

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

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

IN THE MATTER OF PROPOSED AMENDMENTS                      CASE NO. 15738  
TO THE COMMISSION'S RULE ON RULEMAKING,  
19.15.3 NMAC.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

COMMISSIONER HEARING

September 21, 2017

Santa Fe, New Mexico

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

             This matter came on for hearing before the  
New Mexico Oil Conservation Commission on Thursday,  
September 21, 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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APPEARANCES

FOR THE NEW MEXICO OIL CONSERVATION COMMISSION:

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(9:13 a.m.)

1                   CHAIRMAN CATANACH: At this time I will  
2 call Case 15738, in the matter of proposed amendments to  
3 the Commission's rules on rulemaking, 19.15.3 NMAC.

4                   At this time I will call for appearances in  
5 this case.

6                   MS. BADA: Cheryl Bada on behalf of --  
7 counsel for the Oil Conservation Commission, and one  
8 witness, William Brancard.

9                   CHAIRMAN CATANACH: Any other appearances?  
10                   No other appearances today.

11                   May I have the witness stand and be sworn  
12 in at this time, please?

13                   WILLIAM BRANCARD,  
14 after having been first duly sworn under oath, was  
15 questioned and testified as follows:

16                   DIRECT EXAMINATION

17 BY MS. BADA:

18           **Q. Please state your name and place of employment**  
19 **for the record.**

20           A. My name is William Brancard. I'm general  
21 counsel for the New Mexico Energy, Minerals and Natural  
22 Resources Department in Santa Fe.

23           **Q. What role did you play in these proposed rule**  
24 **changes?**

25           A. I drafted the proposal that is in front of the

1 Commission right now.

2       **Q. Can you please describe the proposed rule**  
3 **changes and the reasons for those changes?**

4       **A. I will.**

5               This proposal has, sort of, three reasons  
6 behind it, the various changes in here. There are two  
7 statutory changes that we need to update our rule on  
8 rulemaking to coincide with. One is, the larger changes  
9 are due to House Bill 58 or Chapter 137, the laws of  
10 2017 -- you'll see references to it -- which are  
11 amendments to the State Rules Act that were adopted this  
12 year by the legislature that came up with a uniform  
13 process for adopting rules covering all state agencies.

14              The second provision is, two years ago, we  
15 made a change to the Oil and Gas Act that's codified at  
16 70-2-12.2, which created a process for the adoption of a  
17 rule by the Commission and then how that rule can be  
18 appealed to the courts. It filled a gap in the Oil and  
19 Gas Act.

20              And third, since we were looking at this  
21 rule on rulemaking, I have proposed a few what I would  
22 call discretionary changes the Commission can make to  
23 its process. On the one hand, House Bill 58 sort of  
24 complicates our process a bit. I tried to look at other  
25 ways of our existing process to simplify them to go

1 along with that. So I will try to explain it. I know  
2 the Commission expressed this request at the last  
3 meeting. I will try to make clear to you when we're  
4 talking about statutory change and when we're talking  
5 about a discretionary change of the Commission. And it  
6 turns out they're kind of -- each section, so it is one  
7 or the other largely. So it's easy to figure out where  
8 we are.

9                   Let me just explain. We have six exhibits  
10 for you-all to look at. The first one is House Bill 58  
11 or Chapter 137, and that's Exhibit 1. As you can see,  
12 as I said, this is -- what they did to do this change  
13 for uniform rulemaking is they made amendments to what's  
14 called the State Rules Act. The State Rules Act is a  
15 statute that previously had focused on requirements to  
16 file a rule with State Records Center in archives and  
17 also to publish the rule in the New Mexico Register.  
18 And to that statute, there's now been added a whole  
19 series of sections that deal with the process of  
20 adopting the rule, particularly public notice and  
21 hearing and otherwise.

22                   Some of the existing sections of the  
23 statute were amended, and then there were new sections.  
24 Just quickly, I'll point to one thing here in the first  
25 page of Exhibit 1 that will be a big issue all

1 throughout the rule. There is a new definition of the  
2 phrase "provide to the public." And that lists all the  
3 ways, if you're going to give public notice, how you  
4 give public notice, posting on agency Web site, posting  
5 on the Sunshine Portal, sending it to field offices,  
6 sending it by mail, electronic mail, if people request  
7 it, sending to the legislative council. So -- and why  
8 that's important is, the way they drafted the statute,  
9 in a number of places later on in the statute, the  
10 phrase "and the agency will provide to the public"  
11 appears, and that triggers this definition and all the  
12 different ways of notice. So rather than repeat the  
13 notice requirements all through the statute, they just  
14 use this definition to provide the public as a way of  
15 triggering the notice requirements.

16 The second exhibit is the statute that was  
17 adopted two years ago, 70-2-12.2. It's a pretty simple  
18 statute, and I'll talk a little bit more about it later.  
19 I just want to go through the exhibits here quickly.

20 Exhibit 3 is a certificate of compliance  
21 prepared by the Commission clerk that shows we gave  
22 notice in accordance with the statute, not in accordance  
23 with our current rule, because the statute is in effect.  
24 And I think what we're going -- the idea is that for all  
25 rulemakings in the future, we will have one of these,

1 certificates of compliance, so that it's clear that the  
2 notice provisions have been met for every rulemaking and  
3 attached to the notices the items from the newspapers  
4 and the New Mexico Register.

5 This will require on the Commission clerk's  
6 part a lot of items to be careful of, and I think this  
7 is going to be -- this certificate of compliance will be  
8 part of a larger checklist that we'll develop for the  
9 Commission clerk so she can kind of keep track of where  
10 we are in all the processes, the beginning, middle and  
11 end of the process.

12 Exhibit 4 is our original proposal rule  
13 change that we submitted.

14 Exhibit 5, we submitted modifications to  
15 that proposal, and those are highlighted in here. We  
16 found a few little glitches in it, but we also -- what  
17 we're trying to do in this process and we're going to  
18 try to do this with all our rulemakings is we are in  
19 contact with the State Records Center during the  
20 process, sending them drafts of the proposed rule. They  
21 will send comments back to us about their formatting  
22 requirements, their language-usage requirements. And so  
23 we try to make changes so that by the time we get ready  
24 to file a rule, it's in the absolute correct format.  
25 And I'll explain why that's really important later on.

1 So a lot of these changes, like the changes to the  
2 citations, et cetera, are changes in format that the  
3 Record Center requires.

4 And then finally is Exhibit 6, and this  
5 will be the exhibit that I will probably be focusing on  
6 during the testimony. And it's kind of a chart showing  
7 all the changes with -- showing which areas -- what  
8 is -- what is driving the changes in each particular  
9 section, whether it's a statutory change, whether it's  
10 discretionary, a process change.

11 And so let me just quickly summarize then.  
12 What did House Bill 58 do? Its purpose was to provide  
13 uniformity across all state agencies about how to adopt  
14 rules like the Commission, which has its rule on  
15 rulemaking. Other boards and commissions and agencies  
16 have all their own processes. So as you go from one  
17 agency to another, it's not the same process. This  
18 creates a more uniform process against all state  
19 agencies about how all rules are adopted. And it fills  
20 in gaps where agencies don't have rules or the statutes  
21 don't provide about when there is notice and how notice  
22 is given. So it's kind of a minimum set of standards.  
23 But even being a minimum, it has -- it has added to a  
24 lot of what we have in our rules as minimums.

25 As I said, this incorporates the procedures



1 into the Rules Act. It did not, sort of, radically  
2 change how state agencies like the Commission adopt  
3 rules. There is no sort of radical shift to it. There  
4 were a few proposals that would have radically changed  
5 it, requiring the legislature to review rules or, you  
6 know, requiring rules to expire. That was actually  
7 amended during the process. It was put into the bill  
8 and then got pulled out during the legislative process.  
9 Mostly it adds details to notice: How often is public  
10 notice required, who receives the public notice, the  
11 timing of the public notice in the process and deadlines  
12 on when to do things, when before the hearing, how many  
13 days, et cetera, and then deadlines for filing, et  
14 cetera. So there are more deadlines in there.

15               The content of the notice is also sort of  
16 more expansive than what we have traditionally put in  
17 our public notices for rules. So I will go through all  
18 of that and explain it.

19               The statutory change, 70-2-12.2, they say  
20 it's simply to fill in a gap that we did not have in the  
21 Oil and Gas Act for how to appeal a rule. So you had to  
22 go petition for writ of certiorari to district court,  
23 petition the Court to hear the rulemaking. And that is  
24 how each of the Pit Rule rulemaking started. Now the  
25 appeal goes directly to the Court of Appeals. There are

1 also provisions in there about timing, about when to  
2 file the rules, and that -- and that creates -- has  
3 created a bit of a conflict with this new HB 58, and  
4 I'll show in here how we resolve that conflict in the  
5 rule.

6                   It also provides -- the statute also  
7 provides specifically that for a rule to be enacted, it  
8 has to have a hearing before the Commission. The Oil  
9 and Gas Act, the way it's written, basically has this  
10 notion of what's called "the concurrent authority,"  
11 where anything the Commission can do, the Division can  
12 do, and anything the Division can do, the Commission can  
13 do. So even though traditionally the Commission has  
14 been the body that has enacted rules, by statute, the  
15 Division could have gone off and enacted its own rules,  
16 too. This statute changes that and says: For rules  
17 enacted, there has to be a hearing before the  
18 Commission. So the Commission becomes officially what  
19 it's always really been, the rulemaking body under the  
20 Oil and Gas Act.

21                   And so in addition, as I said, there are a  
22 bunch of discretionary changes trying to simplify some  
23 of the processes, particularly in the pre-hearing parts  
24 where we had numerous different types of filings that  
25 were allowed and several different deadlines for those

1 filings. We tried to consolidate them down.

2 We received one public comment. That's  
3 from the New Mexico Oil and Gas Association. They've  
4 requested two changes to the process. I think one of  
5 them we can do. In fact, it may actually further simply  
6 the process. The other change they requested kind of  
7 runs into conflict with some of the changes in House  
8 Bill 58, and I'll explain where that conflict is.

9 Okay. Exhibit 6, I'll start going through  
10 the rules here and what the changes are.

11 I'll start with Section 1 of 19.15.3. And  
12 traditionally we've always listed, for some reason, the  
13 Division as the issuing agency for all of our rules,  
14 even though the Commission is the one that enacts it, so  
15 I just put in both in this case. That also, like I say,  
16 complies with the new statute which requires the  
17 Commission to be the one to hold the hearing on rules.  
18 So we'll probably do this for all rules going forward.

19 Section 3 is the statutory authority, and  
20 in this, we've simply added the authority for these  
21 amendments this year, which is this House Bill 58 and  
22 this new statute, 70-2-12.2.

23 Section 7 definitions. We didn't have any  
24 definitions that were specific to this provision, but  
25 because of the new statute and to sort of simplify some

1 of the process, we decided to reference other statutes.  
2 We used the phrases "proceeding," "proposed rule," and  
3 "rule" throughout this regulation. Those have specific  
4 meanings in House Bill 58 in the State Rules Act. So we  
5 tell people to go look at the State Rules Act. They  
6 don't tell you exactly what that is. And then we can  
7 also just use that term all through this rule to make it  
8 consistent.

9 Two terms that have been used in this rule  
10 previously and are used in the new rule, we decided to  
11 define here just to avoid issues and to allow us to use  
12 those terms more consistently through the rule. One is  
13 "party," and the other is "technical testimony." And  
14 right now we say that party is "the applicant or any  
15 person who files a pre-hearing statement or entry of  
16 appearance." One of NMOGA's comments is about it isn't  
17 necessary to have this "entry of appearance" provision  
18 anymore. So when we get to that section, I'll tell you  
19 the arguments for NMOGA's provision, and we may just  
20 want to drop out "or entry of appearance" in this  
21 definition because it may become unnecessary the way  
22 NMOGA has proposed their amendment.

23 "Technical testimony." It's a phrase  
24 that's in the current statute and the current rule, but  
25 it is not defined. So, sort of, this phrase comes,

1 actually, from other boards and commissions that have  
2 used this concept of technical testimony, the  
3 Environmental Improvement Board, the Water Quality  
4 Control Commission. Their rules have a specific  
5 definition of what technical testimony is. I basically  
6 copied what that is. So in the pre-hearing statement,  
7 you're required to, you know, specify your witnesses who  
8 will give technical testimony. This tells people what  
9 technical testimony is.

10               So Section 8 is not -- the changes in  
11 Section 8 are not required by statute. This is, sort  
12 of, the first attempt to try to simplify, if you agree,  
13 on the process we have leading up to a hearing on a  
14 rule. Now, right now there are two different ways of  
15 triggering a rulemaking under this rule. You can either  
16 file a petition with the agency, and then the Chair  
17 evaluates the petition, and then there is a period of  
18 time in which the Commissioners are sent the petition  
19 and they can ask for a meeting on the petition, and if  
20 not, the director can go ahead and act on the petition.

21               There is also a second way of getting a  
22 rule done, which is what we did with this rule, which is  
23 where you specifically come to the Commission and ask  
24 for an order from the Commission initiating a  
25 rulemaking. Okay?

1                   What I proposed here is to sort of put this  
2   in -- squash it into one process, where -- and this is  
3   more similar, again, to what some other agencies do,  
4   where there is a petition for rulemaking and they define  
5   what is supposed to be in that petition, which is  
6   basically what we already have in the petition  
7   proceedings here. And then, basically, you set it for  
8   the next Commission meeting to review that petition, and  
9   then the Commission decides whether to have a hearing  
10   and when and any procedures you want to use at the  
11   hearing. So that's -- that's the new process that we  
12   provided in Subsection A.

13                   MR. WADE: Can we ask questions as we go  
14   along or --

15                   CHAIRMAN CATANACH: I'm thinking about  
16   that. That might be an easier way to do it.

17                   THE WITNESS: Yeah. Sure, because there  
18   are different reasons for each of these sections, so,  
19   you know, that might be a good idea.

20                   MR. WADE: And may I ask questions if I  
21   have questions?

22                   CHAIRMAN CATANACH: Yes.

23                   MR. WADE: The only part on this section is  
24   "any person." Do you think that "person" is something  
25   that needs to be defined, or is it something that people

1 will understand, that entities such as the Commission  
2 may file application? Because the part that is being  
3 taken out talks about the Division, an operator, a  
4 producer or any other person, so it kind of self-defines  
5 itself. Whereas, maybe somebody might read just  
6 "person" as an actual person and not necessarily an  
7 entity.

8 CHAIRMAN CATANACH: "Person" is defined in  
9 House Bill 58.

10 THE WITNESS: It may actually be defined in  
11 the Commission's rules (reading).

12 Yeah, you're right. "Person" is defined in  
13 House Bill 58. So it's "individuals, associations,  
14 partnerships, companies, political subdivisions and  
15 corporations." It's fairly broad.

16 MR. WADE: Oh, and it is defined in Part 2  
17 of 19.15.2. A person is defined as an individual or  
18 entity.

19 THE WITNESS: So those definitions would  
20 apply.

21 MR. WADE: And I just -- I had one really  
22 minor thing all the way back in proposed Section 1. Is  
23 there really a point in keeping "Oil Conservation  
24 Division" in that sentence if they -- if what we're  
25 saying is the new rule would bar the Division from

1 initiating and hearing -- not initiating, but hearing  
2 rulemaking?

3 THE WITNESS: It could. You could change  
4 all of your rules, which is literally what happens, is  
5 that the Commission does issue the rules. I don't know  
6 why, historically, going way back when, it was always  
7 listed as the Division when, in fact, it is the  
8 Commission making the --

9 CHAIRMAN CATANACH: So that is the intent  
10 of your changes, is to eliminate the Division's  
11 authority to do that?

12 THE WITNESS: I mean, I think -- I think  
13 the new statutory change does do that, if you wanted to  
14 say that, that the Commission would be -- because the  
15 Commission is the one who literally does file it with  
16 the Records Center and the New Mexico Register. You  
17 sign -- the Chair signs on behalf of the Commission as  
18 the agency submitting the rule. So yeah, that would be  
19 fine. Just make it the Commission.

20 CHAIRMAN CATANACH: Do we need to --  
21 Counsel, do we need to vote on these changes as we go  
22 along?

23 MR. WADE: I think procedurally that would  
24 be up to you. It seems like -- I would -- it makes  
25 sense to ask questions regarding this and then doing a



1 vote at the end of all of them.

2 COMMISSIONER BALCH: Make a list, and at  
3 the end -- because some of these may have issues that  
4 come back.

5 CHAIRMAN CATANACH: Okay. Okay. I'm  
6 sorry, Mr. Brancard. Were you done with Part A?

7 THE WITNESS: No.

8 CHAIRMAN CATANACH: You may continue with  
9 your --

10 THE WITNESS: I wanted to -- changes in B,  
11 the focus is on having -- anybody who will submit the  
12 petition, they need to submit electronic copies, and  
13 that would then be used as a way for the clerk to  
14 communicate the petition to Commission members, rather  
15 than somebody having to walk into the clerk's office  
16 with a stack of six documents.

17 And then in C, it's sort of the timing on  
18 when the Commission would act on this proposed --  
19 whether to have a proposed hearing. And then it also  
20 gives the Commission flexibility at that time if they  
21 want to set any other procedures in addition to this or,  
22 say, expand the notice period or sort of allow other  
23 procedures. It gives the Commission the latitude to  
24 adopt a procedural rule.

25 Probably the last sentence is sort of the

1 most important. I mean, it also gives the Commission  
2 the authority to appoint a hearing officer. It assumes  
3 that the Chair is the hearing officer, but the  
4 Commission can, if the Chair is, say, unavailable for  
5 the meeting, appoint one of the other Commissioners to  
6 be the hearing officer for that particular hearing.

7 But more importantly, the last sentence  
8 gives what we sort of understood but never really wrote  
9 out the authority to the Chair before the hearing to  
10 deal with procedural matters that come up. You have  
11 this specifically written in your adjudicatory rule, but  
12 it was never specifically written in the rulemaking.  
13 You kind of worked on the assumption that the Chair has  
14 that authority, but this explicitly gives that authority  
15 to the Chair. If there are any procedural matters that  
16 come up before the hearing, the Chair can deal with them  
17 without having to bring the whole Commission involved.

18 CHAIRMAN CATANACH: So I had a question.  
19 Are you done?

20 THE WITNESS: Yes.

21 CHAIRMAN CATANACH: So this seems to add  
22 another layer to the process, though. When we get an  
23 application for rulemaking, it seems like we have to  
24 have a Commission hearing to determine whether or not we  
25 want to actually hear the rulemaking case.

1 THE WITNESS: Uh-huh.

2 CHAIRMAN CATANACH: That's not the  
3 procedure now. So it's kind of adding a step, my  
4 interpretation.

5 THE WITNESS: Yes.

6 CHAIRMAN CATANACH: And just for  
7 clarification on the hearing officer part, tell me about  
8 that again. If I designate somebody else to take --

9 THE WITNESS: Well, so at the meeting, when  
10 the Commission decides that they're going to have a  
11 hearing in two months on this rule, they can issue other  
12 kinds of -- the Commission can order other kinds of  
13 procedural orders. One would be if they wanted to have  
14 a hearing officer other than the Chair to run the  
15 hearing. Say you were unavailable in two months for the  
16 hearing and you wanted to have somebody else as the  
17 hearing officer. The Commission could do that.

18 You-all have worked sort of fairly  
19 informally over the years in the old style of a board or  
20 commission, which is you run your own hearings; the  
21 chairman runs everything, you know. Many boards and  
22 commissions have evolved into a different setting, where  
23 they have outside hearing officers or professional  
24 hearing officers run hearings. This gives you the  
25 latitude to do that. There is no reason for you to do

1 it unless you really need to, you know, but it gives you  
2 the latitude. It doesn't necessarily have to be the  
3 Chair at all times to be the hearing officer for a  
4 particular hearing. But it's understood, in the absence  
5 of the Commission making that decision, the Chair is the  
6 hearing officer.

7 CHAIRMAN CATANACH: And it also gives me  
8 the flexibility as Chair to deal with any issues  
9 pre-hearing --

10 THE WITNESS: Right.

11 CHAIRMAN CATANACH: -- conferences, that  
12 kind of thing?

13 THE WITNESS: Yes.

14 COMMISSIONER BALCH: It takes away your  
15 ability to say no. More than that, we're not going to  
16 hear this before it comes to a whole Commission; is that  
17 correct?

18 CHAIRMAN CATANACH: Well, I think the way  
19 it works now is that the Commissioners are supposed be  
20 to be provided a copy of the rule change, and if  
21 anybody -- any of the Commissioners can object to the  
22 rule change if they wish; just let us know. Then we  
23 wouldn't schedule it for a hearing. I believe that's  
24 the way it works.

25 THE WITNESS: Right. If you look at the

1 language, which in C it's been crossed out, you can see  
2 that basically ten business days after the clerk  
3 delivers a copy of the petition to the Commissioners --  
4 in other words, you-all have the ability, the other  
5 Commissioners, at that point to say, Hey, I want to have  
6 a meeting to discuss whether we should hold this or not.  
7 Okay? If nobody says anything and if the Chair thinks  
8 it's okay to go ahead after those ten business days, the  
9 Chair can then schedule the hearing.

10 Now, like you said, if the Chair wants to  
11 not hold the hearing, the Chair then has to schedule a  
12 meeting of the Commission to make that decision not to  
13 hold the hearing.

14 So the only way you can act without a  
15 meeting at this point is if nobody objects and the  
16 Chair's okay with it. Then the Chair just schedules the  
17 hearing date. That's the way the system works. So  
18 there is -- there is a -- there is a lag where the Chair  
19 can act and set a meeting, ten business days, that  
20 likely would be about the same time probably as the next  
21 Commission meeting, you know. So it's not a big -- it's  
22 a different step, but it's not necessarily a big change  
23 in time.

24 CHAIRMAN CATANACH: And does that have to  
25 be advertised to be on that agenda?

1 THE WITNESS: Yeah. You would just  
2 petition for rulemaking, you know.

3 COMMISSIONER BALCH: About a third of the  
4 time, it'll push it to the next meeting --

5 THE WITNESS: Yeah.

6 COMMISSIONER BALCH: -- because of the  
7 ten-day wait.

8 CHAIRMAN CATANACH: Does that have to be  
9 noticed?

10 THE WITNESS: It would just be on the  
11 docket. It doesn't have to be noticed separately like  
12 an adjudicatory or rulemaking.

13 COMMISSIONER BALCH: That's just a  
14 discussion.

15 THE WITNESS: It's just a discussion item  
16 on the agenda.

17 CHAIRMAN CATANACH: Okay.

18 MR. WADE: I have a question, if I can.

19 Is there a different part of the rule that  
20 discusses the procedural part of appointing a hearing  
21 officer and how that whole process might work?

22 THE WITNESS: No. This is it.

23 MR. WADE: How do you see that process  
24 working? If a hearing officer is appointed, they hear  
25 the case, and then does the Commission then convene to

1 discuss what the hearing officer heard and make a final  
2 ruling on that, or does the hearing officer at that  
3 point basically take over and make a ruling, a decision?

4 THE WITNESS: Well, all of that -- the  
5 decisions about all of that would be encompassed in an  
6 order the Commission would issue. I mean, having a  
7 different hearing officer, at this point the most I  
8 could imagine would be, like I said, two months from now  
9 the Chair said, I'm going to be gone for a chunk of time  
10 now and then; it would be better if one of you was the  
11 hearing officer for this hearing, hear the matters when  
12 I'm gone. So the hearing officer could be another  
13 commissioner. So nothing changes. You still have the  
14 same hearing. It's just that somebody else gets to act  
15 as the hearing officer before the hearing in case any  
16 procedural matters come up. I mean, the Commission has  
17 never really, to my knowledge, considered using an  
18 outside hearing officer, so I don't see that happening  
19 in the near future.

20 MR. WADE: And even if that was the case,  
21 the Commission could issue, basically, a procedural  
22 order.

23 THE WITNESS: That's what this  
24 contemplates. If you're going to appoint a hearing  
25 officer, it's going to be in an order, because that

1 order is going to set when the hearing date is and who  
2 the hearing officer is.

3 CHAIRMAN CATANACH: Any other questions?

4 THE WITNESS: Okay. Section 9. These  
5 changes are entirely to deal with the new statute, House  
6 Bill 58, which sets, as I said, a whole new list of who  
7 receives the public notice and the timing of the public  
8 notice, and it also defines what the notice should  
9 contain. So the language that's -- the new language in  
10 Section 9 is taken almost verbatim from the new statute.

11 One exception to that is, interestingly  
12 enough, the new statute does not require that public  
13 notice be published in a newspaper, which traditionally  
14 the Commission has done. So that, if you look on A(6),  
15 we've kept that in there. So everything before that  
16 little phrase at the end comes out of the act. We've  
17 left in the newspaper general circulation because that  
18 is what this Commission has always done, and most  
19 entities in the state do. But, interestingly enough,  
20 the statute does not require newspaper publication.

21 CHAIRMAN CATANACH: How does that -- how is  
22 that reconciled? I mean, does it assume that the public  
23 is going to get notice through the Sunshine Portal or --

24 THE WITNESS: Yeah, and that people who are  
25 interested will be on a mailing list, et cetera, and the



1 New Mexico Register, which is online. I don't know how  
2 many people look at the New Mexico Register, but it is  
3 online.

4 CHAIRMAN CATANACH: Huh. Okay.

5 THE WITNESS: Now, the impact of these  
6 changes -- these statutory changes is that the time  
7 frame for rulemaking will expand. Okay? Your current  
8 rules say, you know, you've got to publish in the  
9 newspaper 20 days prior to the hearing date, publish in  
10 the New Mexico Register ten business days before the  
11 hearing date. Okay? This requires a 30-day period for  
12 public notice -- getting all the public notice out. The  
13 one that is tricky is the New Mexico Register because  
14 it's only published twice a month, and you have to  
15 submit the notice to them often like 12 or 13 days in  
16 advance, with a whole series of deadlines. So the  
17 reality with the New Mexico Register is you're looking  
18 at more like 45 days, maybe even 60 days.

19 So, I mean, I think the practical effect is  
20 going to be that when you get this -- when you have the  
21 meeting to decide on the hearing, you're going to have  
22 to sit there with a calendar, literally. Florene may  
23 have a calendar that says, "These are the Register  
24 deadlines." Okay? You know. We can't get it done by  
25 next month, 30 days won't make it, so two months from

1 now might work if we make this Register deadline or  
2 notice. So it's just sort of a practical thing of  
3 making these deadlines. And we may actually -- going  
4 forward in setting Commission dates for the year, we may  
5 need to be a little cognizant of what the Register  
6 deadlines are and setting commission meetings, so we  
7 have set up a practical approach to that. They send out  
8 a yearly schedule of their deadlines for publication,  
9 and we can plan in advance for that.

10 But that's -- that's the practical effect.  
11 I mean, the notion of saying today, Oh, we're going to  
12 have a hearing next month, that can't happen. It's got  
13 to be at least two months, with the rule.

14 COMMISSIONER BALCH: So given that added  
15 complexity, it might be more of a procedural thing for  
16 Florene. She typically sets our schedule by email. I'm  
17 wondering if we ought to make that an item on the  
18 December docket instead, because we're adding moving  
19 parts to that.

20 MS. DAVIDSON: We could.

21 CHAIRMAN CATANACH: Well, we can do that.

22 THE WITNESS: And by December, the Records  
23 Center will have their next year's list of deadlines  
24 out, so you can kind of, sort of, have that in the back  
25 of your head, too, when you're looking at the dates.

1                   CHAIRMAN CATANACH: Sometimes it's  
2 difficult to do it in December. We have to change  
3 certain dockets throughout the year so --

4                   COMMISSIONER BALCH: I think they do get  
5 changed, but --

6                   THE WITNESS: That's going to happen.

7                   COMMISSIONER BALCH: -- but we're supposed  
8 to set up scheduling.

9                   CHAIRMAN CATANACH: Right. Right.

10                  THE WITNESS: So B deals with the content  
11 of the notice. A lot of that's what we normally put in  
12 the notice, but there are a few things that are new.  
13 You have to cite to the specific legal authority  
14 authorizing the proposed rule. So something like this  
15 rule, that was easy because we're specifically dealing  
16 with two statutory changes. But in most cases, like,  
17 say, for this Commission, it would be something in  
18 reference to those provisions in the Oil and Gas Act  
19 that say, "Adopt rules on injection wells; adopt rules  
20 on protection of fresh water."

21                  The other -- the other thing that is new  
22 and will be a little bit of a challenge is the last  
23 provision, where you have to have a citation to  
24 technical information that serves as a basis for the  
25 proposed rule. So for something like this, where we're

1 just working off of the statutes and making policy  
2 choices, that's not really -- but when you get into  
3 wanting to change some of the technical requirements  
4 that the Commission has in the rule -- and we'll put an  
5 onus if it's the Division coming forward with the  
6 proposed rule change on sort of identifying were there  
7 studies or documents that they used as a basis for this  
8 rule change? And when they submit their petition, they  
9 should be identifying those because those things will  
10 need to be referenced in this public notice.

11 COMMISSIONER MARTIN: This presupposes that  
12 that technical documentation exists?

13 THE WITNESS: Yeah.

14 COMMISSIONER MARTIN: You don't have to  
15 say -- a lot of times public information comes from the  
16 hearing itself, and there are not entire studies.

17 THE WITNESS: Right. And so often even  
18 when you're dealing with technical issues, you're  
19 making, basically, policy choices, you know, about  
20 deadlines and et cetera. But to the extent there is  
21 technical information, you know, you can't really wait  
22 until the hearing anymore. You kind of have to identify  
23 that at the time you submit a petition. So it puts a  
24 little more onus on the petitioners, whether it's the  
25 Division or it's an outside group proposing a rule

1 change. So --

2 CHAIRMAN CATANACH: So in that notice, you  
3 don't have to -- you don't have to include that in the  
4 notice. You just have to say where you can access it?

5 THE WITNESS: Right. Right.

6 CHAIRMAN CATANACH: And we can probably  
7 post that on our Web site or something like that?

8 THE WITNESS: Yes.

9 And, in fact, part of complying with this  
10 rule, we have now created -- oh, I think we've always  
11 had it. But there is a separate section on the OCD Web  
12 site that just deals with rules. So whenever there is  
13 something in here that says it has to be posted on the  
14 agency Web site, whether it's a notice, whether it's a  
15 filing with the Records Center, whether it's a final  
16 rule, there is -- for each of these rulemakings, there  
17 will now be its own little box that shows all the  
18 requirements in there. And if there was technical  
19 information, that would be the perfect place to put it.

20 COMMISSIONER MARTIN: Don't these seven  
21 pieces of information have to go in all the notice  
22 forms -- format, or is that not true?

23 THE WITNESS: Well, I think you have to --  
24 you have say, We have documents, you know, or maybe name  
25 the document or whatever in the notice, and say: A copy

1 of the document can be obtained --

2 COMMISSIONER MARTIN: Oh, I see what you're  
3 saying.

4 THE WITNESS: -- at this Web site or this  
5 location.

6 And I think the other idea is that the  
7 legislature intended that what's called the Sunshine  
8 Portal also will be a place where all these notices and  
9 information will be available. I don't know if you-all  
10 are familiar with the state Sunshine Portal. But they  
11 have yet to develop this specific portal for rulemaking.  
12 They're in the process of doing that. Hopefully, that  
13 will be a place where agencies can upload information,  
14 and it would be publicly available just like there  
15 are -- right now you can find information on employees'  
16 salaries, on contracts, various items of government on  
17 the Sunshine Portal. There will be a thing on  
18 rulemaking, a box, for rulemaking.

19 Anything else for this section?

20 CHAIRMAN CATANACH: I think we're done.

21 Any other questions?

22 Yup.

23 THE WITNESS: So Section 10. First the  
24 easy change, which is, we had, through these rules, lots  
25 of references to faxes and facsimiles, but we're not

1 getting anything by fax. It's not really being used.  
2 And it's not required, under this House Bill 58,  
3 anything to do with faxes, so we've eliminated  
4 references to faxes. It's either written documents or  
5 electronic.

6 COMMISSIONER BALCH: Facsimile would follow  
7 electronically, so --

8 THE WITNESS: So the bigger change in  
9 here -- and this is the change that NMOGA has commented  
10 on -- is individuals submitting written comments to the  
11 Commission currently must submit them "no later than  
12 five business days before the hearing." We're proposing  
13 to change that to "no later than the date of the  
14 hearing." Okay? There are several reasons why -- NMOGA  
15 does not want to see this change, and their argument is  
16 it's better for the Commission to have these documents  
17 and for the other parties to have the documents in  
18 advance.

19 Right now, we currently -- if you look at  
20 10 versus 11(B), we have this, sort of, odd little  
21 contradiction, where we're saying to people, If you're  
22 just going to submit a comment in writing, fax it to us,  
23 email it to us, mail it to us, you've got to submit it  
24 five business days. But if you just show up at the  
25 hearing, under 11(B), and say, Hi, I'm here, I don't

1 like this rule, here's my written comment, that's fine.  
2 So, you know, it's the same comments, but it's -- I  
3 guess if you make the effort to show up, you can do it  
4 at the hearing, but if not, you would have to do it five  
5 business days beforehand.

6 Now, the real problem with keeping the  
7 five-business-day deadline is that it runs straight into  
8 House Bill 58, because House Bill 58 has two 30-day  
9 notice provisions at this time. One is kind of odd.  
10 One says you have to provide notice 30 days before the  
11 hearing, but then another says you have to give a 30-day  
12 written comment period for any kind of comments  
13 submitted to the agencies, and you have to allow people  
14 to walk into the hearing and provide any kind of written  
15 comments.

16 So we have a 30-day comment period for  
17 written comments. And right now, our notice provision  
18 that we have in the rule says you have to provide notice  
19 30 days before the hearing. So by having the written  
20 comment period in 30 hearing [sic] deadline follow the  
21 same 30 days, we're fine. But if we go back to the  
22 five-business-days deadline for the written comment, now  
23 we've got to move out that five business days on the  
24 notice because you have to provide a 30-day period for  
25 written comments. So it effectively will add five



1 business days, and we'll have to change the whole notice  
2 rule to make that work for this. So that's -- that's  
3 sort of where -- I mean, I think the statute, House Bill  
4 58, assumes that your 30-day comment period for written  
5 comments is the period that's during the 30 days before  
6 the hearing, which is what we changed -- proposing to  
7 change the rule to.

8               So that's where I think, you know, NMOGA's  
9 offered to keep the rule the way it exists now, or it  
10 runs into problems with the requirements of House Bill  
11 58.

12              If we were to keep this language in here  
13 about five business days, we would have to change the  
14 notice rules to change -- in Rule 9 to expand out when  
15 the notice trigger is. It would probably be at least 37  
16 days before the hearing. And that's why, you know, we  
17 have concerns with when NMOGA proposal is to keep five  
18 business days in. It just makes it easier, 30-day  
19 notice period; it covers also the 30-day comment period.

20              CHAIRMAN CATANACH: So you're recommending  
21 that we not adopt NMOGA's changes?

22              THE WITNESS: Yes, for this one. There is  
23 another change later on that I will say we go with.

24              CHAIRMAN CATANACH: Correct me if I'm  
25 wrong, but the procedure now is we allow public comment

1 on rulemaking without refiling.

2 THE WITNESS: Yes, nontechnical.

3 CHAIRMAN CATANACH: Right.

4 THE WITNESS: So if somebody comes in and  
5 says, I don't like that; here's a letter from the mayor  
6 of Jal backing me up --

7 CHAIRMAN CATANACH: Right.

8 THE WITNESS: -- that becomes part of the  
9 record. You can do that. But if the mayor of Jal  
10 wanted to just mail that in, he'd have to mail that in  
11 five business days before the hearing for it to become  
12 part of the record. So that's sort of a contradiction  
13 we have in our current rule, you know.

14 CHAIRMAN CATANACH: I guess I wouldn't be  
15 too concerned about comments being submitted the day of  
16 the hearing. Those are not -- they're certainly taken  
17 into consideration, but it's not technical evidence.

18 THE WITNESS: We don't get a lot of them.

19 CHAIRMAN CATANACH: Occasionally we do.

20 COMMISSIONER MARTIN: Even if we don't,  
21 they're still part of the record, something for the  
22 record.

23 CHAIRMAN CATANACH: Right. And I think  
24 NMOGA's argument is that they don't have time to  
25 prepare, I guess.

1 COMMISSIONER BALCH: But it's a comment.  
2 It's not testimony.

3 COMMISSIONER MARTIN: No.

4 COMMISSIONER BALCH: Per se, it's really  
5 not technical testimony.

6 CHAIRMAN CATANACH: Yeah.

7 MR. WADE: That kind of raises a question.  
8 I don't see that "comment" is really defined. Do you  
9 think that it's important to define it to state  
10 whether -- because later on in the rule, there is talk  
11 about nontechnical testimony and technical testimony. I  
12 don't know. Do you see an issue with "comment" not  
13 being defined as being technical or nontechnical?

14 THE WITNESS: No. I think what you might  
15 want to look at is 11(C), which is your authority to  
16 exclude witnesses or technical acceptance not identified  
17 or attached to the pre-hearing statement.

18 MR. WADE: So in other words, if a comment  
19 was purely technical in nature, the Commission could  
20 identify it as such and not make it part of the record.

21 THE WITNESS: It gives the Commission that  
22 authority, that discretion to do that. They don't have  
23 to do that. It gives them the discretion. So if a  
24 party -- you know, if somebody comes in with, Here's my  
25 dissertation on this issue, I know I didn't submit

1 myself as a technical witness, and the other parties are  
2 like, Well, we have had no chance to respond to this,  
3 then whatever the Commission -- you know, if it sees  
4 bias to the other parties, you know, and sees that it's  
5 a problem, you have the flexibility to do a lot of  
6 things. You can always leave the record open for  
7 further comments, et cetera, you know. You can cure  
8 this matter a lot of different ways, but one of them is  
9 simply to say, Too late because of the deadline.

10 So to answer Counsel's questions, instead  
11 of just saying "technical exhibits," you could say  
12 "technical exhibits or comments."

13 MR. WADE: Where would the "and comments"  
14 go?

15 THE WITNESS: Just in (3), where it says  
16 "expert witnesses or technical exhibits."

17 MR. WADE: "Or comments" is possible.

18 And I just have one small, I guess,  
19 comment, back in 19.15.3.10, "Comments on Rulemaking,"  
20 the second sentence. Since "person" is defined and  
21 they're both very similar definitions both in the Oil --  
22 or the Division rules and the 14-2 -- 14-4-3 or -- give  
23 me a second. It's 14-4-2, "Definition of Person" and  
24 the rules' definition are very similar. Wouldn't --  
25 "individuals and entities," could we cross that out and

1 put that "a person shall provide written comments"?

2 THE WITNESS: I don't have a problem with  
3 that. Some of our changes are trying to make the  
4 language a little more consistent, and that would serve  
5 that purpose, so I don't have a problem with that  
6 change.

7 CHAIRMAN CATANACH: Where are you at?

8 MR. WADE: 19.15.3.10, as proposed in the  
9 second sentence -- the first sentence starts with "a  
10 person must submit written."

11 CHAIRMAN CATANACH: Right.

12 MR. WADE: But then the second sentence,  
13 which is "individuals or entities," when I think really  
14 what they're talking about is "a person" as defined.

15 CHAIRMAN CATANACH: So you want to change  
16 "individuals or entities" to "persons"?

17 MR. WADE: "A person."

18 CHAIRMAN CATANACH: "A person."

19 MR. WADE: Because it still talks about "a  
20 person" later on within that part of the rule as well.

21 CHAIRMAN CATANACH: I don't know if that is  
22 a proposed change.

23 Anything else on that section?

24 MR. WADE: No questions.

25 CHAIRMAN CATANACH: Okay. 11.

1                   THE WITNESS: Okay. So Section 11 is where  
2 we have all these different ways of submitting  
3 pre-hearing statements. One of them is in 10, which is  
4 that, you know, comment deadline. And then in 11(B), we  
5 have a deadline for notice of intent to present  
6 technical testimony, and then we also have, further on,  
7 a deadline for when to submit proposed modifications.  
8 So we've tried to merge all this into one deadline,  
9 which is a deadline for a pre-hearing statement, which  
10 would be -- a pre-hearing statement would be dealing  
11 with both technical testimony and anybody submitting  
12 proposed modifications. So that's all in one.

13                   What NMOGA has proposed, which actually, I  
14 think, simplifies this even further, is we had --  
15 traditionally had this idea that somebody could enter as  
16 a party simply for the purpose of being able to question  
17 witnesses. So to preserve that, we added this notion of  
18 entry of appearance in C. What NMOGA is proposing that  
19 simply to keep the "or cross-examine witnesses" in B(1),  
20 on the bottom of page 4, in that section, and then we  
21 really don't need the entry of appearance. So there  
22 really is only one document that gets filed before a  
23 hearing, and that's a pre-hearing statement. And you  
24 can use that to either identify your technical  
25 witnesses, to propose modifications to the rule, or to

1 say, I want to be a party with the right to  
2 cross-examine witnesses; I want to enter an appearance,  
3 or you can do any combination of those.

4 COMMISSIONER BALCH: So it proposes to  
5 eliminate Section C?

6 THE WITNESS: Yeah.

7 COMMISSIONER BALCH: And it's duplicative  
8 because they're already talking about appearances in  
9 1 -- or B.

10 CHAIRMAN CATANACH: So everything would be  
11 to due ten business days before the hearing?

12 THE WITNESS: Yeah.

13 CHAIRMAN CATANACH: Entry of appearance or  
14 any other?

15 THE WITNESS: Well, it would be a  
16 pre-hearing statement, and it could serve any of those  
17 three purposes.

18 COMMISSIONER BALCH: There is an extension  
19 of time before a hearing. There should be plenty of  
20 time. It won't be anything that's happening within 20  
21 days, for example.

22 THE WITNESS: Right. And that was another  
23 reason for not having any deadlines be five business  
24 days because now we're going to have a longer notice  
25 period, ten business days. People should have plenty of

1 time to get the notice and get ready for the hearing.

2 CHAIRMAN CATANACH: So the change, Bill,  
3 would be, in Part B(1), to leave that section in,  
4 "cross-examine witnesses at the hearing"?

5 THE WITNESS: Yeah.

6 CHAIRMAN CATANACH: So leave that in there,  
7 "person, including the division, who intends to present  
8 technical testimony or cross-examine witnesses at the  
9 hearing." We'll have to change that up a little bit  
10 after that.

11 THE WITNESS: Yeah, "or to submit  
12 modifications."

13 CHAIRMAN CATANACH: "And/or to submit  
14 modifications." Okay. That takes care of that.

15 And then eliminate C? Just strike C -- all  
16 of Section C?

17 THE WITNESS: Right.

18 CHAIRMAN CATANACH: Commissioners, do you  
19 have any questions on those changes?

20 COMMISSIONER BALCH: I think it makes the  
21 rule a little more tidy.

22 CHAIRMAN CATANACH: Okay.

23 Counsel?

24 MR. WADE: No questions on this.

25 CHAIRMAN CATANACH: Okay. Move on to



1 Section 12. Is that where we're at?

2 THE WITNESS: Yeah.

3 In Section 12, there are very few changes,  
4 but by -- again, by just calling something -- saying  
5 that all you're filing is a pre-hearing statement, we're  
6 able to just use that phrase here to -- and since we've  
7 defined "parties," we can use "parties" in various  
8 places. So the changes in 12 are primarily just to make  
9 more consistent language, except for the last three  
10 sections of 12, which we're now moving into separate  
11 sections, and we'll that discuss later. So cut 12 down  
12 so it just really focuses on the hearing. There were  
13 separate subsections in 12 that dealt with post-hearing  
14 matters. They're now going to have their own sections.

15 CHAIRMAN CATANACH: Where did they come up  
16 with "five additional copies"? I guess that's -- I  
17 don't think we had anything to do with that.

18 COMMISSIONER BALCH: It's probably not a  
19 bad idea to have some additional copies because we have  
20 to stop the hearing for someone to go make copies.

21 CHAIRMAN CATANACH: Right.

22 Okay. So any comments on 12(A), (B) or  
23 (C), or questions?

24 Counsel?

25 MR. WADE: I don't have any questions. I

1 keep kind of going back to this concept of comments, so  
2 I do have a question on that. But we don't necessarily  
3 have to go back to it now, or we could.

4 CHAIRMAN CATANACH: Let's hear it.

5 MR. WADE: Okay. I guess the -- I have a  
6 little concern with talking about excluding comments  
7 within the portion that talks about testimony, and it  
8 makes me wonder what comments are. And it seems to me  
9 that comments are something the Commission can consider,  
10 but they're not evidence. Is that -- do you think  
11 that's a correct interpretation?

12 THE WITNESS: I guess I would disagree  
13 slightly because a rulemaking -- I mean, an  
14 adjudication, you clearly want sworn testimony, you  
15 know, people with the right to question, because  
16 parties' rights are at stake. A rulemaking,  
17 traditionally, is simply an agency taking in all sorts  
18 of information, and that information hopefully helping  
19 it to make a decision on a rule. That's sort of the  
20 traditional view on rulemaking.

21 In New Mexico, this Commission, like a  
22 number of other boards and commissions, has sort of  
23 turned rulemaking into a little more of a, you know,  
24 hearing procedure that looks a little more like an  
25 adjudication, where you have parties, et cetera. But I

1 still think that the Commission is free to consider  
2 whatever comments. I mean, the Commission, at the end  
3 of the day, can listen to all this great information  
4 about how wonderful a rule is and then just say, you  
5 know, We're really not interested. And that's fine, you  
6 know.

7                   And so, you know, it's a policy-making  
8 choice, in a lot of ways, to adopt a rule. So, you  
9 know, you're not -- the parties that are here, whether  
10 it's the Division, you know, industry groups,  
11 environmental groups, they don't have any greater  
12 rights, you know, to make you do something than anybody  
13 else. In the end, it's your policy choices. You're  
14 acting in a quasi-legislative manner when you're  
15 adopting a rule. So a comment, therefore, isn't  
16 something you necessarily sort of say, Well, it's just a  
17 comment. It could be important, you know. I mean, if  
18 somebody comes in with a petition saying, Here's 10,000  
19 people who oppose this rule, oh, that might be a good  
20 comment. They haven't presented any technical  
21 testimony, but, you know.

22                   MR. WADE: I guess I'm still trying to  
23 consider NMOGA's objection to the deleting of "five  
24 business days." And I do understand it, because if you  
25 do get a comment that's very technical in nature, all

1 the parties might benefit, you know, to have the ability  
2 to rebut that at hearing. However, if you're getting it  
3 at hearing, you might not have that opportunity. And,  
4 you know, I know the Commission has the ability to -- to  
5 decide whether a comment is worth considering or not and  
6 so I'm not sure if something needs to be put into that  
7 part of the rule that states that positively or if that  
8 is just something that everybody knows the Commission  
9 has that power and somebody can raise an objection to a  
10 comment, and at that time, the Commission can make a  
11 decision.

12 THE WITNESS: Yeah. I think the latter is  
13 better, because I think there are lots of ways to remedy  
14 this. Now, having said that you can consider comments,  
15 you know, it's also within your power to say, Look, for  
16 us, it's much more persuasive that we had a witness here  
17 presenting testimony we could cross-examine, you know,  
18 of what they said. You know, that is much more  
19 persuasive to us than somebody, you know, submitting a  
20 letter with lots of allegations in it, you know, that we  
21 really didn't have a chance to question them about. So  
22 we can weigh these comments, however.

23 You know, my experience is -- and this  
24 Commission tends to try to just have a hearing and make  
25 a decision, which is great, but there is a lot of

1 flexibility in a rulemaking to cure what you think is a  
2 problem that -- you know, somebody's last-minute  
3 evidence may be prejudicing somebody, to simply say, You  
4 know what, we're going to keep the record open for  
5 another 15 days, 20 days, whatever, to allow people to  
6 respond to this or to provide additional comments on  
7 this section of the rule, et cetera. And so you can  
8 cure, you know, somebody's problem of "I didn't have  
9 enough time" by providing more time.

10 COMMISSIONER BALCH: I can already hear the  
11 opposing lawyer's argument against that. We've had that  
12 come up several times, where something like that has  
13 happened, using comment to sneak in last-minute  
14 testimony. People are surprised by it, and then when  
15 the proposal is to extend the hearing so it can be  
16 addressed, then there is obviously disagreement to that  
17 as well.

18 THE WITNESS: I mean, I think it's a lot  
19 easier in a rulemaking to cure these things by simply  
20 providing more notice. I think, you know, when you're  
21 in adjudication, you have a case and you have somebody's  
22 application at play, or, you know, you want to take an  
23 action against somebody, well, then you've got to  
24 consider somebody's rights, you know. Are their rights  
25 being affected, I guess?

1 But with rulemaking, it's more, well, we  
2 want to know more. It's you sort of saying, Okay,  
3 that's an interesting set of comments that somebody just  
4 submitted; it might be good if we heard, you know, what  
5 everybody else has to say about this, and we're going to  
6 give everybody ten more days to comment on it, you know.

7 MR. WADE: And the Commission would still  
8 have the ability to say, We think these comments are  
9 very technical in nature, and we're not going to accept  
10 them at this time. That could be one remedy as well.

11 THE WITNESS: That could be a remedy.

12 MR. WADE: And I don't think that really  
13 needs to be added. Originally, we had kind of thought  
14 of putting "or comments" into 11(B)(3), but I kind of  
15 feel like it doesn't specifically belong there, and  
16 that's probably a remedy that the Commission has anyhow.

17 THE WITNESS: Yeah. And 10 gives you lots  
18 of flexibility with deadlines for comments.

19 MR. WADE: I think I'm done hammering the  
20 concept of comments.

21 CHAIRMAN CATANACH: I think we can move to  
22 Section 15.

23 THE WITNESS: Okay. 13, 14 and 15 are, in  
24 part, provisions that were currently in Section 12, but  
25 there are also a number of new requirements that come

1 out of both the two statutes that were enacted. So 13  
2 now gives a whole separate section to the Commission's  
3 process for deliberating and the first (A) and (B) are  
4 largely -- taken from the existing rule, so they're  
5 really not new language.

6 We do have a provision about, you know, the  
7 Commission adopting an order, in (C), which is in the  
8 current rule. What we've added is that the statute,  
9 House Bill 58, doesn't require an order. It requires  
10 something called "a concise explanatory statement,"  
11 which actually, by the time they got done with the bill,  
12 is a lot less detailed than what you-all put in an  
13 order. So it's not like there is anything in the  
14 concise explanatory statement that you wouldn't already  
15 have in an order. This just says your order will serve  
16 as a concise explanatory statement. And, in fact, we've  
17 already -- but that statement now -- one of the things  
18 you'll see later on is when we file with the Records  
19 Center, the rule, we have to submit this concise  
20 explanatory statement. So, for instance, in the rules  
21 that you just did last month that we filed recently, we  
22 submitted the Commission's order with the rule to the  
23 Records Center. So that's how we're dealing with that  
24 requirement.

25 There is a reference to a statutory section

1 here on the concise explanatory statement -- we were  
2 sort of assuming by now the Compilation Commission would  
3 have created a new statutory provision, but as of now,  
4 they have not. So what we could do, if we have to file  
5 this before they actually come up with that new  
6 statutory statement is to simply replace that section in  
7 reference to "as required by the State Rules Act," and  
8 that would get us there, too.

9 CHAIRMAN CATANACH: So we'll know that by  
10 the time we take final action on this?

11 THE WITNESS: Hopefully.

12 CHAIRMAN CATANACH: Okay.

13 THE WITNESS: There is a whole section now  
14 in House Bill 58 that deals with terminating a  
15 rulemaking. If you decide to just terminate a  
16 rulemaking, you have to publish a notice about it. You  
17 have to do a whole public notice about terminating. If  
18 you start a rulemaking, put it out for public notice,  
19 and then don't do anything for two years, it's  
20 automatically terminated, under House Bill 58. We've  
21 never had a situation like that. But it's in the  
22 statute, so we have a reference to that in here. So  
23 that's the termination provisions, which is a new, sort  
24 of, concept that's in the legislation.

25 CHAIRMAN CATANACH: So who can file a



1 motion? Can anyone file a motion? Does it have to be a  
2 commissioner to file the motion?

3 THE WITNESS: To terminate the rulemaking?

4 CHAIRMAN CATANACH: Yeah.

5 THE WITNESS: Well, it would be the  
6 Commission's decision, whether you do it on your own  
7 choice or --

8 COMMISSIONER BALCH: Seems like it would  
9 have to be a party.

10 THE WITNESS: Or a party may just ask to  
11 withdraw the rule after they've started the rulemaking,  
12 you know.

13 COMMISSIONER BALCH: Who can make a motion  
14 under Robert's Rules of Order, I guess.

15 THE WITNESS: Anybody can file a motion on  
16 that. Really the issue is: Will the Commission  
17 terminate? If you do, then these things are triggered.  
18 That's the important part.

19 COMMISSIONER BALCH: I think people have  
20 actually done that before during rulemaking. They have.  
21 A lot of those, right at the very beginning, will say:  
22 We propose that you just vacate this whole thing.

23 THE WITNESS: Yeah. Now you would have to  
24 go through a process. You would have to notify the  
25 public that you've terminated it as opposed to, say,

1 what, you know, the Chair signed this morning, an  
2 adjudicatory matter, where he just signs an order of  
3 dismissal to get rid of an adjudicatory thing. Now, in  
4 this case, you would have to do a public notice.

5 CHAIRMAN CATANACH: Okay. Any further  
6 questions on 13?

7 COMMISSIONER BALCH: No.

8 CHAIRMAN CATANACH: Okay. 14.

9 THE WITNESS: 14. Okay. Again, we have a  
10 little bit of a provision about a record in the current  
11 rule. It's mostly about a transcript. But the new  
12 statute is very specific about what a record is, and  
13 that, in fact, even once we have all these things, what  
14 a record should contain, that we're supposed to  
15 eventually send this record up to the Sunshine Portal,  
16 when the Sunshine Portal becomes available, so the  
17 rulemaking record can be put in there. And that would  
18 be all the -- all the publications, all the technical  
19 information, the transcript of the hearing, a copy of  
20 all comments and then the text of the rules.

21 MR. WADE: Just a small editorial change.  
22 It says "Division, Santa Fe Office." It probably should  
23 just say "Commission, Santa Fe Office" or "Commission's  
24 Office."

25 CHAIRMAN CATANACH: So, Bill, I assume that

1   that record would have to be available after the  
2   whole -- everything is completed, after the whole  
3   process is completed, because it talks about the final  
4   rule and --

5                   THE WITNESS: Right. It, presumably, is  
6   when you're done.

7                   CHAIRMAN CATANACH: Okay.

8                   THE WITNESS: I mean, we could treat it  
9   like we treat OCDOnline, where we, sort of, regularly  
10   add things to it, but we want to be careful that we're  
11   hitting all of these things that are in here. Into the  
12   portal. I mean, comments, you won't know what all the  
13   comments are until the comment period is over, and you  
14   won't get the transcript until after the hearing.

15                  COMMISSIONER BALCH: Is Sunshine Portal a  
16   proper noun?

17                  THE WITNESS: You mean should it be  
18   capitalized?

19                  COMMISSIONER BALCH: Yeah.

20                  THE WITNESS: Well, there you're going into  
21   the record-setter's rules on capitalization, where they  
22   kind of follow the legislature's notion of hardly  
23   anything gets capitalized.

24                  MR. WADE: That's why "Commission" and  
25   "Division" throughout this has not been capitalized.

1                   CHAIRMAN CATANACH: Okay. Anything further  
2 on 14?

3                   15.

4                   THE WITNESS: Okay. So 15 is a combination  
5 of the two statutes, what's required for filing with the  
6 Records Center and then the appeal provisions. And so  
7 here's where the conflict occurs.

8                   In 70-2-12.2, the statute says that you-all  
9 adopt a rule -- adopt an order adopting a rule, but  
10 you're not allowed to file the rule until the rehearing  
11 period, which runs for 20 days, is over, if somebody  
12 ever requests rehearing. If they do request rehearing,  
13 then you have to wait until there is a decision on the  
14 rehearing to file the rule. So that's in this new  
15 statute in the Oil and Gas Act. House Bill 58 says once  
16 you've adopted the rule, you have to file it with the  
17 Records Center within 15 days. Okay? And so to make  
18 these two statutes work, we basically are saying in here  
19 that the end of the rehearing period is actually when  
20 the Commission really adopts the rule, that the rule is  
21 not final until the rehearing period has run, because  
22 you-all could come back in and look at it like you did  
23 with the Roswell Artesian Basin.

24                   So to have this rule not conflict with  
25 House Bill 58, we're sort of saying, That's how we're

1 defining "adoption of rule." It's the end of the  
2 rehearing period. That's when the 15-day trigger under  
3 House Bill 58 starts.

4 COMMISSIONER BALCH: Up to 35 days?

5 THE WITNESS: Right.

6 So you have one statute telling you, Delay,  
7 the other statute saying, Hurry up. So we've got to  
8 make them work together. So (A) is the way of trying to  
9 make those two deadlines work.

10 CHAIRMAN CATANACH: So as long as we wait  
11 until the 20-day period is up and then we file it right  
12 after that, we'd still be in compliance with the  
13 statute?

14 THE WITNESS: Right. If nobody asks for  
15 rehearing, then you file it 15 days after the 20-day  
16 period.

17 CHAIRMAN CATANACH: So that's going to give  
18 us a grace period after the 20 days. Okay.

19 THE WITNESS: Right, which is actually a  
20 good thing, and I'll explain that in (C).

21 (B) Notice. This is, again, in the new  
22 statute, all the notice that's required once you adopt  
23 the rule, who is supposed to be told about it. And so I  
24 read the notice in this provision as saying that we can  
25 simply send a notice out to folks and say, We've adopted

1 this rule; it's explained in this record order; if you  
2 want a copy of the rule of the order, here's how to get  
3 it.

4 Now, we could do electronic notice. I  
5 think Florene has already started this with the rules  
6 we've adopted. We could just electronically attach the  
7 new rule and the order to it. That's not a big deal.  
8 But if we're mailing it out, we send people a notice  
9 saying, Here's how you get a copy if you want it. And  
10 it's the same, you know, list of people who get the  
11 notice the first time around, although, in this case,  
12 we're not just saying people who have requested to be on  
13 a notice list. It's also the people who participated in  
14 the rulemaking, who showed up at the hearing, saying  
15 they get notice that this rule has been adopted.

16 Okay. (C). This is a nasty little thing.  
17 The new statute allows, once we've filed a rule with the  
18 Records Center, that the records administrator can go  
19 through the rule and if they find any technical problems  
20 with the rule, misspellings, bad grammar, wrong format,  
21 they can make a change to the rule. And then they send  
22 a notice to us saying, Hi, we've made a change in your  
23 rule. That then triggers the agency to have to do a  
24 whole new public notice saying the rule has been  
25 changed, even if it's just a spelling error. Okay?

1                   That is partly why we are spending a lot of  
2   time now working with the Records Center to make sure  
3   it's in the right format, to make sure -- and that's why  
4   having a little extra time before we file it is great  
5   because, I mean, we go through and try to make sure we  
6   don't have a misplaced comma or a misspelling, whatever.  
7   So that's why I often tell you-all, after you adopt a  
8   rule, we will be going through it, editing it just to  
9   make sure there is nothing here technically, you know, a  
10   misspelling or something. I mean, if it's a substantive  
11   issue, well, then, we'd have to come back to the  
12   Commission. So we're trying to avoid (C) from ever  
13   happening, you know, so we catch --

14                   COMMISSIONER BALCH: Really, we have 35  
15   days from the time we make a decision. That's almost  
16   always going to include a hearing date --

17                   THE WITNESS: Right.

18                   COMMISSIONER BALCH: -- in between if  
19   something does come up and would also give us time to  
20   set something up.

21                   THE WITNESS: Right.

22                   COMMISSIONER BALCH: That's probably not  
23   bad.

24                   THE WITNESS: So that's just an interesting  
25   little thing in there.

1 CHAIRMAN CATANACH: Do they do that now?

2 THE WITNESS: What we do now is we try to  
3 send them a version of the rule before we file it, and  
4 they will write back to us and sometimes, you know, put  
5 red ink on the thing and send it back to us, you know.  
6 But this now gives them the ability to do that after you  
7 file the rule, you know.

8 COMMISSIONER BALCH: Lawyers love to talk  
9 about the positions of commas and changes of words.

10 THE WITNESS: Yeah. Yeah.

11 COMMISSIONER BALCH: It changes everything,  
12 right?

13 THE WITNESS: Right.

14 And, you know, I asked one of the -- the --  
15 Doug Meiklejohn is one of the NGO lawyers who was very  
16 involved in this and asked him why -- why he thought  
17 that was a great idea. He goes, You know, it has  
18 happened where somebody has made a technical change, he  
19 goes, that really wasn't a technical change; it was more  
20 substantive, so we kind of want notice about when these  
21 changes are made.

22 CHAIRMAN CATANACH: Oh, wow.

23 THE WITNESS: So, anyway, then (D) simply  
24 takes the appeal provision from the new statute and puts  
25 it in the new rules.



1                   MR. WADE: I have a question going back up  
2 to (A). How does granting a rehearing fit into this  
3 part of the proposed rule, or should it? Should there  
4 be some discussion of, you know, this -- this is not --  
5 if we grant and rehear a hearing, it's not until that  
6 whole process is over before we, in quotes, "the  
7 adoption of the rule" for purpose of 14-4.5(B) is  
8 considered.

9                   THE WITNESS: Right. And so we tried to  
10 encompass that in the phrase -- in the third sentence,  
11 it says, "The end of the 20-day rehearing period if no  
12 hearing is requested or the action of the Commission on  
13 a rehearing the application shall constitute adoption of  
14 the rule." So that action can either be the Commission  
15 deciding, after ten days, not to rehear the rule, or it  
16 can be the Commission deciding to rehear the rule and  
17 then going through that whole process.

18                   MR. WADE: Okay.

19                   THE WITNESS: Which is what we did on the  
20 Roswell Artesian Basin.

21                   CHAIRMAN CATANACH: Does that take care of  
22 your concern?

23                   MR. WADE: I think so.

24                   CHAIRMAN CATANACH: Are there any other  
25 questions on Section 15? Comments? No?

1                   So I guess at this point we should go back,  
2   and any of the proposed changes, we probably need to  
3   just make sure that we're in agreement on the proposed  
4   changes.

5                   MS. BADA: Commission Chair, before you  
6   proceed, I'd like to move that Exhibits 1 through 6 be  
7   admitted into the record.

8                   CHAIRMAN CATANACH: Exhibits 1 through 6  
9   will be admitted into the record.

10                   (Oil Conservation Commission Exhibit  
11   Numbers 1 through 6 are offered and  
12   admitted into evidence.)

13                   CHAIRMAN CATANACH: Is that all you're  
14   presenting at this time?

15                   MS. BADA: Yes.

16                   CHAIRMAN CATANACH: We need to go into open  
17   deliberations. Do I have a motion to go into open  
18   deliberations?

19

20                   COMMISSIONER MARTIN: So moved.

21                   CHAIRMAN CATANACH: All in favor?

22                   (Ayes are unanimous.)

23                   (Open-session deliberations, 10:35 a.m.)

24                   CHAIRMAN CATANACH: So, Counselor, did you  
25   keep good notes on the changes?

1 MR. WADE: I kept notes. I think I did.

2 COMMISSIONER BALCH: There are only a  
3 couple.

4 CHAIRMAN CATANACH: I think there are more  
5 than a couple. Let's go back to page 1 of Exhibit 6.

6 COMMISSIONER BALCH: A few. Many?

7 CHAIRMAN CATANACH: A few.

8 I think the first one was just a simple  
9 change to eliminate "Oil Conservation Division" in  
10 Section 15.3.1, at the top of the page.

11 MR. WADE: I have that in my notes.

12 CHAIRMAN CATANACH: Take that out. Any  
13 opposition to taking that out?

14 COMMISSIONER MARTIN: No.

15 COMMISSIONER BALCH: No.

16 CHAIRMAN CATANACH: What's the -- what is  
17 the next one you have, Counselor? I don't have  
18 anything -- anything else on page 1.

19 MR. WADE: I have a -- except for just  
20 maybe a note that I believe, under 7(A), definition of  
21 "party," or "or entry of appearance" was proposed. I  
22 think that was NMOGA's proposal, or -- but there would  
23 be no change or anything for the Commission to consider  
24 other than just adopting that.

25 CHAIRMAN CATANACH: So you're not proposing

1 to change Section A?

2 MR. WADE: I am not.

3 CHAIRMAN CATANACH: Okay. Yeah. I think  
4 there is agreement on that, that no change needs to be  
5 made there.

6 Okay. Page 2. I don't show any changes on  
7 page 2.

8 MR. WADE: I do not have any notes on  
9 changes.

10 CHAIRMAN CATANACH: On page 3, I don't show  
11 any changes. We did add the section of newspaper,  
12 general circulation, which I agree with, but I don't  
13 think that's -- there is no opposed change to that.

14 Is there anything else on page 3?

15 MR. WADE: I have no notes for page 3.

16 CHAIRMAN CATANACH: On page 4, in Section  
17 3.10, we talked about changing "individuals or entities"  
18 to "a person," which would coincide with the first part  
19 of that sentence.

20 Commissioners, do you have any disagreement  
21 with that change? Any opposition?

22 COMMISSIONER BALCH: "A person shall  
23 provide written comments" --

24 CHAIRMAN CATANACH: Yes.

25 COMMISSIONER BALCH: And then the

1 definition of "a person"? I think that's fine.

2 CHAIRMAN CATANACH: Okay. So that change  
3 will go through.

4 In 15.3.11, Part B, the proposed change was  
5 to leave "cross-examine witnesses at the hearing" in  
6 that paragraph.

7 COMMISSIONER BALCH: "Or" --

8 CHAIRMAN CATANACH: And insert an "or"  
9 after that, "or to submit modifications."

10 I would ask the Commissioner if there is  
11 any disagreement with that change.

12 COMMISSIONER BALCH: No disagreement. That  
13 allows us to strike (C).

14 COMMISSIONER MARTIN: I don't have a  
15 problem with that.

16 CHAIRMAN CATANACH: No disagreement or --

17 COMMISSIONER MARTIN: No disagreement.

18 CHAIRMAN CATANACH: -- or opposition on  
19 that change?

20 So that change will go through.

21 On page 5, I believe in Section 3, there  
22 was some discussion on adding "the commission may  
23 exclude any expert witnesses or technical exhibits or  
24 comments." Adding "or comments" after "exhibits." Is  
25 that still on the table, Counselor?

1                   MR. WADE: It could be on the table. I  
2 think in later questioning, I felt -- it's my opinion  
3 that "or comments" doesn't really fit into this section  
4 very well because really this section is talking about  
5 technical testimony, which has its own rules as to when  
6 they can be -- when that could be submitted. And there  
7 are various ways for the Commission to deal with any  
8 objections to comments that, you know, don't need to be  
9 put into this particular section. So my suggestion  
10 would be to not add "or comments."

11                   CHAIRMAN CATANACH: Any discussion on that  
12 or opposition to that proposal?

13                   COMMISSIONER BALCH: No opposition from me.

14                   COMMISSIONER MARTIN: No.

15                   CHAIRMAN CATANACH: Then that proposal  
16 would go through.

17                   Page 6, I don't see any -- show any  
18 proposed changes.

19                   COMMISSIONER BALCH: We had 5(C) -- or on  
20 page 5, we had 11(C). We talked about striking that  
21 section.

22                   CHAIRMAN CATANACH: Oh, on page 5, striking  
23 the entire Section C. Is there any discussion on that  
24 proposal or any opposition?

25                   COMMISSIONER MARTIN: I have none.

1                   COMMISSIONER BALCH: Took care of that with  
2 the language change on B.

3                   CHAIRMAN CATANACH: I have no problem with  
4 that. So we'll strike Section C on page 5.

5                   Again, on page 6, I don't show any proposed  
6 changes.

7                   On page 7, I do not show any proposed  
8 changes.

9                   On page 8, I guess in 19.15.13 --  
10 19.15.3.13(C), about the reference to the section, how  
11 would you want -- how would we do that, Counselor? Do  
12 you want to leave that as is and wait until we have a  
13 reference to that?

14                  MR. WADE: It's my understanding that we  
15 might have a reference to that prior this being  
16 finalized. If not, we have alternative language which  
17 would be -- or the State Rules Act that could be  
18 inserted. So for now, that Section 14-4 could be left.

19                  CHAIRMAN CATANACH: And when we do the  
20 final order, we can either insert the alternate language  
21 and insert the correct citation?

22                  MR. WADE: Yes.

23                  CHAIRMAN CATANACH: Any disagreement or  
24 opposition to that?

25                  COMMISSIONER BALCH: None. No.

1 COMMISSIONER MARTIN: None here.

2 CHAIRMAN CATANACH: In 19.15.3.14(A), I  
3 believe there was a discussion on changing "division" in  
4 that sentence to "commissions."

5 MR. WADE: Just to be consistent with the  
6 rest of the language, and that would be "commissions"  
7 lower case C.

8 CHAIRMAN CATANACH: Lowercase C. Okay.  
9 Is there any discussion on that change?

10 COMMISSIONER BALCH: No.

11 COMMISSIONER MARTIN: No.

12 CHAIRMAN CATANACH: That change will go  
13 through.

14 On page 9, I do not show any changes on  
15 page 9.

16 So it looks like we've gone through the  
17 whole document, and we've made the changes that were  
18 proposed by the Commission. And so at this point, I  
19 guess --

20 MS. BADA: May I point something out?

21 CHAIRMAN CATANACH: Yes.

22 MS. BADA: Okay. In the definition of  
23 "party," it says "and entry of appearance." But since  
24 you have taken that out in the other sections, you may  
25 want to amend the definition of "party," in 7(A). And



1 drop that last part where it says "or entry of  
2 appearance," and just say "someone has filed a  
3 pre-hearing statement."

4 CHAIRMAN CATANACH: So we took that out in  
5 a different section?

6 MS. BADA: Yes, when you accepted NMOGA's  
7 changes that go back to having cross-examination and you  
8 eliminated (C). You no longer have a provision --

9 MR. WADE: Okay. That was (C) of which  
10 part?

11 MS. BADA: I believe it was --

12 CHAIRMAN CATANACH: 11.

13 MS. BADA: -- 11. No. It was 11(C). So I  
14 would suggest, for consistency, the definition of  
15 "party" match the rest of your rules because you no  
16 longer have a provision for "entry of appearance" in the  
17 body of the rule.

18 MR. WADE: It makes sense that there is no  
19 more -- there is not an "entry of appearance" as you see  
20 currently proposed on page 5. That whole provision, as  
21 I understand it, the Commission has decided to strike?

22 CHAIRMAN CATANACH: That is correct.

23 MR. WADE: So then there is no longer that  
24 provision. So it does make sense that "or entry of  
25 appearance" be deleted in 3.7(A), because at this point,

1     you're just talking about a person filing a pre-hearing  
2     statement.

3                     CHAIRMAN CATANACH: Counselor, that would  
4     not preclude anybody from filing an entry of appearance?

5                     MS. BADA: It could. They could, but there  
6     wouldn't be need to.

7                     CHAIRMAN CATANACH: Okay. Commissioners,  
8     do you have any problem -- any disagreements or  
9     discussion with regard to that change?

10                    COMMISSIONER MARTIN: I do not.

11                    COMMISSIONER BALCH: I don't.

12                    CHAIRMAN CATANACH: Okay. We'll adopt that  
13     change as well.

14                    So I guess -- at this point, I guess I  
15     would call for a motion to adopt the rule as amended in  
16     our open deliberations, I guess ending finally -- taking  
17     a look at the final rule.

18                    COMMISSIONER BALCH: I would make that  
19     motion.

20                    COMMISSIONER MARTIN: I second.

21                    CHAIRMAN CATANACH: All in favor?

22                    (Ayes are unanimous.)

23                    CHAIRMAN CATANACH: Mr. Brancard, submit a  
24     draft order and clean-up for the next Commission  
25     hearing.

1 THE WITNESS: Thank you.

2 CHAIRMAN CATANACH: Thank you for all the  
3 work you did on this. I know it was a lot of work, so  
4 we appreciate it.

5 MR. WADE: Will you be taking a break or  
6 calling the next case?

7 CHAIRMAN CATANACH: Yeah. I guess we  
8 should take a break. Let's take ten.

9 (Case Number 15738 concludes; recess, 10:49  
10 a.m. to 11:00 a.m.)

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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

21 MARY C. HANKINS, CCR, RPR  
22 Certified Court Reporter  
23 New Mexico CCR No. 20  
24 Date of CCR Expiration: 12/31/2017  
25 Paul Baca Professional Court Reporters