

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

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

ORIGINAL

NOTICE OF RULEMAKING Case 14805

MOTION OF TARGA MIDSTREAM SERVICES, LLC, Case 14575
TO REOPEN CASE TO OFFER PROOF OF COMPLETION
AND RESULTS OF PRESSURE TESTING

APPLICATION OF C&D MANAGEMENT COMPANY Case 14055
TO REOPEN CASE NO. 14055, EDDY COUNTY,
NEW MEXICO

NOTICE OF ABATEMENT PLAN FILING PURSUANT
TO 19.15.30.15.D NMAC

REPORTER'S TRANSCRIPT OF PROCEEDINGS
COMMISSIONER HEARING

BEFORE: JAMI BAILEY, Chairman
ROBERT BALCH, Commissioner
SCOTT DAWSON, Commissioner

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March 27, 2012
Santa Fe, New Mexico

This matter came on for hearing before the New Mexico Oil Conservation Commission, JAMI BAILEY, Chairman, on Tuesday, March 27, 2012, at the New Mexico Energy, Minerals and Natural Resources Department, 1220 South St. Francis Drive, Room 102, Santa Fe, New Mexico.

REPORTED BY: Jacqueline R. Lujan, CCR #91
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A P P E A R A N C E S

FOR THE OIL CONSERVATION COMMISSION:

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ALSO PRESENT:

Florene Davidson
Ms. Duran-Saenz

WITNESSES: PAGE

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REPORTER'S CERTIFICATE 27

1 CHAIRMAN BAILEY: This is the meeting of
2 the Oil Conservation Commission on Tuesday, March 27th,
3 in Porter Hall in Santa Fe, New Mexico.

4 To my right is Commissioner Scott Dawson,
5 designee of the Commissioner of Public Lands. To my left
6 is Commissioner Dr. Robert Balch, designee of the
7 Secretary of Energy, Minerals & Natural Resources
8 Department. I am Jami Bailey, the Director of the Oil
9 Conservation Division.

10 The minutes of the previous hearing have been
11 prepared, but we are not ready to review them for
12 signature, as is the same case for the two cases where we
13 will be taking final action. We'll have to delay those
14 until after we hear the rulemaking case.

15 We have no cases that were continued until
16 today. So we will be hearing Notice of Rulemaking Case
17 14805, in which the Oil Conservation Division seeks a
18 hearing concerning the following changes to Section 8 of
19 Title 19, Chapter 15, Part 14 of the New Mexico
20 Administrative Code to amend Subsection A of Rule
21 19.15.14.8 NMAC.

22 According to the OCD rules, a summary of the
23 rulemaking Rule 19.15.3.12 needs to be discussed. So I
24 will summarize that rule as a proposed change pursuant to
25 the rules where any person may present nontechnical

1 testimony or make an unsworn statement at the hearing.

2 Any person who intends to present technical
3 testimony or cross-examine witnesses at the hearing
4 shall, no later than 5:00 on March 20th, file six sets of
5 prehearing statements with Ms. Florene Davidson, who is
6 at my far right.

7 The prehearing statement should have included
8 the person's name and the name of the person's attorney;
9 the names of all witnesses; the person called to testify
10 at the hearing; a concise statement of each witness's
11 testimony; all technical witness qualifications,
12 including a description of the witness's education and
13 experience; and the approximate time needed to present
14 the testimony. The person should have attached to the
15 prehearing statement any exhibits he or she plans to
16 offer as evidence at the hearing.

17 Any person recommending modifications to the
18 proposed rule change had to file no later than March 13th
19 a Notice of Recommended Modifications with Ms. Davidson,
20 including the text of the recommended modifications and
21 an explanation of the modification's impact and the
22 reasons for adopting the modifications.

23 Written comments, prehearing statements and
24 notices of recommended modification should have been hand
25 delivered or mailed to Ms. Florene Davidson.

1 That is a summary of the pertinent OCD rules.
2 If there is any unsworn position statements, we will hear
3 that testimony. And the people who testify should have
4 filed a prehearing statement. So that concludes a
5 summary of the rule. And public comment, if any, will be
6 afforded to persons who have signed in before lunch time.

7 Are there opening statements? Ask for
8 appearances.

9 MS. GERHOLT: Gabrielle Gerhold on behalf
10 of Oil Conservation Division.

11 MR. FELDEWERT: Madam Chair, members of
12 Commission, Michael Feldewert, appearing on behalf of the
13 New Mexico Oil & Gas Association. We have no witnesses.

14 CHAIRMAN BAILEY: Would you care to make
15 an opening statement, Ms. Gerhold?

16 MS. GERHOLT: Madam Chair, prior to the
17 Division's opening statement, I would like to take care
18 of one preliminary matter.

19 You will notice in the Affidavit of Notice
20 that was submitted with the Division's prehearing
21 statement, there's an Exhibit 1-A and an Exhibit 1-C. At
22 this time the Division would seek to substitute a more
23 accurate Exhibit 1-A, which includes the Affidavit of
24 Publication by the Albuquerque Journal, and for Exhibit
25 1-C, the official notices of rulemaking and proposed rule

1 from the New Mexico Register.

2 Madam Chair, with your permission, may the
3 Division substitute those exhibits at this time?

4 CHAIRMAN BAILEY: Are there any
5 objections?

6 MR. FELDEWERT: No.

7 CHAIRMAN BAILEY: Commissioners, do you
8 have any objections?

9 COMMISSIONER DAWSON: No objections.

10 COMMISSIONER BALCH: I have no objections.

11 CHAIRMAN BAILEY: It may be substituted.

12 (OCD Exhibits 1-A and 1-C were substituted.)

13 MS. GERHOLT: May I approach?

14 CHAIRMAN BAILEY: Yes.

15 MS. GERHOLT: Madam Chair, Commissioner
16 Dawson, Commissioner Balch, as you recall, this past fall
17 the Division instituted rulemaking in regards to
18 horizontal wells. During the course of that rulemaking,
19 we also sought and the Commission approved an amendment
20 to permits to drill, deepen or plug back.

21 What the Division requested was that language
22 be included that states, "An operator shall obtain an
23 approved application for a permit to drill from the
24 Division prior to commencing drilling, deepening or
25 re-entering operations, commencing an additional lateral,

1 plugging a well back to a different pool, or completing
2 or re-completing a well in an additional pool." This is
3 at 19.15.14.8.A.

4 The goal of that amendment was to require that
5 operators have an approved permit. Now, what the
6 Division uses is an APD for all these activities.
7 However, an unintended consequence was that this has
8 placed additional burdens upon on operators who are on
9 federal land because the BLM requires notices of intent
10 and not approved applications for permits to drill.

11 Because of this unintended effect, the
12 Division is now before you today to ask that we amend our
13 current amendment in order to have an approved permit,
14 thereby allowing, if it is state or fee, an approved APD,
15 or if it's federal land, it would be an approved Notice
16 of Intent.

17 The witness on behalf of the Division is David
18 Brooks. Mr. Brooks has been an attorney for the Division
19 for many years, and he testified in the original
20 rulemaking on horizontal wells. He will be able to
21 explain to you Commissioners why the Division is
22 requesting this.

23 And at this time, I would call David Brooks.

24 CHAIRMAN BAILEY: Would you please stand
25 to be sworn?

1 (One witness was sworn.)

2 DAVID BROOKS

3 Having been first duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MS. GERHOLT:

6 Q. Good morning.

7 A. Good morning.

8 Q. Please state your name for the record.

9 A. David Brooks.

10 Q. Where do you work?

11 A. New Mexico Oil Conservation Division.

12 Q. And how long have you worked for the Division?

13 A. Since May the 21st of 2001.

14 Q. In what position are you currently employed?

15 A. Assistant General Counsel.

16 Q. How long have you held that position?

17 A. For the entire time I've been here.

18 Q. And Mr. Brooks, did you previously testify

19 before the Oil Conservation Commission pertaining to

20 permits to drill?

21 A. I did.

22 Q. Do you recall about when that was?

23 A. I recall generally. I don't recall the exact

24 date.

25 Q. Was it in fall of 2011?

1 A. Yes.

2 Q. Okay. I see that you brought your rule book
3 with you?

4 A. I did.

5 Q. Would you please turn to Rule 19.15.14.8.A?

6 A. Okay.

7 Q. Were you involved in developing the language,
8 "An operator shall obtain an approved application for
9 permit to drill"?

10 A. Unfortunately, yes.

11 Q. Why did the Division previously request this
12 language?

13 A. Why did the Division request this language?

14 Q. To be included in the rule by the
15 Commissioners.

16 A. The change we were making to this section was
17 to add the part about an additional lateral. The section
18 previously said that it required a permit before
19 drilling, plugging back or deepening, and we wanted to
20 add an additional lateral.

21 And it occurred to me that the term, "permit,"
22 was perhaps somewhat ambiguous, and that what we wanted
23 to do is if they have an APD on file and that APD has
24 been approved by the Division. So I did recommend that
25 change. It's what I thought of as a clarification.

1 Q. Since that change has been enacted, has the
2 Oil Conservation Division heard from operators concerning
3 an approved APD?

4 A. I am so informed.

5 Q. Has it come to your attention that this has
6 caused an additional burden upon an operator?

7 A. Well, it has in the case of those -- or it
8 could in the case of those that are on federal land.

9 Q. And why could it?

10 A. Because my understanding is, which I did not
11 have when I suggested this language, that we -- whereas
12 we use a form called Application for Permit to Drill,
13 Deepen or Plug Back, which covers all those types of
14 operations, the Bureau of Land Management uses a
15 different form, called Application to Drill, for
16 permission to initially drill a new well, and a form
17 called Notice of Intent for drilling -- for any of these
18 other operations.

19 And of course, under our rules, if you are
20 operating on federal land, you do not file your
21 Application to Drill with the OCD on our C-101 form.
22 Instead, you file the requisite form with the Bureau of
23 Land Management for the operation you propose.

24 Q. If the language were changed back to "a permit
25 approved by the Division," would that be consistent with

1 other Division rules?

2 A. I believe it would be.

3 Q. If the Commission adopts the requirement to
4 obtain a permit approved by the Division, will it assist
5 operators?

6 A. It will make clear that they do not have to
7 have a federal APD where the Bureau of Land Management
8 does not require it. Because the Bureau of Land
9 Management charges a fee for filing APDs, it would assist
10 operators not to have to pay a fee that they would
11 otherwise not have to pay.

12 Q. Do you know approximately how much that fee
13 is?

14 A. \$6,500 at this time.

15 Q. Do you have any knowledge as to the length of
16 time it takes for the BLM to approve a permit to drill?

17 A. Not any precise knowledge. I've heard 30 to
18 90 days. I've heard longer periods. But I don't have
19 any personal knowledge of what the average is.

20 Q. So the unintended effect that the current rule
21 has had on operators is that it doesn't conform to what
22 the federal government would require for certain
23 activities, such as deepening or plugging back, it would
24 cause them to incur an additional cost, and it may also
25 cause them to incur an additional waiting time if they

1 had to seek an approved permit to drill?

2 A. Given the language, those consequences are
3 possible.

4 Q. Therefore, would you suggest to the Commission
5 that it just be, "a permit that is approved by the
6 Division," included as the language?

7 A. I believe that's more correct. Because what
8 we want is that they either have an approved permit to
9 drill or an approved Notice of Intent. Of course, those
10 documents filed with the BLM would then be transmitted to
11 the OCD, where the OCD would approve them.

12 Q. Would requiring an operator to obtain a permit
13 approved by the Division prevent waste and protect
14 correlative rights?

15 A. I think so.

16 Q. Would the Division be able to administer such
17 a rule?

18 A. I know of no reason why they should not.
19 That's essentially what we're doing now.

20 MS. GERHOLT: Madam Chair, Commissioners,
21 the Division has no further questions. I pass the
22 witness.

23 CHAIRMAN BAILEY: Do you care to
24 cross-examine?

25 MR. FELDEWERT: I have no questions.

1 CHAIRMAN BAILEY: Commissioner Dawson, do
2 you have any questions?

3 EXAMINATION

4 BY COMMISSIONER DAWSON:

5 Q. The question I have is: Couldn't the
6 operators use a C-103, a sundry notice, to notify the
7 Division as to their plans on re-entering or drilling a
8 lateral? Wouldn't that suffice, instead of an APD?

9 A. I don't think so, under our rules. Our rules
10 call for filing a C-101. If you're going to drill
11 deeper, re-complete in a different pool, and under this
12 rule, which was the change that this rule made, also if
13 you're going to put an additional lateral in a horizontal
14 well.

15 Now, if you're going to do other operations in
16 the well, such as additional perforations in the same
17 pool, then you would use a sundry notice. Because the
18 sundry notice, the C-103, is for any other operations
19 that don't require some other form.

20 Of course, these forms are the forms that are
21 used for operations on state or private land. And the
22 operations on federal land, by virtue of another rule, if
23 you don't file those forms, you file the forms required
24 by the Bureau of Land Management.

25 Q. So the C-103 mostly is used for fee or state

1 lands, and it wouldn't pertain to any federal?

2 A. For both the C-101 and the C-103, the
3 applicable rule says that in lieu of those forms, you
4 file the applicable federal form with the United States
5 Bureau of Land Management if you are operating on federal
6 land.

7 If you have a horizontal well that drills
8 through both federal and state lands, then you have to
9 file both sets of forms.

10 COMMISSIONER DAWSON: No further
11 questions. Thank you.

12 CHAIRMAN BAILEY: Commissioner Balch?

13 COMMISSIONER BALCH: I have no questions.

14 CHAIRMAN BAILEY: I have no questions. Do
15 you have any redirect?

16 MS. GERHOLT: No, Madam Chair.

17 MR. BRANCARD: Madam Chair, may I ask a
18 question about the language you're using here?

19 You're replacing an approved APD with the
20 words, "a permit." While I heard Mr. Brooks and counsel
21 talk about approved, the word, "approved," is now gone.
22 It just says, "a permit." I just want to clarify how
23 that would work.

24 MS. GERHOLT: Madam Chair, Mr. Brancard,
25 the prehearing statement filed by the Oil Conservation

1 Division, paragraph 2, the language that the Division --
2 and I apologize that it's not clear -- is proposing is
3 that, "The Division would require an operator to obtain a
4 permit approved by the Division prior to commencing
5 drilling, deepening," et cetera. So the "approved" comes
6 after, "the permit," versus before, "the permit."

7 MR. BRANCARD: Then we really need to be
8 clear what exactly the rule change is that you're
9 requesting here. Because your original application
10 simply had the word, "permit," inserted, and I haven't
11 seen a strike-out or line-through since then.

12 MS. GERHOLT: Madam Chair, Commissioners,
13 what the Division is specifically requesting is a rule
14 that would state, "An operator is required to obtain a
15 permit approved by the Division prior to commencing,
16 drilling, deepening or re-entry operations, commencing an
17 additional lateral, plugging a well back to a different
18 pool, or completing or re-completing a well in an
19 additional pool."

20 MR. BRANCARD: So you're replacing the
21 word, "from," with, "approved by"? Where it had read, "a
22 permit from the Division," you're now saying, "a permit
23 approved by"?

24 MS. GERHOLT: That is correct.

25 CHAIRMAN BAILEY: So what you've read is a

1 change to Exhibit A -- and let's make sure that we have
2 the language correct here -- for 19.15.14.8, a permit to
3 drill, deepen or plug back, Subsection A, permit
4 required. "An operator is required to obtain a permit
5 approved by the Division prior to commencing drilling,
6 deepening or re-entry operations, commencing an
7 additional lateral, plugging a well back to a different
8 pool, or completing or re-completing a well in an
9 additional pool."

10 Is that correct, what you read a while ago?

11 MS. GERHOLT: Yes, Madam Chair.

12 MR. BRANCARD: If I may clarify? You're
13 also changing the words, "shall obtain," to read, "is
14 required"?

15 MS. GERHOLT: Yes.

16 MR. BRANCARD: How does the beginning read
17 again? "An operator" --

18 MS. GERHOLT: -- "is required to obtain a
19 permit approved by the Division."

20 CHAIRMAN BAILEY: Commissioners, do you
21 have any questions about these changes that have been
22 offered?

23 COMMISSIONER DAWSON: I have no questions.

24 COMMISSIONER BALCH: According to the
25 rule, the Commission does actually require a permit. So

1 I think the additional change to the word, "shall," is
2 necessary, as well.

3 CHAIRMAN BAILEY: Okay.

4 CHAIRMAN BAILEY: In that case, is there
5 any further discussion concerning this proposed rule
6 change?

7 MS. GERHOLT: The Division would rest.

8 CHAIRMAN BAILEY: Well, do I hear a motion
9 to close the record for Case Number 14805?

10 COMMISSIONER DAWSON: I will motion.

11 MR. BRANCARD: Madam Chair, do we have any
12 comments from the public?

13 CHAIRMAN BAILEY: Do we have any comments
14 from the public?

15 MR. BRANCARD: Great.

16 CHAIRMAN BAILEY: Is there a second to the
17 motion to close the record?

18 COMMISSIONER BALCH: We're not going into
19 executive session on this rulemaking?

20 CHAIRMAN BAILEY: Rulemaking is in public.
21 So we close the record and we deliberate in public.

22 COMMISSIONER BALCH: Then I second the
23 motion.

24 CHAIRMAN BAILEY: All those in favor? All
25 those opposed?

1 We will now enter into deliberations for this
2 proposed rule change.

3 Do you have any comments, Commissioner Dawson?

4 COMMISSIONER DAWSON: I have no comments.

5 CHAIRMAN BAILEY: Do you favor it?

6 COMMISSIONER DAWSON: I do favor it.

7 CHAIRMAN BAILEY: Commissioner Balch, do
8 you have any comments?

9 COMMISSIONER BALCH: I also favor the
10 change. I think adding the additional burden of 6,500
11 plus the time would be unnecessary and would be wasteful.

12 CHAIRMAN BAILEY: I agree. I believe this
13 change needs to be made to the current rule. So all
14 those -- well, do I hear a motion to adopt this rule
15 change?

16 COMMISSIONER BALCH: I'll make that
17 motion.

18 CHAIRMAN BAILEY: Is there a second?

19 COMMISSIONER DAWSON: I will second.

20 CHAIRMAN BAILEY: All those in favor? All
21 those opposed?

22 All right. When would this rule change become
23 effective? Do we know that?

24 MS. DURAN-SAENZ: It's usually 30 days
25 from the day -- today is -- if you care, I can run

1 upstairs and get the actual schedule.

2 CHAIRMAN BAILEY: It would be close to the
3 end of April, early May, then?

4 MS. DURAN-SAENZ: Yes, ma'am.

5 MR. BRANCARD: It's effective upon
6 publication; correct?

7 MS. GERHOLT: And it will be published in
8 the Register --

9 MS. DURAN-SAENZ: We have to get it in
10 usually by the 15th, and it's published by the end of the
11 month. That's why I say 30 days.

12 CHAIRMAN BAILEY: So the end of April,
13 early May?

14 MS. DURAN-SAENZ: Without having a
15 schedule in front of me, I don't have the exact date.

16 CHAIRMAN BAILEY: Okay. Then we can go
17 back to the business that we delayed. Have the
18 Commissioners had a chance to read the minutes of the
19 previous hearing on February 23rd?

20 COMMISSIONER DAWSON: I have.

21 COMMISSIONER BALCH: I have, as well.

22 CHAIRMAN BAILEY: Did you have any
23 comments, or is there a motion to adopt the minutes as
24 written?

25 COMMISSIONER DAWSON: I will motion to

1 adopt.

2 COMMISSIONER BALCH: Second.

3 CHAIRMAN BAILEY: All those in favor? I
4 will sign on behalf of the Commission.

5 Have the Commissioners had a chance to read
6 the draft for Case 14575, which was the application of
7 Targa Midstream Services, LLC, to reopen the case to
8 offer proof of well completion, well test results and
9 extent of injection radius?

10 COMMISSIONER DAWSON: I have.

11 COMMISSIONER BALCH: And I have.

12 CHAIRMAN BAILEY: Do I hear a motion to
13 adopt this order as presented?

14 COMMISSIONER BALCH: I'll make that
15 motion.

16 COMMISSIONER DAWSON: Second.

17 CHAIRMAN BAILEY: All those in favor? And
18 we will each sign.

19 Have the Commissioners had a chance to read
20 the draft order in Case 14055, which was the application
21 of C&D Management Company to reopen Case 14055 in Eddy
22 County, New Mexico?

23 COMMISSIONER DAWSON: I have.

24 COMMISSIONER BALCH: I have.

25 CHAIRMAN BAILEY: Do I hear a motion to

1 adopt this order as presented?

2 COMMISSIONER DAWSON: I will motion.

3 COMMISSIONER BALCH: I'll second.

4 CHAIRMAN BAILEY: All those in favor? And
5 we will each sign the order. We will give the signed
6 documents to the Commission secretary.

7 Also on the docket we have a Notice of
8 Abatement Plan Filing pursuant to 19.15.30.15.D NMAC.
9 That particular rule reads, "The Division shall
10 distribute notice of an abatement plan's filing with the
11 next Division and Commission hearing docket following the
12 plan's receipt."

13 We are not reviewing it at this time. We are
14 simply giving notice that an abatement plan has been
15 filed with the Division. And that abatement plan is
16 Stage 2 Abatement Plan AP-51 for the Former Caribou
17 Refinery located in Section 17, Township 29 North, Range
18 14 West, NMPM, near Kirtland, New Mexico, in San Juan
19 County.

20 It was filed with the Division by Maverick
21 Country Stores of North Salt Lake, Utah, on March 9th.
22 The purpose of the plan is to provide an evaluation of
23 remediation alternatives and a design of the recommended
24 alternative for the abatement of contaminated soil and
25 groundwater resulting from unauthorized releases from the

1 facility.

2 The Commission does not take action. This is
3 simply a notification. Is there any other business
4 before the commission today?

5 MR. BRANCARD: Madam Chair, would you like
6 to hear a little summary about the litigation proceedings
7 for the Commission?

8 CHAIRMAN BAILEY: Yes, please.

9 MR. BRANCARD: Since the last Commission
10 meeting, there have been developments in the writ
11 proceeding regarding the Commission's proposed rulemaking
12 action to amend 19.15.17, otherwise known as the Pit
13 Rule.

14 The District Court hearing which was set for
15 June 12th has now been rescheduled for this afternoon.
16 So there will be an oral argument in front of the
17 District Court on the writ proceeding that's in front of
18 them. The Court has already issued a writ, but this
19 would be sort of a show cause proceeding, is how the
20 Court referred to it, for us to show cause why the writ
21 should be lifted.

22 In the meanwhile, the New Mexico Oil & Gas
23 Association filed a petition for a writ of what's called
24 superintending control in the New Mexico Supreme Court.
25 Those types of writs are actually filing against a judge.

1 In this case, it's the judge in the District Court
2 proceeding, arguing that that judge did not have the
3 authority to issue this writ.

4 And at the time that petition was filed, the
5 hearing was still scheduled for June. So there was also
6 an argument that the case had been delayed far too long
7 than it should have been for a writ proceeding.

8 While the District Court has moved up its
9 hearing, the Supreme Court has not held back on it. So
10 they asked all the parties to respond to the petition
11 last Friday. The Commission was one of the parties that
12 filed a response to the petition to the Supreme Court.
13 We have not heard of any further proceedings from the
14 Supreme Court, whether they will have oral argument.
15 They may simply wait for what the District Court does
16 this afternoon.

17 As soon as we hear what the District Court
18 judge rules this afternoon, I will try to let you know as
19 soon as possible. If the writ is quashed, as the term is
20 used, and the Commission is then given the authority to
21 move ahead with the rulemaking, the Chair will have the
22 authority to reschedule the hearing on an appropriate
23 date at a future Commission meeting, if that's okay with
24 the Commissioners.

25 CHAIRMAN BAILEY: Any questions?

1 COMMISSIONER DAWSON: I have no questions.

2 COMMISSIONER BALCH: Would a notice for
3 rulemaking -- if a decision is made today or this week,
4 does that still allow our scheduled May hearing on the
5 rule?

6 MR. BRANCARD: The Commission scheduled an
7 April hearing on that. And it had done some, but not
8 all, the public notice on that hearing before the judge
9 issued his writ. His writ was very broad. It stopped
10 all actions by the Commission in regard to the
11 rulemaking, so the Commission could not complete the
12 notice for the April hearing. So the April hearing is
13 effectively canceled. We'll find out today if we can
14 postpone it to another date.

15 COMMISSIONER BALCH: I guess there have
16 been discussion about rescheduling for May.

17 MR. BRANCARD: That would depend on
18 whether we can get the notices out in time.

19 CHAIRMAN BAILEY: Or July would be the
20 next available month for the hearing.

21 MR. BRANCARD: It a matter of getting all
22 the notices out properly and in time. And we have to do
23 the New Mexico Register, as well as the newspaper
24 publications. The Chair can evaluate that after the
25 Court makes a decision about what's the next available

1 time to have the hearing.

2 CHAIRMAN BAILEY: It could be July.

3 Is there any other business?

4 MS. GERHOLT: Madam Chair, on behalf of
5 the Division, I do have a question in regards to the
6 order that the Commission issued continuing the Pit Rule
7 to the April docket. Will that order be amended?

8 CHAIRMAN BAILEY: It will have to be,
9 because we will not be able -- that April hearing has to
10 be cancelled.

11 MS. GERHOLT: That's all my questions.
12 Thank you.

13 MR. FELDEWERT: Madam Chair, Members of
14 the Commission, on behalf of NMOGA, having filed a
15 petition in the Supreme Court, knowing we are going to
16 argue with Judge Ortiz this afternoon, we do hope that he
17 will quash this writ, which will allow the Commission to
18 move forward with this hearing on the proposed Pit Rules.
19 We are hopeful that that hearing could occur in May,
20 perhaps the week of May 14th, which is your
21 regularly-scheduled Commission hearing.

22 So I guess on behalf of NMOGA, if there's any
23 possibility of going forward, we'd like to have the
24 hearing in May.

25 CHAIRMAN BAILEY: We'll take that into

1 consideration.

2 With no other business, do I hear a motion to
3 adjourn today?

4 COMMISSIONER DAWSON: Motion to adjourn.

5 COMMISSIONER BALCH: Second.

6 CHAIRMAN BAILEY: All those in favor?

7 Thank you very much.

8 (The meeting was adjourned at 9:35 a.m.)

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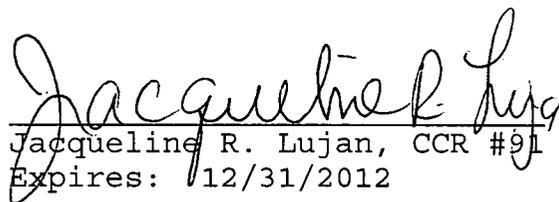
REPORTER'S CERTIFICATE

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I, JACQUELINE R. LUJAN, New Mexico CCR #91, DO
HEREBY CERTIFY that on March 27, 2012, proceedings in the
above captioned case were taken before me and that I did
report in stenographic shorthand the proceedings set
forth herein, and the foregoing pages are a true and
correct transcription to the best of my ability.

I FURTHER CERTIFY that I am neither employed by
nor related to nor contracted with any of the parties or
attorneys in this case and that I have no interest
whatsoever in the final disposition of this case in any
court.

WITNESS MY HAND this 9th day of April, 2012.


Jacqueline R. Lujan, CCR #91
Expires: 12/31/2012