 which I guess means that they didn't feel they owed
16 any obligation to plug the well.

17 There's a letter dated July 17, 1991,
18 from the oil and gas commission, to Jenex, James
19 Jensen, Jenex Petroleum, again, correspondence about
20 the Chilson 16-1 well, saying that somebody ought to
21 send your -- advising Jenex that your attorney was to
22 send Mr. Chilson a letter informing him of his
23 liability on this well. I will introduce that as
24 Exhibit O.

25 I didn't receive any letter from Jenex

1 telling me that I had liability for the plugging of
2 this well in 1990. I didn't get a letter from the oil
3 and gas commission telling me, in 1990, that I was
4 responsible for the cleanup of this well. Nobody
5 wrote me a thing about it, and I didn't know about
6 that correspondence, except the one letter from the
7 oil and gas commission. I didn't know Jenex had
8 changed their position and said we're no longer the
9 operator, so we're no longer responsible for plugging.
10 I don't recall receiving anything until 1996,
11 beginning in, I think it was February -- no, maybe it
12 was January. I don't recall. But sometime -- I
13 believe it was early 1996, I got a letter from the oil
14 and gas commission saying, Jenex, we got to get this
15 well closed. Jenex says they are not responsible.
16 You must be responsible, words to that effect.

17 I wrote back a letter to the commission,
18 which is Respondent's Exhibit P, stating that I didn't
19 think that I had any obligation to do that. I thought
20 that was all Jenex's responsibility. My next letter
21 was written April 5, where I had requested a copy of
22 the rules of the oil and gas commission, so I could
23 try to understand what was going on here. I have
24 never seen it before, and that's Exhibit R. I also
25 stated in there that there had been some allegation

1 that a Gail Coops, acting as my agent, had come to the
2 oil and gas commission, come to the staff to try to
3 get some kind of closing agreement on the well. I
4 don't know a Gail Coops. I swear to you. I have
5 taken an oath, I do not know any person named Gail
6 Coops. That was the name given to me by the staff.
7 There is a Gail K-o-p-p-e-s, K-o-p-p-e-s, who owns the
8 80 acres directly to the south of my land. They --
9 Phoenix also drilled an oil and gas well on her land.

10 Gail Koppes, if that's who they were
11 referring to, was never an agent of mine. I never
12 gave her authority to act on my behalf in anything,
13 period. I don't even know how it's possible that she
14 would have said that she was acting for me in
15 anything. But that was an issue that was raised,
16 somehow, through the agent. I was trying to make
17 arrangements to close up this well. That is just not
18 true. So, again, I state that in my letter which is
19 Exhibit R, dated April 5, 1996. I place that into
20 evidence.

21 My next letter is March 13th, 1996, and
22 at which, again, I received some exact -- I don't
23 recall at this point in time what, from Mr. Shelton
24 about the well, and at that point in time, I made my
25 position very clear that I thought it was up to the

1 oil and gas commission to do something about getting
2 this well plugged and closed and the ground restored,
3 and said that, you know, I want this well plugged and
4 the site cleaned up. I thought the commission was in
5 charge of getting this done, if the operator shirked
6 its responsibility. Anyway, so I made it clear --
7 tried to make it clear to the staff that I didn't feel
8 it was my responsibility because, at all times, I
9 thought there was a bond up there for this purpose, to
10 do this.

11 Exhibits S and T. Exhibit S is a letter
12 dated February 9, 1996 that I got from Dave Shelton,
13 about giving me a Notice of Alleged Violation. I want
14 some clarification at this point in time. They are
15 telling me that even though Jenex has the bond,
16 because Jenex said that somehow this lawsuit that we
17 were involved in settled the issue of whose duty it
18 was to plug and cleanup, that they were no longer
19 responsible. I found that just hard to believe.
20 Because that had -- the lawsuit had absolutely nothing
21 to do with that. So, I wrote back a letter dated
22 March 13th, 1996, oh, that's Exhibit T. That might be
23 redundant because, anyway, I will introduce Exhibits S
24 and T. I don't think I did anything here that any one
25 of you faced with the same situation would not have

1 done yourselves. Even though I was a lawyer, I was
2 not functioning as a lawyer in this case. I was not
3 practicing law. I wasn't even aware most -- of what
4 was going on, but I think that if you had been faced
5 with the same situation, you would have hired a lawyer
6 too. If you own the piece of property with mineral
7 rights, somebody said you didn't own it anymore, they
8 did, you would do something about it. You have to go
9 to court. That's what I did. And none of it was at
10 all involved in thinking about what the effect would
11 be under the oil and gas regulations; that had nothing
12 to do with it.

13 Now, in order to find out what an owner
14 is, and when I became an owner, I would like for, on
15 the record, under oath, to ask some questions of the
16 director, if I may be afforded that privilege.

17 CHAIRMAN HEINLE: Yeah. I will allow
18 that. I just want to know if there's any other
19 exhibits or anything you want to enter into the record
20 at this time.

21 MR. CHILSON: Not unless he throws me a
22 curve, that I am aware. If he does, I have a couple
23 more things.

24 CHAIRMAN HEINLE: In terms of, do you
25 have any more exhibits, physical exhibits to --

1 MR. CHILSON: Not at this time, unless I
2 have some other things I need to put in as a result of
3 what he says.

4 CHAIRMAN HEINLE: Just for the record, I
5 will acknowledge that the exhibits have been accepted
6 into the record. We'll give him a copy of those,
7 retain a copy of those for our purposes. Okay.
8 Mr. Chilson, you have got some questions of the
9 director?

10 MR. CHILSON: Will you put him on, like
11 all witnesses?

12 COMMISSIONER JOHNSON: Whatever you want
13 to do.

14 CHAIRMAN HEINLE: Let me ask you this.
15 Would the questions be more appropriately directed
16 towards Mr. Shelton or the director?

17 MR. CHILSON: No. I need the guy who is
18 responsible for interpreting regulations on staff
19 position, who's got the ultimate responsibility for
20 interpreting these regulations.

21 CHAIRMAN HEINLE: That's us. We have
22 the ultimate responsibility for interpreting
23 regulations.

24 MR. CHILSON: I am sorry. On the staff
25 level is what I said.

1 CHAIRMAN HEINLE: I am not sure what
2 benefit their interpretation is. I mean, that's the
3 problem. What we're dealing with is the
4 interpretation of the regulations.

5 MR. CHILSON: But you, in order to get
6 an interpretation on the record, I can't question you.
7 I mean you are the judges and jury here. I believed
8 that it's within my rights, and in defending against
9 this claim, to place on the record evidence of the
10 staff person who is in charge of the -- head staff
11 person who is in charge of the agency. And the
12 authority for that comes from a case called, in Weld
13 County, Kirby Vacuum Cleaner Company versus the
14 Industrial Commission. I don't remember the citation.
15 But I did check to see whether or not I did have the
16 right to inquire of the director, and I do. So, I
17 would appreciate that.

18 CHAIRMAN HEINLE: I guess what I am
19 concerned with is, to what end does that serve,
20 because, regardless of what staff's interpretation of
21 the regulation is it doesn't bear upon our decision as
22 to --

23 MR. CHILSON: I understand.

24 COMMISSIONER WILLIAMS: I think one
25 thing we can do here is what Rich views as an

1 interpretation, and keep in mind it's not his job to
2 interpret these regulations in a vacuum. His job is
3 to apply these regulations to specific situations that
4 come to his attention, under the regulations, under
5 the rules, as written. For him to be asked questions
6 about historic application of these rules and
7 regulations, given that some of these don't have that
8 long history, because they are new, I think, is an
9 appropriate line of inquiry. As far as his
10 interpretation, an interpretation disembodied from the
11 facts, it's never been his job to do that, and, so I
12 don't think, you know, you are not entitled -- what
13 you are not entitled to, for him to now formulate an
14 interpretation in answer to your question. So I
15 think, with that caveat --

16 CHAIRMAN HEINLE: So, the difference is,
17 if the question deals with the application, how the
18 commission has historically applied those rules and
19 regulations, those types of questions are fine. If it
20 gets into anything else. . .

21 COMMISSIONER WILLIAMS: Understanding
22 those are the appropriate windows.

23 CHAIRMAN HEINLE: In way of
24 interpretation.

25 COMMISSIONER WILLIAMS: Interpretation

1 in the context of how they have been applied to
2 specific situations in the past, I think, is
3 appropriate. If he starts asking how do you apply to
4 hypotheticals, what does it mean, disembodied from the
5 facts, that's not what he is called upon to do. He
6 may have an opinion, and I suppose he can give his
7 opinion. That's not binding on this commission or
8 terribly relevant, in my opinion.

9 CHAIRMAN HEINLE: Okay.

10 COMMISSIONER WILLIAMS: No offense,
11 Mr. Griebbling.

12 MR. GRIEBLING: Okay. That's what the
13 AG is for, to advise you on interpretation of
14 regulations.

15 MR. CHILSON: Well, then I would like
16 him placed under oath.

17 (Whereupon the witness was sworn.)

18 CHAIRMAN HEINLE: Okay.

19 EXAMINATION

20 BY MR. CHILSON:

21 Q. Would you state your name?

22 A. Richard T. Griebbling.

23 CHAIRMAN HEINLE: Go ahead. I don't
24 want this to be cross examination.

25 MR. CHILSON: But it is. Here's my

1 situation, and I hope you can understand this. I am
2 just a citizen, okay? I am brought before you. I
3 didn't have any choice to come here, and I sit before
4 you, and you have the power to impose upon me two
5 things, the cost of plugging and -- this well,
6 cleaning it up, which is going to be substantial, and
7 a fine of over \$3,000. Now those are substantial
8 issues of property. I am able to make a record. I
9 would appreciate you giving me that opportunity.

10 CHAIRMAN HEINLE: I will -- I just want
11 to say one thing, first. I thought we were going to
12 limit the testimony to application of the rules. I
13 mean, if there are any questions regarding facts or
14 circumstances, I think Mr. Shelton is the appropriate
15 person to ask those questions. He is the person
16 that's puts on the case itself. In this case, he's
17 been sworn into testimony. So, to the extent those
18 questions drift into that area, I am going to ask that
19 they be directed to Mr. Shelton, but any questions
20 relative to the rules, and how those have been
21 applied, historically, we have already said that they
22 could be answered, if the director can answer them.
23 So, I just want to make that clear. You can proceed
24 then.

25 MR. CHILSON: Let me finish what I was

1 going to say. Should you decide to fine me, and you
2 should decide to impose obligations on me that are
3 rightfully that of the operator, I have an avenue
4 that's called an appeal.

5 CHAIRMAN HEINLE: Absolutely.

6 MR. CHILSON: Okay. An appeal goes up
7 on the record made from this proceeding. We don't
8 have a trial. We don't bring witnesses into the
9 courtroom, put him on the witness stand and cross
10 examine, okay? The trial occurs right here.

11 CHAIRMAN HEINLE: I think we --

12 MR. CHILSON: That's why we ask the
13 witness to be sworn.

14 CHAIRMAN HEINLE: We understand. We
15 understand what you want, to get your information on
16 record. I guess what I am suggesting is we proceed
17 with it.

18 MR. CHILSON: In order for me to do
19 that, and present a proper records, I have to identify
20 who I am examining, what his position is, what his
21 knowledge and expertise is, what his job is. Now, are
22 you an attorney, Mr. Heinle?

23 CHAIRMAN HEINLE: Thank God, I am not.

24 MR. CHILSON: Then, you don't know the
25 job that I am faced with. I do.

1 CHAIRMAN HEINLE: I have two attorneys
2 on the commission that I would seek guidance for
3 and --

4 COMMISSIONER WILLIAMS: Mr. Chairman, he
5 does need to establish a foundation for the testimony
6 that will follow, and to do that, you have to
7 identify, on record, his office, those kinds of
8 questions, as we normally interrogate from witnesses,
9 which are appropriate under the circumstances.

10 CHAIRMAN HEINLE: Let's proceed. If we
11 sway from the track, I will ask my two commissioners
12 that are attorneys to speak up and get us back on
13 track. Proceed.

14 BY MR. CHILSON:

15 Q. I believe you stated your name, and your
16 position is what?

17 A. Director.

18 Q. Director Of what?

19 A. The Colorado Oil and Gas Conservation
20 Commission.

21 Q. How long have you held the position?

22 A. A little over three years.

23 Q. What are your duties?

24 A. I think that they are described in our
25 statute, and I'll refer you to our statute, to --

1 Q. Just for the record, tell me what you do
2 on a day-to-day basis.

3 A. I supervise our staff, and carry out the
4 charges of the statutory charges of the act, and apply
5 our rules and regulations.

6 Q. In applying the rules and regulations of
7 the oil and gas commission, on a day-to-day, oh,
8 excuse me, strike that. How long have you been the
9 director?

10 A. You asked me that question. I
11 responded.

12 Q. I forgot the answer.

13 A. Let the record reflect, I said a little
14 over three years.

15 Q. Okay. During that period of time, have
16 you been called upon, in your job, to make
17 administrative decisions with respect to taking
18 action, under the rules and regulations of the oil and
19 gas commission, for example, giving Notice Of Alleged
20 violation.

21 A. Yes.

22 Q. Okay. And you made the determination,
23 in this case, to issue a Notice of Alleged Violation
24 to me, I assume?

25 A. Yes.

1 Q. And did you make a decision to give a
2 notice of alleged violation to Jenex Petroleum
3 Corporation on the Chilson 16-1 well?

4 A. Will you refer to that document, please.

5 Q. I don't believe I have -- I don't have a
6 document. I don't have any documents. I am asking if
7 you issued to Jenex Petroleum any Notice of Alleged
8 Violation?

9 A. I am aware of none, Mr. Shelton, are you
10 aware of any?

11 MR. SHELTON: Yes, I am.

12 THE WITNESS: Could you refer to them?

13 MR. SHELTON: Yes.

14 THE WITNESS: Respond.

15 MR. SHELTON: When I was originally
16 researching this matter, I contacted both Jenex
17 Petroleum and Mr. Chilson by telephones, and informed
18 them of the situation and --

19 THE WITNESS: I do recall that
20 situation, yes.

21 MR. SHELTON: And what commission staff
22 was looking at, as far as this ownership, was crude,
23 and I explained to both parties, that per our rules
24 and regulations, that a Notice of Alleged Violation
25 would be required to start the process, and both

1 parties were issued a Notice of Alleged Violations,
2 and that process -- which Mr. Chilson received -- is
3 what instigated a lot of the correspondence that he
4 spoke to in his earlier statements between me and
5 Mr. Chilson.

6 BY MR. CHILSON:

7 Q. Would it be true to say, then, that you
8 did not issue the Notice of Alleged Violation, rather
9 that Mr. Shelton did?

10 A. The statute refers to director -- allows
11 the director to designate staff and to carry out such
12 functions as issuing Notices of Alleged Violation, in
13 this case, actually, I thought that's what your
14 question referred to. When I indicated that I was
15 involved in the issuance of the NOAV for you, and
16 responded in the affirmative, I was indicating that my
17 staff did that on my behalf.

18 Q. So, you did not personally issue the
19 Notice of Alleged Violation?

20 A. Right, to --

21 Q. To either myself or to Jenex Petroleum?

22 A. If you reference pages 22 and 23, of the
23 exhibit that our staff distributed, Mr. Shelton
24 distributed, you will see that they were signed by
25 Mr. Shelton. I believe that's pretty obvious. So, my

1 signature is not on there, if that's your question.

2 MR. CHILSON: I can't tell who's
3 signature is on there, because I can't read it.
4 That's the only reason for my question.

5 THE WITNESS: I see.

6 BY MR. CHILSON:

7 Q. Those are signed by Mr. Shelton and not
8 by you?

9 A. That's correct.

10 Q. During the period of time in which you
11 have been the director, and I include in that period
12 of time, any retroactive knowledge that you have
13 acquired in your position as director as to events
14 that occurred before you became the director, as a
15 result of things from the past resurfacing while you
16 have been on the job, are you aware of any case in
17 which the oil and gas commission has assessed or
18 required the surface owner of the property to plug and
19 close the well and reclaim the land when there was a
20 bond posted for that purpose by an operator of that
21 well?

22 A. I am aware of situations where we
23 required owners -- surface mineral owners to post a
24 bond in order to secure the future plugging liability
25 for a well. I am not aware of a case -- and before I

1 answer that, I will ask my staff if you are aware of a
2 case, Mr. Shelton, where we have ordered an owner to
3 plug a well?

4 MR. CHILSON: When there was a bond
5 posted by an operator.

6 THE WITNESS: When there's a bond posed
7 by an operator.

8 MR. SHELTON: I guess I would just say
9 that I am not aware of any such case. However, I
10 think this is a ground-breaking issue here where we
11 never had the situation where the surface owner and
12 mineral owner has sued to gain control of a well, and
13 mineral rights, and so, I don't think we have a
14 historical precedent that exactly narrows this case.
15 BY MR. CHILSON:

16 Q. The answer to my question, then, would
17 be that, as the director, you are not aware of any
18 prior incident in which the commission has assessed
19 against the surface owner the costs of plugging and
20 abandoning the well and restoring the surface at an
21 time when the operator's bond remained posted with the
22 commission; is that correct?

23 A. Actually, I might say that I am not
24 aware of any situation where a surface owner has not
25 posted a bond upon taking over an ownership of a well.

1 Q. Would you try answering my question, and
2 instead of giving your statements, please answer my
3 question. That's all I am asking. I think, in
4 fairness, I am entitled to that from you.

5 A. Okay.

6 COMMISSIONER BLACKWELL: I am going to
7 interject. I think it's -- I don't think the question
8 is really very clear. What you are saying, in the
9 scenario where an operator's bond is still present, or
10 still on file with us, and in this situation, there's
11 some dispute as to whether or not that bond should
12 have been released, whether or not you should have
13 provided the commission with the bond, so it's not
14 really an appropriately worded question, I don't
15 think.

16 MR. CHILSON: Well, I will maintain the
17 question then, as it is, and that I either be given an
18 answer or refusal on the record, one of the two.

19 CHAIRMAN HEINLE: I think you have to
20 answer the question. I think there's been some
21 groundwork laid in the record already as to the merits
22 of the question, so I think you need to answer it.

23 THE WITNESS: I am not aware of any
24 historical precedent for this situation existing,
25 where an owner has sued to gain control of the well

1 and whereas, as a result, the commission has
2 ordered --

3 BY MR. CHILSON:

4 Q. That was not my question. I would ask
5 the reporter, if you would, would you please go back
6 and reread my question.

7 (Whereupon the question on page 106
8 line 10 was read by the reporter.)

9 BY MR. CHILSON:

10 Q. Do you understand my question?

11 A. Yes, I think I understand.

12 Q. Would you please answer that question?

13 A. I would say "no" is my answer to that
14 question.

15 Q. Thank you. I sincerely want to find
16 out, and this is not cross examination or anything, I
17 sincerely want to find out if I have become an owner,
18 and, if so, when you have heard the evidence that was
19 presented in this case, you're aware that Phoenix
20 Petroleum left -- walked away from the well sometime
21 in 1985, late 1985; that Jenex came on in 1986 and
22 began pumping, probably sometime in late January or
23 early February. You have heard the evidence about tax
24 sale, all of that, a lawsuit that was filed, so on.
25 The statute defines an owner under your regulations,

1 and there is CRS 34-60-103, definitions. And this
2 subsection, paren, 7, paren, the owner is the person
3 who has the right to drill into and produce and to
4 appropriate oil and gas, either for himself and
5 others, or for himself and others. Did I have the
6 right, at some point in time --

7 A. Would you read the rest of that
8 reference please, would you read the --

9 Q. Pardon.

10 A. Would you read the rest of that
11 reference?

12 Q. Is it before you?

13 A. I think it would be important to put it
14 in the record.

15 Q. You go ahead and read it right in.

16 A. It says, "including the owner of a well
17 capable of producing oil and gas or both."

18 Q. An owner, we're defining what owner is.
19 Now, my question is, do -- did I become an owner in
20 this well? Under the circumstances of this case, did
21 I have the right to drill into and produce and
22 appropriate oil and gas for myself or for others, from
23 this well? Do I have that right now?

24 A. As I understand, that's the question
25 that you are asking this commission today.

1 Q. That's what I am trying to find out. Am
2 I an owner? Do I have that right today?

3 CHAIRMAN HEINLE: I think that's the
4 question for us to decide.

5 MR. CHILSON: Well, Mrs. Williams asked
6 me that right off the bat. That's one of the things I
7 came here to find out, because I don't understand the
8 rule, necessarily, what this means. And that's why I
9 am sure I looked look like I was fudging and hemming
10 and hawing, and trying to answer your question,
11 because I don't know. Do I, right now, I own the
12 farm, I still own the farm. I still own the mineral
13 rights. Do I have, today, the right to go in and
14 drill and produce oil and gas and appropriate oil and
15 gas for myself or for others from this Chilson 16-1
16 well?

17 A. Before I respond to that, I have an
18 opinion as to whether you do or do not, and --

19 Q. That's all you can give me.

20 A. I want to make sure you understand that
21 all that is is an opinion.

22 Q. Sure.

23 A. It's my opinion you do have that right.
24 You are an owner.

25 Q. So, I can go put a pump on that well and

1 produce?

2 A. In order to be in compliance with our
3 rules and regulations, you should have filed a bond,
4 posted a bond with us, when you first --

5 Q. No, no. Please answer my question.

6 A. When you --

7 Q. Please answer my question.

8 A. Not in compliance with our rules.

9 Q. Do I have the right to go in and
10 appropriate oil and gas from the Chilson 16-1 well
11 today? Do I have that right?

12 A. You have that right. In order to
13 exercise that right, you must comply with our rules.

14 Q. Okay. So, my right is conditioned upon
15 complying with your rules, and I have to get your
16 permission and comply with posting bonds and --

17 A. Your right is not conditioned upon our
18 rules.

19 Q. The exercise of my right is
20 conditioned --

21 A. The exercise of your right must be in
22 compliance with our rules, but I believe your rights
23 to your oil and gas mineral interests is independent
24 of our rules, as rights, and then our rules apply when
25 you begin exercising that right.

1 Q. Okay. I had a lease with Jenex, or with
2 Phoenix. Phoenix left. Jenex comes in under a tax
3 sale, and pumps and appropriates the oil and gas. I
4 file a suit, finally get them out of there. When did
5 I become the owner?

6 A. Again, this is an opinion.

7 Q. Yeah.

8 A. My answer to that would be when you
9 executed the settlement agreement that stipulated that
10 you owned the well. That's when you became the owner.

11 Q. Okay.

12 A. I would suggest that the commission
13 consider a legal interpretation of exactly when that
14 would be.

15 Q. I don't know. That's why I am asking
16 you, when you think I became an owner of the well.
17 Now, is it your position that I also bring this
18 notice -- I know it was done by your staff. Is it the
19 staff's position that I became an operator under its
20 statutory definition that's in the supplement, but
21 it's at 34-60-103, parens subsection (6.8), an
22 operator as, "any person who exercises the right to
23 control the conduct of oil and gas operations." At
24 6.5 is the definition of oil and gas operations.

25 Now, can you tell me, when is it your

1 position that I exercised the right to control the
2 conduct of oil and gas operations? When I had Phoenix
3 put in a flow line into the house while they were
4 producing the oil?

5 A. In order to answer that question, I need
6 to clarify a couple of things. You have signed a
7 pleading that is one of your exhibits. It's basically
8 John H. Chilson, Plaintiff, Jenex Petroleum Phoenix
9 and others as defendants, and general allegations,
10 that's the six-page document signed by you. On the
11 final page, and as I read that it indicates that --

12 CHAIRMAN HEINLE: Could you reference a
13 page?

14 THE WITNESS: Page 4.

15 CHAIRMAN HEINLE: Of?

16 THE WITNESS: Perhaps I should refer to
17 their -- to his exhibit, because our exhibit is the
18 unsigned version. The one in yours -- I know we're
19 waiting for copies of yours.

20 COMMISSIONER WILLIAMS: Page 42.

21 THE WITNESS: Page 42 of our materials
22 that corresponds to the exhibit being copied and a
23 signed -- in a signed form. Right. Says at the
24 bottom, plaintiff had, at his own expense, installed
25 gas line piping on said property which did not belong

1 to Phoenix Petroleum Corporation. Said pipe delivers
2 gas to a residence dwelling on the plaintiff's
3 property. That goes on to page 5 of the document,
4 page 43 of our exhibit, and, later, Item 23 --

5 BY MR. CHILSON:

6 Q. Can I ask you this? Who did you
7 understand that claim was being asserted against?

8 A. As I understand it, the statement that
9 you made and signed, and, basically, your signature
10 indicates that it's a statement of fact.

11 Q. Did you read beyond that?

12 A. I am reading -- now trying to read
13 beyond that Item 23. Says plaintiff's source of gas
14 for said residence was flowing from their well. If
15 it's a certificate well -- I won't go on, but I guess
16 the key thing to me would be whether this occurred
17 when the line was installed, and when the source of
18 gas as flow from this well occurred. And that's
19 what's not clear to me, from this document.

20 My earlier impression was that occurred
21 after Phoenix had been operating the well.
22 Apparently, from your testimony earlier today, you are
23 indicating that it occurred during the time Phoenix
24 was operating the well. Can you clarify that for me?

25 Q. Sure. As I indicated, the gas line was

1 put in probably within a month or shortly thereafter,
2 after they first started producing, because they had
3 gas and they were getting gas out of the well and had
4 no place to go with it. So, they were flaring it.
5 Said, do you want some? But that claim -- what I call
6 your attention to is made against the assessor,
7 because the assessor purported to sell that pipe that
8 had been put in at my expense. The claim was not that
9 I had control over the well because I had done that.
10 Did you understand that?

11 A. No, I really didn't. Because in 2(b),
12 it says that plaintiff's source of gas for said
13 residence was flow from this well. Yet earlier today,
14 you testified that you never did have any flow from
15 this well.

16 Q. It didn't work.

17 A. So, why is it there is a contradiction
18 from your testimony today and this document that you
19 signed?

20 Q. You know, I really can't tell you that,
21 because I can't -- again, my memory of what happened
22 back then is not that --

23 COMMISSIONER WILLIAMS: Let me interject
24 here. It's not his job to accept or reject your facts
25 as you understand them. That's not his job. That's

1 not why you are in the process of questioning him. If
2 I want to assume these facts, how would you interpret
3 that. I would -- that is probably speculative and not
4 what he really is required to do here. So, if we
5 could stick to what your original statement for this
6 line of questioning was, I think it would serve all of
7 our purposes and in moving things along. Please don't
8 argue the facts with them. We are the ones which will
9 decide which facts we accept.

10 MR. CHILSON: I understand that. I
11 accept that we're talking about when he gave me the
12 Notice of Alleged Violation, and that's what this is
13 relevant to, and his interpretation of the term
14 "operator", in giving me that notice. That's what
15 this line of questioning is relevant to.

16 COMMISSIONER WILLIAMS: Actually, I
17 think he testified he did not issue the notice, but it
18 was issued by staff, so, I am not sure.

19 MR. CHILSON: Well, as so often
20 happened, I said if he did not know the answer, he
21 could refer to Mr. Shelton, which I see entirely
22 appropriate for him to do, I guess, in this case.

23 MR. CHILSON: I am just trying to find
24 out the basis on which I am being claimed to have been
25 an operator.

1 THE WITNESS: I will try to answer that
2 question a little bit more. I think what you are
3 saying is, was there a determination, on your part,
4 that you were the operator. We believe what there
5 was, there's a determination that, with respect to
6 certain alleged violations, you were an owner. And
7 that I believe, with respect to one of the alleged
8 violations, you were an operator. Under our
9 understanding, that statement that you signed
10 indicated that the gas flow to your house that
11 occurred, flow to your residence, that occurred after
12 Phoenix was the operator. So our NOAV was based on
13 the determination that you were an owner --

14 BY MR. CHILSON:

15 Q. I see.

16 A. -- for all alleged violations, and for
17 one of those alleged violations, I believe, an
18 operator.

19 Q. All right. So, your understanding was
20 that I was, at the time that was filed, I was getting
21 gas to the house from the well?

22 A. No. But that at some point after.

23 Q. Phoenix had left?

24 A. Had operated.

25 MR. CHILSON: Okay. All right. I

1 understand. Thank you. Okay. That's all of the
2 questions I have.

3 CHAIRMAN HEINLE: Okay. I guess we have
4 not given director or staff an opportunity for
5 redirect yet. Do you have any additional questions
6 you wish to ask?

7 EXAMINATION

8 BY MR. SHELTON:

9 Q. I would like to ask Mr. Chilson what he
10 expected the outcome of his litigation to be, and
11 basically he revoked the valid bond operator from
12 having any control over that well, and I guess I would
13 ask him, what were his plans for the well and what did
14 he expect to come out of his litigation?

15 A. That's a very fair question. There are
16 two questions. What did I expect from the well, and
17 what did I expect the outcome of the litigation to be.
18 I had expected to obtain either a decree or a
19 stipulation of settlement from the treasurer,
20 admitting that he had no authority to sell my mineral
21 rights, which I did get. And, therefore, we entered
22 into dismissal with the treasurer. That stipulation
23 was granted in the case.

24 The second thing I wanted to do was to
25 get -- this isn't in order of importance, just how I

1 am thinking, is to get an accounting for the oil that
2 was missing, that was there when Phoenix went away.
3 It was almost a full tank of oil, to get an accounting
4 for that. And also to get an accounting for the oil
5 that was produced by Jenex when they were on the
6 property operating, okay? And to get an agreement as
7 to how the proceeds from those oil -- that oil -- how
8 the royalties would be divided between me and Phoenix,
9 because they were claiming the right to all of that
10 oil except a .08 percent royalty to me. I challenged
11 that in court, and the stipulation signed shows that I
12 won that case.

13 The third thing I wanted was to clear up
14 my title, okay? So that Jenex's claim that they had
15 the right to operate on my property, because they
16 owned the minerals, and that they had the right to be
17 there without a lease from me, that that claim got
18 removed, at that time, got adjudicated as not a legal,
19 legitimate claim, which, under the stipulation we also
20 got -- under the stipulation, where they gave me the
21 quitclaim deed and removed their property, the pumps
22 and pipes. From that point on, I just expected
23 sometime that the bond -- and I thought Phoenix -- I
24 really did think Phoenix's bond was still up here, and
25 that because Phoenix had gone away, I didn't know



1.66

1 Jenex had posted a bond. And I thought Phoenix's bond
2 would be used, and I would get a call from somebody
3 saying we want to come in and plug the well and clean
4 it up. I would say, great, go right in and do it, and
5 that would happen sometime, whenever you all got
6 around to it.

7 Well, it didn't happen and it didn't
8 happen, and I didn't really focus in on that question;
9 that was not a burning issue in my life, but I just
10 vaguely thought that some day that was going to
11 happen. The well would get plugged, it would get
12 cleaned up and everybody go away happy. Be over with.

13 Q. Did you ever ask Jenex to plug the well?

14 A. No I didn't. I didn't know that I had
15 to. I didn't know that was my job to get them to do
16 that. I just assumed it was part of their
17 responsibilities to you and that would be done in the
18 ordinary course of business of how oil and gas does
19 their business.

20 Q. Well, under normal circumstances that
21 would have been correct, but, I guess the question is,
22 once the quitclaim was executed, did Jenex have any
23 right to go on your property and do any oil and gas
24 operations?

25 A. Well, they had the right to go on, and,

1 according to the agreement we had, they always, in my
2 way of thinking, they always had the right to go on
3 there to plug the well, to get it plugged and to clean
4 up the site, not to produce any more oil, but to close
5 this well down and reclaim the site so I could start
6 farming it again. That's what I thought is the --
7 that I didn't know they needed my consent to do that.
8 I mean, that's just all I can tell you. My thoughts
9 were vague. I thought this would be taken care of in
10 the ordinary course of the oil and gas business,
11 however that was run. And I don't know how it's run,
12 and I would tell you what, I hope to never find out
13 again.

14 CHAIRMAN HEINLE: Mr. Shelton, do you
15 have any other questions?

16 MR. SHELTON: I don't have any of
17 Mr. Chilson. If there's no other questions, I would
18 like to clarify some of the process staff went through
19 on this matter.

20 CHAIRMAN HEINLE: Okay. If you go
21 through that again, I am going to give Mr. Chilson an
22 opportunity to cross examine you, and we'll go back
23 through your opportunity to redirect. So, if you
24 think it's important, proceed.

25 MR. SHELTON: I think it is. As I had

1 mentioned earlier, I started the process by contacting
2 Jenex Petroleum and Mr. Chilson by telephone. They
3 were talking over the situation, and explaining the
4 NOAV process, and the steps that commission staff had
5 to go through to try to get a disputed matter
6 resolved. And, at that point, we issued NOAVs to both
7 Mr. Chilson and Jenex, and had various correspondence
8 with both parties.

9 I believe, in his testimony, Mr. Chilson
10 indicated that we were holding him responsible from
11 the beginning, which that's not a correct assertion.
12 We were basically saying that staff did not have
13 enough evidence to make a determination of the
14 responsible party, who should actually plug the well,
15 and that if somebody didn't take responsibility, then
16 the matter would probably have to be heard at
17 commission hearing, discussed with the AG's office,
18 those types of considerations. It wasn't until the
19 proposed settlement process that Lori Coulter
20 presented that staff got the impression that Jenex was
21 willing to step to the plate and be at least partly
22 responsible for getting the well plugged.

23 It seems to staff that the impediment to
24 the process was Mr. Chilson. It seemed he was
25 exercising control of the well by basically not

1 letting Jenex come in. That was Jenex's assertion,
2 that they had no right to enter upon his property and
3 do things to that wellbore.

4 CHAIRMAN HEINLE: Here's what I am going
5 to do. I am going to let Mr. Shelton finish his
6 comments and give Mr. Chilson an opportunity to
7 recross, if he wants to, give Mr. Shelton an
8 opportunity for final direct, get closing statements
9 from both parties, and then bring it to the
10 commissioners, and if the commissioners have any
11 questions at that time, they are certainly free to ask
12 of any of the witnesses, but I am trying to bring this
13 down to some closure. We're going to follow that
14 procedure to bring it to closure, then the
15 commissioners will have an opportunity to ask
16 questions.

17 MR. SHELTON: As I was saying, looking
18 at what information we had available to us at the
19 staff level, and looking at the situation, we made the
20 decision that we felt Mr. Chilson was the responsible
21 party and was the owner of the well; and, therefore,
22 because the settlement agreements were not executed by
23 Mr. Chilson, the decision was made to bring it to
24 hearing with the recommendation that he be found
25 responsible.

1 CHAIRMAN HEINLE: Mr. Chilson, do you
2 have any questions you would like to ask Mr. Shelton?

3 EXAMINATION

4 BY MR. CHILSON:

5 Q. Mr. Shelton, did anyone from Jenex ever
6 tell you that they had asked my permission to go on
7 the property to plug the well and had been denied?

8 A. I don't believe so.

9 Q. I would state, under oath, and on the
10 record, I have never been asked by anyone to grant
11 access to my property to plug this well. Nobody -- I
12 never knew that was a issue. I will grant it. I
13 would have granted it at any time to get this thing
14 done. Nobody ever asked me. I didn't know that I was
15 a barrier to this? How could I know I was thought of
16 as a barrier to this. There's -- nobody ever asked
17 me, can we go in and plug this thing, do we have
18 access to your property? I certainly would have said
19 yes, and I question on record today. You bet you can
20 have access to close the well.

21 The only reason we're here, I felt it
22 was unclear. I had agreed -- and I will ask
23 Mr. Shelton if this isn't the truth -- I had agreed
24 that we would pull casing, use that money, whatever
25 that value was, towards plugging the well. If there

1 was an amount due over and above that, if there wasn't
2 5,000 feet of casing, which seemed to be the magic
3 number, there was not 5,000 feet of casing, the
4 plugger said that they would need more money, and I
5 agreed to contribute to half of that cost if there
6 wasn't 5,000 feet in there.

7 Where this came across, what I really
8 thought of as being unfair, that I had to bear the
9 whole cost of restoring the property. My position had
10 been we split the cost, just like we split the
11 overage, if there is any on the cost of plugging the
12 well, fine. But I don't think it's fair that I should
13 pay the whole cost of restoration, because it's just
14 not right. There's -- if I am an owner under your
15 regulations, I have joint liability with the operator,
16 and I get -- came in here, thinking I probably was an
17 owner, but I wasn't sure now. I guess I am pretty
18 sure. I am an owner. So, there's no question. I
19 have got joint liability here with the -- with
20 Phoenix, however, since Jenex is gone, I guess it only
21 can be Phoenix. Why should I have to pay the entire
22 cost of restoration? We're going to split the overage
23 if there wasn't enough pipe in the well to pay for the
24 plug, why aren't we splitting the cost of restoration?
25 I don't think it's going to be a little cost. There

1 is -- you haven't seen, there is some huge Picasso, is
2 the best way I can describe it, there's this tubing
3 about this big, and I am guessing that there is over
4 1,000 feet of that stuff all wound around and tangled
5 up like spaghetti, and sticking right up in the air on
6 this property. There's a whole bunch of old pipe.
7 There's a whole bunch of old cans. There's a whole
8 bunch of dark spots on the ground where oil or
9 something was spilled. There's this concrete basin we
10 have talked about.

11 CHAIRMAN HEINLE: Mr. Chilson, it sounds
12 like you are getting into closing argument. What I
13 would like to do is, which I am going to give you the
14 opportunity to do, to finish up on your cross, if you
15 got any additional questions of Mr. Shelton.

16 MR. CHILSON: No.

17 CHAIRMAN HEINLE: Mr. Shelton, do you
18 have any additional questions of Mr. Chilson at this
19 point?

20 MR. SHELTON: No, sir.

21 CHAIRMAN HEINLE: Do you have closing
22 statements you would like to make?

23 MR. SHELTON: I guess.

24 CHAIRMAN HEINLE: Okay. Go ahead.

25 MR. SHELTON: If it's the appropriate

1 time. Given the information that's been made
2 available at staff's recommendation, that Mr. Chilson
3 be found the owner and operator of this well, we
4 realize that, historically, the commission has not
5 held the owners of the land responsible, but, in this
6 particular case, we feel that Mr. Chilson knowingly
7 and willingly sued a valid operator, that was properly
8 bonded with the commission, to gain control of his
9 mineral rights, as owner of the well and wellbore in
10 question.

11 And that's what distinguishes this case
12 between cases we normally deal with of an orphan well,
13 where, through no fault of their own, the landowner
14 now has an orphan well on their property. Basically,
15 we feel that Mr. Chilson used litigation to evict a
16 valid operator from the premises, and by taking this
17 action, he should have taken the responsibility to
18 file the necessary paperwork and provide the
19 commission with the bond. Therefore, the staff would
20 ask that the commission find that he is the
21 responsible party and levy the fine that is
22 recommended by staff.

23 CHAIRMAN HEINLE: Mr. Chilson, closing
24 comments?

25 MR. CHILSON: Sure. I would like to

1 know what a valid operator is, because, I ask you, if
2 I own an oil and gas company, and a producing company,
3 and you own a farm, and I walk onto your farm without
4 a lease, without an agreement from you, the landowner,
5 and can I walk on there and put down a well and
6 produce it, and pay you any royalty that I choose to,
7 and you have nothing to say about it, and the reason I
8 can do that is because in the eyes of the staff, and
9 this commission, I'm a valid operator. I have a bond.
10 That makes me valid. So, with that in there, make
11 sure, from this commission, from this staff, I can
12 walk onto your 80-acre farm, I can punch down a well
13 and pull out the oil and gas with no lease, with no
14 agreement from the surface owner.

15 Now, if you want to find me the
16 responsible party, based on that proposition, so be
17 it. Okay. I, certainly, I belong to lots of farm
18 organization. I am certainly going to put out the
19 word to people, if you are ever going to enter into an
20 oil and gas lease, be aware that you can become an
21 operator if the guy walks away. Here I had no control
22 in this situation, or anything, except getting the
23 title to my land squared away. That's all I had
24 control of. Had Jenex Petroleum not come in and done
25 what they had done, when this well stopped producing,

1 I think I -- questionably, Phoenix Petroleum's bond
2 would have paid for the plugging of this well and
3 restoration of the property. The only thing that
4 prevents that from having happened is for -- Jenex
5 Petroleum came in without my consent, without any
6 agreement from me, with no authority to do it, and
7 said, oh, Phoenix isn't any longer the operator,
8 release the bond.

9 Now, I am not blaming the staff here. I
10 think that is probably normal operations that they
11 take, for the word of the people that they deal with,
12 the oil and gas companies. Sure, if Jenex says
13 Phoenix isn't the operator, that they are going to put
14 up the bond, fine, let it go. But look what that did
15 to me? I wasn't the one that were -- that releases
16 Phoenix's bond. I didn't have any say in that at all.
17 I am now being said that, because of that, because
18 somebody came in and trespassed on my property, and
19 started taking my minerals and offering to pay me only
20 a portion of what I was entitled to under the only
21 lease that existed, because there was a trespasser on
22 my property and someone who came in and changed the
23 records here with neither my cooperation nor my
24 knowledge, you are saying that made me an operator of
25 the well.

1 If that's the rule you want to establish
2 here, you are certainly going to be hurting
3 landowners, without whose cooperation, and in leasing,
4 the oil and gas industry is going to have an awful
5 tough time. If that's going to be the rule you
6 establish, isn't it going to be necessary for the
7 landowner to put into the lease some screwy ball
8 provisions to protect himself, and put, somehow, this
9 commission on notice they can't change the operator
10 without his consent. I mean, there's not even a way
11 to do that, and when you think of the liability that
12 the landowner can suffer from this, and not knowing,
13 just as I didn't know it, I think you really should
14 think about the rule that you would be laying down
15 here, because, in no way did I seek to control the
16 conduct of oil and gas operations on this well. All I
17 wanted to do was get a trespasser off of my land and
18 get an accounting for the oil that they had taken, and
19 make it known that the treasurer of Larimer County had
20 no authority to sell my mineral rights. That's all I
21 sought to do. That's all I did. I never operated an
22 oil and gas well in my life. I never exercised
23 control over it. I never did anything like that. I
24 am nothing but the landowner. The fact that I brought
25 a suit to protect my interests, like any one of you

1 would have had to do, if you owned the property,
2 anyone of would you had to do the same thing. And if
3 you are going to turn that against me, say that that
4 makes me now responsible for all of this, is really
5 unfair, is really unfair. Okay.

6 I have never ever refused anybody access
7 to my property, either to shut the well down, to plug
8 it in, and to restore it. I didn't even -- I didn't
9 know I had to do anything. Nobody asked, and it sat
10 there just out of -- in inertia. I don't think I can
11 be blamed for that. If somebody had called back in
12 1990 and said --

13 CHAIRMAN HEINLE: Mr. Chilson.

14 MR. CHILSON: -- we're concerned about
15 access, I would have said, come in. This is my
16 closing, and that's it.

17 CHAIRMAN HEINLE: I was going to point
18 out that at least the last two statements, I think we
19 have heard your closing comments and try to see if we
20 can narrow it down. Is there anything else?

21 MR. CHILSON: No.

22 CHAIRMAN HEINLE: Okay. At this point,
23 what I would like to do is bring it back to the
24 commission. You can ask questions, if you've got any.
25 And at the point you -- there are no additional

1 questions to ask, then we'll take it under
2 deliberation. So, are there any questions of the
3 commissioners?

4 COMMISSIONER BLACKWELL: Mr. Chilson, I
5 have a question for you, regarding inconsistency in
6 some of your exhibits, if you could clarify it. In
7 your stipulation, in -- our copy is not signed, but we
8 did pass around a signed copy.

9 MR. CHILSON: Which exhibit is that?

10 COMMISSIONER BLACKWELL: I don't have
11 the exhibit number.

12 MR. CHILSON: It's one we plucked out of
13 the stuff.

14 COMMISSIONER BLACKWELL: The stipulation
15 that you entered into with Jenex. Paragraph 2 of the
16 stipulation indicates that you stipulated that Jenex
17 was the operator of the Chilson -- is it 16-1 well --
18 from February of 1987 to December of 1987?

19 MR. CHILSON: Uh-hum.

20 COMMISSIONER BLACKWELL: It seems clear
21 to me that after December of 1987 you stipulated that
22 Jenex was no longer the operator. From your later
23 correspondence, in 1996 -- right now I am looking at
24 your Exhibit Q, paragraph 2, where you state, which is
25 in a letter to Mr. Shelton, I gather you have made a

1 demand on Jenex, as a registered operator, to clean up
2 the well site and plug the well, and that Jenex is
3 asserting the false proposition that they are no
4 longer the operator.

5 How can you stipulate, in '89, that they
6 are no longer the operator and were not the operator
7 after December of '87, then, in later correspondence,
8 assert that they still are the operator.

9 MR. CHILSON: The stipulation did not
10 have -- was not in contemplation of the technicalities
11 under the oil and gas commission regulations of what a
12 operator was. Okay? There was no intent in that
13 provision to say that Jenex had ceased to have the
14 status of an operator under oil and gas commission
15 regulations.

16 COMMISSIONER BLACKWELL: What does that
17 mean?

18 MR. CHILSON: It should have said,
19 probably, if it had been better-worded, operated the
20 well during that period of time. All right?

21 COMMISSIONER BLACKWELL: What difference
22 would that have made?

23 MR. CHILSON: You are taking it as if we
24 were -- as if there was an issue in the case as to
25 which Jenex was the operator. There was not. It was

1 not an issue in the case. The stipulation was entered
2 into at a time that I had a letter from Jenex that
3 they were going to clean up the well and wellhead. I
4 didn't think it was, best I can recall about it, I
5 don't even think I thought about it in that light. My
6 thoughts were that I had a letter that said they were
7 going to clean it up. There was no issue in the suit
8 as to whether they had the liability, and it wasn't
9 litigated, it wasn't claimed, it wasn't defended
10 against. So, that statement doesn't have any meaning
11 as to their responsibility for cleaning up and
12 plugging the well. It just didn't have any
13 relationship to that issue.

14 COMMISSIONER BLACKWELL: Okay.

15 CHAIRMAN HEINLE: Any other questions?
16 Commissioner Rebne.

17 COMMISSIONER REBNE: I just want to be
18 clear on the record. You stated that you're agreeing
19 to the staff's recommendation on page 8, or would you
20 agree to this with the exception that you felt it was
21 unfair for you to be 100 percent responsible for the
22 surface restoration, other than the surface
23 disturbances around the wellbore, caused by the Sunset
24 Plugging operations; is that correct?

25 MR. CHILSON: That's correct.

1 COMMISSIONER REBNE: My next question
2 is, would you be willing to share that responsibility
3 50-50 with Jenex?

4 MR. CHILSON: Yes. I think, under your
5 regulations, if I am an owner, I am certainly liable
6 for that.

7 COMMISSIONER REBNE: And, further, you
8 have no problem with the company that's going to be --
9 or company that may do the plugging -- Sunset
10 Plugging, taking the casing as payment for --

11 MR. CHILSON: No.

12 COMMISSIONER REBNE: Because you are
13 owner of that casing.

14 MR. CHILSON: See. That's the question.
15 Do I own -- do I own that casing? I guess I do. If I
16 do, I don't have any problem with that. I want the
17 well closed. I want it plugged. I want it over and
18 done with. If it's my casing, maybe I could go out
19 and --

20 COMMISSIONER REBNE: Okay.

21 MR. CHILSON: I really hadn't thought
22 about that before, but, no. My answer remains the
23 same. My idea is that if there's 5,000 feet of casing
24 there, they are going to do it for no charge. Site
25 restoration is split between myself and Jenex. Okay.

1 If there's not enough, myself and Jenex split the
2 difference.

3 CHAIRMAN HEINLE: Any other questions?
4 Commissioner Matheson.

5 COMMISSIONER MATHESON: Was Jenex
6 noticed of this hearing?

7 MR. SHELTON: They were, and they were
8 here in January, when it was originally noticed, and
9 Mr. Chilson could not make it. Staff was called about
10 two weeks ago and warned that Jenex would not be able
11 to attend and the decision was made to go ahead with
12 the hearing and staff's recommendations.

13 COMMISSIONER MATHESON: They were aware
14 today's hearing was going to take place.

15 MS. BEAVER: Could I help answer that
16 question maybe?

17 COMMISSIONER MATHESON: All right.

18 MS. BEAVER: When we were told that
19 Jenex would have a problem attending today, because of
20 other reasons, I contacted Assistant Attorney General
21 Monahan to ask him if he thought, based on the
22 application, the documents he had read, that they
23 would be prejudiced in anyway by not attending, and it
24 was his opinion that it would not. I would throw that
25 out to you.

1 COMMISSIONER MATHESON: I read No. 7 in
2 the notice, and it seems that, reading that, it says
3 that we're to determine the responsible party between
4 Jenex and Mr. Chilson, and I was just asking whether
5 Jenex was aware of the hearing, and they didn't come.
6 So, they are aware of it. That's all I have.

7 CHAIRMAN HEINLE: Any other questions of
8 the commissioners?

9 COMMISSIONER MacMILLAN: Yes, Chairman
10 Heinle.

11 CHAIRMAN HEINLE: Commissioner
12 MacMillan.

13 COMMISSIONER MacMILLAN: To both
14 parties. Are either of you aware of any production
15 activities on the well after March of 1988?

16 MR. SHELTON: The last production
17 received by the commission was November of 1987, and
18 ever since I have had that territory, from the first
19 time I have seen the wells, it's been in a temporarily
20 abandoned status. So, I am guessing that it has not
21 produced since November of '87, but I cannot affirm --
22 confirm that. Just tell you what our records reflect.

23 MR. CHILSON: No.

24 COMMISSIONER MacMILLAN: Okay. Thank
25 you.

1 CHAIRMAN HEINLE: Okay. Any other
2 questions? All right. I think we have got a two-part
3 question here. First part is whether we find
4 Mr. Chilson the responsible party, whether there's a
5 fine assessed, flows out of that. If we don't find
6 him a responsible party, there would be no fine
7 assessment. On the other hand, if he is a responsible
8 party, there would be a fine and we would have to go
9 into testimony of the fine and the recommendation, and
10 so forth.

11 So, I guess what I would like to do is
12 perhaps just go around the table, again, among the
13 commissioners, to perhaps see if there's a consensus
14 of where we're at. Perhaps there might be sufficient
15 support for the formulation of a motion. So, I am
16 going to start with Commissioner Blackwell.

17 COMMISSIONER BLACKWELL: And the
18 question is, in our opinion, is Mr. Chilson the
19 responsible party?

20 CHAIRMAN HEINLE: Correct.

21 COMMISSIONER BLACKWELL: Well, I am
22 looking at the definition in the statute, and I think
23 it's being passed around.

24 CHAIRMAN HEINLE: You might quote it, so
25 that anybody that hasn't got the book in front of him,

1 or copy of our regulations. . .

2 COMMISSIONER BLACKWELL: The statutory
3 reference is 34-60-124, subsection 7, no, subsection 8
4 B, actually, and, b, because I think b is the relevant
5 piece. B reads, "Except as otherwise provided in
6 paragraph a of this subsection, 'responsible party'
7 does not include any landowner, whether of the surface
8 estate, mineral estate, or both, who does not engage
9 in or assume responsibility for the conduct of oil and
10 gas operation."

11 And I guess the key issue, from my
12 perspective, is, did Mr. Chilson assume responsibility
13 for the conduct of oil and gas operations? And, in my
14 mind, that's a really tough call. I think there's
15 been some evidence received that would tend to
16 indicate that he did assume some responsibility in
17 that he obtained complete control and ownership of the
18 wellbore, and that Jenex was no longer the operator,
19 and so that arguably assumes responsibility for the
20 wellbore, but was there any conduct of oil and gas
21 operations going on at that point? There doesn't
22 really appear much evidence to indicate that there
23 was.

24 So, I will -- although there seems to be
25 some argument that could be made, I don't think, in my

1 mind, it would be persuasive enough to say that
2 Mr. Chilson summed responsibility for the conduct of
3 the oil and gas operations. So, I would say no, under
4 that definition, he is not a responsible party.

5 CHAIRMAN HEINLE: Commissioner Matheson.

6 COMMISSIONER MATHESON: I don't believe
7 Mr. Chilson is the responsible party. I don't believe
8 he assumed the responsibility of the conduct of oil
9 and gas operations. I think he's explained to us how
10 some of the terms used in the documents for his
11 litigation are terms of art for our rules and whatnot,
12 but, most of those definitions aren't being taken out
13 of context by us, in light of what his purposes were
14 during that litigation. And so, I feel comfortable --
15 I think Jenex is still the operator of record. They
16 are the responsible party, and should be wholly
17 responsible for plugging and abandoning these wells,
18 and also assessment of fines.

19 CHAIRMAN HEINLE: Commissioner Johnson,
20 can you finish?

21 COMMISSIONER MATHESON: Yes, I am sorry.

22 COMMISSIONER JOHNSON: This is a strange
23 situation for me, being the landowner and farmer
24 representative, if you would. But, in reading this,
25 and the reason why I am going to say what I am going

1 to say is because the hostile manner in which
2 Mr. Chilson removed a party who, under definitions and
3 everything else would probably be classified as
4 responsible party, and a party who was willing to be
5 responsible, but, in any way possible, he exercised,
6 in any manner that's available to him, be it court
7 system and everything else, to remove this person,
8 this party.

9 So, from a pure technical standpoint, I
10 can't say that he is, by its own definition, he's
11 responsible, but he's removed the responsible party;
12 therefore, you know, his -- neither party is
13 responsible. I can't say that. And so, therefore,
14 there needs to be some sharing, I think in getting
15 this thing to P&A. Prior to the definition of this it
16 was, to me, clear, that because of the hostile nature,
17 Mr. Chilson was responsible for taking and getting
18 this thing done, but with the definition and his
19 behavior, no -- neither party has ultimate
20 responsible, but I think both of them should share
21 that because of their behavior.

22 CHAIRMAN HEINLE: Commissioner Rebne.

23 COMMISSIONER REBNE: I don't think that
24 Mr. Chilson ever intended to be an operator or ever
25 initiated anything that would indicate that he was

1 taking on oil and gas operations, because -- but,
2 shortly after March of 30, 1988, Jenex also intended
3 to not be involved with the operations of this well,
4 you know, clearly intended to not be associated with
5 the operations of this well any longer either.

6 So, I think, as Bruce has pointed out,
7 we have a problem, but Mr. Chilson has indicated that,
8 you know, he is willing to assume some of the
9 financial responsibility associated with the plugging
10 and abandonment and so has Jenex, in documents they
11 have already signed, so, I think it comes to some sort
12 of sharing agreement.

13 CHAIRMAN HEINLE: Commissioner
14 MacMillan.

15 COMMISSIONER MacMILLAN: I don't believe
16 that Mr. Chilson is a responsible party. I appreciate
17 his taking the time to clarify for us the details of
18 the matters that he went through. I also want to
19 clarify, for the record, that I believe that he
20 accurately described, with all of his exhibits, his
21 response to the oil and gas commission's requests for
22 information, particularly from the time that the oil
23 and gas commission issued the Notice of Alleged
24 Violation and the exhibits presented by the oil and
25 gas commission show very prompt response to that. I

1 was misinformed when I made statements previously to
2 that.

3 I share Commissioner Matheson's
4 perspective that when I go back now, with the input of
5 Mr. Chilson, and look at the cessation of mechanical
6 operation of this well in question, that, to me, it's
7 very clear the time of cessation of those operations
8 occurred early in 1998, at the latest.

9 COMMISSIONER MATHESON: '88.

10 COMMISSIONER MacMILLAN: '88. Thank
11 you. That, at that point in time, the responsible
12 party was Jenex, not Mr. Chilson. I also believe, as
13 other commissioners have stated, that that
14 presentation by Mr. Chilson shows me that he never
15 intended to mechanically operate the well, although,
16 clearly, the documents provided by our staff and the
17 exhibits provided by Mr. Chilson indicated that he
18 expected to get one -- wanted to get and did obtain
19 ownership of the wellbore. But I am persuaded by
20 those acts, that was for reasons other than the
21 mechanical operation of the well.

22 CHAIRMAN HEINLE: Commissioner Williams.

23 COMMISSIONER WILLIAMS: This is
24 interesting. I am, No. 1, not as persuaded as
25 Commissioner MacMillan that the flow from this well

1 ended as of the time so stated, because I think the
2 evidence is contradictory on that point, primarily
3 based on the complaint filed by Mr. Chilson that
4 indicates that he is concerned about ownership of
5 these flow lines going over to Jenex, would rob him of
6 the value of this gas that he had been using for
7 heating his residence. That is inconsistent with his
8 testimony today. I realize that. And, you know, the
9 fact it was contained in a Complaint filed at the
10 court, where there was also an obligation similar to
11 being under oath, to tell the truth, those are
12 inconsistent statements. I have trouble reconciling
13 them, but I do think there's evidence in the record
14 that would establish flow from this well,
15 notwithstanding oral testimony to the contrary, after
16 the time that Phoenix was off the well and Jenex was
17 on the well.

18 Another concern I have with the lawsuit,
19 there was production after Phoenix left the well. It
20 was production. These operations, there's no
21 question, were conducted by Jenex. But it is
22 Mr. Chilson's contention that those operations were
23 illegal; that they had no right to be there, they were
24 trespassers. And, as part of his suit, he claimed the
25 right to all of the proceeds of that production, in

1 other words, of those operations and production from
2 them were essentially his. The ultimate disposition
3 of those, I believe, was some \$6,000 in interim --
4 6,000 plus some interim proceeds. 5,000 went to
5 Mr. Chilson, the remainder went to Jenex. Jenex's
6 position on that, from the information submitted by
7 Mr. Chilson, was to cover their cost. They felt they
8 were entitled to cover the cost of generating that
9 6,000 plus from production during this period.

10 I don't think, to be an operator, you
11 have to conduct the operation. I think you have to
12 assume responsibility for the conduct of operation.
13 And if what you do with that responsibility is shut
14 operations down, or prohibit operations, that that is
15 the same, for purposes of a responsible party, as
16 actually going out there and mechanically continuing
17 to pump the well. The decision to stop operations on
18 the well is as much an assumption of the control over
19 operations as the decision to continue those
20 operations.

21 On that basis, I would not declare that
22 Mr. Chilson is solely liable, because I think Jenex
23 did, in fact, conduct those operations, did file the
24 bond, and the fact they didn't have title is not our
25 problem. That's Jenex's problem. But the fact they

1 reached settlement where they relinquished that title,
2 is also not our problem, is a case where there was
3 assumption of the ownership of the well, whatever the
4 intent was, that was the result. It was with advice
5 of counsel, and through representation of counsel.

6 On that basis, I do believe that
7 Mr. Chilson is the responsible party. I don't believe
8 he is sole responsible party here, but I think Jenex
9 also has responsibility. And the proposition of
10 holding of them being liable jointly on a 50-50 basis,
11 I think, is the fairest solution under that analysis
12 for going forward.

13 When we come to violations, then I think
14 intent becomes very important, how we analyze, for
15 determination of responsible party. I think that the
16 case supports that -- the facts, as they have been
17 presented to us, support the staff's finding that
18 Mr. Chilson is the responsible party.

19 CHAIRMAN HEINLE: I guess I concur with
20 what Commissioner Williams has just said. I think,
21 when the stipulation was signed, taking possession of
22 the wellbore, Mr. Chilson became a responsible party.
23 The fact that his attorney or himself did not
24 understand the ramifications of that is another
25 matter. I think the documents are clear on that. I

1 also agree that the situation itself creates
2 uncertainty, and, because of that, I think that some
3 sort of sharing between Jenex and Mr. Chilson is
4 appropriate. I don't know what this commission can
5 do. Jenex is not here today. And I don't know
6 whether we can issue an order that stipulates that
7 they both share 50 percent in it, because we haven't
8 heard from Jenex. So, that bothers me somewhat, in
9 terms of how we try to resolve it. But I do believe
10 that, aside from that, under our statutes, Mr. Chilson
11 did assume responsibility for the operation, and, as
12 such, would be technically responsible for the
13 plugging and abandonment of the well.

14 MR. GRIEBLING: Can I make a reference?

15 CHAIRMAN HEINLE: Let me ask a question
16 first. I did somewhat -- there's seems to be some
17 interest in working out an arrangement whereby Jenex
18 and Mr. Chilson would equally share in the plugging
19 and abandonment and restoration of the well. And it
20 sounds like the parties were there with the exception
21 of that last portion, the restoration of the surface.
22 As I understand the agreement that was being passed
23 back and forth, was that that cost would be borne
24 solely by Mr. Chilson. So, I think, if there's -- at
25 least I think there are four commissioners out of two

1 here that are probably in favor of that. Maybe more.
2 But I am not sure how we get there, given the set of
3 circumstances.

4 COMMISSIONER MATHESON: I have a motion,
5 at least on a -- one solution.

6 CHAIRMAN HEINLE: Okay.

7 COMMISSIONER MATHESON: If you would
8 entertain that.

9 MR. GRIEBLING: Can I read that
10 reference? I think it may be of value. I am going to
11 read it, 524.d, "Where multiple persons are determined
12 to be responsible parties, they will shall share in
13 the mitigation liability in proportion to their
14 respective shares of production, respective periods of
15 ownership, or respective contributions to the problem
16 or any other factors as may serve the interests of
17 fairness."

18 CHAIRMAN HEINLE: That's a helpful
19 reference. But the issue, I mean, is there a due
20 process issue here that Jenex has not been before us,
21 we have not heard their side of story. How can we
22 impose a finding that affects them without them having
23 had the opportunity to present their side of the case?

24 COMMISSIONER WILLIAMS: They were
25 noticed in this case, right?

1 MS. BEAVER: I don't think there's a
2 problem doing that. That was part of the reason that
3 I asked Assistant Attorney General Monahan the
4 question.

5 COMMISSIONER WILLIAMS: Is there an
6 outstanding Notice of Violation against Jenex as we
7 sit here?

8 MS. BEAVER: (Nodding in the
9 affirmative.)

10 COMMISSIONER WILLIAMS: It was called
11 for hearing today.

12 MS. BEAVER: (Nodding in the
13 affirmative.)

14 CHAIRMAN HEINLE: That alleviates any
15 concern.

16 MR. SHELTON: There is notice still
17 outstanding against Jenex also. In fairness for
18 Jenex, they would have asked for a continuance if they
19 thought that any of the agreements that were on the
20 table were to be altered. You know, I told Jenex that
21 staff would make the recommendations, which would be
22 that Mr. Chilson was going to be the responsible
23 party. And that, with that knowledge, Jenex probably
24 wouldn't need to present anything, any money, if
25 there's some alteration or some other determination of



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1 their status as a responsible operator, I think, in
2 fairness, they should be allowed the opportunity to
3 present their side of the case, if they feel that's
4 necessary. 516

5 CHAIRMAN HEINLE: I am concerned if they
6 were led to believe that they didn't need to be here,
7 and, again, for future reference, I mean, I think all
8 we should do is state the facts as we know them, not
9 speculate about what the commission might or might not
10 do because --

11 COMMISSIONER WILLIAMS: That's very
12 dangerous.

13 CHAIRMAN HEINLE: It's very dangerous.
14 It creates a situation, now, where I think there's
15 valid concern again, in my mind, that maybe Jenex is
16 not here because of something that, for whatever
17 reason, they formulated, they didn't need to be here,
18 because they weren't going to be part of the
19 proceedings, even though they have been noticed.

20 MS. BEAVER: I would like to point out,
21 I believe, under our rules, Jenex would have the
22 ability, as would Mr. Chilson, to file a motion to
23 reconsider the commission order, the day the order is
24 issued. If they do not concur with the order, are not
25 pleased with it, and wanted to present evidence, they

1 could do so at the next hearing.

2 CHAIRMAN HEINLE: Doesn't that presume
3 they are at the hearing, originally, and have heard
4 the facts and testimony and then, based on that, they
5 file a motion.

6 MS. BEAVER: It presumes they are
7 unhappy with the order that the commission enters,
8 and, I guess, in order to bring themselves up to speed
9 with what occurred, they would have to get a copy of
10 the transcript.

11 CHAIRMAN HEINLE: Do you know which rule
12 that is?

13 MS. BEAVER: I think it's an APA rule.
14 I am not sure of that.

15 COMMISSIONER WILLIAMS: It could be
16 the -- would be the 500 series.

17 MS. BEAVER: Last year, I believe you
18 had one or two motions to reconsider orders. It's
19 happened in the past. But I think it's the APA. Our
20 regulations recognize the APA rules and use those.

21 MR. CHILSON: Mr. Chairman, again, just
22 because I have been through this with the county and
23 municipal regulations once, the rules of the court
24 require me to state, on the record, objections and the
25 only reason I do this. My position, I would object to

1 the commission not taking action here because of the
2 absence of Jenex, because they could have filed, as I
3 did, for continuance, as I did when I couldn't be
4 here. Not having done so, they have made the
5 conscious decision not to attend, and there being no
6 motion, no continuance, request for continuance made,
7 and I think I am entitled to a proceeding, which I
8 intend to be determined on my notice. What you do
9 with Phoenix on their notice, I am not a party to.

10 CHAIRMAN HEINLE: Jenex, you mean.

11 MR. CHILSON: Jenex, but, on my notice,
12 I am entitled to a decision here today. And the fact
13 they chose not to appear is not my fault, nor yours.
14 It was their conscious decision.

15 CHAIRMAN HEINLE: I think the
16 commission, on its own motion, can grant a
17 continuance, if it so desires and is appropriate. I
18 mean, that's an option that's available to the
19 commission. Matter of fact, I think we did it
20 yesterday. Trisha.

21 MS. BEAVER: Rule 519 is the rule that
22 says that the commission adopts rules and practices,
23 procedures contained in the Colorado Rules of
24 Procedure. I believe that's where the time period for
25 filing motions to reconsider lies.

1 CHAIRMAN HEINLE: I guess --

2 COMMISSIONER WILLIAMS: One other option
3 here, by the way, would be to go ahead and determine,
4 under the rules that we just cited, what we believe to
5 be an appropriate allocation of responsibility here
6 without attempting, by that same order, to allocate
7 responsibility to Jenex, and give them the opportunity
8 to continue the matter so that if they want to present
9 testimony relevant under that rule, about either why
10 they are not the responsible party at all or why, if
11 they are, they should not bear the proportion of
12 responsibility that we have allocated to them, then
13 they could do that.

14 I would tell you, I am concerned about,
15 you know, are people not -- I am concerned about
16 someone not showing, based on a staff projection of
17 what we may or may not do. Then you are being overly
18 concerned about the fairness to that person who made
19 that choice. And I understand that other staff has
20 to -- is always called upon, on a regular basis, to
21 give predictions about our timing. I am much more
22 sympathetic about where we might come out on
23 something. I guess I am not sympathetic, because
24 there's no reasonable basis for someone to rely on
25 your-alls' predictions that, as much as someone may

1 pressure you for what you think we'll do.

2 So, I guess what I am saying, I don't
3 feel like we're violating any rights of Jenex to go
4 ahead and make that determination today. If others on
5 the commission are uncomfortable with that, I do think
6 we can split these issues, deciding and give certainty
7 and closure, and as he is entitled to, to do that
8 today, and defer the Jenex side of that, recognizing
9 that if a gap exists, ultimately, we may end up -- the
10 taxpayer may have to fill that with a -- which is a
11 horrible result, but it's a possible result.

12 CHAIRMAN HEINLE: Commissioner Matheson.

13 COMMISSIONER MATHESON: Ready to make a
14 motion?

15 CHAIRMAN HEINLE: Before you do, let me
16 just throw one other thing out. That's in regard to
17 the rule violations. How does this interweave with
18 that other half of it? I guess it depends on the
19 motion.

20 COMMISSIONER WILLIAMS: I have to tell
21 you that we talked about bifurcating, and I believe
22 that we limited testimony to the first of those. To
23 me, they are separate issues. We can say that there's
24 a level of responsibility here without saying that, if
25 there was violation, it was intentional, knowing and

1 all of that. I think that's different. I think
2 that's a different issue that we can separate.

3 CHAIRMAN HEINLE: Commissioner Matheson,
4 are you prepared to make a motion?

5 COMMISSIONER MATHESON: Yes, I am going
6 to make a motion that will dispense with this matter
7 today. I believe Jenex was properly noticed, and they
8 chose not to be here. My motion is that I find that
9 Mr. Chilson is not a responsible party. I find that
10 Jenex is the responsible party, and in order to plug
11 and abandon the Chilson 16-1 and reclaim the site
12 according to the 300 series and 1,000 series rules,
13 and order finding violation being entered against
14 Jenex of violation of Rules 319.b.3, 326.b 1, and fine
15 assessed of \$2,000.

16 CHAIRMAN HEINLE: Motion on the table.
17 Is there a second for that motion? Hearing none --

18 COMMISSIONER MATHESON: I am not doing
19 well today.

20 COMMISSIONER BLACKWELL: I think there's
21 too much in that motion.

22 COMMISSIONER MATHESON: You want to
23 shorten it up, you are welcome.

24 COMMISSIONER BLACKWELL: I move that we
25 find that Mr. Chilson is the responsible party in this

1 matter.

2 COMMISSIONER MATHESON: I will second
3 that.

4 CHAIRMAN HEINLE: Discussion on the
5 motion.

6 (Whereupon the vote was called.)

7 CHAIRMAN HEINLE: Two for, four against.
8 Commissioner MacMillan, did you abstain?

9 COMMISSIONER MacMILLAN: I guess I did.

10 CHAIRMAN HEINLE: So, the vote is three
11 to two against the motion. Motion does not pass.

12 COMMISSIONER WILLIAMS: I move that
13 Mr. Chilson be held responsible party, and in the
14 amount of 50 percent of the costs of P&A and surface
15 reclamation, after giving economic credit to the
16 salvage value of the well.

17 COMMISSIONER REBNE: Second.

18 CHAIRMAN HEINLE: There's been a motion
19 and second. Any discussion of the motion?

20 (Whereupon the vote was called.)

21 CHAIRMAN HEINLE: The motion passes.
22 Five in favor, two against. Okay. Now --

23 COMMISSIONER WILLIAMS: Can I make
24 another motion?

25 CHAIRMAN HEINLE: Yes.

1 COMMISSIONER WILLIAMS: I move Jenex be
2 found responsible for 50 percent of the costs of
3 plugging and abandoning this well, and surface
4 reclamation, after giving effect to the salvage value
5 of the well.

6 COMMISSIONER REBNE: Second.

7 CHAIRMAN HEINLE: Motion and second.
8 Any further discussion?

9 (Whereupon the vote was called.)

10 CHAIRMAN HEINLE: Motion was carried six
11 for, one against. Okay. Now. What about the fine
12 violation issue?

13 COMMISSIONER WILLIAMS: You know, let me
14 just say this, as much as we agonized over this issue,
15 I have a hard time saying -- anybody else in this
16 should have figured out where this thing was going to
17 go. I just think that fines are inappropriate in this
18 situation, because I don't think the parties, as
19 difficult as this was for us, I can't expect them to
20 have figured it out any better than we did, any sooner
21 than we did.

22 I am a little concerned about some
23 activity that might be construed as being
24 obstructionist, but I also think that the key issue in
25 this unique set of facts was hard enough to ascertain,

1 that, to levy a penalty for having guessed wrong is
2 inappropriate.

3 CHAIRMAN HEINLE: Commissioner
4 MacMillan.

5 COMMISSIONER MacMILLAN: I concur
6 entirely. The only reservation, that the amount of
7 staff time that went into this to try and resolve the
8 issues and literally to build not only with -- I don't
9 mean this offensively, but a less sophisticated owner
10 along with what I consider to be a sophisticated
11 operating company, a resource ends up not having an
12 opportunity to be recovered. But the bottom line is,
13 I agree with what Commissioner Williams said. To me
14 it's important that we recognize the difficulty of the
15 issue here, and address that appropriately by not
16 levying any fines to either responsible party.

17 CHAIRMAN HEINLE: Okay. Any other
18 comments? Commissioner Johnson.

19 COMMISSIONER JOHNSON: I partly concur.
20 I mean, I concur wholeheartedly with part of what they
21 had to say regarding the difficult part of trying to
22 determine responsible party on this situation, but
23 without some fine, I don't know that there's going to
24 be a real incentive for this to go forward and get
25 P&A'd, or whatever. I am of the opinion that both of

1 these NOAVs are out there. I think that if the -- and
2 the terms of them are the same, except for the bonding
3 on Mr. Chilson's item. That I am of the opinion that
4 if the findings of the commission are not adhered to
5 in sometime, like 60 days, that the penalty be
6 assessed of \$3250, payable 50 percent by each party.

7 CHAIRMAN HEINLE: Okay.

8 COMMISSIONER REBNE: Is that a motion?

9 CHAIRMAN HEINLE: It almost sounds like
10 a motion.

11 COMMISSIONER JOHNSON: It's intended to
12 be, and I so move.

13 COMMISSIONER REBNE: I think I second
14 that.

15 CHAIRMAN HEINLE: Okay.

16 MR. GRIEBLING: I need some
17 clarification. Did the motion include a finding of
18 violation of the referenced rules?

19 COMMISSIONER MATHESON: And to whom?

20 COMMISSIONER JOHNSON: Well, I think
21 that's what we did in our previous motion. Whether it
22 was defined that way or not, we found that they were
23 the responsible party. They were responsible for
24 these things. I would put that in my motion, that
25 these two NOAVs are --

1 COMMISSIONER REBNE: Still outstanding
2 and that penalty of this be assessed, but that it be
3 waived if they are honored within 60 days.

4 COMMISSIONER MATHESON: I have some
5 difficulty with the motion in that part of the rules
6 that are being suggested were violated is for
7 Mr. Chilson's failure to file a Form 10 and failure to
8 provide plug bond, whereas the Jenex has done both of
9 those things. You can't really find them in violation
10 of those two rules. We could, with regard to shut-in
11 status and mechanical integrity test for Jenex, so --
12 and it also comes back to, if we're going to be
13 requiring the parties to share the costs here -- that
14 seems to be what's happening -- that we have a bond
15 for Jenex, but we have no financial assurance of
16 performance from Mr. Chilson. I suppose we have
17 remedy to the court to get that if, in fact, you know
18 he doesn't pony up, we need those funds, but those are
19 issues that I see hanging out there with all of these.

20 COMMISSIONER REBNE: Can we direct staff
21 to issue new NOAVs?

22 MR. GRIEBLING: May staff comment?

23 CHAIRMAN HEINLE: Oh, yes.

24 MR. GRIEBLING: There are a lot of
25 complications with going back to the original NOAVs

1 and the rule violations that were referenced there.
2 For one case, there were two violations on one NOAV,
3 four on the other and splitting the fine equally
4 between the two, it's not consistent with the way the
5 NOAVs were written, I guess. So, I very much
6 appreciate the effort to induce these parties to
7 comply with the decision that the commission has just
8 made, and I think it's been made because of a concern
9 there's incentive to comply.

10 But, as I understand it, an order of the
11 commission requiring plugging reclamation of the well
12 is a pretty strong incentive, and your discussion that
13 you have had on record here, as to your concerns that
14 it gets done and the possibility of assessing fines,
15 might be a basis for your revisiting this issue on
16 your own motion in the light of reporting back to you
17 in a month as to progress regarding if the order is
18 being carried out, and I would like to toss that out
19 as an option for you to consider as well.

20 COMMISSIONER WILLIAMS: If we understand
21 that we issue an order today that the parties P&A the
22 well and reclaim the site, in correspondence with our
23 allocation of responsibility.

24 MR. GRIEBLING: Yes.

25 COMMISSIONER WILLIAMS: By a certain

1 time period, that then violation of that order would
2 constitute a basis for notice of violation, but that
3 no violation has yet occurred.

4 MR. GRIEBLING: Directing us to report
5 back to you within 30 days of your order, something
6 along that line.

7 CHAIRMAN HEINLE: If we do issue an
8 order today, as I understand them, we have to get the
9 agreement of the parties under Rule 513. One party --
10 only one of the parties is here today. Is that not --
11 that's the thing that's on the back of my --

12 COMMISSIONER MATHESON: Well, it would
13 be --

14 COMMISSIONER BLACKWELL: That's an oral
15 order.

16 COMMISSIONER MATHESON: We have to make
17 sure the effective date would be beyond the period in
18 which Jenex would receive the written order of the
19 commission. They can't be bound by our oral order
20 today. So --

21 CHAIRMAN HEINLE: That's what I thought.

22 COMMISSIONER BLACKWELL: Director
23 Griebeling makes a lot of sense to me. I too think it
24 would be very complicated to go back now and try to
25 reevaluate the NOAVs and violation. And I think that

1 the proposal that he's set forth would ensure timely
2 compliance with our orders, if that's what we really
3 want.

4 CHAIRMAN HEINLE: Are you prepared to
5 make a motion?

6 COMMISSIONER BLACKWELL: I am prepared
7 to make a motion.

8 COMMISSIONER MATHESON: Does Bruce need
9 to remove his?

10 COMMISSIONER BLACKWELL: There was a
11 motion on the floor.

12 COMMISSIONER JOHNSON: I drop it.

13 COMMISSIONER REBNE: Drop the second.

14 COMMISSIONER BLACKWELL: I would hereby
15 move, within 30 days from the issuance of our written
16 order, that both parties must comply with that order
17 and that the failure to comply within 30 days would
18 result in a fine of \$1,000 assessed against each
19 party.

20 CHAIRMAN HEINLE: Is there a second?
21 Need a second.

22 COMMISSIONER REBNE: Second.

23 CHAIRMAN HEINLE: Okay. Discussion of
24 the motion?

25 COMMISSIONER MacMILLAN: I am concerned

1 about 30 days, particularly this time of year. We
2 have heard all kinds of stuff during reclamation
3 rulemaking that may prohibit us being able to get out
4 in the field at this particular time, and because of
5 that, then, proper reclamation being done at this
6 time. Some flexibility needs to be allowed to these
7 parties to, first of all, find a contractor willing to
8 do the work. We have got somebody who will pull
9 casing. There's plenty more work to be done. I don't
10 know if this particular party who is going to pull the
11 casing would also do the rest of the cleanup and site
12 reclamation. So, that's the problem that I have with
13 the motion. Thirty days is great to try and get
14 compliance, but I am not sure we can strap it on them
15 that hard.

16 MR. SHELTON: That's a very good point.
17 I am hearing a lot of complaints from operators that
18 workover rigs are very scarce. I would hate to put
19 the parties in a situation where they are being fined
20 because they could not get a rig to do the work in
21 that time period.

22 MR. CHILSON: I have a point of order
23 here. If I understand what you are discussing, you
24 are discussing fining me, before you heard any
25 evidence on the issue of the fines?

1 COMMISSIONER WILLIAMS: That's not
2 correct.

3 MR. CHILSON: That was the motion.

4 COMMISSIONER BLACKWELL: The fine would
5 be for failure to comply with the order we're going to
6 issue today.

7 MR. CHILSON: The order you are issuing
8 today is based upon your finding that I am an
9 operator.

10 COMMISSIONER BLACKWELL: Responsible
11 party.

12 MR. CHILSON: The responsible party,
13 okay. It's predicated that I'm the responsible party;
14 that I took control of the conduct of oil and gas
15 operation. All right. Tell me, where is the
16 authority of the commission to enter an order that you
17 have to do something within 30 days, as the
18 responsible party, and if you don't, pay a fine. I
19 can understand that, if you found me guilty on
20 competent evidence, that I was an operator and I had
21 failed to put up a bond and do the integrity test, or
22 whatever I am charged with here, okay? Guilty. I pay
23 the fine. But where does it -- don't you have to,
24 first of all, to make a finding that I am an operator.
25 I agreed to this settlement before I came down here.

1 I had agreed to split this baby in half to get rid of
2 it. I paid half of it, and it never occurred to me,
3 but now it does, it's not going to make any difference
4 that I am putting up all of the casing. That's money
5 out of my pocket. Okay. I am still -- when I came in
6 here, I didn't know that. I really didn't know that.
7 I don't know why, but I don't know anything about
8 this. The situation you are putting me in is, I came
9 down here, I told you --

10 CHAIRMAN HEINLE: Can I stop just a
11 second? You raised the question of the issue of
12 fines.

13 MR. CHILSON: How can I get fined?

14 CHAIRMAN HEINLE: We're going to respond
15 to that. And I am almost ready to go back and revisit
16 the other motion and maybe change it to 100 percent,
17 myself. Now, that you admit that the casing is yours,
18 maybe you should be responsible for plugging the well.

19 MR. CHILSON: Admit? I never admitted
20 anything.

21 CHAIRMAN HEINLE: I am not going to get
22 into that right now. The question was raised
23 regarding the fine violation. In the motion that's
24 been offered, we got two points, whether the time
25 frame is adequate, given the circumstances out in the

1 field, and whether this commission has the authority
2 to issue a fine if an order of the commission is not
3 adhered to without hearing testimony on the fine.

4 COMMISSIONER WILLIAMS: I think we go
5 farther than we need to here. I think what we need to
6 do today is issue an order that the responsible
7 parties plug and abandon this well and do the
8 necessary work to reclaim the site, and that their
9 responsibility as to doing that is 50-50 with -- after
10 credit for the casing, which is in correspondence with
11 the motion we have already entertained in the past.
12 That compliance with that order is something we must
13 assume will occur, and we need to make it a reasonable
14 time frame. We must assume it occurs. If it doesn't
15 occur, we are then and only then presented with the
16 issue of what is the appropriate penalty for disregard
17 of the commission order.

18 So, I don't think penalties are being --
19 I don't think we need to discuss that today, because I
20 don't think we have a basis to. What we have on the
21 table now is, as I understand it, is the issuance of
22 an order that starts that ball rolling, and lets the
23 parties know what it is we expect of them and in what
24 time frame.

25 CHAIRMAN HEINLE: Commissioner Matheson.

1 COMMISSIONER MATHESON: I am not even
2 sure about time frame. I think we just -- we made our
3 order. I think the staff should just handle it as
4 they normally would within the context of their normal
5 work processes, in which, you know, people could
6 typically do work out in the field. If they find,
7 within their judgment, a reasonable period has passed,
8 and they wish to issue new NOAVs concerning
9 noncompliance with the order, we can pick up that
10 issue at that time and consider fines. So, I would
11 skip the whole fine topic at this point, just ask
12 these people to get after it.

13 I will bring up one other issue,
14 concern, who, if we are divvying this up 50-50, will
15 be managing the operation of P&A and reclamation?
16 Mr. Chilson is not someone familiar with typical oil
17 and gas operations, whereas Jenex is. And are we
18 going to toss it to them and let them figure out who
19 is going to do what, who is going to manage it,
20 because that, in itself, creates cost. I am concerned
21 about that. I really personally don't want to put the
22 burden of management of this operation on Mr. Chilson.
23 I don't think he knows what he is doing.

24 COMMISSIONER WILLIAMS: I think I agree
25 with you as far as I think you made an excellent

1 point, as far as the time frame, and whatnot, just
2 handle it -- for staff to handle it in the ordinary
3 course, with attention to availability of workover
4 rigs and whatever other constraints there might be in
5 the field that would cause this thing to be -- have
6 certain timing to it. As far as who we ask to sort of
7 manage the operations, you know, our choices, seems to
8 me, are Jenex or the commission staff. I think those
9 are our choices. Do you have -- what is your feeling
10 on that, Mr. Griebbling, as far as --

11 MR. GRIEBLING: Can I have a minute to
12 confer with staff?

13 (Discussion had off the record.)

14 (Recess.)

15 CHAIRMAN HEINLE: Let's go back on the
16 record. We had a motion out on the table.

17 COMMISSIONER BLACKWELL: It was seconded
18 and we were discussing that, and I am willing to
19 withdraw that motion and amend it.

20 COMMISSIONER REBNE: Withdraw my second.

21 COMMISSIONER BLACKWELL: I would like to
22 amend my motion, and the motion is that the two
23 responsible parties in this matter, Mr. Chilson and
24 Jenex Petroleum, are required to comply with our order
25 within the time period of six months. That's my

1 motion.

2 CHAIRMAN HEINLE: Second to the motion?
3 Hearing no second, motion fails. Somebody else care
4 to propose a motion?

5 COMMISSIONER MacMILLAN: No. This is
6 discussion. I don't believe we need to make a motion.
7 We have made our finding and we have entered an order,
8 and I think that's where we need to be. If that order
9 is not complied with --

10 CHAIRMAN HEINLE: Staff will --

11 COMMISSIONER MacMILLAN: Staff will come
12 back to us with the recommendation.

13 COMMISSIONER BLACKWELL: The order
14 doesn't have a time frame.

15 COMMISSIONER MATHESON: It doesn't. I
16 think the reclamation rules, and I don't know if it's
17 cropland or noncropland, but, the time periods
18 required for bond release and final reclamation, we
19 just -- I don't know that we can handle the time
20 period here today, except to direct staff to move this
21 along expeditiously. If they see any sign of
22 recalcitrance on the part of the parties, bring them
23 back. We'll do it again.

24 COMMISSIONER WILLIAMS: Typically, when
25 an order to plug and abandon a well and reclaim -- I

1 mean, the process, as we have it in our rules, isn't
2 an overnight process. It includes some checkup, later
3 on, reseeding, those kinds of things. So whether
4 that's six months or nine months or two months, I
5 think, depends on where in the process you are.

6 I guess what I would like to see, we
7 have an order that establishes who the responsible
8 parties are. That directs them -- we still have the
9 issue of under sort of who's management that's to
10 occur, but it gets them to plug and abandon the well
11 and reclaim the surface, we can add, "with dispatch,"
12 but I think the judgment about what is dispatch is
13 best leveled to the discretion of the staff, who can
14 then tell us if the order is not being complied with
15 and issue a Notice of Violation on that basis.

16 I guess my concern is, I can sit here
17 and say six months, that might be too long or too
18 short. I don't know. I know 30 days sounds awful
19 short, but six months -- I don't want no one to even
20 take action until the last day of the six months
21 either. Dispatch means something better than that.

22 CHAIRMAN HEINLE: Director Griebeling, I
23 just make a suggestion, after conferring with staff
24 and also thinking about the previous order that the
25 commission has issued, one example is the order

1 regarding the Tipps property. In that situation,
2 there were a lot of complications. We reported back
3 to you on a monthly basis as to progress, and what I
4 would suggest, that the same situation occur here.
5 You can report to us at our hearings, through our
6 monthly report, as to the progress in compliance with
7 whatever order the commission finally decides to
8 enter.

9 And then, with respect to actually
10 specifically directing the work to be done, I might
11 point out that, historically, there's been -- the
12 parties have failed to reach agreement on and
13 successfully plug and abandon and reclaim the site.
14 So, I might suggest that you consider something like,
15 directing the operations to be conducted of
16 plugging/abandonment/reclamation, by Jenex, and
17 directing Jenex to secure a bid for plugging and
18 abandonment and reclamation, and that then directing
19 Jenex to set up an escrow account, held by a third
20 party, and contribute 50 percent of the amount of the
21 bid to it and direct Chilson to contribute 50 percent
22 amount of the bid to it. And then our role would be
23 the typical role for plugging, abandonment and
24 reclamation, would be inspect conditions at the site,
25 compliance with our rules, and that sort of thing, and

1 if the parties had specific requests of inspection I
2 haven't mentioned, we would certainly be open to that.
3 But I think that sort of process might work. I think
4 both parties have incentive to keep the cost down,
5 even though I was suggesting you direct Jenex to
6 conduct the operation, and to secure the bid. I
7 believe their 50 percent interest would give them
8 incentive to keep a reasonable bid, also thereby
9 plugging and abandoning according to the plugging
10 orders that have been already issued by our staff,
11 would be reclaiming according to our rules, which they
12 are familiar with, and they ought to be able, like any
13 other operator, to secure a bid that would comply with
14 our rules.

15 COMMISSIONER REBNE: I would point out
16 that page 5 of the statute, staff's exhibit, gives
17 some indication that Jenex had agreed, in the past, to
18 plug.

19 COMMISSIONER MacMILLAN: I would like to
20 ask Mr. Chilson if the comments by the director are
21 acceptable to you, to do the plugging?

22 MR. CHILSON: Please believe me, I am
23 not trying to be an obstructionist. The concept of
24 putting Jenex in charge of this thing scares me to
25 death, because of my experience with them. I am

1 not -- this is just my personal experience. I am
2 limiting it to that. We had structured it before we
3 were going to use Sunset and an independent party --
4 independent plugging contractor, who was going to
5 basically do it under the supervision of the oil and
6 gas staff, responsibility for the plug, of the oil and
7 gas commission. And that's what I had contemplated we
8 were going to do. I wouldn't be involved with it.
9 Jenex wouldn't be involved with it. Whether or not
10 the job was done right would be determined by the
11 report of the plugging contractor back to the staff,
12 and they would approve it or disapprove it, whether it
13 was right or wrong, they would see it got down right.
14 Then, if there were costs, the costs would be to
15 determine -- the plugging contractor would give his
16 bid, if he wants to give his bid, and based on that
17 bid, we set up an escrow here, not with Jenex, but
18 escrow here. I would put in half. I don't want to
19 put it up with Jenex. I have so much stuff disappear
20 with them.

21 COMMISSIONER MacMILLAN: I don't
22 recollect that the director suggested that the escrow
23 account be held by Jenex at all, but that there is an
24 escrow account, and my understanding of field
25 operations would be that all steps that you request,

1 in other words, a private contractor who does the
2 pulling of the casings, may, in fact, be the entity
3 that was offered up before, but because of the
4 situation in the field, that may not be able to be
5 followed through on, but some contractor would do the
6 work as opposed to Jenex themselves doing the work.

7 MR. CHILSON: Yes. Exactly. That I am
8 certainly agreeable to that. That's what I would like
9 to see.

10 COMMISSIONER MacMILLAN: Well, the only
11 question, then, is some people have suggested that
12 Jenex be involved in the decision-making loop in this
13 thing, whether they actually be the contractor, the
14 go-to person that this staff ends up dealing with, so
15 that they are the ones responsible for hiring the
16 contractors that actually do the work or not. If
17 that's a concern to you, that's exactly what I am
18 asking right now. I am getting the impression it is,
19 but I am asking you to reconsider. Because that's the
20 way things --

21 MR. CHILSON: -- are done in the oil
22 business?

23 COMMISSIONER MacMILLAN: No. I don't
24 mean that. What I do mean is that the work is
25 actually done by contractors and roustabout crews that

1 go out to the field, are not done by the operating
2 company that you have had historical problems with.

3 MR. CHILSON: Okay. So, exactly what is
4 the question again? What do you want me to --

5 COMMISSIONER MacMILLAN: It is the
6 outline that the director just gave on the oversight
7 of the plugging and abandonment of the well and
8 reclamation of the well site.

9 MR. CHILSON: By this staff.

10 COMMISSIONER MacMILLAN: No. He didn't
11 say by staff. He said by Jenex, as the operating
12 entity, that has -- you didn't say it, but I would say
13 it -- has a bond in place, who also has the ability to
14 go out and hire the contractors and roustabout crews
15 that normally do this kind of thing, and set up of an
16 escrow account where parties put their monies up.

17 The director also suggested that the
18 contractor, Jenex, may obtain bids for the work to be
19 done, a variety of things, but what I am specifically
20 asking you is will you go along with Jenex being
21 involved as the go-to entity that this staff deals
22 with in order to get the work done, and do you agree
23 to put money in this escrow account that can be drawn
24 on to pay the contractors doing the work?

25 MR. CHILSON: Based upon the bid of the

1 contractor?

2 COMMISSIONER MacMILLAN: Well, if that's
3 the way you want to make it, I think the director
4 included that, yes.

5 MR. CHILSON: Based upon the bid of the
6 contractor, I will put up half the money, if Jenex
7 puts up half the money in the escrow account, so we're
8 assured the funds are there to pay for it. Okay?

9 MR. GRIEBLING: One thing I should have
10 added that I didn't, just to make it clear. Something
11 I intended to. After plugging is achieved, given the
12 cost of plugging and abandoning and reclamation is
13 less than the amount of the escrow account, that would
14 be refunded, would be split 50-50 between Chilson and
15 Jenex.

16 COMMISSIONER MATHESON: Mr. Chilson, I
17 think the idea we have is to relieve you the
18 responsibility of the management of the operation you
19 know nothing about.

20 MR. CHILSON: I wouldn't know who to go
21 to get it done. I am not adverse to Jenex being the
22 go-to person, with one caveat. I want that
23 independent contractor not only to be plugging the
24 well, but to be doing the land reclamation work also,
25 the independent contractor that decides what is to be

1 done, okay?

2 COMMISSIONER MATHESON: Staff will
3 inspect that.

4 CHAIRMAN HEINLE: Director Griebeling,
5 the only clarification might be that because the
6 contractor will actually be engaging in a private
7 party contract, with Jenex, that contract will have to
8 specify what's to be done. We will inspect to make
9 sure that it's done in compliance with our rules and
10 regulations, and I think any other reasonable request
11 to inspect, that either Chilson or Jenex makes, we
12 would accommodate. But the way it would work would be
13 that Jenex would engage the contractor, and they would
14 direct the contractor.

15 I might also point out, just for
16 clarification, that the exhibits that you have before
17 you contemplate the contractor bidding on a cost plus
18 type of basis. This will have to be a different sort
19 of bid, so the escrow account may be established, has
20 to be a bid based on the contractor's estimate to
21 complete the project. It may be a bid that allows for
22 deduction for a certain amount per foot of casing
23 recovered, that sort of thing. I want to make sure
24 you understand that. This could be a \$10,000 escrow
25 account, \$5,000 each, possibly. It would be set up.

1 And if 5,000 feet of casing would be recovered, it may
2 be well over \$5,000 that would be refunded to split
3 50-50 to the parties. So, I want to make sure the
4 rough scale of this is understood.

5 MR. CHILSON: I don't know why these
6 things gets so damn complicated.

7 CHAIRMAN HEINLE: Let me maybe clarify
8 it. I think we got two options here. The commission
9 can take over all of these responsibilities, but,
10 based on our past performance, the way we get bids,
11 the bid for the job is probably going to be higher
12 than if you agree to have Jenex do it. I mean it's,
13 for some reason, they say the state's out there and
14 they say, well, it's their deal. We can -- I am not
15 accusing people of that, but it seems like that's
16 happened. That's one option we can go, where the
17 state goes in and does everything, gets the bid,
18 supervises, cleans it up, and we're done with it.

19 The other way to go, which is typically
20 done in the industry, where the operators of the
21 property goes in, contracts with subcontractors, if
22 you will, to perform the work, and they do the work.
23 Once the work is completed, the state inspects it. If
24 the job is up to snuff, everything is fine. If they
25 find things wrong, well, then, there's additional work



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1 that has to be done until it's brought in compliance
2 in terms of reclamation, and those are really the two 1.66
3 ways to go. It's just a matter of which way you
4 prefer, Jenex prefers, or that the commission prefers.

5 MR. CHILSON: How can I assure that the
6 site is going to -- the site is going to be fully
7 reclaimed? How can I assure that if Jenex has total
8 authority to get the bid and oversee the work? Do I
9 have some kind of approval over the contractor, going
10 out with him and saying, did you include this, did you
11 include this, did you include this?

12 CHAIRMAN HEINLE: If they don't do it
13 properly, Jenex's bond is not going to be released.
14 They still have a bond filed. I mean, the site has to
15 be reclaimed, per our rules and regulations. If they
16 go out there and, let's say, they only do half the
17 work that's going to be done, it's not going to be
18 approved by the state. The state will inspect the
19 work after it's done. So, there's incentive on
20 Jenex's part, if they want their bond released, make
21 sure it's done right, because if it isn't --

22 COMMISSIONER MATHESON: Surface
23 reclamation includes removing all metal and junk,
24 things like that that you are concerned about, as well
25 as alleviating, compaction, reseeding sites, and if

1 it's cropland, bringing it back to the production
2 conditions. So, I think most of the issues that you
3 would typically be concerned with are handled within
4 our rules.

5 MR. CHILSON: If the commission staff is
6 going to inspect it and make sure all of that is done
7 at the end, before Jenex is released on this, that's
8 fine with me.

9 COMMISSIONER MATHESON: That's exactly
10 what would happen.

11 MR. CHILSON: That's fine with me.

12 CHAIRMAN HEINLE: Commissioner Johnson.

13 COMMISSIONER JOHNSON: I think, to
14 further clarify, when this commission was -- the staff
15 or seven of us give final approval, that both
16 responsible parties would be released of that
17 liability; isn't that right?

18 CHAIRMAN HEINLE: Yes.

19 COMMISSIONER JOHNSON: I think you need
20 to know that too. You, as responsible parties, will
21 also be released from whatever residue there is.

22 CHAIRMAN HEINLE: Commissioner
23 Blackwell.

24 COMMISSIONER BLACKWELL: I would like to
25 include requirements that the parties proceed in an

1 expeditious fashion. I am not sure how to word that.
2 I don't want to include language that could be
3 construed to conflict with any of our timing
4 requirements set forth in our reclamation rules.

5 MR. CHILSON: It only scares me when you
6 say "parties," because I think, you know, I am -- I
7 wouldn't -- I don't have any idea of what step I would
8 have to take next, coming out of here, to proceed
9 expeditiously.

10 CHAIRMAN HEINLE: I think we got a
11 process in place. The director already indicated, at
12 the end the month, they are going to come in and
13 update you as to what's happening, and if you are --
14 any of the commissioners don't feel things are
15 happening fast enough, we can direct staff to issue a
16 NOAV or --

17 COMMISSIONER WILLIAMS: I would also
18 say, Mr. Chilson, other than not tendering your share
19 of the money when it's due, I can't see anyway you
20 could slow this process down. If we could hold you
21 accountable for -- if we tell Jenex they are the go-to
22 person, and point to a person for this project, the
23 only way you could slow it down is deny access, is not
24 pay your money on time. And, you know, or otherwise
25 physically obstruct the process. I just -- that's not

1 going to happen, so, we're not saying that we're
2 asking you to guarantees Jenex will do a good job.
3 We're not asking you to guarantee that Jenex will do
4 it timely. That will be between the commission staff
5 and Jenex, as the bonded operator, who we have given
6 the responsibility to oversee compliance with the
7 order, the financial responsibility being 50 percent
8 yours. There will be need for you to move quickly to
9 produce the money for the escrow account.

10 MR. CHILSON: Let me -- I am sorry. Go
11 ahead. I just have a question.

12 COMMISSIONER MacMILLAN: Will staff
13 provide Mr. Chilson with these rules? The ones that I
14 have seen and referred to are an old copy.

15 MR. GRIEBLING: He can purchase one on
16 his way out.

17 COMMISSIONER MacMILLAN: I anticipated
18 you saying that. I believe that I had purchased a
19 1995 production summary and was going to get a rebate.
20 The rebate for that -- part of the rebate for that can
21 go to Mr. Chilson being able to take with him a copy
22 of our revised rules as opposed to the ones that I
23 have seen him use, so that he is aware of the 1004
24 rule that talks about final reclamation.

25 MR. CHILSON: I thank you for your

1 generosity.

2 CHAIRMAN HEINLE: Is someone prepared to
3 make a motion here?

4 MR. CHILSON: Can I raise one more
5 question, so I can understand.

6 CHAIRMAN HEINLE: Do you really want to?

7 MR. CHILSON: I have got to. You don't
8 know how ignorant I am in this thing. The commission
9 has made a determination that Jenex and I are 50
10 percent responsible for plugging this well and
11 reclaiming the well, correct?

12 CHAIRMAN HEINLE: Correct.

13 MR. CHILSON: Okay. Since we have now
14 agreed, either by mineral claim or whatever, I own the
15 casing in the well, my -- am I at liberty to sell that
16 casing?

17 CHAIRMAN HEINLE: No.

18 MR. CHILSON: And apply those
19 proceedings to my 50 percent share, if we're each 50
20 percent responsible, and that casing is mine?

21 CHAIRMAN HEINLE: Are you willing to
22 plug the well?

23 COMMISSIONER WILLIAMS: The motion, as
24 the commission approved it, was specifically stated in
25 terms of liability after giving economic effect to the

1 value of the casing, because that was the proposal
2 made by Sunset, and that was the way that motion was
3 phrased. The way the commission action stands now, it
4 did not allow you to.

5 MR. CHILSON: That's my question.
6 That's the answer I was looking for. All right.

7 MR. GRIEBLING: I want to clarify, too,
8 you made a statement a little while ago that the
9 commission found you to be the operator of the well.
10 That's not the case, I don't believe. I believe they
11 have found you to have assumed responsibility.

12 CHAIRMAN HEINLE: I don't see the
13 benefit of going into this any further. I am -- we're
14 rehashing stuff. It's been a long day, and I guess
15 what I would like to do, if we need a motion, I would
16 like to entertain almost any kind of motion, but to
17 wrap this matter up and we got a few more things to
18 cover today.

19 MR. GRIEBLING: In order to prepare the
20 order, we need to know what basis you found him being
21 a responsible party on. You made a statement, after
22 your vote on your motion -- your motion didn't address
23 the basis. You made the statement he was found to be
24 the operator by you. I don't believe that's what you
25 found. I believe you found him to be --

1 CHAIRMAN HEINLE: Responsible party.

2 MR. CHILSON: To have assumed
3 operations, assumed responsibility for the oil and gas
4 operations.

5 COMMISSIONER WILLIAMS: That's not the
6 determination, that he is not the operator.

7 MR. GRIEBLING: He's the responsible
8 party, based upon the finding that he assumed
9 responsibility for the conduct of oil and gas
10 operation. We want to prepare the order so it
11 accurately reflected your intent.

12 CHAIRMAN HEINLE: Commissioner Matheson.

13 COMMISSIONER MATHESON: I will give you
14 your motion. I move that we direct staff to order
15 Jenex to be the managing entity for reclamation of the
16 well; that an escrow account be created with monies
17 held after competent bids are received; and Jenex
18 direct the plugging and reclamation of the site, and
19 excess funds returned to the parties after the
20 completion of work, staff inspection as they normally
21 would.

22 COMMISSIONER BLACKWELL: Report back
23 monthly.

24 COMMISSIONER MATHESON: Report back
25 monthly.

1 CHAIRMAN HEINLE: Is there a second to
2 that motion?

3 COMMISSIONER WILLIAMS: Second.

4 CHAIRMAN HEINLE: Any discussion?

5 COMMISSIONER JOHNSON: Make sure the
6 reclamation is set as according to our rules.

7 CHAIRMAN HEINLE: I think that was
8 included in the motion.

9 MR. GRIEBLING: Did you mention escrow?

10 COMMISSIONER MATHESON: Yes, it did.

11 CHAIRMAN HEINLE: Any other discussion?

12 (Whereupon the vote was called.)

13 CHAIRMAN HEINLE: Motion carries. Thank
14 you, Mr. Shelton. Thank you, Mr. Chilson.

15 (Whereupon this portion of the
16 proceedings were concluded.)

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1 CERTIFICATE

2

3 STATE OF COLORADO) ss

4 CITY AND COUNTY OF DENVER)

5

6 I, Harriet S. Weisenthal, Certified
7 Shorthand Reporter and Notary Public for the
8 City and County of Denver, State of Colorado,
9 do hereby certify that the foregoing proceedings
10 were taken in shorthand by me at 1120 Lincoln
11 Street, Denver, Colorado on the 11th day of
12 February, 1997, and was reduced to computer-aided
13 typewritten form under my supervision;

10

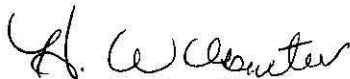
11 That the foregoing is a true
12 transcript of the proceedings had; that I am
13 neither attorney nor counsel, nor in any way
14 connected with any attorney or counsel for any
15 of the parties to said action or otherwise
16 interested in the event;

14 IN WITNESS WHEREOF, I have hereunto
15 set my hand and affixed my notarial seal
16 this 16th day of June, 1997.

16 My Commission expires October 15,
17 1997.

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Harriet S. Weisenthal

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