

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

REPORTER'S TRANSCRIPT OF PROCEEDINGS
COMMISSION MEETING
ADOPTION OF AGENDA

ORIGINAL

ADOPTION OF MEETING MINUTES OF MAY 18, 2017
CONTINUATION OF CASE NUMBERS 15726 AND 15185
AND
OTHER BUSINESS

June 13, 2017

Santa Fe, New Mexico

BEFORE: DAVID R. CATANACH, CHAIRPERSON
EDWARD MARTIN, COMMISSIONER
DR. ROBERT S. BALCH, COMMISSIONER
CHERYL BADA, ESQ.

This matter came on for hearing before the
New Mexico Oil Conservation Commission on Thursday,
June 13, 2017, 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 (9:00 a.m.)

2 CHAIRMAN CATANACH: Call the hearing to
3 order this morning. This is the meeting of the
4 New Mexico Oil Conservation Commission. My name is
5 David Catanach, Chairman of the Commission. The time
6 9:00 a.m. Today's date is June 13th, 2017. This
7 meeting is being conducted in Porter Hall within the
8 Wendell Chino State.

9 Commissioners, I'll take roll at this time.
10 Please introduce yourself for the record.

11 COMMISSIONER MARTIN: Ed Martin
12 representing the State Land Office.

13 COMMISSIONER BALCH: Dr. Robert Balch,
14 designee of the Secretary of Energy, Minerals and
15 Natural Resources.

16 CHAIRMAN CATANACH: And also Ms. Florene
17 Davidson is present today.

18 Commissioners, in your packet today, you
19 should have an agenda for today's meeting. If you've
20 reviewed the agenda, do I hear a motion and a second to
21 adopt the agenda?

22 COMMISSIONER BALCH: I've reviewed the
23 agenda, and I would move to adopt it.

24 COMMISSIONER MARTIN: Second.

25 CHAIRMAN CATANACH: All in favor?

1 (Ayes are unanimous.)

2 CHAIRMAN CATANACH: Motion to adopt today's
3 agenda is passed.

4 Also in your packet are the draft minutes
5 from the May 18th, 2017 Commission meeting.
6 Commissioners, if you've reviewed the minutes, do you
7 have any changes? And if not, is there a motion and a
8 second to adopt the minutes?

9 COMMISSIONER MARTIN: I've reviewed the
10 minutes. I have no changes, and I move that we adopt.

11 COMMISSIONER BALCH: I've also reviewed
12 them, and I would second the motion.

13 CHAIRMAN CATANACH: All in favor?

14 (Ayes are unanimous.)

15 CHAIRMAN CATANACH: Motion to adopt the
16 minutes from the May 18th, 2017 hearing is passed.

17 At this time let me just make a couple of
18 announcements. On today's docket is Case Number 15726,
19 which is the application of the OCD to amend Section 19
20 of 19.15.46 NMAC and Section 16 of 19.15.7 NMAC. This
21 case concerns extending the time for reporting
22 completion of horizontal wells from 20 to 45 days and
23 also proposes to require operators to file information
24 regarding hydraulic fracturing activities with
25 FracFocus.

1 At the request of the Division, this case
2 will be continued to the July 13th Commission docket.

3 Also on today's docket is Case Number
4 15185, which is the application of Ard Energy, LLC to
5 re-open Case Number 15185 pursuant to NMAC 19.15.13.13
6 and the provisions of Order Number R-13913-B to
7 determine reasonable well costs for drilling of the Ivar
8 The Boneless Federal Well #1H.

9 This case will also be continued to the
10 July 13th Commission docket.

11 (The proceedings conclude, 9:03 a.m.)

12 (10:31 a.m.)

13 CHAIRMAN CATANACH: And before we start
14 again, a correction on something I mentioned earlier.
15 On a continued case, Case Number 15185, I mentioned in
16 my previous statement that that was continued to July
17 13th. That is actually continued to the August 10th,
18 2017 Commission meeting. So we'll note that correction.

19 Thank you, Ms. Davidson.

20 (10:42 a.m.)

21 COMMISSIONER BALCH: I notice you also had
22 an application for rehearing from COG.

23 CHAIRMAN CATANACH: I do want to discuss
24 that briefly with the Commission. We did receive an
25 application from COG.

1 COMMISSIONER BALCH: Do you want to discuss
2 that in open or closed session?

3 CHAIRMAN CATANACH: Should we close it,
4 Counselor?

5 MS. BADA: No. You didn't indicate it on
6 your agenda, so no.

7 COMMISSIONER BALCH: Okay. So we can't.

8 CHAIRMAN CATANACH: Yeah. That's fine.
9 It is on the agenda; is that correct?

10 MS. BADA: No, but you didn't indicate you
11 might go into closed session.

12 CHAIRMAN CATANACH: I'm sorry?

13 COMMISSIONER BALCH: We didn't say we might
14 go into closed session to discuss any of this.

15 CHAIRMAN CATANACH: Okay. So it's not on
16 the agenda; is that correct?

17 MS. BADA: There is "other business" on the
18 agenda.

19 CHAIRMAN CATANACH: So is that considered
20 other business, Counselor?

21 MS. BADA: Yes. Yes.

22 CHAIRMAN CATANACH: Okay. So we're safe?

23 MS. BADA: Yes.

24 CHAIRMAN CATANACH: COG, again, filed an
25 application for rehearing.

1 And you (indicating) were not involved.

2 Well, you were -- no, you were not involved,

3 Commissioner Martin --

4 COMMISSIONER MARTIN: No.

5 CHAIRMAN CATANACH: -- in the original
6 case. You missed a lot of fun.

7 COMMISSIONER MARTIN: I'm sure.

8 CHAIRMAN CATANACH: I did, just this
9 morning, receive Nearburg's response to COG's
10 application for rehearing, and I have not had a chance
11 to read it.

12 COMMISSIONER BALCH: Well, it's a
13 conclusion statement that is relatively short.

14 CHAIRMAN CATANACH: You already read it?

15 COMMISSIONER BALCH: Yeah, I did. It says
16 our decision is proper and was made in accordance with
17 applicable laws, supported by substantial evidence, and
18 it's not arbitrary or capricious, which are some of
19 COG's arguments. And they think, of course, that we
20 should deny the rehearing.

21 I was not convinced, in reading the COG
22 application for rehearing, that it added anything new to
23 our discussion. That was a really complex set of
24 deliberations that we had, and it really regarded
25 jurisdiction. They're basically claiming we do have

1 jurisdiction -- sole jurisdiction for administrative
2 actions, and then in some of those components of the
3 order, that we could have actually made a determination
4 and not passed it off to the later date of the appeals
5 court.

6 COMMISSIONER MARTIN: I'm familiar with the
7 details of the case, and I agree with your original
8 ruling -- the Commission's original ruling, that you do
9 not have jurisdiction.

10 COMMISSIONER BALCH: I was just getting to
11 that. And to kind of sum up, I didn't see anything to
12 change my mind about how we had determined the outcome
13 of that.

14 CHAIRMAN CATANACH: I think one of COG's
15 main concerns is that -- and I may be wrong on this. I
16 think in the original Division order, there was a
17 finding that COG had a good-faith belief that they had
18 an agreement in place. And I think in the subsequent
19 Commission order, I think we did not support that or put
20 that in there, and I think that was one of their
21 concerns. And I think that goes to the district court
22 action. I don't know how that affects -- it may help
23 them in the district court action, but I still don't
24 feel that we can make that determination in the case.

25 COMMISSIONER BALCH: I didn't either.

1 CHAIRMAN CATANACH: So I'm not sure that --
2 you know, I still believe that at this point I don't
3 think that we can take any action because we don't --
4 it's all up in the air as to what -- who owns what, what
5 kind of interest it is. You know, I just don't think we
6 can -- I just don't think that rehearing the case would
7 do any good until such time as we know what exactly is
8 going on out there with the interest.

9 COMMISSIONER BALCH: I think the contract
10 law needs to be sorted before we can take care of our
11 part.

12 COMMISSIONER MARTIN: I agree.

13 CHAIRMAN CATANACH: So I guess I would --
14 should we vote on that?

15 MS. BADA: You don't say take any action,
16 so I wouldn't.

17 COMMISSIONER BALCH: Normally, it would
18 just go to you, and you take the action.

19 CHAIRMAN CATANACH: Yeah, that's true. My
20 opinion is that we should not re-hear it, and I think
21 that's --

22 COMMISSIONER BALCH: So is there a motion?

23 COMMISSIONER MARTIN: I move that we should
24 not re-hear it.

25 COMMISSIONER BALCH: Second.

1 CHAIRMAN CATANACH: All in favor?

2 (Ayes are unanimous.)

3 CHAIRMAN CATANACH: Okay. Motion to deny
4 the application of COG for a rehearing in that
5 particular case -- in those particular three cases is
6 passed.

7 Is there any other business on today's
8 docket, Commissioners or Counselor?

9 MS. BADA: (Indicating.)

10 CHAIRMAN CATANACH: Okay. The next meeting
11 is July 13th. It looks like we have two rule changes on
12 that docket, it looks like we have a contested SWD case,
13 and I think that's all. I don't know exactly the
14 duration of what that hearing is going to look at. But
15 are you available on the 14th?

16 COMMISSIONER BALCH: For extra days? I was
17 just going to look at that.

18 CHAIRMAN CATANACH: Are you available,
19 Commissioner Martin --

20 COMMISSIONER MARTIN: I am.

21 CHAIRMAN CATANACH: -- in case it goes two
22 days?

23 COMMISSIONER BALCH: Yeah. I'm available
24 on the 14th.

25 CHAIRMAN CATANACH: So that's good to know.

1 It may possibly go into that. At this point I don't
2 know if it will, but we'll all be available, it looks
3 like.

4 Anything further?

5 If there is nothing further of this
6 Commission meeting, we are adjourned.

7 Thank you.

8 (The proceedings conclude, 10:48 a.m.)

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1 STATE OF NEW MEXICO
2 COUNTY OF BERNALILLO

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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

21

M. Hankins
MARY C. HANKINS, CCR, RPR
Certified Court Reporter
New Mexico CCR No. 20
Date of CCR Expiration: 12/31/2017
Paul Baca Professional Court Reporters

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