

**STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION**

**Meeting Minutes
Special Meeting
June 5-7, 2018
Porter Hall
Wendell Chino Building
1220 S. St. Francis Drive
Santa Fe, New Mexico 87505**

MEMBERS PRESENT:

Heather Riley	Chair, Oil Conservation Division
Robert Balch	Designee, Energy, Minerals and Natural Resources Department
Ed Martin	Designee, New Mexico State Land Commissioner

OTHERS PRESENT:

Bill Brancard, Counsel for the Commission
Florene Davidson, Commission Clerk

Item 1. Roll Call.

Roll was taken; a quorum was present.

Item 2. Approval of Agenda.

Action: Commissioner Balch moved adoption of the agenda; Commissioner Martin seconded the motion. The motion passed unanimously.

Item 3. Approval of minutes of May 22, 2018 special meeting.

Action: Commissioner Martin moved to approve the minutes; Commissioner Balch seconded the motion. The motion passed unanimously.

Item 4: Case No. 15959: Application of the New Mexico Oil Conservation Division to Repeal and Replace Rule 19.15.29 NMAC; Statewide

Chair Riley opened the public hearing with a statement on the nature of the hearing and the procedures. The hearing is scheduled to last from May 5 to May 8. Appearances were made by Keith Herrmann for the Oil Conservation Division (OCD); Michael Feldewert for the New Mexico Oil and Gas Association (NMOGA); Gary Larson for the Independent Petroleum Association of New Mexico (IPANM); and Candace Callahan for Cardinal Laboratories (Cardinal). Each party indicated how many witnesses they intended to call. IPANM indicated they did not intend to call witnesses.

The Chair requested that the parties present any preliminary matters. OCD requested that it be allowed to present its witnesses as a panel because the witnesses would address different sections of the proposed rule change. NMOGA objected. The Commission determined that each OCD witness would testify separately but OCD could recall witnesses as necessary to cover the sections of the proposal. NMOGA indicated that it intended to introduce a new Exhibit D which consisted of a revised rule change proposal and which would replace NMOGA Exhibit A and OCD Exhibit 2. Both parties would use the Exhibit. No party objected.

Chair Riley stated that the Commission had received 3 written submittals from: (1) Wayne Price, (2) Earthworks' Oil & Gas Accountability Project (OGAP), and (3) Environmental Defense Fund, Natural Resources Defense Council and Earthworks (EDF). NMOGA objected to the portions of the written submittals which included modifications to the proposed rule change. Commission rules require that any proposed modifications be submitted at least ten business days prior to the hearing. 19.15.3.11.B NMAC. The Commission found that Mr. Price's modifications were not timely submitted but those from OGAP and EDF were. Since Mr. Price was present, the Commission indicated that he was free to present public comment during the hearing.

The testimony began on June 5th with the Applicant, OCD. OCD's witnesses were Jim Griswold, Bradford Billings and Brandon Powell. The OCD witnesses explained the purposes of the proposed rule change and then went through each of the sections in 19.15.29 to explain the changes. Each OCD witness was subject to cross-examination by the other parties and by the Commissioners and Commission Counsel.


Public comment was provided by two witnesses on June 5th: Irwin Boyd and Wayne Price. Mr. Boyd testified as a ranch owner and on behalf of the Cattle Growers Association. He raised concerns about surface reclamation, cleanup standards and unreported spills. Mr. Price was concerned that the proposed rule had a bias toward "dig and haul" cleanups and excluded other types of cleanups. He was also concerned with notice to federal and state land management agencies and the possibility of numerous hearings to resolve dispute.

NMOGA began its presentation on June 5 with an opening statement from Mr. Feldewert. On June 6, NMOGA presented James McDaniel and Brett Fulks as witnesses. The NMOGA witnesses discussed the goals of the proposed rule changes, the modifications proposed by NMOGA and the proposed closure criteria. Cardinal presented two witnesses: Celey Keene and Jacob Miller. The Cardinal witnesses discussed Cardinal's proposed modification to the allowable test methods for closure criteria. OCD offered Brandon Powell as a rebuttal witness regarding sampling for soil testing. All witnesses were subject cross-examination by other parties, Commissioners and Commission Counsel. No further public comment was offered.

After the completion of testimony, the Commission requested that the parties meet to discuss the current disagreements on proposed rule language. A recess was taken and the parties (OCD, NMOGA and IPANM) presented revised language. Closing statements were offered by OCD, NMOGA and IPANM. Commission Counsel was directed to prepare a final rule change proposal for deliberation on June 7.

On June 7, the Commission deliberated in open session and reviewed the proposed rule changes and the modifications offered by the parties. The Commission agreed to the proposed rule changes with modifications offered by certain parties and with further modifications by the Commission based on the record. Commission Counsel was directed to prepare another draft based on the deliberations. After a recess, the Commission reviewed the new draft, made further changes and directed Commission Counsel to prepare a final rule draft and a draft Order for consideration at the June 21 meeting.

- Item 5. Other business.** There was no other business that came before the Commission.
- Item 6. Next meeting:** June 21, 2018
- Item 7. Adjournment:** The meeting was adjourned on June 7, 2018 at 4 p.m.


HEATHER RILEY, Chair