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THE OIL AND GAS CONSERVATION COMMISSION
OF THE STATE OF COLORADO

Pgs 1-30

IN THE MATTER OF THE PROMULGATION)
AND ESTABLISHMENT OF FIELD RULES) CAUSE NO. 1
TO GOVERN OPERATIONS IN THE) Docket 6-14
SPINDLE FIELD, 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 E. Colfax Avenue, Denver, Colorado 80203, on
Monday, June 18, 1993.

BEFORE:

Chairman Truman Anderson

Commissioner John Campbell

Commissioner Martin Buys

Commissioner Logan MacMillan

Commissioner Mary Larson

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Patricia Beaver, Technical Secretary



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1 CHAIRMAN ANDERSON: All right. The
2 next matter on the agenda is Cause No. 1, Docket No.
3 6-14, and in the Spindle Field in Weld County. The
4 applicant is Basin Operating Company, through its
5 attorney, J. Michael Morgan. This is a pro -- this
6 is -- what is it? It's an application for an
7 injection well. This is protested by officials and
8 residents of the City of Dacono, and officials from
9 the towns of Frederick, Firestone, Fort Lupton.
10 There's not much description in here as to the exact
11 location. Mr. Morgan, can you help me with that.

12 MR. MORGAN: The exact location?

13 CHAIRMAN ANDERSON: Yeah.

14 MR. MORGAN: Well --

15 CHAIRMAN ANDERSON: Let's see.

16 COMMISSIONER BUYS: It's on the wall.

17 CHAIRMAN ANDERSON: It's on the wall.

18 MR. MORGAN: I might pass out copies
19 of the exhibits.

20 CHAIRMAN ANDERSON: To inject produced
21 water in the proposed Carl Miller B-9 well located in
22 the southeast quarter, northeast quarter of Section
23 5, 1 North, Range 67 West. An injection well into
24 the Sussex Formation. There's a sign-up sheet.

25 MS. BEAVER: I brought it to you.

1 CHAIRMAN ANDERSON: Has everybody who
2 wanted to speak on this signed up? This is not a
3 major crowd here. Even if you didn't sign up, you
4 have something to say, wave your hand at us and we'll
5 call on you. All right, Mr. Morgan, you can begin.

6 MR. MORGAN: Yes. Mr. Chairman. This
7 is an application for a Class II injection well
8 produced waters into the Sussex Formation. The well
9 is in the Spindle Field. This is normally the type
10 of authorization that is granted by the director.
11 This authorization has been delegated by the
12 commission to the director. The director is
13 authorized to issue permits for Class II injection
14 wells if all of the relevant factors have been shown
15 and relevant information has been submitted. It's my
16 understanding that we are here before you today
17 because there have been -- several letters of
18 interest or concern regarding this application have
19 been received by the commission. It's my
20 understanding that no one has filed a docket fee and
21 no one has formally protested this application.

22 As a result, we are ready, Mr.
23 Chairman, to go through an explanation of why we need
24 the disposal wells, why this well, we believe, is an
25 appropriate well for disposal. Why surface water

1 will be protected, and why we believe there will not
2 be significant surface impacts. What we're going to
3 do to mitigate those impacts.

4 We have two potential witnesses. We
5 have a production engineer from Basin, and we also
6 have a geologist. Also, general counsel with Basin,
7 and their land manager is here. We are either
8 willing to proceed with that and explain to the
9 commission what it is we intend to do, and why we
10 think that's appropriate, or we will merely answer
11 the questions of the commission and anyone else.

12 CHAIRMAN ANDERSON: Let me ask a
13 couple of questions here first. You filed an
14 application with the commission, which I presume
15 contains, along with it, the information that's
16 required for injection well applications.

17 MR. MORGAN: Yes.

18 CHAIRMAN ANDERSON: And has that been
19 reviewed by the staff of the commission?

20 MR. DiMATTEO: We started reviewing
21 the application. We stopped after the protest was
22 received, basically, I guess is where, at least from
23 my position, is waiting for a determination of
24 whether to proceed with the processing of the
25 application.

1 CHAIRMAN ANDERSON: I see. So you
2 haven't yet made a determination as to whether or not
3 the --

4 MR. DiMATTEO: They have not met all
5 of the parameters yet.

6 CHAIRMAN ANDERSON: They have not met
7 all of the requirements yet. You haven't looked to
8 be able to determine that?

9 MR. DiMATTEO: It's both.

10 MR. MORGAN: Mr. Chairman, we
11 understand that we need to do a mechanical integrity
12 test before approval can be final. You see from the
13 well -- there's one from the chart over here -- that
14 there is one "J" Sands well within the quarter mile
15 of the proposed injection well, which has not been
16 cemented through in the injection formation, which is
17 the Sussex. Accordingly, we would have to arrange
18 for and perform a remedial action on that well before
19 a permit for the disposal well could be approved.
20 Our way of thinking, those are the two things we
21 would have to do -- two things remaining to do in
22 order to get the authorization under the rule.

23 CHAIRMAN ANDERSON: My concern is,
24 here, is I don't want to go through whatever, how
25 long it would take to go through, the things which

1 ordinarily would be presented to the staff of the
2 commission, to find out that those are not the
3 matters of concern to the people who are here to
4 raise their objections to it. Have there been prior
5 meetings, public hearings discussions, such that we
6 have some idea of what the nature is of the concerns,
7 so we could deal with those rather than hearing about
8 things that may or may not be of concern to those who
9 are objecting.

10 MR. MORGAN: I believe that Mr.
11 DiMatteo attended a meeting, public meeting, in
12 Dacono, and spoke with probably the same people who
13 filed letters of concern with this commission, and
14 explained the situation to them and received their
15 concerns. Would you like his report? Would you --

16 CHAIRMAN ANDERSON: I just --

17 MR. DiMATTEO: Most of that stuff is
18 in the memo that we wrote to you, but Roger Mays
19 (phonetic) is here. I think he could probably speak
20 for himself there. I will say, for the most part,
21 their concerns were about -- with land use issues,
22 dust. There was a problem there with previous
23 injection test there that we conducted and approved,
24 as far as how we authorize it. There was also just
25 concern about injection wells in general. We

1 basically made available to people in Dacono the
2 injection well video on injection well operation, and
3 we also tried to mail a pamphlet, or whatever, just
4 kind of centered around our requirements that we
5 would require of the applications, that type of
6 thing.

7 After we went through the meeting in
8 Dacono, basically, they heard everything we had to
9 say, vice versa, and that it was probably the
10 consensus -- it was still a large number of people
11 that still wanted to be heard before the commission
12 here, and so, basically, that's why we're having it
13 today.

14 CHAIRMAN ANDERSON: But the objective,
15 then, is for the commission today to grant the --
16 what you want is for the commission to grant this
17 application today?

18 MS. BEAVER: No.

19 MR. MORGAN: I don't believe you can.

20 MS. BEAVER: The commission needs to
21 determine, as I understand it, whether the staff can
22 continue in the processing of the application. Is
23 that it?

24 CHAIRMAN ANDERSON: All right. Which
25 gets back to what it is that you are going to

1 present.

2 MR. MORGAN: We are prepared to go
3 through the whole dog and pony show here, really, to
4 tell you what we plan to do. We would, if it please
5 the commission, we will do that. Or we will respond
6 to any questions you may have of this and any other
7 protest, and then put on partial evidence on those or
8 explanation on those points, whatever pleases the
9 commission.

10 CHAIRMAN ANDERSON: How long do you
11 think it would take you to go through the whole
12 thing?

13 MR. MORGAN: More than an hour.

14 CHAIRMAN ANDERSON: Yes, Logan.

15 COMMISSIONER MacMILLAN: Is it the
16 feeling or belief of the rest of the commissioners
17 that we might first want to hear what the questions
18 are from staff -- Mr. DiMatteo's request on the memo
19 that's been provided to us -- so that we might be
20 able to give direction to staff and let them proceed
21 with the, hopefully, the questions that you asked,
22 answered, so that you can go ahead and handle the
23 technical aspects that Basin, obviously, is prepared
24 to give, I heard, either us, now, or more directly to
25 staff.

1 My understanding is, from reading Ed's
2 request here, the issues that you have raised are the
3 issues of how is it that staff is going to interact
4 with members outside of the petroleum community that
5 may have questions about how they interface with
6 these requests for injection of waters.

7 MR. DiMATTEO: That's correct.

8 CHAIRMAN ANDERSON: With that, I would
9 suggest hanging tight, Basin, maybe we will do that
10 first. Let's hear from staff what the questions are
11 first. Hash them out. Hopefully, we can get that
12 taken care of, hear from some of the concerned people
13 we have here.

14 MR. MAYS: Truman, we have one person
15 here to talk.

16 CHAIRMAN ANDERSON: I think that's --
17 I think we want to understand what the concerns are.
18 I am reluctant to go through the whole presentation
19 on a lot of things which may or may not be
20 interesting or relevant to the people who are
21 objecting. So, I think if we could get a brief
22 description from Mr. Morgan as to the project itself,
23 without -- so that we understand something about it,
24 and then could we hear from those who have concerns
25 about it and begin to hear the nature of their

1 concerns.

2 MR. MORGAN: I will give you my
3 lawyer's perspective. Basin would like to convert
4 this Sussex well, the Miller B-9, to a Class II
5 injection well, to dispose of its produced waters in
6 in its own well, not others, but its own wells,
7 producing in the Sussex, "J", Codell and Niobrara,
8 but mostly the Sussex.

9 We believe that the formation into
10 which -- the Sussex -- into which the injection would
11 be made is an exempt aquifer, not used for drinking
12 water. We also believe that the quality of the water
13 being produced, based upon the data that's been
14 attained by Basin, from all of the various wells, is
15 an ordinary garden variety oil field produced waters,
16 and may be injected into that formation. We have a
17 surface agreement with the surface owner, Columbine
18 Jersey Farms, that owns most, if not almost all of
19 the surface of the north half of this Section 5, and
20 Basin would propose to utilize the existing well,
21 which is approximately here, and to install a tank
22 battery into which water would be stored for
23 injection.

24 The tank battery would not be much
25 different in kind or size than you see on most of the

1 drill sites in the area. As you can see, this is a
2 well -- you are in the middle of 40-acre spacing
3 production in the Sussex, so we don't believe that
4 surface impacts would be terribly large, because this
5 facility is not much larger or different in kind or
6 size than anything else around there. We estimate
7 that there will be between two to three, on average,
8 two to three tank trucks of water disposing of water
9 in this well. Again, because this is not -- this is
10 in the oil field, you have got truck traffic up and
11 down the road anyway.

12 CHAIRMAN ANDERSON: Between two to
13 three truck tanks per day?

14 MR. MORGAN: Per day. This would not
15 be a major impact. Maximum, Day 1, the well might
16 take up to perhaps eight trucks, Day 1, but no more
17 than that. And we anticipate the volume would go
18 down as the reservoir below begins to become
19 saturated somewhat. That's been our experience with
20 test wells, and with Basin's other Sussex disposal
21 wells in the area.

22 We would have testimony that our
23 geologist has looked at the Sussex Formation there,
24 and based upon his analysis, Basin does not believe
25 that there is any significant faulting within a half

1 mile of the well; and, therefore, from a geologic
2 perspective, the chances of migration of the water
3 are slight or up to nonexistent.

4 We would also have testimony from our
5 production engineer that this well was cemented,
6 first of all; that there are no domestic or
7 irrigation water wells within a quarter mile of, but
8 I believe -- within a quarter mile, I believe that
9 the rule calls for -- of this injection well. There
10 are three irrigation wells within half mile. Those
11 all draw water from the Fox Hills. We would testify
12 that all of these wells, including Amoco's Miller B
13 "J" Sands well, are cemented through the Fox Hills,
14 are protected. We would also show that all wells
15 within half mile have been cemented through the
16 injection formation, which is the Sussex, with the
17 exception of the the Amoco BB well, which is "J"
18 Sands, and, again, we will have to perform remedial
19 operations on that to cement through the injection
20 formation.

21 This well is about three quarters of a
22 mile to the east of Dacono. It is only 800 feet --
23 800 yards -- 800 feet.

24 MR. SCHMITZ: 800 feet.

25 MR. MORGAN: 800 feet off Highway 54,

1 a paved road. We don't think a dust track will be a
2 major problem, not unlike the other impacts of oil
3 and gas operations here. That would generally be the
4 testimony. We would believe that we have a need for
5 it.

6 We would believe that, A, we have a
7 need for it. B, that this is a well, because it has
8 reached its economic limit, a well that's appropriate
9 for disposal. C, that groundwater would be
10 protected. And, lastly, that surface impacts would
11 be minimal.

12 COMMISSIONER BUYS: I have a couple of
13 questions. Ed, the well they are proposing to
14 convert, has that formation been exempted yet? Is
15 that going to be no problem, do you think?

16 MR. DiMATTEO: I will say most of the
17 Sussex water values that we have been receiving are
18 over 10,000, between 10 and 15.

19 COMMISSIONER BUYS: So, it shouldn't
20 be a problem. Have you received any protests from
21 other operators here who care about formation
22 impacts?

23 MR. DiMATTEO: No. I would say, as
24 far as I know, I think Basin probably controls the
25 Sussex in the -- over half mile away from that.

1 COMMISSIONER BUYS: Okay. Have you --
2 is there a tank battery on that well now?

3 MR. SCHMITZ: No.

4 COMMISSIONER BUYS: Where are you
5 going to put the tank battery?

6 MR. SCHMITZ: We can do, with the
7 permission of the surface owner, tank battery 900
8 feet southeast of the well. I am Steve Schmitz,
9 production engineer with Basin.

10 COMMISSIONER BUYS: Is that tank
11 battery going to be on the county road or up on the
12 -- with discussion with -- answer that question the
13 way I asked the first part of it.

14 MR. SCHMITZ: There's a better map in
15 your exhibit. What we have here is paved Highway 52,
16 coming from west to east, cuts cross the top corner
17 of this section, drops down, continues onto the east.
18 This is County Road 17 right here. There are two
19 accesses from Highway 52. One is, as you come from
20 the east, you turn south off Highway 52, directly
21 onto the tank battery. It will be situated off
22 County Road 17. Coming from the west, you would turn
23 south off Highway 52. There are actually two
24 accesses to get to the tank battery. You travel 800
25 feet along County Road 17, turn back to the west into

1 our tank battery.

2 COMMISSIONER BUYS: Are they black-top
3 roads or are they dirt?

4 MR. SCHMITZ: Highway 52 is black
5 top. 800 feet of County Road 17 is dirt.

6 COMMISSIONER CAMPBELL: How far away
7 are the various cities?

8 MR. SCHMITZ: Dacono is just under a
9 mile to the west from our well site.

10 COMMISSIONER CAMPBELL: That's the
11 closest one?

12 MR. SCHMITZ: Yes.

13 CHAIRMAN ANDERSON: Okay. Any other
14 questions.

15 COMMISSIONER LARSON: What's the depth
16 of the nearest irrigation or drinking water aquifer?

17 MR. SCHMITZ: The depth is, Fox Hills,
18 the base is approximately 5 to 600 feet.

19 CHAIRMAN ANDERSON: Any other
20 questions?

21 COMMISSIONER BUYS: Would you -- I
22 realize you haven't reviewed the whole application.
23 Does this appear like this would be a well that
24 probably would be approved from an economical
25 standpoint?

1 MR. DiMATTEO: Okay. Based on what we
2 call protection of drinking water source and
3 correlative rights, yes.

4 COMMISSIONER BUYS: Okay.

5 CHAIRMAN ANDERSON: Any questions
6 here? All right Mr. -- is it Mays?

7 MR. MAYS: Well, Mr. Chairman, I would
8 like to elaborate why I am the sole survivor in our
9 position here today. I received correspondence last
10 Saturday, the 12th, as did everyone else that stood
11 against the proposed site -- anyway, last Saturday,
12 the 12th, I received lengthy correspondence
13 elaborating on this issue. I won't read the whole
14 thing to you. You are aware of the fact that there's
15 been a number of individuals in opposition to this:
16 Mayor of Dacono, Mayor of Fort Lupton, and Frederick,
17 and numerous other people were present. Mr. DiMatteo
18 was there that evening, at the town meeting in
19 Dacono, myself.

20 My property sits about 600 feet to the
21 east of the proposed site, within the 160 acres
22 there, and, anyhow, regarding the issue here, why I
23 am the only individual here, I will say -- this may
24 define that for you.

25 I will read the last paragraph here:

1 "Any interested parties desiring to protest the
2 granting of the application or to intervene should
3 file with the commission a written protest or a
4 notice to intervene no later than June 14. . ." which
5 would have been the following Monday. Saturday is
6 not a working day. Sunday is not a working day.
7 That gives you one day. ". . . briefly stating the
8 basis of the protest or intervention. Such
9 interested parties shall take the responsibility of
10 serving a copy of the protest or notice to intervene
11 to the person filing the application. An original
12 and eight copies accompanied by a fee of \$45 shall be
13 filed with the commission."

14 Now, I read that, I think, probably,
15 and understood it in the same fashion that you people
16 here would. I had until Monday to go down and file
17 this. I have already asked the other individuals --
18 I have already filed twice. We have had public
19 meetings out there, but it seems to me it's a last
20 ditch effort to shake you off the end of the stick.

21 Now, I would like to elaborate here a
22 little bit as to what has transpired, a little
23 history of this situation. Basin originally, the
24 site that they had in mind for an injection well --

25 CHAIRMAN ANDERSON: Mr. Mays --

1 MR. MAYS: It was my farm.

2 CHAIRMAN ANDERSON: Does that follow
3 from that, I take it, there are some number of
4 people, anywhere from one to hundreds who would have
5 been here had they gotten earlier notice that was in
6 a friendlier form? Is that --

7 MR. MAYS: Well, they -- granted, yes,
8 sir. There were numerous people in opposition to
9 this thing, as I mentioned here. The correspondence
10 I received here was on a Saturday, giving you till
11 Monday to respond, with a \$45 fee. All of these
12 people have filed previously, as myself. I sent
13 several letters in opposition and attended this
14 meeting.

15 What I would like to give you, a
16 little history regarding the situation. When this
17 thing originated, what first transpired, there was a
18 workover rig on the back of my farm, four or five
19 days, which I noticed. It's not unusual.
20 Occasionally you will see a workover rig. What they
21 were doing is they were in the process of setting up
22 for an injection well, and I hadn't, a surface owner,
23 been contacted in the period of time.

24 Finally, after they already worked for
25 some four or five days, I received a correspondence

1 that they proposed the injection well on-site on my
2 farm. I contacted Basin, I contacted the Colorado
3 oil and gas people, and tried to get some information
4 regarding what was transpiring. I called Basin.
5 They informed me that they had a right to go ahead
6 and put an injection well on my site, without my
7 permission. And so, I asked them, if that were the
8 case, I would like to have documentation to that
9 effect. And shortly, a period of time, a
10 representative from Basin came out, talked with me,
11 and in regards to this, and said she would like to
12 come to some sort of an agreement. They elaborated
13 on, several times, on what they proposed to do. Made
14 me monetary offers. To this point in time, the only
15 history or knowledge of an injection well that I had
16 directly to the east of me -- I don't know if you are
17 familiar -- I am sure you are probably not all
18 familiar with the Sukla injection well site. That's
19 what I got on the east of me.

20 Incidentally, that's one of the
21 reasons I am here today. I don't need another one on
22 the west. So, anyway, I went over these issues with
23 Basin's representatives, and I listened to everything
24 they had to say. And at the end of the, of course,
25 the conversation here, I still decided, well, I would

1 go and discuss this issue with Mr. George Ottenhoff
2 up in Greeley. He's a well-known oil and gas
3 attorney. I asked him for his recommendation.
4 Incidentally, at the same time they approached me on
5 this issue, they approached Mr. Hape, who owns the
6 property adjoining mine. He also turned them down.
7 Okay.

8 As I mentioned previously, I went to
9 Mr. Ottenhoff with this situation. He discussed this
10 thing in detail. His ultimate recommendation was, I
11 wouldn't touch it, irregardless of monetary
12 compensation offers. He said the environmental
13 fields are changing so rapidly, so long term, you
14 could be held liable. The possibility of litigation,
15 it's going to be hanging over your head. He said,
16 ultimately, you could lose everything you own.

17 With that recommendation in mind, I
18 declined the offer, period. Time went by, in a short
19 period of time, I received notification, as
20 surrounding property owner, that Basin had now found
21 a new proposed site 600 feet off my property line, an
22 absentee landowner, Mr. Gregory Brown, attorney in
23 Denver, and maybe they learned something by dealing
24 with me and Mr. Hape. In time, they went ahead and
25 got their signatures before the surrounding property

1 owners were aware of the fact Mr. Brown gave them
2 permission to put this in.

3 So, I contacted Mr. Brown, talked with
4 him in detail regarding this issue for about 45
5 minutes and elaborated on the Sukla situation, said
6 had he had any knowledge of this, he wouldn't have
7 touched it either. The Sukla site to the east of me
8 originally was owned by Amoco. They sold that piece
9 of property to Wright Disposal, as you probably all
10 well know. It's been a well-documented problem for
11 some time up there. Sukla has spent a great deal of
12 time and money trying to rectify the mess that made
13 the mistake of allowing to become reality, at a date
14 approximately three years ago.

15 Amoco sold it to Wright Disposal.
16 Wright Disposal went to Weld County and asked for a
17 change in Class II to Class I industrial waste. And
18 that has, to this point in time, it's still up in the
19 air. It could have been a lot of opposition. There
20 was also, supposedly, a small amount of traffic
21 initially going to be utilizing the Sukla site. I
22 have seen as many as 16 trucks backed up waiting to
23 dump up there. I couldn't tell you how many go up
24 there in the 24-hour period. I can tell you this
25 thing. It sits to the east of me. I don't want it

1 on the west. Granted Basin can say, well, it's not
2 going to be utilized very much, initially. It's
3 going to have eight trucks a day, and, over a period
4 of time, possibly, down to two. Well, let's say this
5 formation is going to take a lot of brine water for a
6 prolonged period of time. We're talking, basically,
7 eight trucks a day or more. It could ultimately
8 evolve into more. The Sukla situation started out
9 small. It was a molehill that went into the
10 mountain. And it does sit right off of Highway 52,
11 which is a main east-west thoroughfare, running from
12 Fort Lupton right up to IBM on the diagonal, right
13 through Dacono. Sits right to the east of Dacono.
14 The mayor of Dacono is in staunch opposition to this
15 thing. I am sure you are you are aware of that,
16 aware of the fact that the correspondence I have got
17 here gave people a very limited amount of time to do
18 anything. I am the only individual. I had to take
19 off of -- from work to come down here today. I guess
20 that pretty much said what I had to say.

21 There's something here that I think
22 you should take into consideration when you look at a
23 situation like this. It's not just what Basin --
24 whether or not they meet the criteria. I feel
25 there's a property owner there. There's a

1 depreciation factor, you know, when I have got this
2 type of activity surrounding my property, ultimately,
3 it comes back home to haunt me at some point in time.

4 If I were to go to sell my property, and people
5 inquire, you have got an injection well to the west
6 and you have got one to the east, it doesn't look
7 good.

8 As far as the traffic that they are
9 elaborating on utilizing, 17, to come off of 52, out
10 of 12 1/2, as they proceed west, 12 1/2 to 17. When
11 they come back, there's a stop sign there that sits a
12 short distance off my driveway, both ways. And I
13 would like to know -- elaborate on the fact that I
14 would rather not have that traffic back and forth
15 right in front of me constantly.

16 Granted, they qualified the commission
17 standard here. I am well aware of the fact. I am
18 also well aware of the fact that I am just one
19 individual here today. There could have been more,
20 under the circumstances, had they been different.
21 That's pretty much all I have to say. Thank you very
22 much for your time.

23 CHAIRMAN ANDERSON: Before you go, if
24 there are any questions members of the commission
25 might have, could you stay up front here for a

1 minute, probably carry on a bit.

2 MR. DiMATTEO: I kind of agree with
3 Roger there, because after the meeting in Dacono, I
4 will say there was very strong response from the city
5 officials of Dacono, Firestone, Fort Lupton, that
6 they would be here, and I guess I really have a
7 concern that we're probably losing some credibility
8 and maybe some ground, after actually going out there
9 and talking with them. I truly believed they would
10 be here, and I am not exactly sure if \$45, or the
11 short distance there, but I would like to find out
12 maybe why they were or were not here. I am real
13 concerned about that.

14 MS. BEAVER: Maybe I can explain the
15 notice situation. Somehow or other I got my wires
16 crossed with who was sending notice to parties that
17 had previously protested. There are 28 people that
18 had sent in protest letters in advance of the hearing
19 being set. So, that was the reason for the way the
20 individual notice of -- the interested parties'
21 notice was sent out and published in the Greeley
22 Tribune and Denver Daily Journal, as of June 3. I
23 did fail to connect with them and make sure that the
24 notice was sent to the interested parties.

25 So, when I spoke with Roger on Monday,

1 I guess it was, I explained to him that, again, I
2 probably should have included a sentence in the
3 notice that said that people who had previously filed
4 protests were not down to this deadline or the money,
5 the protest filing fee. Anyone is able to come
6 before the commission and make comments without
7 filing a protest fee. The protest gives the
8 protestant the right to cross-examine, so, you know,
9 they didn't have to do that, and I really failed on
10 that aspect. So, that is the concern about the
11 notice. And if what Ed said, and what Susan said --
12 they both attended the Dacono meeting. It did seem
13 there might be some other interested parties that
14 would like to -- wanted to come down.

15 MR. MAYS: Mr. Chairman, if I could
16 interrupt briefly. With the 28 people we're talking
17 here, also, that we're documented in the protest, all
18 of these people are like myself, they have got jobs.
19 It's not easy for them to walk away from that to
20 attend the meeting. I think you understand that.

21 CHAIRMAN ANDERSON: Yes, I do.

22 MR. MAYS: Another thing I would like
23 to say, Basin has an injection well at 52 and I-25.
24 And in the Sukla site, directly, you can stand at
25 their proposed site and it's just plain as day, you

1 can look right over and look at it. I can't help but
2 wonder why they can't utilize either of these sites?
3 Why do we have to have a new site? I guess that's
4 it.

5 CHAIRMAN ANDERSON: Well --

6 MR. MAYS: One of the things I would
7 like to make you aware of.

8 CHAIRMAN ANDERSON: Let me ask a
9 couple of questions here. I suppose one possibility
10 is that we can do this again, and provide notice
11 again to enough people so that if a larger number of
12 people do want to come to comment on this, that they
13 have the opportunity to do so. I wonder if we do
14 that -- and other commissioners may have a different
15 opinion whether or not we could concur with that --
16 as Ed and staff push the progress along on reviewing
17 the application.

18 COMMISSIONER LARSON: Don't they get
19 another opportunity to protest when the application
20 was granted or denied?

21 MR. DiMATTEO: The only difference
22 there is that, at this point in time, probably it's
23 Basin's position to more or less show that they are
24 not harming, okay. If you apply after it's approved,
25 it's like you have to show that you are being harmed.

1 COMMISSIONER LARSON: It's a different
2 burden.

3 MR. DiMATTEO: Right.

4 COMMISSIONER LARSON: Thank you.

5 COMMISSIONER BUYS: This isn't
6 technically -- I see an issue, this land use issue.
7 I am wondering -- I would like to know, doesn't this
8 type of issue and/or protest fall under the
9 regulations that we passed here recently for the Weld
10 County development issues that have been so hotly
11 debated?

12 CHAIRMAN ANDERSON: No, I don't think
13 so. You are right about that, I think.

14 COMMISSIONER BUYS: The land use
15 issue, Basin can make a decent well out there and Ed
16 said he thinks it would make a decent well. That's
17 not the issue?

18 CHAIRMAN ANDERSON: That's not the
19 real problem. It feels like the interest in it and
20 strength of feeling and concern have much to do with
21 the land use worries, and there's a real question as
22 to whether or not the oil and gas commission -- we're
23 talking a lot about jurisdiction today. A real
24 question as to how far the oil and gas commission can
25 look into the surface impacts on looking at injection

1 wells. If you look at the rule that the commission
2 has on injection wells, that doesn't talk about, at
3 all, about surface impacts. What we're primarily
4 concerned about, I am sure continue to be primarily
5 concerned about, is the protection of the reservoir
6 and protection of the ground water, but on the other
7 hand, I am reluctant to say we just don't want to
8 hear about the surface impacts.

9 COMMISSIONER BUYS: I am not arguing
10 that. I am just saying the real issue is not the
11 quality of the packers or the cement behind the
12 pipe. It's really land use.

13 COMMISSIONER LARSON: Are the other 28
14 people in agreement with your concerns, or are there
15 some who are bringing up mechanical integrity and the
16 more technical protest?

17 MR. MAYS: I would say every facet
18 regarding environmental people have some reservations
19 about. I think everyone has a great deal of
20 reservations regarding the possibility of change, and
21 this evolved off the Sukla situation, again.

22 COMMISSIONER LARSON: It's primarily
23 land use type of issues.

24 MR. MAYS: The Sukla thing, basically,
25 if you are a landowner anywhere near that thing, and

1 especially regarding Mr. Sukla's situation, I talked
2 to him regarding the thing, and he's an elderly man.
3 He made the statement to me, it was the biggest
4 mistake he ever made. He's dealing with prolonged
5 litigation regarding that. But granted, legal
6 instruments can be drawn that insure that or
7 promising a specified amount of traffic, no change
8 from Class II to Class I, whatever the case may be.
9 Any legal document, as we all know, can be altered,
10 under the right circumstances. And --

11 MR. MORGAN: Mr. Chairman, I did
12 look. There are perhaps 20 -- 15 to 20 letters in
13 the file that state the substantive concerns of many
14 of these same people. I did look through those, and
15 I think I could fairly characterize them as four
16 types of concerns. Concern 1 is that this well will
17 be in the path of development, so there may be,
18 eventually, some surface conflict. We don't think
19 this well will be here ten years from now as a
20 disposal well. Its life will be much shorter than
21 that, probably.

22 No. 2, they wanted to make sure that
23 the commission did insure that the ground water
24 contamination would be no contamination of drinking
25 water supplies. That, of course, will happen if we

1 satisfy the requirements of the rules. Thirdly, the
2 trouble with the Sukla disposal well was brought up
3 in many of those letters; that is a Class I, I
4 believe, disposal well, from the Lyons Formation, not
5 the Sussex, because it's in the Lyons. My
6 understanding, that it has much greater capacity to
7 take water, and that's why you may have 16 trucks
8 where you won't at our well.

9 And, finally, there were dust and
10 traffic, generally, the dust and traffic concerns,
11 again, probably referring to the high traffic that we
12 have at the Sukla well, which is just disastrous.

13 COMMISSIONER LARSON: Is this in the
14 city or county?

15 MR. MAYS: Well --

16 COMMISSIONER LARSON: Has the county
17 exercised any of its local land use powers or have
18 they talked about it or considered it?

19 MR. MAYS: County commissioners, there
20 were county commissioners, one in particular I
21 remember at the meeting, that's concerned about the
22 proposed site. As far as the Class I issue, Mr.
23 Morgan, correct me if I am wrong, Mr. DiMatteo, isn't
24 that still a Class II?

25 MR. DiMATTEO: It's a, probably, as of



1 today, it's a -- it's a Class I.

2 MR. MAYS: Is that right?

3 MR. DiMATTEO: I think the appeal was
4 granted.

5 MR. MAYS: So the cancer is
6 progressively spreading itself, it appears.

7 MR. MORGAN: Mr. Chairman, we have --
8 the planning department has, under their -- under
9 Weld County planning department's interpretation of
10 their zoning ordinance, they believe a use by special
11 review permit is necessary. Basin doesn't agree but
12 has agreed to submit an application for a use by
13 special review by Weld County commissioners, so it
14 will be heard.

15 COMMISSIONER LARSON: Do you know
16 whether that permit or that application requires you
17 to address traffic and dust, and -- those are pretty
18 traditional aspects.

19 MR. MORGAN: And fencing.

20 COMMISSIONER LARSON: Especially
21 permits.

22 MR. MORGAN: Fencing, weeds, surface
23 impacts, compatibility with other development on the
24 site, on the premises, all of those issues.

25 COMMISSIONER LARSON: Traffic.

1 MR. MORGAN: Yes.

2 CHAIRMAN ANDERSON: Well, I think I am
3 -- the suggestion was, I think, that we continue this
4 to give those who didn't have an opportunity to show
5 up today to comment a chance to do that. If, Mr.
6 Mays, you think that would be --

7 MR. MAYS: Mr. Chairman, in all
8 honesty, I will have reservations you will be able to
9 get down here, primarily because these people have
10 filed letters like myself, several times. I have
11 gotten -- gone to the meeting in Dacono regarding
12 this issue. I can't get off another day and come
13 back down here.

14 CHAIRMAN ANDERSON: There is another
15 practical constraint, I think, that if when the staff
16 did their review of the application, and the
17 application conforms to the requirements under our
18 rules, which contemplates, primarily, subsurface
19 effects, not land use effects, then the staff is
20 going to recommend that this application be granted.
21 The commission may be able to have some effect on
22 some of the conditions of how the installation occurs
23 and how it's done, and but that can probably be done
24 in the process from here forward as well, and without
25 further hearing. I think the commission is greatly

1 concerned about the impact on the reservoir, and the
2 potential impact on the water, and want to have an
3 effect on surface use, understanding that mostly this
4 is the wrong forum. If -- understanding that, if we
5 were to do this again, that probably people wouldn't
6 be able to come, then there's no point in doing it.

7 MR. MAYS: Another thing I would like
8 to see evolve is Mr. Brown, who as I mentioned is an
9 absentee landowner, it's unfortunate the man can't
10 live with what he's creating.

11 CHAIRMAN ANDERSON: Uh-hum.

12 MR. MAYS: As you say, they meet the
13 criteria, you really have no choice.

14 CHAIRMAN ANDERSON: What I don't want
15 is for the people who live in the area to feel that
16 they were not given an adequate opportunity to
17 comment. We don't want that, and I think we are
18 willing to wait. If --

19 COMMISSIONER LARSON: We can have the
20 hearing on Saturday too.

21 CHAIRMAN ANDERSON: There is a
22 problem; that it is a problem for everybody in this
23 room. It's a problem for all commissioners, is this
24 is a workday. Commissioners are -- this is voluntary
25 work for us. So finding any day when it works is a

1 problem. And you are right. We're not going to
2 schedule weekend hearings; that's not going to
3 happen.

4 MR. MORGAN: Mr. Chairman --

5 CHAIRMAN ANDERSON: Mr. Morgan.

6 MR. MORGAN: The applicant wants
7 people here too. We sent out some correspondence
8 with the rule of notice to everyone that was
9 affected. There was a meeting in Dacono where Mr.
10 DiMatteo went up and talked to everyone. Obviously,
11 that notice got through. There were a volume of
12 letters that express generalized concerns, some of
13 which this commission says probably ought to go to
14 the county instead of it. The other concerns have to
15 be satisfied before a commission -- before an order
16 can be issued. Basin even called, I think, earlier
17 this week, called the surface owners to make sure
18 they knew of this hearing. So we have done
19 everything we can to address the concerns of these
20 people, because we want to hear them. We want them
21 to know we're doing this in good faith. We think we
22 can resolve their concerns. If we put this off
23 another month, you are putting the applicant at a
24 disadvantage, too, because we need this well for
25 disposal -- for the economic disposal of production

1 of oil and gas in Colorado, is this commission's
2 mission.

3 MR. MAYS: Mr. Chairman, David called
4 yesterday. My wife was called by Basin's
5 representative, David Schwartz, regarding the well
6 and our concerns. And he conveyed to her that we
7 were talking two trucks a day. Now, Mr. Morgan
8 states it's eight. What exactly are we looking at
9 here? Are we looking -- I will defer to --

10 MR. SCHMITZ: The Sussex Formation,
11 Roger, is severely depleted in this area. In fact,
12 we have plugged, recently, 19 of those wells. You
13 may have seen those workover rigs in action.
14 Initially, it takes quite a bit of water, and we
15 would take advantage of that so, initially, there's a
16 possibility you would see up to eight trucks. As
17 this formation charges up with water that we are
18 reinjecting back into the produced formation, it's
19 capability to take an additional well is going to be
20 diminished. We really feel that it's going to level
21 off at a couple of trucks a day. And this is based
22 on our existing wells. We have one other permitted
23 injection well that initially took water --

24 MR. MAYS: That's probably how many
25 years, Steve, approximately?

1 MR. SCHMITZ: Well --

2 MR. MAYS: Before we get down to two.

3 MR. SCHMITZ: I will say it's a pretty
4 good chance, within a year, we would be down to two
5 wells -- two trucks a day. And I want to alleviate
6 some of your concerns, again.

7 MR. MAYS: I would love to have
8 something in writing.

9 MR. SCHMITZ: We could probably work
10 something like that out. Additionally, we're just
11 wanting to get this injection well permitted. We
12 would like to get several injection wells permitted
13 throughout the county, throughout our area operation,
14 because they are low volume. We wouldn't have all of
15 our trucks concentrating bringing water into one
16 area. We have an -- our one injection well permit.
17 We're very happy with that. It's taking water.
18 Everything is protected. We would like to get
19 another one to take some of the volume, some of the
20 load off of that well. We would like to get a couple
21 other wells throughout the field, so the trucks --

22 MR. MAYS: How many trucks are there?

23 MR. SCHMITZ: I would anticipate -- I
24 would hope to see two to three trucks per injection
25 well per day. We run a load of approximately eight

1 -- our water load is about eight trucks per day
2 throughout the field.

3 MR. MAYS: Currently at I-25 and 52.

4 MR. SCHMITZ: No. Some of our -- at
5 I-25 and 52, yeah. We are putting approximately 800
6 barrels a day of water into that well, which is the
7 bulk of our whole operation right now. Should we get
8 this well permitted in the near future, it would take
9 half of the load from that well.

10 MR. MAYS: How many trucks does 800
11 barrels constitute?

12 MR. SCHMITZ: Approximately eight
13 trucks. We get a third well permitted, and the load
14 is split in third now. We get a fourth well
15 permitted, the truck traffic is spread out even
16 farther. So, it's really the best way to operate
17 this field to minimize the impact on all of the
18 landowners.

19 MR. MAYS: Well, at some point in
20 time, here, and as Mr. Anderson stated, if Basin
21 meets the criteria, that they have no choice but to
22 approve it. As far as Road 12 1/2, which is probably
23 not very far from my front driveway --

24 MR. SCHMITZ: Right.

25 MR. MAYS: -- I would like to have

1 some consideration at least of where we would utilize
2 Road 17. That way the traffic is coming and going
3 basically would be of little concern to me. Orderly
4 enough. That's of great concern to me. I just as
5 soon not have it.

6 MR. SCHMITZ: I think we could easily
7 negotiate an agreement where we would mandate that
8 all of our truck operators, coming in from the east
9 or west, turn onto that access that's approximately
10 half of a mile or so from your driveway, farther on
11 down to the west, easily.

12 MR. MAYS: Well, Road 17 is
13 north/south. 12 1/2 is east/west. Rather than
14 intersect -- granted it's probably -- it's a little
15 inconvenient. It's not that inconvenient. They
16 couldn't turn off 52 directly onto 17.

17 MR. SCHMITZ: Not inconvenient at all.
18 We're using one key water pump operator right now
19 because we're concerned about the integrity of our
20 water disposal system. We don't want split truckers
21 coming in and not keeping the place clean and neat
22 because water injection wells are high profile right
23 now. We want everything sanitary. We want
24 everything done right.

25 MR. MAYS: This is a no-pressure well.

1 MR. SCHMITZ: This is a low-pressure
2 well. We're working with that at the commission.
3 One constraint we're operating with, and we agree
4 with it, to maintain some of the injection of these
5 wells under 750 psi. What that does, prevent us from
6 fracturing the rock downhole and pushing water
7 anywhere that it shouldn't go, other than the Sussex
8 Formation. We agree with them on that point. Low
9 pressure, we're filtering our water, we're taking
10 advantage of the conductivity, even though it's low
11 in the Sussex Formation, to put the water back out in
12 there. There's been -- each one of these wells has
13 approximately 60,000 reservoir barrels of fluid
14 extracted a minute. We should be able to get that
15 much back in the ground.

16 MR. MAYS: Another thing that enters
17 my mind, and I am sure you have heard that many times
18 before, the old fox house, hen house routine, where
19 Basin oversees the operation. No one knows what's
20 going on down -- granted, my feelings are it's going
21 to be brine.

22 Something that enters my mind, too, is
23 Mr. Ottenhoff's statement, unquestionably, he
24 conveyed to me beyond a shadow of a doubt, we
25 wouldn't want any part of this, the injection, on his

1 farm. In all honesty, when Basin first came to me,
2 not being knowledgeable I listened intensely to
3 everything they said. Thought it well may be there's
4 a possibility, if this is accepted practice, I would
5 work something out. But Mr. Ottenhoff was very
6 adamant about his feelings and that worried me.

7 MR. SCHMITZ: I think Mr. Ottenhoff
8 gave you some bad advice. You had the opportunity to
9 take advantage of a very low risk operation here.
10 You could have made some money on it. One of your
11 neighbors is going to receive a revenue on it, and
12 that's to his advantage. We understand there is
13 inconvenience for having this equipment on the
14 surface property, and this tank battery is going to
15 be very small. We're talking approximately three
16 tanks, fiberglass tanks, with small pump skid, very
17 low impact, no noise, and low traffic. I think you
18 will be pleased with what you end up with out
19 there.

20 The oil and gas facilities, you have
21 to bear in mind, you are living in the middle of an
22 oil and gas field too. We realize we're doing
23 everything we can to keep our location as clean and
24 sanitary as can be. And we also work with the
25 state. Their inspectors do come out and insure we

1 are operating under their conditions.

2 CHAIRMAN ANDERSON: This is very
3 fruitful. It's kind of a conversation that I think
4 should be had, but I think we have had enough of it
5 here on the record. I encourage you to continue
6 doing this, and I appreciate you doing it. I think
7 the commission needs to decide here where we are so
8 we can get on with the remainder of the agenda.
9 There is concern about whether or not adequate notice
10 has been provided. I think we tend to lean over
11 backwards to make sure that adequate notice has been
12 provided, make sure everybody has had an opportunity
13 to present their case, but do you think -- what do
14 you think? What we really were hoping for was a
15 public hearing here, and a lot of these people may or
16 may not really have a standing. It's simply a matter
17 of hearing public concerns. Are we, based on this
18 notice that's been provided, to -- you think we're
19 legally constrained from taking action today?

20 MS. WREND: I don't think it -- you
21 know more about time limits. It doesn't sound to me
22 like, as a matter of law, there's a problem in going
23 forward. It sounds more to me, as a matter of
24 policy, there may have been some confusion as to how
25 the notice was worded.

1 CHAIRMAN ANDERSON: Okay. That's the
2 way it sounds to me, I think. The commission would
3 be inclined to continue this except that it sounds
4 like any reasonable date we might be able to pick,
5 we're going to have a problem with people being able
6 to come. A number of those individuals have
7 presented their concerns already, and in the town
8 meeting, was it, in Dacono. So, I am a little
9 reluctant to hold up the process from here. I
10 encourage the continuation of the discussion that you
11 have had.

12 MR. MAYS: I think the correspondence
13 is pretty well-documented. What's been received
14 already by Mr. DiMatteo's office.

15 CHAIRMAN ANDERSON: Identify yourself,
16 please.

17 MR. BOYGON: Mr. Howard Boygon.

18 CHAIRMAN ANDERSON: Mr. Boygon, do you
19 have something you want to add?

20 MR. BOYGON: I want to point out, at
21 the July hearing, the commission already has fully
22 contemplated DJ Basin guidelines, proposed rules.
23 It's not clear that, I think, the commission could
24 even get to this matter at the July hearing, so that
25 would take us to August. We're talking about

1 considering statewide rules in August. Now we're
2 into the September, perhaps.

3 CHAIRMAN ANDERSON: That's right.
4 That's the practical way. We already got a two-day
5 hearing scheduled for July, and it's very likely to
6 fall over into a two-day hearing in August. And
7 that's a problem. You are right. I think, under the
8 circumstances, we have heard your concerns. I think,
9 as importantly, the staff has heard your concerns.
10 It seems like there's an operator here who is willing
11 to talk and wants to communicate. And I think my
12 feeling is we should -- we need to urge the staff to
13 proceed with the evaluation of the application, under
14 the rules that we have for underground injection,
15 taking into account what they have heard today and
16 what they have heard in their prior open hearings and
17 open meetings in Dacono. Is that what other
18 commissioners think on this?

19 COMMISSIONER MacMILLAN: Are we going
20 to get back to the questions that staff made of us;
21 to provide some direction for staff on how they
22 handle protests of water injection wells, or is that
23 not part of our deliberations at this time?

24 CHAIRMAN ANDERSON: We may want to
25 discuss it today. There are some suggestions, I

1 think they made some suggestions that would be
2 incorporated in rulemaking next month, am I right?
3 So I could talk about them today. In any case, these
4 are going to be recommendations from the staff, or
5 changes in the rules that will be discussed, in any
6 case, next month, technical, as well as what you are
7 suggesting now. What that -- it has to do with
8 notice and who has standing.

9 MR. DiMATTEO: It basically comes down
10 to what constitutes a protest that we can do
11 something about. Basically, I believe, say probably
12 a two or three-year goal range. Basically, we
13 isolate protests to only those protests that dealt
14 with protection of correlative rights and the
15 wellbore protection of the drinking water source.

16 I will say, lately, we have had this
17 particular hearing. We had the DCS No. 1 with San
18 Juan Citizens Alliance, where we have gotten into
19 other areas there; that I don't have a specific rule
20 that necessarily covers anything there, yet. Our
21 rule, more or less, is one that says that anybody who
22 is either adversely affected or aggrieved can request
23 a hearing. And doesn't really give us any -- or give
24 any directions to wells, or give me any direction to
25 say, well, I can do something about it, or I can't do

1 anything about it. So, I guess what I am looking
2 for, from you today, is some type of determination.
3 I would like to leave the ability to hear what people
4 have to say; however, I am not exactly sure you want
5 to hear everything, for instance, because a person
6 comes and says, "I protest," is that good enough to
7 come before you.

8 CHAIRMAN ANDERSON: Well, I think the
9 truth is that these applications are granted or
10 denied, based on our rule, and our rule mentions some
11 of the concerns that people come to us to talk about,
12 but not others, and the key ones, of course, are
13 surface uses. And I think my feeling is that the
14 commission wants to hear about surface concerns, and
15 see if it can have an impact in getting people to
16 work together, but it would be hard for us to refuse
17 to allow applications to be granted, strictly based
18 on surface impact considerations. I think we may
19 want to try to have an effect. We want to try to
20 help the parties on both sides to come to agreements
21 and arrangements that are acceptable, under the
22 circumstances.

23 COMMISSIONER LARSON: I think some of
24 the protests might fall within the 800 series rules;
25 that could address the aesthetics and noise control.

1 The way these are written, I don't see why they
2 wouldn't apply to the injection wells. It seems to
3 be written very broadly. I think this area, at a
4 time if we're going to make a mistake, it's going to
5 be on the side of making sure we heard everybody.
6 All right. Does that answer your question, Logan,
7 halfway?

8 COMMISSIONER MacMILLAN: No. It
9 doesn't answer my question. I guess the question was
10 asked to support Ed's request that we give him some
11 direction, and I think that the direction that we
12 have given is pretty loose. I would like to suggest
13 that we -- that you have the authority to call the
14 public hearing if, in your judgment, the concerns
15 that are raised, whether they be surface uses or
16 mechanical integrity questions, you have the judgment
17 to call the hearing, call the public hearing.

18 As far as Mr. Mays' concerns, the
19 reason I make that request is because I believe, and
20 I think the rest of the commissioners believe that
21 you need to have a voice. We believe that -- we
22 suggest that there are other areas of other venues
23 open to you and other governmental entities that may
24 or may not be involved. County government appears to
25 be the one that's also going to be involved with

1 surface uses, but I will suggest to the
2 commissioners, as I have suggested before, that this
3 is an area that isn't clear, and I personally believe
4 that the commission ought to step in and define the
5 roles that we will have in all operations related to
6 oil and gas activities, including injection wells,
7 and if that involves the surface uses or surface
8 impacts of oil and gas operations, I would like us to
9 take a broad view of that being within our
10 jurisdiction and step up and handle it.

11 Now, to go one step further, I would
12 like to hear that what we consider to be technical,
13 the mechanical questions of the mechanical integrity
14 of the injection wells, there's some very strict
15 guidelines that aren't just the state of Colorado.
16 They are the United States government, that they have
17 on the protection of shallow aquifers and I would
18 like to encourage, if you can stomach it, to sit and
19 listen to those, because unlike the other
20 commissioners, I believe that some of the people that
21 aren't here today did have some questions as about
22 mechanical integrity of not just this operation, but
23 all injection programs in the state, which our staff
24 at the oil and gas commission looks at very, very
25 seriously, from the state perspective, but also

1 because they have some pretty strict guidance from
2 federal government on how to handle those.

3 MR. MAYS: I have had the opportunity
4 to, Mr. MacMillan, to research and absorb information
5 regarding integrity of injection wells and how they
6 function. I think Basin will meet that criteria, and
7 no problem as far as further meetings regarding this
8 issue. As I mentioned previously, I don't think
9 there's going to be a lot of people that are going
10 to, you know, continue to follow suit here, because
11 they have sent numerous letters. Everything is on
12 record. As I say, I have sent several letters,
13 mostly -- some other people have too. There's been a
14 meeting in Dacono. Myself, I am here today and I
15 won't be back. I think I have the -- pretty
16 well-established or said what I wanted to say. If
17 the commission sees fit to grant the permit to Basin,
18 I would like to have Basin's assurance that they will
19 utilize Road 17, and restrict the amount of trucks
20 that are going to be there. My feelings are and have
21 been in the beginning that, ultimately, they probably
22 would be approved. That is pretty much all I have to
23 say.

24 COMMISSIONER MacMILLAN: There's one
25 more thing. That is, that we give staff the

1 opportunity to call these public hearings, but we
2 also ask that they continue their review of the
3 application for these things. And I think, in this
4 particular case, we may be shortchanged by not being
5 able to have staff's input on the presentation that
6 Basin is prepared to make today, without staff having
7 -- with staff having stopped that process now because
8 they are unclear of what their role should be.

9 Now, I don't know if that's
10 conflicting for you or not, Ed.

11 MR. DiMATTEO: We, well, basically
12 again, I conducted probably more than a preliminary
13 review, enough to know, for instance, that "J" Sands
14 well does not have Sussex cover, that type of thing.
15 I could address certain issues, but as far as trying
16 to put you in the position of saying, okay, to
17 approve this at the end of the hearing, I didn't want
18 to put you in that position.

19 COMMISSIONER MacMILLAN: That's
20 exactly what I am suggesting. I don't mind that.
21 You do that in the future, as long as you feel
22 comfortable that you can, based on input that you are
23 getting, call the public hearing, but continue the
24 technical review process so that at the end of a
25 hearing, you can make a recommendation to us, not

1 necessarily based on what the public has to say, but
2 on mechanical and technical integrity of the
3 particular injection site; that's what I am
4 interested in. Now, I am finished. Those were all
5 of the points that I wanted to cover.

6 CHAIRMAN ANDERSON: Okay. Well, we
7 have a couple of issues here. One is I think all
8 we're being asked to do is to instruct the staff to
9 fire up again, and I think the concensus here is that
10 we should.

11 MR. MORGAN: Mr. Chairman, if it would
12 be of assistance to the protester, Basin would be
13 willing to have the commission instruct the staff to
14 condition the permit on use of County Road 17, and
15 condition the permit that only water from Basin's
16 operations be disposed. And that site lighting be
17 directed inwards and that it be fenced and weeds be
18 controlled. And that those sort of things that might
19 -- within the jurisdiction of the commission might be
20 of concern, at least those --

21 MR. DiMATTEO: I have one comment
22 there. I think that -- I know you could probably put
23 that in the farmout permit, or whatever. It seems to
24 me that the Weld County planning department, whatever
25 -- when they go through their use by special review,

1 would probably be concerned with exactly that type of
2 thing. At least in the past hearings that I have
3 attended for Weld County, as far as number of trucks
4 and how they get there, whether or not it's paved,
5 dust treatment, that type of thing, those are the
6 things that they are mainly concerned with.

7 MR. MAYS: If I could elaborate on
8 that, Mr. Chairman, granted Weld County would
9 probably be the individuals to contact regarding
10 those issues. I would like to resolve this thing. I
11 mean, I don't want to go from here to Weld County to
12 come to some sort of an agreement as to Basin's
13 utilizing Road 17. I think Steve and Mr. Morgan will
14 work that out. I think they would be willing, as Mr.
15 Morgan suggested too, as a condition of the approval,
16 to put into writing specified routing and the amount
17 of truck traffic that will be allowed in the 24-hour
18 period.

19 CHAIRMAN ANDERSON: Well, all right.

20 MR. MAYS: That's my understanding.

21 CHAIRMAN ANDERSON: All right.

22 MR. SCHMITZ: I would like to see it
23 in the permit because we don't have any contractual
24 obligation with you on those -- this situation,
25 because it's off your land. If Ed wants to put it in

1 the permit, Basin can live with a certain volume of
2 truck traffic into this disposal well, because Ed
3 understands our objective here is to work within the
4 constraints of that Sussex Formation, being
5 low-volume injection well anyways. It's not a
6 problem for us.

7 MR. MAYS: Steve, when you mentioned
8 eight tankers a day, when you say, "a day," are we
9 talking about eight hours a day.

10 MR. SCHMITZ: Normally, our operation
11 runs from seven a.m. to probably five or six p.m. at
12 night. At first, we may see eight. If we -- if it's
13 in -- the commission wants to see us go to a
14 minimized volume of truck traffic, we'll limit it to
15 two to three, put it in the permit.

16 CHAIRMAN ANDERSON: What I am
17 concerned about, this is a good faith effort on the
18 part of the operators who wants to behave
19 responsibly. I am not sure. I think there's some
20 question here about whether or not the commission can
21 include in its permit things that we are not sure we
22 have the ability to require. We certainly want to
23 encourage friendly behavior between people. But I
24 sense some reluctance to put it in the permit,
25 because it may suggest that it was a prerequisite.

1 MR. DiMATTEO: As an example, there is
2 an Amoco injection well near Fort Lupton. They are
3 required to access the site a specific way. What I
4 would be worried about, maybe in this specific
5 instance, say I did put it in the permit, Weld County
6 says, I want you to go another way. Is he, in fact,
7 in violation of the permit or whose permit? I don't
8 want to get into that type of conflict. I would like
9 to see something worked out. If the Weld County says
10 that, if that's what they want, wonderful, you can
11 put it in.

12 COMMISSIONER CAMPBELL: Who set up the
13 conditions of the Amoco well? Was it the county?

14 MR. DiMATTEO: It was the county
15 working with the landowners when they did their use
16 by special review.

17 COMMISSIONER CAMPBELL: County
18 planning people.

19 COMMISSIONER LARSON: Why don't you
20 call the county, see how they feel about that. I am
21 sure that Mr. Morgan can add to that process.

22 MR. MORGAN: All right.

23 CHAIRMAN ANDERSON: All right. I
24 think we need to wind up here. So are you going to
25 continue -- the commission wants us to continue with

1 review of the application under our rules. We have
2 heard a number of things about the conditions on the
3 surface that we're going to be interested in, which
4 won't probably be a part of the final permit, if and
5 when it's issued. So I think that that's it. I
6 don't know if we need a motion on that. We're going
7 to send it back to the commission and ask them to
8 deal with it. Yes, Mr. Boygon, again.

9 MR. BOYGON: I am sorry. I don't mean
10 to beat a dead horse. I am a little bit unclear as
11 to what we're doing, and we still seem to be saying
12 staff should continue deliberating over this and
13 consider surface impacts of some undefined scope.

14 CHAIRMAN ANDERSON: I don't think we
15 said that. I don't think we said that.

16 MR. BOYGON: Possibly hold a public
17 hearing.

18 CHAIRMAN ANDERSON: I don't think we
19 said that. I think we said to the staff to go back
20 and review it, under the commission rules, and you
21 have heard a lot of conversation from the commission,
22 and other people, and but go ahead and review it
23 under our rules, either grant it or not, under our
24 rules.

25 MR. BOYGON: Fine. Thank you.

1 CHAIRMAN ANDERSON: All right. And
2 okay, is -- I think we're done on that. There was
3 another question on what the attitude of the
4 commission was on giving guidance to the staff on
5 public input? What are the grounds for them?

6 COMMISSIONER LARSON: I think I need
7 to think about that one.

8 CHAIRMAN ANDERSON: What we're going
9 to get, a proposal for change in the rules.

10 MR. DiMATTEO: Just mainly dealing
11 with two things. Here, this particular situation, I
12 will say many of the protestants weren't basically
13 notified, per application, and what the new rule
14 would propose would be that protestants to the
15 application, in specific, would be limited to those
16 people notified within the order of a half-mile area
17 review. I would also allow a public notice in the
18 area newspaper that would allow for these comments to
19 be considered when evaluating the application.

20 CHAIRMAN ANDERSON: We can take a look
21 at that and talk about it when we do the rulemaking.
22 All right. Thank you very much. I appreciate -- I
23 realize it was inconvenient for you to take off from
24 work today, and that we appreciate your being here.

25 CHAIRMAN ANDERSON: Thank you.

1 (Thereupon this portion of the
2 proceedings were concluded on Friday, June 18, 1993.)
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CERTIFICATE

STATE OF COLORADO) ss

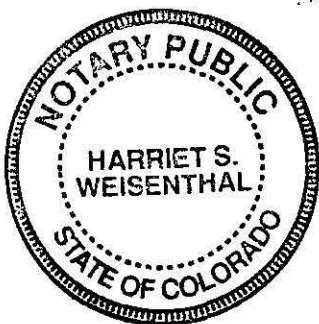
CITY AND COUNTY OF DENVER)

I, Harriet S. Weisenthal, Certified Shorthand Reporter and Notary Public for the City and County of Denver, State of Colorado, do hereby certify that the foregoing proceedings were taken in shorthand by me at 1313 Sherman Street, Denver, Colorado on the 18th day of June, 1993, and was reduced to computer-aided typewritten form under my supervision;

That the foregoing is a true transcript of the proceedings had; that I am neither attorney nor counsel, nor in any way connected with any attorney or counsel for any of the parties to said action or otherwise interested in the event;

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this 17th day of August, 1993.

My Commission expires October 15, 1993.



A handwritten signature in cursive script that reads "H. Weisenthal".

Harriet S. Weisenthal