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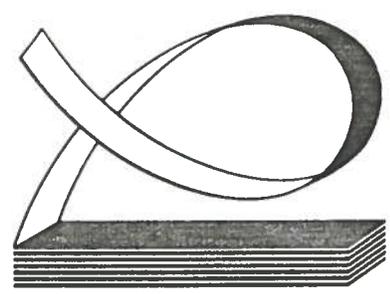
THE OIL AND GAS CONSERVATION COMMISSION  
OF THE STATE OF COLORADO

IN THE MATTER OF THE REQUEST TO )  
ISSUE AN EMERGENCY ORDER TO )  
TEMPORARILY SUSPEND ANY AND ALL )  
OIL AND GAS WELL DRILLING PERMITS ) EMERGENCY -  
THAT HAVE BEEN ISSUED FOR WELLS ) UNNUMBERED CAUSE  
TO BE DRILLED UPON LANDS IN THE )  
SOUTHEAST QUARTER OF SECTION 15, )  
TOWNSHIP 2 NORTH, RANGE 65 WEST )  
OF THE 6th PRINCIPAL MERIDIAN, )  
WELD COUNTY, COLORADO )

PURSUANT TO NOTICE to all parties in interest,  
the above-entitled matter came duly on for hearing at the  
State Education Building, Room 101, 201 East Colfax  
Avenue, Denver, Colorado 80203, on Monday, November 16,  
1992.

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COLO. OIL & GAS CONS. COMM

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ORIGINAL

Patterson Reporting

## BEFORE:

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Chairman Truman Anderson

Commissioner Rogers Johnson

Commissioner Logan MacMillan

Commissioner Mary Larson

Commissioner John A. Campbell

Commissioner Martin Buys

Dennis Bicknell, Director

Patricia C. Beaver, Technical Secretary

Tim Monahan, Assistant Attorney General

David E. Smink, Staff

Attorney for Applicant: John H. Evans,  
Esq.

Attorneys for Protestant: Keith M.  
Crouch, Esq. and Ken Wonstolen, Esq.

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Also Present: A. Bruce Johnson  
Raymond Curtis Moore  
Ray Wardell  
Theodore Buderus  
Daniel Buderus  
Dennis Hoshiko  
William Keefe  
Jerry Aldrich

## 1 P R O C E E D I N G S

2 CHAIRMAN ANDERSON: Mr. Evans, is this you  
3 again?

4 MR. EVANS: Yes, concerning Mr. Axelson and  
5 Mr. Johnson. I'd like to take Mr. Johnson first.

6 CHAIRMAN ANDERSON: All right. I don't have  
7 names, numbers, all that stuff. There are two of them?

8 MR. EVANS: There are two of them, separate,  
9 distinct.

10 CHAIRMAN ANDERSON: How long is this going to  
11 take?

12 MR. EVANS: If you're looking for a lunch  
13 break, Mr. Chairman, I would suggest a lunch break.

14 CHAIRMAN ANDERSON: All right. I think this  
15 would be a good time to do that. Unless anybody here  
16 wants to--

17 MR. MONAHAN: Mr. Evans, what are the parties'  
18 names?

19 MR. EVANS: Axelson and Mr. Johnson.

20 CHAIRMAN ANDERSON: All right. I think this  
21 would be a good time to break for lunch.

22 COMMISSIONER LARSON: I think it would also  
23 give Mr. Crouch an opportunity to read--

24 MR. CROUCH: Well, we have no notices, we have  
25 no witnesses. We have no nothing on this. And I'm not

1 sure what this is all about at all.

2 CHAIRMAN ANDERSON: Okay. Well, why don't we  
3 take a break until 2 o'clock. Is that all right with  
4 you?

5 (Discussion off the record.)

6 COMMISSIONER CAMPBELL: I move we go into  
7 executive session.

8 CHAIRMAN ANDERSON: All right. It's been  
9 moved we go into executive session to discuss the Greeley  
10 situation. Second?

11 COMMISSIONER JOHNSON: Second.

12 CHAIRMAN ANDERSON: All those in favor,  
13 indicate by saying "Aye."

14 COMMISSIONER JOHNSON: Aye.

15 COMMISSIONER MacMILLAN: Aye.

16 CHAIRMAN ANDERSON: Aye.

17 COMMISSIONER LARSON: Aye.

18 COMMISSIONER BUYS: Aye.

19 COMMISSIONER CAMPBELL: Aye.

20 CHAIRMAN ANDERSON: Those opposed, same sign.

21 (Noon break was taken.)

22 CHAIRMAN ANDERSON: All right. I think we're  
23 ready to begin again. We--when we quit for lunch, we  
24 were about to discuss two applications for emergency  
25 hearing. And I might add that we are now out of

1 executive session.

2 MR. EVANS: I have just a brief clarification,  
3 Mr. Anderson, if I might. At the close of the last  
4 hearing, we kind of closed in sort of a rush, and I  
5 wanted to be sure that I understood exactly where we were  
6 with the Noffsinger, et al. situation. And that is as I  
7 understand it, we will be meeting with parties for a  
8 hearing in December. Is that correct?

9 CHAIRMAN ANDERSON: Yes.

10 MR. EVANS: Okay. I just wanted to make sure  
11 of that. And in the meantime, do the same provisions  
12 that provided for the Buderuses also provide for the  
13 Noffsingers? And that is, is Gerrity free to continue  
14 drilling until such time?

15 CHAIRMAN ANDERSON: Yes. I don't think there  
16 was--I didn't hear anyone say they had to stop drilling.  
17 In the prior case, there was a stipulation that no  
18 drilling activities would happen prior to January 1st.  
19 But in the second one, I heard no such thing.

20 MR. CROUCH: Mr. Chairman, if I might, if we  
21 are delayed in drilling--I'm not a farm person or an  
22 agriculturalist--what I heard was we need to be in and  
23 out of there so they can prepare the lands for spring  
24 planting. The only way for us to do that is to continue  
25 with the activity, cooperate and work with the surface

1 owners and get our business done and be gone.

2           And I think if you asked Mr. Noffsinger, you  
3 would agree that that's what needs to happen. We are not  
4 in a position to cease operations on that land, due to  
5 rig scheduling and all the accompanying support and  
6 service work that goes into the wells.

7           CHAIRMAN ANDERSON: All right. Well, I think  
8 that was my understanding.

9           MR. EVANS: It would be our position,  
10 Mr. Anderson, that as in the case of the Buderuses, the  
11 Noffsingers, the Libsacks and the Zabkas are in an  
12 unusual and very precarious situation, and that they--we  
13 have had--because of the bonding requirement, I do not  
14 believe it would be out of the--out of place for me also  
15 to request that until we have our hearing in December,  
16 the further drilling--not what's already going on,  
17 because I understand one was put on Friday, and for all I  
18 know they could have another one out there today--but  
19 further drilling on the Noffsinger place, Zabka and  
20 the--be placed in the same category as the previous  
21 hearing and that we wait until December, when you've had  
22 an opportunity to take a full look at the bonding  
23 requirements, and make a decision accordingly.

24           CHAIRMAN ANDERSON: Well, I don't think--I  
25 don't remember any discussion of that during the hearing.

1           MR. EVANS: That's why I'm raising it as an  
2 issue. I wanted to be clear. I wasn't--when--when we  
3 left the room suddenly, I was under the understanding  
4 that we were going to have the hearing. And I thought  
5 that similarly to our previous hearing, there might also  
6 have been that understanding, as well, that the--

7           CHAIRMAN ANDERSON: Mr. Crouch, can you tell  
8 us what the drilling plans are?

9           MR. CROUCH: Mr. Moore knows those better than  
10 I. He could tell you. I don't know if he needs to be  
11 under oath, or you just want to have this for  
12 information? I don't want to get into reopening this, so  
13 we object strenuously.

14          MR. EVANS: That's something we'd like to  
15 know.

16          MR. CROUCH: That's something we can work out  
17 with the owners.

18          CHAIRMAN ANDERSON: I agree. I don't think we  
19 want to hear something we've already been through. But  
20 if there is a quick answer.

21          MR. EVANS: I mean, if in the next 30 days  
22 they're going to have all the wells drilled, that's  
23 important for us to know.

24          CHAIRMAN ANDERSON: Can you tell us in a  
25 paragraph or less?

1 MR. MOORE: My name is Raymond Curtis Moore.

2 We're in the process of drilling one, probably  
3 today starting the second, well. And we're in the  
4 process of building other sites to the front of those two  
5 drilling rigs that we'll be drilling all 14 wells in  
6 Section 36. It has been our intention to continue to  
7 stay ahead with the drilling process and keep moving the  
8 rigs through the section as we go.

9 CHAIRMAN ANDERSON: All right. Thank you.

10 Well, I didn't understand--what I understood  
11 with respect to that petition was that it was continued  
12 until December. There's the ongoing obligation, I think,  
13 of consultation and discussions between the people who  
14 are drilling the wells and the people that own the  
15 surface.

16 But I don't think that in that case, there was  
17 a stipulation that there would be no drilling until  
18 December, and I don't think that the Commission ordered  
19 there to be no drilling until December. Have I got that  
20 right? Is that inconsistent with what anybody thought we  
21 were doing? So--

22 MR. EVANS: All right.

23 CHAIRMAN ANDERSON: All right.

24 MR. EVANS: Okay, Mr. Anderson.

25 CHAIRMAN ANDERSON: Can we get on with--

1 MR. EVANS: Certainly. I asked that question  
2 because all of these cases somehow sometimes merge with  
3 me into a larger issue.

4 What you have before you with this next issue,  
5 with this next case, is Mr. A. Bruce Johnson, who is  
6 president of Bolet Company, Incorporated, a farm also  
7 located in Weld County. He is before you on what is, I  
8 believe, a 507 filing, which is an emergency-type  
9 hearing, whereas what he alleges--what he's alleging and  
10 I believe can substantiate is that there are extenuating  
11 circumstances which require a shortened period of time  
12 for this committee to hear an application.

13 What he is, in fact, alleging is that the  
14 Gerrity Company is, in fact, in violation of your  
15 regulations. He is alleging that they are, in fact, in  
16 violation of 304.b., 317.q. and r., 802.a., b. and c.

17 CHAIRMAN ANDERSON: Would you read those again  
18 a little more slowly.

19 MR. EVANS: 304.b., 317.q. and r. and 802.a.,  
20 b. and c. In addition, he is in an unusual situation, in  
21 that should drilling commence on his property, he will in  
22 likelihood be in violation of the Highly Erodible Soils  
23 Act under federal law and in all likelihood, would  
24 probably--under the Soil Conservation Service  
25 guidelines--be prevented from bringing many of the acres

1 that he's currently worked in back into production.

2           So you have a very unusual case in front of  
3 you. I guess what we are asking is first of all that  
4 the--that you find--that you find that Gerrity has, in  
5 fact, violated those particular sections and that you act  
6 accordingly.

7           And the second thing is that because of the  
8 unusual situation in the soils, there is, we believe, an  
9 unusual situation here, and that you review your  
10 decisions initially to allow permitting in this  
11 particular area.

12           The reason for it is that Mr. Johnson was not  
13 aware of, nor was he ever made aware of, that leases had  
14 been let on his property, or that prior to permits being  
15 issued that there would even be oil brought on his  
16 property. As a matter of fact, he will testify that when  
17 he purchased the property, he wasn't even aware that  
18 the--that the property was under lease. So--because of  
19 the way it was filed at the courthouse.

20           I think the whole situation lends itself to an  
21 exceptionally extraordinary situation where I believe  
22 that this committee should, first of all, find violations  
23 on the part of Gerrity for violating the law, and  
24 secondly not permit any drilling on his section of land  
25 whatsoever.

1           Now, what I'd like to do, if it pleases the  
2 Commission, is I would like to call just simply, I think,  
3 three witnesses that I think will substantiate these  
4 charges.

5           First of all, Mr. Johnson, who will testify to  
6 his work with--or his lack of work with Gerrity and how  
7 specifically they have violated your rules.

8           Secondly, we'd like to call the Buderus  
9 brothers back here, because they involve a section of  
10 land which they will be able to give you testimony as to  
11 a section of land that they're involved in, because they  
12 rent the particular land involved.

13           And then finally, we have one additional  
14 witness, and that is Roy Wardell, who has a section of  
15 land very identical to the section of land which  
16 Mr. Johnson currently possesses. And he will testify to  
17 his experiences with Gerrity and why commencing drilling  
18 operations will place Mr. Johnson probably in violation  
19 of the Highly Erodible Soils Act.

20           So with that in mind, that's in essence why  
21 we're here today and why we wish to present our case in  
22 this type of fashion. It's a--it is an emergency  
23 situation. We've been told that they can expect a  
24 drilling rig out on their property very shortly. This is  
25 an extenuating circumstance. We have a section of land

1 which is very different from other sections that you've  
2 dealt with. And I think that this issue needs to be  
3 addressed today, as a result.

4 CHAIRMAN ANDERSON: Let me see if I can say  
5 the sentence. The reason that there's a need for an  
6 emergency hearing on this, rather than having your client  
7 file and go through the normal processes is that the act  
8 of drilling by Gerrity will cause your--will cause the  
9 applicant, or your client, to violate the Highly Erodible  
10 Soils Act?

11 MR. EVANS: Yes. The Highly Erodible Soils  
12 Act, right now it requires--the Soil Conservation Service  
13 basically requires that soils that are classified as  
14 highly erodible soils be taken out of production.

15 Right now through his conservation efforts,  
16 that's Mr. Johnson's conservation efforts, he has managed  
17 to keep his soils in production within the guidelines of  
18 the Soil Conservation Service. When these particular  
19 wells are dug and the pits are dug, the kinds of--the  
20 kinds of conditions will lead him, Mr. Johnson in his  
21 particular farm, to become--to go out of compliance with  
22 the Highly Erodible Soils Act.

23 And therefore, the impact is that he may lose  
24 the productive value of a good portion of his farm and  
25 acreage.

1 MR. MONAHAN: Mr. Chairman, I guess I don't  
2 understand the Highly Erodible Soils Act. Is that a  
3 financial assistance program?

4 MR. EVANS: No, it's not. Within the last  
5 five years, the federal government passed two laws. One  
6 is called the Wetlands Act, and the other is the Highly  
7 Erodible Soils Act.

8 What it was designed to do is--it was designed  
9 to identify soil areas in the United States in which  
10 there was a very high likelihood of an environmental  
11 impact. Farmers could keep those soils in production  
12 only if they demonstrated to the Soil Conservation  
13 Service conservation techniques which would permit the  
14 soils to remain intact. Wetlands is one area. The other  
15 area is what they call the Highly Erodible Soils Act.

16 When production begins on these particular  
17 lands, the problem that they are going to have is  
18 the--the lands, the soils are highly sensitive, easily  
19 driftable, very sandy, and will disperse in the air.  
20 Mr. Ray Wardell would be able to testify as to what has  
21 happened at his particular farm with the fact that he now  
22 has significant piles of sand dunes ready to blow into  
23 Denver, which are going to cause significant damage to  
24 not just his farm, but neighboring farms as well, as this  
25 topsoil begins to move and to drift.

1           What we have here is--for any other situation,  
2 I guess to call to your attention, would be the kind of  
3 situation that you might think of in the Dust Bowl era.  
4 You remember when the soil would pick up and move, whole  
5 sections of soil. What we're talking about here is the  
6 potential for whole sections of soil on Mr. Johnson's  
7 farm to begin to pick up and move. It is environmentally  
8 a very sensitive type of operation.

9           He's been successful at this operation because  
10 of his conservation measures and because of the types of  
11 crops that he uses in keeping his land in production.  
12 When you dig into this soil and you cause the kinds of  
13 damage that oil drilling is going to cause, you not only  
14 just impact on the areas of the drilling itself, but you  
15 impact on all the other surrounding areas of the soil,  
16 because the soil, when it begins to drift, does not know  
17 boundaries. It begins to move. It may move outside of  
18 the 5-acre window, or whatever window you gave him, and  
19 begin to cause greater and even more significant damage.  
20 This is why it is so important that you hear this  
21 emergency--this particular emergency.

22           He has, as I said, an exceptionally unusual  
23 soil base which needs immediate attention. If you allow  
24 the rigs on the soil, as I said, I believe that you will  
25 be permanently depriving him of the use of his topsoil

1 for the use and future economic--for his future benefit.

2 This is an emergency. This is not--and as I  
3 said, he will be able to testify to that, as well as the  
4 Buderus brothers, as well as the--as Mr. Ray Wardell, who  
5 is right now facing this very, very similar problem. He  
6 has, and would be happy to share with you, the particular  
7 problem and his work with Gerrity on trying to prevent  
8 the problem.

9 MR. MONAHAN: Is there a penalty for violation  
10 of the Highly Erodible Soils Act?

11 MR. EVANS: Yes, it is. The penalty is the  
12 soils are pulled forever out of production, period.  
13 That's it.

14 MR. THEODORE BUDERUS: That is not the only  
15 ramification.

16 MR. MONAHAN: Does the federal government tell  
17 you you may no longer use those--

18 MR. THEODORE BUDERUS: I'm Theodore Buderus.  
19 I'm one of the surface tenants on Mr. Johnson's land. We  
20 farm the crops.

21 The Highly Erodible Soils Act, when we as  
22 farmers are enrolled in any type of programs--I guess  
23 first the easiest way to address it is from a loan  
24 perspective. Our loan basically requires that we be in  
25 compliance with the Soil Conservation's Highly Erodible

1 Soils Act.

2 We have to file a conservation plan which, on  
3 this particular parcel, requires we have residue on that  
4 at all times. We can't have that ground bare. If that  
5 ground is bare, we're out of compliance, basically. If  
6 we're out of compliance on that, our loan is essentially  
7 called. I mean, it's very much of a business decision  
8 with us right now. And there's some funding in terms of  
9 the 1985--

10 MR. MONAHAN: So you do get a federal subsidy  
11 from--

12 MR. THEODORE BUDERUS: Yes, there is. And the  
13 problem is it's not identified only to that farm. When  
14 we are operating, we operate a number of units. We  
15 operate in excess of 1,000 acres on a number of different  
16 units. Any one unit goes out of compliance, and all of  
17 our benefits, everything else that may still be in  
18 compliance, is then put in jeopardy. So we have a major  
19 risk involved in this.

20 MR. MONAHAN: I would assume there are a lot  
21 of lands in Weld County that must operate under the  
22 Highly Erodible Soils Act?

23 MR. THEODORE BUDERUS: Some is, some isn't.  
24 Soil Conservation Service has done a study, and they have  
25 classified highly erodible or non-highly erodible. And

1 then they've also classified the amount of attention, so  
2 to speak, that may need to be done to the surface in  
3 order to keep it in compliance with what those  
4 requirements are. They are the ones who set those  
5 requirements. They're trained soil technicians.

6 MR. MONAHAN: In implementing the Act, are  
7 there any provisions for this type of situation?

8 MR. THEODORE BUDERUS: No, there's not. Right  
9 now we're held responsible for all actions. And if it's  
10 out of compliance, irregardless of the problem, we are  
11 held liable. Our payments are cut off.

12 MR. EVANS: Mr. Monahan, it's a strict  
13 liability situation. If they are in any way whatsoever  
14 out of compliance, that's it.

15 MR. THEODORE BUDERUS: The other question for  
16 the--excuse me.

17 CHAIRMAN ANDERSON: Does that mean if what  
18 you're asking for, if this weren't an emergency and you  
19 had some warning on it, the request would be simply not  
20 to permit the drilling?

21 MR. EVANS: That's correct, Mr. Anderson.

22 MR. THEODORE BUDERUS: The other thing we're  
23 looking at just from the bonding issue, I think I brought  
24 it up this morning, was the fire issue. We essentially  
25 have got a full quarter there in corn. It's unharvested

1 right now.

2           And I don't like to bring the tragedy up with  
3 the fire again. But nevertheless, if that did occur, the  
4 bond does not cover the value of that crop. If you were  
5 to get a wind situation, the value of that crop on that  
6 particular parcel is worth more than the \$25,000 blanket  
7 bond.

8           MR. CROUCH: We're not here--we didn't get  
9 notice of this hearing. I'd be happy to comment or  
10 answer any questions that the Commission has. I think  
11 it's been overdramatized quite a bit. Our plans are to  
12 drill one well in the Dakota, I believe, on the Southeast  
13 Quarter of Section 15. We seldom use less than 2 acres  
14 (sic). We'll fence it. If there are reclamation or soil  
15 control techniques we can bring to bear, we'll do it in  
16 cooperation with surface--first I've heard of this, as  
17 well. You know, we're just sort of caught off guard with  
18 this issue.

19           I'm not sure I see what the emergency is.  
20 He's said that what they're really after is that we never  
21 drill that land. And I think once again, that's a bigger  
22 issue than, you know, what they're asking for today.

23           I might also add that I think your statute  
24 says an emergency order is only good for 15 days. I  
25 don't know what we do about the next 15 days or the

1 15 days thereafter. I'm just not sure this is the  
2 appropriate forum for this kind of an issue. The  
3 emergency statute talks about life and limb and, you  
4 know, potential of serious injury, that kind of thing.

5 MR. MONAHAN: What is the drilling schedule  
6 for this parcel?

7 MR. CROUCH: Okay. I want to bring that up,  
8 too. We had it scheduled for I think last week sometime,  
9 to commence location. We actually had a Cat, I think, on  
10 the way, a Caterpillar on the way to the location or  
11 there.

12 I had a couple of conversations with  
13 Mr. Johnson, and it became apparent to me that there  
14 needed to be some more in the way of consultation. And  
15 we deferred drilling it for a week. I offered to meet  
16 with him to discuss these issues, and the meeting didn't  
17 take place because of our schedules. But then we were  
18 going to send our landman up there to talk to him about  
19 what we could do, and he said he wouldn't have the  
20 meeting without a tape recorder present. And at that  
21 point, the landman not being a lawyer, I just decided in  
22 the context of this heated exchange we were having, it  
23 would be better not to meet.

24 I don't disagree that we need to do more on  
25 the consultation, and we will do more on the

1 consultation. But, I mean, I can't address these other  
2 issues. We intend to drill the well. I mean, it's a  
3 valid oil and gas lease there.

4 CHAIRMAN ANDERSON: Is there any possibility  
5 that Gerrity would be willing to put off the drilling of  
6 the well--I don't know what the schedule is,  
7 obviously--for a month or two, for some amount of time to  
8 give the people here who have applied for an emergency  
9 hearing the time to go through the normal processes and  
10 give you time to prepare?

11 MR. CROUCH: Yes. I think we do need to  
12 defer--well, we have a contractual obligation to drill by  
13 the end of this year. And I think the crops, as I  
14 understand it talking with Mr. Buderus and Mr. Johnson,  
15 are going to be coming out as soon as the moisture  
16 content is right. I'm not sure how far away they are now  
17 with that, but it's been said to be imminent.

18 And we'd like to wait until the crops are off.  
19 And if we get a little better idea when they would be  
20 off, that would help us. But yes, we can defer it for  
21 some period of time. We have a commitment to Amoco to  
22 drill a well by the end of the year.

23 MR. MONAHAN: Mr. Buderus, are there  
24 operational techniques that an oil and gas operator could  
25 employ to keep this land in compliance with the Highly

1 Erodible Soils Act?

2 MR. THEODORE BUDERUS: I'll address a couple  
3 issues.

4 One, the rule--another, you know, rule that  
5 they were out of compliance with was Rule 303.j., which  
6 basically stated they needed to give us a minimum of not  
7 less than seven days nor a maximum of six weeks. We  
8 received one notification in September. At that time, I  
9 indicated to them the crops wouldn't come out until the  
10 middle to end of November.

11 It's hard, at that point in time, to make an  
12 accurate assessment, because I don't control the weather.  
13 Tuesday morning, last Tuesday morning, was the first I  
14 heard they wanted to come in. And as Keith indicated,  
15 they basically called and said the Cat was on the way.  
16 Crops hadn't been harvested, there was no agreement  
17 reached on payment, and they said even if I did--I asked  
18 if I could get a check and they said they were only  
19 obligated to pay, but they didn't know when they had to  
20 pay. I would have to check with Soil Conservation to  
21 find out what kind of--they're the ones who set the rules  
22 and guidelines. I guess I can't answer for them. I  
23 would have to basically check with them and see what kind  
24 of techniques they would recommend or that they would  
25 allow so that we wouldn't go out of compliance.

1 I do know we've signed contracts with them to  
2 basically remain in compliance. And if we're not in  
3 compliance, we're therefore out of compliance and  
4 ineligible for not only the federal programs, but  
5 our--essentially our operating loan is tied to that same  
6 thing on our entire units. And that all becomes  
7 essentially out of compliance, which essentially makes it  
8 a nonperformance. At that point, we become a bad credit  
9 in their eyes.

10 MR. MONAHAN: My question really goes to that  
11 last point about Soil Conservation. Because assuming  
12 that you get your crop in, the issue about how the  
13 operations may take place on your property, as concerns  
14 the Highly Erodible Soils Act, is still kind of  
15 unanswered. I mean--

16 MR. THEODORE BUDERUS: And I haven't had  
17 enough time to research that to find that out. I cannot  
18 answer. I think there would be something that could be  
19 worked out, but I can't speak for them.

20 MR. EVANS: I'd like--Mr. Johnson's had some  
21 conversations with Soil Conservation Service. If you  
22 could address that, please.

23 MR. JOHNSON: When I first received the word  
24 of this--that they were going to be coming on the  
25 property, from the time I got the registered letter until

1 I was able to talk with the landman, land person on that,  
2 I later found out that there was another company that  
3 also had the authority to supposedly to drill on that  
4 same ground. So I was very confused on it.

5           Subsequent to that, a representative from  
6 Gerrity contacted me and told me this is the way it was  
7 going to be as to where the location was and everything  
8 was. And I said where it was going to be was really not  
9 acceptable to me, because that was the most dangerous,  
10 most highly erodible place on the entire property.

11           So I went to the Soil Conservation Service and  
12 asked them about that, and they just flat said they  
13 didn't want anybody to disturb that particular part of  
14 the ground that they were going to be putting their tank  
15 battery on. Of course, that has a high amount of  
16 traffic. And every time you drive in, you're just  
17 reagitating it, like stirring the thing up like flour in  
18 a wind.

19           So they were going to be addressing that at  
20 their state convention to see just how that should be  
21 handled from their perspective. They also have to go  
22 back through bureaucratic channels to see how that should  
23 be handled, but they really didn't want that land  
24 disturbed.

25           MR. MONAHAN: Are there other portions of your

1 property that are not as erodible as the planned site?

2 MR. JOHNSON: Yes. Where I had suggested they  
3 put their tank battery was less erodible than where they  
4 had proposed. But all of it is--when it's bare, you've  
5 got a powder keg. That's where we have concern.

6 MR. CROUCH: Didn't we agree--doesn't the plat  
7 that I sent you last week put the tank battery where you  
8 suggested it be put?

9 MR. JOHNSON: That is satisfactory. But we  
10 still have exposed ground we haven't addressed.

11 MR. CROUCH: Mr. Chairman, we're talking about  
12 the consultation process. And I recognize the  
13 consultation in this case wasn't what it should have been  
14 and agree to defer the drilling of the well until we have  
15 that process.

16 MR. EVANS: We believe there have been  
17 specific violations of this Commission's rules by Gerrity  
18 and that they have not carried out their consultations.  
19 Mr. Johnson can tell you specifically from his  
20 experiences how they have failed to carry out that  
21 consultation.

22 MR. CROUCH: And whatever shortcomings we  
23 have, I don't think it's appropriate to issue an  
24 emergency order saying we can never drill a well over  
25 there.

1           MR. EVANS: There's one additional thing, is  
2 that we know that they have not consulted with the local  
3 government designee in this particular area, as well.  
4 So, I mean, if you add all those things together, I think  
5 that we have a situation where I don't believe they  
6 should be permitted to move onto the property and drill  
7 in this instance.

8           COMMISSIONER MacMILLAN: I have a question.  
9 Where's this property located?

10          MR. JOHNSON: It's approximately 4 miles  
11 straight north of Hudson, Colorado.

12          COMMISSIONER MacMILLAN: Can you give me a  
13 section, township and range?

14          MR. JOHNSON: Southeast Quarter of Section 15,  
15 Township 2 North, Range 65 West, Weld County, Colorado.

16          COMMISSIONER MacMILLAN: Thank you.

17          CHAIRMAN ANDERSON: Sounds like some, if not  
18 all, of what you want could be dealt with here short of  
19 issuing an emergency order, if there simply were no  
20 drilling to occur in the next some period of time.

21          MR. EVANS: Well, I think you--

22          MR. JOHNSON: Some of their behavior was that  
23 I hadn't even received notice as to when they were going  
24 to be coming on. They said there was a letter in the  
25 mail. We got the letter in the mail two days after they

1 were already starting to pull the drill rig in, based on  
2 my submission to the Commission for this emergency  
3 hearing.

4           At that particular time, the next day I got  
5 the letter from them saying that they were going to be  
6 entering the property between the 15th and 18th, and this  
7 was on the 20th, that they were already trying to enter  
8 the property.

9           This is the kind of emergency situation that's  
10 saying, "Hey, my rights aren't being protected on this  
11 whole process." How do I know what's happening? I mean,  
12 to notify me at 7 o'clock in the morning that they had to  
13 be there at 9 o'clock? I still have not approved of the  
14 site. I've not been there. I haven't even been asked to  
15 be there.

16           MR. CROUCH: This one wasn't handled  
17 perfectly. I mean--

18           MR. EVANS: This was another one that wasn't  
19 handled perfectly, I think.

20           CHAIRMAN ANDERSON: Well, can we deal with it  
21 by asking that no drilling occur for--I don't know--until  
22 mid-December or sometime, and giving the parties the time  
23 to communicate, attempt to deal with the issue? There  
24 are some heavy issues here, and the fact that the  
25 practical force of the worries that you have is that you

1 have to request that the Commission simply not permit  
2 drilling, that's kind of a big deal.

3 MR. EVANS: I realize that.

4 CHAIRMAN ANDERSON: And to deal with an issue  
5 of that level of importance on an emergency basis here,  
6 when one side to the party is obviously unprepared and  
7 we're at least unprepared psychologically, it seems to me  
8 that in this case that the parties can talk.

9 MR. EVANS: May I also make an observation  
10 here? And that is that what you are seeing here is just  
11 the tip of the iceberg, as far as the agricultural  
12 community is concerned. You've got to consider the  
13 impact of drilling on soil, and compaction, and a whole  
14 series of other issues.

15 I would really encourage you to, as much as  
16 possible, make yourselves familiar with Weld County and  
17 the unique situation that you're dealing with up there.  
18 And I just can't emphasize that enough, environmentally  
19 and reclamation, and all the other issues. Because I  
20 think you're dealing with a different section than you're  
21 dealing with out at Montezuma or Kit Carson or someplace  
22 else.

23 One of the suggestions I might suggest is  
24 maybe you should drive up there and take a look at the  
25 sites and observe some of the wells going in, maybe go

1 out and look at Ray Wardell's place and take a look for  
2 yourselves and see the impact of the particular drilling  
3 that is happening at these sites. I think if you saw Ray  
4 Wardell's place, I think you'll understand why, when you  
5 go to dust your house next week or so, you'll have a  
6 little bit more dust to take care of.

7 But I mean it seriously. And I think it would  
8 certainly help you appreciate the situation as it is  
9 developing here.

10 CHAIRMAN ANDERSON: Well, I hate to suggest  
11 that we talk about even more things in December. But  
12 would it be possible to ask that you make  
13 application--we're beyond the dates on the November  
14 hearing, aren't we--on the December hearing?

15 MR. EVANS: I would be happy to make  
16 application. And until we had our hearing, I'd feel more  
17 comfortable if we could have that stipulation again that  
18 there would be no drilling.

19 CHAIRMAN ANDERSON: In the meantime, the  
20 understanding that discussions go on and that no drilling  
21 occur?

22 MR. CROUCH: Yes. We'll continue to discuss.  
23 But we cannot commit not to drill this well in 1992.  
24 It's an obligation well under a contract. We've got  
25 liquidated damages under that contract. There are

1 reserves. I mean, we can't make the same commitment we  
2 did this morning with Mr. Buderus.

3 CHAIRMAN ANDERSON: Mr. Hoshiko.

4 MR. HOSHIKO: Mr. Chairman, my name is Dennis  
5 Hoshiko. I am secretary of the Front Range Land and  
6 Minerals Association, but I also serve as the chairman of  
7 the Colorado Commission of Agriculture.

8 And I would like to take this opportunity to  
9 make the offer to your board, all of you, to do as John  
10 as suggested, and try to arrange some kind of a field  
11 trip, for lack of a better word, to come up into our  
12 area, to witness how oil and gas operations are affecting  
13 the very fragile, very sensitive agricultural lands in  
14 our region.

15 Our commission has taken action in the last  
16 few months to talk with the members of the State Land  
17 Board about this situation on their lands that they have  
18 jurisdiction over and are entrusted with, and I would  
19 like to make that offer on behalf of the Colorado  
20 Commission of Agriculture for the Colorado Oil & Gas  
21 Conservation Commission to please come to our area and  
22 witness firsthand some of the situations that we are so  
23 desirous of explaining to you.

24 It's very difficult to do. And I think if you  
25 see them firsthand, you would have a much better feel for

1 what we're dealing with here.

2 CHAIRMAN ANDERSON: Mr. Keefe.

3 MR. KEEFE: Mr. Chairman, I'd like to speak  
4 for a second on behalf of the industry. I only do this  
5 because this is the second time today now that counsel  
6 for the applicant has decided to take it further in his  
7 statements than the particular application at hand and  
8 try to address it on more of a global or worldwide basis.  
9 And that's what forces me into speaking in this  
10 particular situation.

11 I think it's very important that you  
12 realize--maybe you do, and maybe you don't--what  
13 precedent could be set by what you decide in this action  
14 or a like action. What you're seeing here is a landowner  
15 in effect try to stop the drilling of a well. And  
16 they're trying to do it in a manner--because they're  
17 saying there have been some violations of the rules, on  
18 an emergency basis, when you've not heard anything by way  
19 of evidence to determine for sure, number one, that those  
20 rules have been violated and, number two, even if they  
21 have, whether that's a good reason for stopping the  
22 drilling of a well.

23 And I would suggest to you that you take very,  
24 very seriously your decision as to whether you would  
25 actually stop the drilling of a well, by stipulation or