

STATE OF NEW MEXICO  
ENERGY, MINERALS, AND NATURAL RESOURCES DEPARTMENT

OIL CONSERVATION DIVISION

IN THE MATTTTER OF THE HEARING CALLED  
BY THE OIL CONSERVATION COMMISSION FOR  
THE PURPOSE OF CONSIDERING:

CASE NO. 21281

APPROVAL OF THE PROPOSED FINAL ORDER  
REGARDING PRODUCED WATER RULES

REPORTER'S TRANSCRIPT OF VIRTUAL PROCEEDINGS  
SPECIAL HEARING OF THE OIL CONSERVATION COMMISSION  
(Agenda Item 4)  
THURSDAY, SEPTEMBER 3, 2020  
SANTA FE, NEW MEXICO

BEFORE: ADRIENNE SANDOVAL, COMMISSIONER CHAIR  
THOMAS ENGLER, PhD, COMMISSIONER  
NIRANJAN KHALSA, COMMISSIONER  
MIGUEL LOZANO, ESQ., COMMISSION COUNSEL

This matter came on for virtual hearing  
before the New Mexico Oil Conservation Commission on  
Thursday, September 3, 2020, through the New Mexico  
Energy, Minerals and Natural Resources Department  
Webex Platform, Santa Fe, New Mexico

Reported by: Mary T. Macfarlane, CCR 122  
PAUL BACA PROFESSIONAL COURT REPORTERS  
500 Fourth Street NW, Suite 105  
Albuquerque, New Mexico 87102  
(505) 843-9241

A P P E A R A N C E S

FOR NMOGA:

Michael Feldewert  
Holland & Hart  
P.O. Box 2208  
Santa Fe, NM 87504  
mfeldewert@hollandhart.com .

FOR OCD:

Cheryl L. Bada, Esq.  
Deputy General Counsel ENMRD  
1220 S. St. Francis Drive  
Santa Fe, NM 87505  
cheryl.bada@state.nm.us

FOR WILDEARTH GUARDIANS:

Daniel L. Timmons  
301 No. Guadalupe St., Suite 201  
Santa Fe, NM 87501  
dtimmons@wildearthguardians.com

FOR SIERRA CLUB:

Douglas Meiklejohn, Esq.  
New Mexico Environmental Law Center  
1405 Luisa Street, #5  
Santa Fe, NM 87505

FOR NEW ENERGY ECONOMY:

Mariel Nanasi  
New Energy Economy  
1431 Seville Road  
Santa Fe, NM 87505

25

1 (Time noted 10:06 a.m.)

2 COMMISSION CHAIR SANDOVAL: Agenda Item No. 4  
3 Case No. 21281. The Commission will now move to Case  
4 No. 21281 for Approval of the Proposed Final Order  
5 Regarding Produced Water Rules.

6 The commissioners have had an opportunity  
7 to review the Proposed Final Rule and Proposed Order  
8 drafted by commission counsel with comment from identified  
9 parties.

10 Have the commissioners had sufficient  
11 opportunity to review the Proposed Order and Proposed  
12 Final Rule changes?

13 COMMISSIONER ENGLER: This is Tom Engler, and  
14 yes, I've had sufficient time and have read all the Order  
15 and the Ruling.

16 COMMISSION CHAIR SANDOVAL: This is Chair  
17 Sandoval. I have also reviewed the Order and had  
18 sufficient time.

19 COMMISSIONER KHALSA: This is Commissioner  
20 Khalsa, and I also have had time to review the Order.

21 COMMISSION CHAIR SANDOVAL: Is there any  
22 discussion or suggested changes to the Proposed Rule or  
23 Order?

24 (Note: No response.)

25 Dr. Engler, have you reviewed the Order?

1 Did you have any concerns? Did it, uhm, include all of  
2 the information that was done during the deliberation?

3 COMMISSIONER ENGLER: This is Tom Engler. I've  
4 read it, I've reviewed it carefully, and everything that I  
5 see is what we had intended to do and what we did in the  
6 past.

7 COMMISSION CHAIR SANDOVAL: Commissioner Khalsa,  
8 do you have any comments on the Proposed Order or Rules?

9 COMMISSIONER KHALSA: I'm going to abstain from  
10 the deliberation.

11 COMMISSION CHAIR SANDOVAL: Thank you. I had  
12 time to review the Proposed Order. It seemed to  
13 incorporate the changes that Dr. Engler and I discussed  
14 during deliberations at that Produced Water Rulemaking.  
15 There were edits, it looks like, that were included for  
16 multiple parties, as had been suggested, as well as some  
17 modifications that were discussed by Dr. Engler and I.

18 Is there any further discussion or  
19 amendments?

20 MR. LOZANO: Madam Chair, just so it's clear,  
21 the Final Order included some proposed changes from the  
22 Division. It included mostly stylistic changes to be  
23 consistent with the NMAC. There were a couple of changes  
24 with respect to the Department of Environment; that is, in  
25 the Oil and Gas Rule the Department of the Environment is

1 referred to as the New Mexico Environment Department.

2 Those changes were made, as well, and that is all

3 reflected in the Final.

4 COMMISSION CHAIR SANDOVAL: Thank you,

5 Mr. Lozano.

6 If there is no additional discussion or  
7 amendment I will entertain a motion to adopt the Proposed  
8 Final Rule and Order.

9 COMMISSIONER ENGLER: I move to adopt the  
10 Proposed Final Rule and Order.

11 COMMISSION CHAIR SANDOVAL: Mr. Lozano, is  
12 there -- I second the motion to adopt the Proposed  
13 Amendment and Order.

14 Mr. Lozano, would you do a roll call vote,  
15 please.

16 MR. LOZANO: Yes, Madam Chair.

17 Commissioner Khalsa?

18 COMMISSIONER KHALSA: Abstain.

19 MR. LOZANO: Commissioner Engler?

20 COMMISSIONER ENGLER: I approve.

21 MR. LOZANO: Chair Sandoval?

22 COMMISSION CHAIR SANDOVAL: I approve.

23 MR. LOZANO: The Order and Rule passes with one  
24 abstention and two aye votes.

25 COMMISSION CHAIR SANDOVAL: The motion carries

1 and the Final Rule and Order is adopted by the Commission.  
2 Commission counsel is directed to work with Division  
3 counsel to ensure that all requirements for filing are met  
4 after the necessary rehearing and appeal process have been  
5 exhausted or the deadlines have run.

6 Ms. Davidson, please ensure that the Final  
7 Ruling Order is imaged in the case file for public view.

8 (Time noted 10:10 a.m.)

9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1 STATE OF NEW MEXICO )  
2 : SS  
3 COUNTY OF TAOS )  
4

5 REPORTER'S CERTIFICATE

6 I, MARY THERESE MACFARLANE, New Mexico Reporter  
7 CCR No. 122, DO HEREBY CERTIFY that on Thursday, September  
8 3, 2020, the proceedings in the above-captioned matter  
9 were taken before me; that I did report in stenographic  
10 shorthand the proceedings set forth herein, and the  
11 foregoing pages are a true and correct transcription to  
12 the best of my ability and control.

13 I FURTHER CERTIFY that I am neither employed by  
14 nor related to nor contracted with (unless excepted by the  
15 rules) any of the parties or attorneys in this case, and  
16 that I have no interest whatsoever in the final  
17 disposition of this case in any court.

18 /s/ Mary Macfarlane  
19 \_\_\_\_\_

20 MARY THERESE MACFARLANE, CCR  
21 NM Certified Court Reporter No. 122  
22 License Expires: 12/31/2018  
23  
24  
25