

STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION DIVISION

REPORTER'S TRANSCRIPT OF PROCEEDINGS

COMMISSIONER HEARING

REGULAR MEETING - AGENDA ITEMS 1 - 10

September 25, 2019

Santa Fe, New Mexico

BEFORE: ADRIENNE SANDOVAL, CHAIRWOMAN
SCOTT DAWSON, COMMISSIONER
JORDAN KESSLER, COMMISSIONER
DR. THOMAS ENGLER BALCH, COMMISSIONER
MIGUEL LOZANO, ESQ.

This matter came on for hearing before the New Mexico Oil Conservation Commission on Wednesday, September 25, 2019, at the New Mexico Energy, Minerals and Natural Resources Department, Wendell Chino Building, 1220 South St. Francis Drive, Porter Hall, Room 102, Santa Fe, New Mexico.

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1 (9:08 a.m.)

2 CHAIRWOMAN SANDOVAL: Good morning. I will
3 call this meeting to order. It is 9:08 a.m. on
4 September 25th, 2019, and this is a meeting of the
5 New Mexico Oil Conservation Commission. I'm Adrienne
6 Sandoval, Director of the Oil Conservation Division and
7 Chair of the Oil Conservation Commission.

8 Will the Commissioners introduce themselves
9 for the record?

10 COMMISSIONER ENGLER: I'm Tom Engler. I'm
11 the designate from the Cabinet of the Secretary of
12 Energy.

13 COMMISSIONER DAWSON: Scott Dawson. I'm
14 the designee for the Commissioner of Public Lands. And
15 I'll only be sitting on this meeting until we finalize
16 the Hilcorp hearing case, and then I will -- Jordan
17 Kessler will take my place.

18 CHAIRWOMAN SANDOVAL: Thank you.

19 COMMISSIONER DAWSON: Uh-huh.

20 CHAIRWOMAN SANDOVAL: Also with us is
21 Florene Davidson, clerk for the Commission, and Miguel
22 Lozano, counsel to the Commission.

23 There is a list of items on today's agenda
24 on the docket for today's meeting. Is there a motion
25 and a second to adopt the agenda?

1 COMMISSIONER DAWSON: I'll motion to adopt
2 the agenda.

3 COMMISSIONER ENGLER: I'll second.

4 CHAIRWOMAN SANDOVAL: All those in favor
5 signify by saying aye.

6 COMMISSIONER DAWSON: Aye.

7 COMMISSIONER ENGLER: Aye.

8 CHAIRWOMAN SANDOVAL: Aye.

9 (Ayes are unanimous.)

10 CHAIRWOMAN SANDOVAL: The motion carries.

11 In your packet are the draft minutes from
12 the August 15th meeting. If you have read the minutes,
13 are there any corrections?

14 COMMISSIONER ENGLER: No corrections.

15 COMMISSIONER DAWSON: No corrections.

16 CHAIRWOMAN SANDOVAL: Is there a motion and
17 a second to adopt the minutes?

18 COMMISSIONER ENGLER: I move to adopt.

19 COMMISSIONER DAWSON: I'll second.

20 CHAIRWOMAN SANDOVAL: All those in favor
21 say aye.

22 COMMISSIONER DAWSON: Aye.

23 COMMISSIONER ENGLER: Aye.

24 CHAIRWOMAN SANDOVAL: Aye.

25 (Ayes are unanimous.)

1 CHAIRWOMAN SANDOVAL: The motion carries,
2 and the minutes are adopted.

3 Agenda item number four. The Board will
4 now move to item number four, possible approval of the
5 proposed order in Case Number 20409 arising from a
6 stipulated motion granted by the Commission at the last
7 meeting. The Commissioners have had an opportunity to
8 review the proposed order initially drafted by Hilcorp's
9 attorneys and amended by Commission counsel.

10 Do any Commissioners have questions for
11 Hilcorp or Commission counsel regarding the proposed
12 order?

13 COMMISSIONER DAWSON: I have no questions.

14 COMMISSIONER ENGLER: No questions.

15 CHAIRWOMAN SANDOVAL: Is there any
16 discussion or suggested changes to the proposed order?

17 COMMISSIONER DAWSON: None.

18 COMMISSIONER ENGLER: None.

19 CHAIRWOMAN SANDOVAL: If there are no
20 additional discussions or amendments, I will entertain a
21 motion to adopt the proposed order as written with the
22 amendments.

23 COMMISSIONER DAWSON: I'll make a motion to
24 adopt the proposed -- the order as written with the
25 amendments.

1 COMMISSIONER ENGLER: I second.

2 CHAIRWOMAN SANDOVAL: All those in favor
3 say aye.

4 COMMISSIONER DAWSON: Aye.

5 COMMISSIONER ENGLER: Aye.

6 CHAIRWOMAN SANDOVAL: Aye.

7 (Ayes are unanimous.)

8 CHAIRWOMAN SANDOVAL: The motion carries,
9 and the order is adopted.

10 All right. At this time we will have
11 Commissioner Kessler come up.

12 COMMISSIONER DAWSON: Thank you.

13 MR. LOZANO: Commissioner Dawson, we'll
14 need your signature at the end of this. It shouldn't be
15 long.

16 COMMISSIONER DAWSON: You want me to do it
17 now?

18 MR. LOZANO: I'll have to get this
19 reprinted now, so --

20 COMMISSIONER DAWSON: Okay.

21 CHAIRWOMAN SANDOVAL: All right. Agenda
22 item number five, discussion of pending litigation.

23 Is there anything to report on the
24 Commission's pending litigation?

25 MR. LOZANO: Just a couple of items,

1 Commissioner. The Jalapeno Corporation case, there is a
2 pending motion to reconsider a partial dismissal of four
3 of five counts. The Commission has taken the position
4 that the Court should ignore that pending motion and
5 review each count on the merits. We've responded to
6 that effect. An extension was granted to Marathon to
7 respond to that motion to reconsider, and I believe that
8 should be issued next month.

9 In the Delaware Energy case, Delaware's
10 filed its statement of appellate issues. Both the
11 Commission and Alpha SWD have been granted an extension
12 to file a response to that statement until October 23rd.
13 We plan on filing on that date.

14 That is all I have.

15 CHAIRWOMAN SANDOVAL: Thank you.

16 COMMISSIONER KESSLER: A quick point of
17 clarification. Is that the Jalapeno case involving the
18 horizontal well rule, or is that the --

19 MR. LOZANO: There are two. That one --
20 you know what, let me -- let me just verify.

21 My apologies, Commissioner.

22 MR. FELDEWERT: I can clarify.

23 MR. LOZANO: That would be great
24 (laughter).

25 MR. FELDEWERT: That's the case in which

1 Jalapeno appealed the pooling order that was issued on
2 behalf of Matador, MRC Permian, Matador Resources. So
3 they're challenging -- they've challenged the issue of
4 the pooling order, and that's the case that the motion
5 for reconsideration was filed, to address one issue that
6 the Court -- one of five issues that the Court had
7 dismissed.

8 COMMISSIONER KESSLER: Thank you.

9 MR. LOZANO: Thank you, sir.

10 And I apologize, Commissioner. Division
11 counsel is handling those matters. That was the update
12 I had.

13 CHAIRWOMAN SANDOVAL: Agenda item number
14 six. Is there any other business or announcements?

15 COMMISSIONER ENGLER: No.

16 CHAIRWOMAN SANDOVAL: Okay. Agenda item
17 number seven, rescheduling of November and December
18 meeting dates.

19 The Commissioners have scheduling conflicts
20 with the currently scheduled meetings in November and
21 December and a request was made to possibly reschedule
22 both meetings.

23 Are there suggested dates for those
24 meetings, or are there specific dates that the
25 Commissioners are not available during those months?

1 COMMISSIONER ENGLER: So the November was
2 scheduled for the 7th; is that correct?

3 MR. LOZANO: Currently, it is scheduled,
4 yes, for the 7th.

5 COMMISSIONER ENGLER: Okay.

6 CHAIRWOMAN SANDOVAL: So do we have
7 anything on the docket for that yet, or we're not sure?

8 MR. LOZANO: Florene, do you have an idea
9 of that?

10 MS. DAVIDSON: I don't have anything yet
11 for November.

12 CHAIRWOMAN SANDOVAL: Okay. So I have a
13 MAP meeting that day.

14 COMMISSIONER KESSLER: Madam Chair, I would
15 suggest Wednesday, the 13th, through Friday, the 15th.

16 COMMISSIONER ENGLER: I can do --

17 MR. LOZANO: I can do the 14th.

18 COMMISSIONER ENGLER: I can do any of
19 those. Yeah.

20 CHAIRWOMAN SANDOVAL: I can do --

21 You can only do the 14th?

22 MR. LOZANO: Yes.

23 COMMISSIONER ENGLER: Eek!

24 (Laughter.)

25 CHAIRWOMAN SANDOVAL: Can you do the 6th,

1 or is that off? I also have a list of dates -- oh,
2 shoot -- that Porter Hall is available as well, and none
3 of the week of the 11th is available. Does the 6th work
4 for people?

5 COMMISSIONER ENGLER: I can do it.

6 MR. LOZANO: I can make that work.

7 CHAIRWOMAN SANDOVAL: The 6th is available.
8 Porter Hall is available.

9 COMMISSIONER ENGLER: So Wednesday, the 6th
10 instead of Thursday, the 7th?

11 CHAIRWOMAN SANDOVAL: Yeah.

12 Does that work for notice and stuff for
13 you? It's still far enough out?

14 MS. DAVIDSON: Yes.

15 MR. LOZANO: That's not on a Division
16 hearing day or anything like that?

17 CHAIRWOMAN SANDOVAL: No. Florene was nice
18 enough to give me a list of dates that work.

19 MR. LOZANO: Perfect.

20 COMMISSIONER ENGLER: And December, you
21 said -- that was scheduled for the 5th?

22 CHAIRWOMAN SANDOVAL: Yeah.

23 Could we push that one later into the
24 month?

25 COMMISSIONER KESSLER: When are the OCD

1 hearings that month?

2 CHAIRWOMAN SANDOVAL: I think there is only
3 one that month.

4 MS. DAVIDSON: There is only one.

5 CHAIRWOMAN SANDOVAL: Do you know which
6 date that is?

7 MR. FELDEWERT: 12th.

8 CHAIRWOMAN SANDOVAL: 12th.

9 Would the week of the 16th work at all for
10 anybody?

11 COMMISSIONER KESSLER: I can't do Monday or
12 Tuesday of that week. I can do Wednesday, Thursday or
13 Friday.

14 COMMISSIONER ENGLER: I'm gone. The 18th
15 until January 10th, I'm gone.

16 CHAIRWOMAN SANDOVAL: 13th, but Porter Hall
17 isn't available, it looks like.

18 COMMISSIONER KESSLER: Friday, the 13th.

19 (Laughter.)

20 CHAIRWOMAN SANDOVAL: Do we have -- I mean,
21 if Porter is not available, though?

22 MS. DAVIDSON: Just for the examiner
23 hearings, and the examiner hearings will begin on the
24 12th and sometimes go into the next day.

25 CHAIRWOMAN SANDOVAL: Oh, and I bet it will

1 because it's the only one that month.

2 MR. LOZANO: Yeah. I'm not good on the
3 13th.

4 CHAIRWOMAN SANDOVAL: Okay.

5 MR. FELDEWERT: Madam Chair --

6 CHAIRWOMAN SANDOVAL: Yes.

7 MR. FELDEWERT: -- while it's the only case
8 on the docket -- the only hearing date on the docket,
9 it's a -- only for new-filed cases. So it involves
10 guessing, and it's just a guess. I would think it's
11 probably not going to spill over into the 13th, unless
12 there are a lot of SWD cases on there. But we haven't
13 had one --

14 CHAIRWOMAN SANDOVAL: I would like to take
15 vacation.

16 MR. LOZANO: What about the week before,
17 the 4th?

18 CHAIRPERSON SANDOVAL: I have a speaking
19 event in Dallas that day. Like, basically that week is
20 kind of killed.

21 COMMISSIONER KESSLER: So we're looking at
22 December 9th through 13th but understanding that the
23 12th and 13th won't work.

24 CHAIRWOMAN SANDOVAL: Yeah, but I was
25 hoping to take vacation.

1 MR. LOZANO: I can do the 13th, but it has
2 to be in the afternoon, so we would have to move the
3 time from the normal time.

4 CHAIRWOMAN SANDOVAL: But if we had cases,
5 that could be a problem, right?

6 MR. LOZANO: That could be a problem.

7 CHAIRWOMAN SANDOVAL: And the 16th and
8 17th, you're tied up?

9 COMMISSIONER KESSLER: I can try and do
10 something on the 17th.

11 CHAIRWOMAN SANDOVAL: What about the 11th?
12 But it doesn't say that Porter Hall is available that
13 day either.

14 MS. DAVIDSON: 11th?

15 CHAIRWOMAN SANDOVAL: It's a Wednesday.

16 MS. DAVIDSON: I think I.T. has a staff
17 meeting in here that morning.

18 CHAIRWOMAN SANDOVAL: Oh, we can bump them.

19 (Laughter.)

20 MR. LOZANO: Commissioner Engler?

21 COMMISSIONER ENGLER: I can do Wednesday,
22 the 11th. Yeah.

23 CHAIRWOMAN SANDOVAL: All right.

24 COMMISSIONER ENGLER: So that's going to be
25 Wednesday, December 11th?

1 CHAIRWOMAN SANDOVAL: Uh-huh.

2 Okay. And so I will entertain a motion to
3 amend the current schedule with meeting dates for
4 November 6th and December 11th.

5 COMMISSIONER KESSLER: So move.

6 COMMISSIONER ENGLER: Second.

7 CHAIRWOMAN SANDOVAL: All those in favor?

8 COMMISSIONER KESSLER: Aye.

9 COMMISSIONER ENGLER: Aye.

10 CHAIRWOMAN SANDOVAL: Aye.

11 (Ayes are unanimous.)

12 CHAIRWOMAN SANDOVAL: Florene, would you
13 please make the necessary changes to the schedule posted
14 online?

15 MS. DAVIDSON: Yes.

16 CHAIRWOMAN SANDOVAL: Thank you.

17 All right. Agenda item number eight.

18 MR. LOZANO: So -- I apologize,
19 Commissioner. I was going to brief on the status of our
20 calendar and the January meeting.

21 CHAIRWOMAN SANDOVAL: Okay.

22 MR. LOZANO: So typically Florene schedules
23 Division examiner meetings first --

24 And, Florene, feel free to correct me if
25 I'm wrong. This is based on your explanation.

1 She schedules Division examiner meetings in
2 October and then inputs Commission meetings after that.

3 MS. DAVIDSON: True.

4 MR. LOZANO: You know, we would prefer to
5 have it on a set day of the week, if possible, but
6 obviously if there are months we can't do that, we can
7 adjust. So once Florene has done the examiner meeting
8 schedule, then we can discuss the next year's calendar,
9 hopefully at the next meeting, possibly in November, if
10 that's necessary. And typically the calendar is adopted
11 along with the Open Meetings Act resolution that the
12 Commission has to pass in January, but we can certainly
13 set the calendar before then and pass the OMA resolution
14 in January. And, in fact, we could pass the OMA
15 resolution before January for next year.

16 So if -- given the struggles with
17 scheduling right now, it may be worthwhile to schedule
18 January.

19 I don't know if you know what the examiner
20 meetings are in January, Florene.

21 MS. DAVIDSON: No, I don't.

22 MR. LOZANO: Okay. Yeah. I don't know if
23 you want to get something on your all's calender for
24 January, since we're struggling.

25 CHAIRWOMAN SANDOVAL: Well, it might be

1 good because -- well, do we know what dates -- we don't
2 have January scheduled yet, technically?

3 MR. LOZANO: No. Correct. Right. We
4 don't have a Commission meeting in January scheduled?

5 MS. DAVIDSON: No. No. I think there is a
6 examiner hearing scheduled for the 9th.

7 CHAIRWOMAN SANDOVAL: It might be good to
8 schedule January now.

9 MR. LOZANO: I think you're right, Madam
10 Chair.

11 CHAIRWOMAN SANDOVAL: So should we do that
12 at the next meeting?

13 MR. LOZANO: No. We'll do January here,
14 and then we'll adopt the calendar for January in
15 November.

16 CHAIRWOMAN SANDOVAL: Can we meet earlier
17 in the month just because of the session and all the fun
18 there?

19 MR. LOZANO: Yes.

20 COMMISSIONER ENGLER: The examiner meeting
21 is on the 9th?

22 CHAIRWOMAN SANDOVAL: Yes.

23 I mean, in general, as we're looking at
24 November -- or next year, we may want to try and do
25 these on a different day because I think the volume of

1 hearings for Division is going to necessitate more and
2 more hearings on Thursdays, and we're going to have more
3 and more conflicts.

4 COMMISSIONER ENGLER: Traditionally, this
5 is going to like the third Thursday, right --

6 COMMISSIONER KESSLER: Third Thursday.

7 COMMISSIONER ENGLER: -- which is what
8 people are used to?

9 So for me -- for me, for the spring
10 semester, I loaded everything in Monday, Wednesday to
11 have Thursday, Friday off.

12 CHAIRWOMAN SANDOVAL: Okay.

13 COMMISSIONER ENGLER: So I've done that as
14 far as arranging, so I can do, you know, any Thursday,
15 Friday.

16 COMMISSIONER KESSLER: Thursday, the 16th
17 would work for my schedule. Does anybody know when the
18 session starts?

19 CHAIRWOMAN SANDOVAL: I feel like it's that
20 next week. I think it's the 20th.

21 COMMISSIONER ENGLER: So the 16th would
22 work.

23 CHAIRWOMAN SANDOVAL: I propose the 16th.
24 The 16th works for me.

25 MR. LOZANO: We can schedule it. You don't

1 have to put a vote on it.

2 CHAIRWOMAN SANDOVAL: Okay. Great.

3 And then we will have to -- when we move
4 out of this building in February, we may have to find
5 another location starting for the February meeting.

6 MR. LOZANO: Okay.

7 COMMISSIONER KESSLER: Huh?

8 CHAIRWOMAN SANDOVAL: We're moving out of
9 this building in February.

10 MR. LOZANO: Are you going to have a
11 place or a room in your new office?

12 CHAIRWOMAN SANDOVAL: We don't even know
13 where we're going yet.

14 MR. LOZANO: All right.

15 COMMISSIONER KESSLER: We could do Morgan
16 Hall, if you don't have --

17 CHAIRWOMAN SANDOVAL: That concludes agenda
18 item number eight. The January meeting will be on
19 January 16th, 2020.

20 The next meeting will be on October 16th,
21 2019.

22 If there is no other business before the
23 Commission, this meeting is adjourned at 9:27 a.m.

24 Thank you.

25 (The proceedings conclude, 9:27 a.m.)

1 STATE OF NEW MEXICO
2 COUNTY OF BERNALILLO

3

4 CERTIFICATE OF COURT REPORTER

5 I, MARY C. HANKINS, Certified Court
6 Reporter, New Mexico Certified Court Reporter No. 20,
7 and Registered Professional Reporter, do hereby certify
8 that I reported the foregoing proceedings in
9 stenographic shorthand and that the foregoing pages are
10 a true and correct transcript of those proceedings that
11 were reduced to printed form by me to the best of my
12 ability.

13 I FURTHER CERTIFY that the Reporter's
14 Record of the proceedings truly and accurately reflects
15 the exhibits, if any, offered by the respective parties.

16 I FURTHER CERTIFY that I am neither
17 employed by nor related to any of the parties or
18 attorneys in this case and that I have no interest in
19 the final disposition of this case.

20 DATED THIS 2nd day of October 2019.

21

22

23 MARY C. HANKINS, CCR, RPR
24 Certified Court Reporter
New Mexico CCR No. 20
Date of CCR Expiration: 12/31/2019
Paul Baca Professional Court Reporters

25