

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

Docket No. 03-20

REPORTER'S TRANSCRIPT OF PROCEEDINGS

COMMISSIONER HEARING

JANUARY 16, 2020

Agenda Items 1 through 14

Santa Fe, New Mexico

BEFORE: ADRIENNE SANDOVAL, CHAIRWOMAN
JORDAN KESSLER, COMMISSIONER
NIRANJAN KHALSA, COMMISSIONER
DR. THOMAS ENGLER, COMMISSIONER
MIGUEL LOZANO, ESQ.

This matter came on for hearing before the New Mexico Oil Conservation Commission on Thursday, January 16, 2020, 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.

Reported by: Irene Delgado, NMCCR 253
PAUL BACA PROFESSIONAL COURT REPORTERS
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1 (Note: In open proceedings at 9:03 a.m.)

2 CHAIRWOMAN SANDOVAL: Good morning, everybody. I
3 will call this meeting to order. It is 9:03 on January 16,
4 2020, and this is a meeting of the New Mexico Oil
5 Conservation Commission. I'm Adrienne Sandoval, director of
6 the Oil Conservation Division and chair of the Oil
7 Conservation Commission.

8 Will the Commissioners introduce themselves for
9 the record.

10 COMMISSIONER KHALSA: Niranjan Khalsa,
11 representing -- New Mexico State.

12 COMMISSIONER ENGLER: Tom Engler. I'm designate
13 for Energy, Minerals and Natural Resources Department.

14 CHAIRWOMAN SANDOVAL: Also with is Florene
15 Davidson, clerk to the Commission, and Miguel Lozano,
16 counsel to the Commission.

17 There is a list of items on today's agenda for
18 the meeting today. Is there a motion and a second to -- oh,
19 prior to adopting the agenda, we actually propose to move
20 Agenda Item Number 4, Adopt annual resolution setting forth
21 reasonable notice standards for Commission Public Meetings,
22 to Agenda Item Number -- between 5 and 6, so move it after
23 Item Number 5 and prior to Agenda Item Number 6. That will
24 allow Commissioner Khalsa to leave and Commissioner Kessler
25 to come on board.

1 Is there a motion to accept the amendment to the
2 general.

3 COMMISSIONER ENGLER: Motion to approve the
4 amendment to the agenda.

5 CHAIRWOMAN SANDOVAL: Is there a second?

6 COMMISSIONER KHALSA: Yes.

7 CHAIRWOMAN SANDOVAL: All in favor say aye.

8 COMMISSIONER ENGLER: Aye.

9 COMMISSIONER KHALSA: Aye.

10 CHAIRWOMAN SANDOVAL: Aye

11 (Ayes unanimous.)

12 CHAIRWOMAN SANDOVAL: The motion carries, and we
13 have full approval. Now can we have a motion to approve the
14 agenda as amended?

15 COMMISSIONER ENGLER: Motion to approve as
16 amended.

17 COMMISSIONER KHALSA: Yes, second.

18 CHAIRWOMAN SANDOVAL: All in favor say aye.

19 COMMISSIONER ENGLER: Aye.

20 COMMISSIONER KHALSA: Aye.

21 CHAIRWOMAN SANDOVAL: Aye.

22 (Ayes unanimous.)

23 CHAIRWOMAN SANDOVAL: The motion carries and the
24 amended agenda is adopted.

25 In your packet are the draft minutes from the

1 January 2, 2020 meeting. You have read the minutes. Are
2 there any corrections?

3 COMMISSIONER ENGLER: I have read them, and I
4 have no corrections.

5 COMMISSIONER KHALSA: I don't have any, either.

6 CHAIRWOMAN SANDOVAL: Is there a motion and
7 second to adopt the minutes?

8 COMMISSIONER ENGLER: Motion to adopt the
9 minutes.

10 COMMISSIONER KHALSA: Second.

11 CHAIRWOMAN SANDOVAL: All those in favor sigh
12 aye.

13 COMMISSIONER ENGLER: Aye.

14 COMMISSIONER KHALSA: Aye.

15 CHAIRWOMAN SANDOVAL: Aye.

16 (Ayes unanimous.)

17 CHAIRWOMAN SANDOVAL: The minutes from the
18 January 2 meeting are adopted.

19 We will now move on to agenda -- the next agenda
20 item, which is Agenda Item 5 as is written on the original
21 agenda, Case Number 20780. The Commission will now move to
22 Case 20870 for possible approval of the proposed order --
23 I'm sorry, Case 20780 -- I think I said that backwards --
24 for possible approval of the proposed order arising from the
25 hearing held on December 11, 2019.

1 Commissioner Khalsa will be seated for the
2 purpose of this case. Have the Commissioners had the
3 opportunity to review the proposed order from Salt Creek
4 Midstream as amended by the Division and Commission counsel,
5 have the Commission had the opportunity to the review the
6 proposed order?

7 COMMISSIONER ENGLER: Yes, I have.

8 COMMISSIONER KHALSA: Yes, I have.

9 CHAIRWOMAN SANDOVAL: Do the Commissioners have
10 any questions for the parties before we discuss the order?

11 COMMISSIONER ENGLER: I do not.

12 COMMISSIONER KHALSA: No.

13 CHAIRWOMAN SANDOVAL: Is there any discussion or
14 suggested changes to the proposed order?

15 COMMISSIONER ENGLER: I have none.

16 COMMISSIONER KHALSA: No.

17 CHAIRWOMAN SANDOVAL: If there is no discussion
18 or amendments, I will entertain a motion to adopt the
19 proposed order.

20 COMMISSIONER ENGLER: I will move to adopt the
21 proposed order.

22 CHAIRWOMAN SANDOVAL: Is there a second?

23 COMMISSIONER KHALSA: I will move to adopt the
24 proposed order.

25 CHAIRWOMAN SANDOVAL: All those in favor signify

1 by saying aye.

2 COMMISSIONER ENGLER: Aye.

3 COMMISSIONER KHALSA: Aye.

4 CHAIRWOMAN SANDOVAL: Aye.

5 (Ayes unanimous.)

6 CHAIRWOMAN SANDOVAL: There was unanimous yeses
7 to adopt the proposed order. The proposed order is adopted.
8 Should we go ahead and sign it?

9 MR. LOZANO: Let's go ahead, and get you the --
10 it's dated the 16 of January.

11 (Commissioners signing adopted order.)

12 CHAIRWOMAN SANDOVAL: Commissioner Kessler, would
13 you retake your seat to hear Case Number 20895.

14 MR. LOZANO: Thank you, Commissioner.

15 (Commissioner Khalsa leaving proceeding.)

16 (Commissioner Kessler joining proceeding.)

17 CHAIRWOMAN SANDOVAL: The Commission will now
18 move to Case Number 20895 for approval of the proposed final
19 rule and order regarding the enforcement and compliance
20 rules. Commissioner Kessler has retaken her seat.

21 The Commissioners have had the opportunity to
22 review the proposed final rule and proposed order drafted by
23 the Commission counsel with substantial comments from the
24 identified parties.

25 MR. LOZANO: Madam Chair, I will just note that

1 these last drafts that the Commissioners received, the only
2 changes I have made to that were on Paragraph 14 of Page 7.

3 Those were from comments from IPANM, and they
4 were in different places when they were proposed, but I
5 moved them to the IPANM portion of the order, and they are
6 substantially what was requested, so those were the only
7 portions you haven't had an opportunity to read.

8 COMMISSIONER ENGLER: 14, Page 7?

9 COMMISSIONER KESSLER: Oh, this is the first one.

10 COMMISSIONER ENGLER: Yes, this is yesterday.

11 COMMISSIONER KESSLER: I have no comments on the
12 proposed changes.

13 COMMISSIONER ENGLER: I agree. I concur.

14 CHAIRWOMAN SANDOVAL: I don't have any comments,
15 either. I'm fine with the edit. Just as a note, Mr. Marker
16 had submitted a petition for abeyance of the case until the
17 one in court --

18 MR. LOZANO: Two in court.

19 CHAIRWOMAN SANDOVAL: -- had been concluded.
20 That was denied, and an order was issued yesterday denying
21 that petition. Is there any discussion or suggested changes
22 to the proposed rule or order?

23 COMMISSIONER KESSLER: I have no proposed changes
24 to the order I have just been presented today.

25 COMMISSIONER ENGLER: I have on Page 4 on J, I

1 think you would want to say NMOGA instead of NMOJA. It's
2 clerical. Do you see that?

3 MR. LOZANO: Yes.

4 COMMISSIONER ENGLER: That's just to prove that I
5 read this.

6 MR. LOZANO: Thank you, Commissioner.

7 COMMISSIONER ENGLER: One other thing I add that
8 on their -- under -- on Page 3, the word under 11-G, I was
9 trying to read this statement that says, "The TCO remains in
10 effect until the earlier abatement if the violation or 30
11 days."

12 I guess I need clarification. Does that mean
13 until the earlier abatement or if there is a violation, or
14 30 days? I don't think I -- is that correct?

15 Until the earlier of the abatement.

16 MR. LOZANO: It should be of the violation.

17 COMMISSIONER ENGLER: Of the violation, so
18 just -- that's all I have was just those quick things.

19 MR. LOZANO: Thank you, sir.

20 COMMISSIONER ENGLER: Okay.

21 CHAIRWOMAN SANDOVAL: I have read this and
22 support the changes from Dr. Engler and --

23 MR. LOZANO: Commissioners, as well as the order,
24 just so it's clear -- well, not the order, the proposed
25 final amendment, has the Commissioners reviewed those as

1 well?

2 COMMISSIONER ENGLER: I have reviewed them, yes.

3 COMMISSIONER KESSLER: I have reviewed them and
4 have no proposed changes.

5 CHAIRWOMAN SANDOVAL: I have reviewed them and
6 have no proposed changes.

7 If there is no additional discussions or
8 amendments, I will entertain a motion to adopt the proposed
9 rule -- final rule and order.

10 COMMISSIONER KESSLER: Move to adopt the proposed
11 final rule and order.

12 COMMISSIONER ENGLER: Second.

13 CHAIRWOMAN SANDOVAL: All those in favor signify
14 by saying aye.

15 COMMISSIONER ENGLER: Aye.

16 COMMISSIONER KESSLER: Aye.

17 CHAIRWOMAN SANDOVAL: Aye.

18 (Ayes unanimous.)

19 CHAIRWOMAN SANDOVAL: The motion carries and a
20 final rule and order is adopted by the Commission. The
21 Commission counsel is directed to work with Division counsel
22 to ensure that all requirements for filing are met after the
23 necessary rehearing and appeal procedures have been
24 exhausted or the deadline has run.

25 So we will now move on to the amended agenda,

1 Agenda Item Number 5 on the previous agenda, Item Number 4.
2 The adoption of annual resolution setting forth reasonable
3 notice standards for Commission Public Meetings.

4 In your packet is the draft resolution citing
5 reasonable notice and meeting requirements. Attached to the
6 resolution is the schedule adopted by the Commission late
7 last year. The Commission is required to adopt a resolution
8 annually in accordance with the Open Meetings Act.

9 Commission counsel made a few changes to the
10 resolution from previous years. You can explain those to
11 the Commission.

12 MR. LOZANO: So the only changes that were made
13 essentially were that the notice provision in the prior
14 resolution was 72 hours. Reasonable notice, according to
15 the attorney general, it's not based on any court case, is
16 ten days.

17 Florene already provides notice pretty well in
18 advance of ten days, so that change was made to, to make
19 reasonable notice ten days for regular meetings, but the
20 agendas and special meeting notices are the same, so that's
21 essentially the change that was made.

22 CHAIRWOMAN SANDOVAL: After review of the
23 resolution, do the Commissioners have any proposed changes?

24 COMMISSIONER KESSLER: No proposed changes.

25 COMMISSIONER ENGLER: I have none.

1 CHAIRWOMAN SANDOVAL: If not, is there a motion
2 and a second to adopt the 2020 Open Meetings Act Resolution?

3 COMMISSIONER KESSLER: Move to the adopt the 2020
4 Open Meetings Act Resolution.

5 COMMISSIONER ENGLER: I second.

6 CHAIRWOMAN SANDOVAL: All those in favor signify
7 by saying aye.

8 COMMISSIONER ENGLER: Aye.

9 COMMISSIONER KESSLER: Aye.

10 CHAIRWOMAN SANDOVAL: Aye.

11 (Ayes unanimous.)

12 CHAIRWOMAN SANDOVAL: The motion carries and the
13 Open Meetings resolution is passed.

14 We will move down to Agenda Item Number 6 on both
15 the amended and the original agenda. The Commission will
16 now -- well, Case 20779 has been continued to the March 12,
17 2020 meeting.

18 Case Numbers 20556, 20557, and 20558 are
19 dismissed due to the hearing applicant's withdrawal of the
20 de novo hearing request.

21 Case Number 20679 has been continued to the March
22 12, 2020 meeting.

23 Pending litigation?

24 MR. LOZANO: The only new update is Mr. Brancard,
25 prior Commission counsel, had oral arguments on the Jalapeno

1 matter, which is a special pooling and units, essentially
2 involves compulsory pooling and special units. That was
3 argued before Judge Biedscheid last week -- I'm not sure, I
4 don't remember which day -- and we're awaiting a final order
5 in that case.

6 CHAIRWOMAN SANDOVAL: Is there any other business
7 from the Commissioners?

8 COMMISSIONER KESSLER: None.

9 COMMISSIONER ENGLER: I have none.

10 CHAIRWOMAN SANDOVAL: Our next meeting will be
11 February 27, 2020. If there is no other business before the
12 Commission, this meeting is adjourned at 9:20.

13 (Commission meeting concluded.)
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1 STATE OF NEW MEXICO
2 COUNTY OF BERNALILLO

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4 REPORTER'S CERTIFICATE

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6 I, IRENE DELGADO, New Mexico Certified Court
7 Reporter, CCR 253, do hereby certify that I reported the
8 foregoing proceedings in stenographic shorthand and that the
9 foregoing pages are a true and correct transcript of those
10 proceedings that were reduced to printed form by me to the
11 best of my ability.

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

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

19 Dated this 16th day of January 2020.

20

21

Irene Delgado, NMCCR 253
License Expires: 12-31-20

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