

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

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

CASE NO. 13,586

APPLICATION OF THE NEW MEXICO OIL)
CONSERVATION DIVISION FOR THE REPEAL)
OF EXISTING RULES 709, 710 AND 711)
CONCERNING SURFACE WASTE MANAGEMENT)
AND THE ADOPTION OF NEW RULES GOVERNING)
SURFACE WASTE MANAGEMENT)

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

COMMISSION HEARING

BEFORE: MARK E. FESMIRE, CHAIRMAN
JAMI BAILEY, COMMISSIONER
WILLIAM C. OLSON, COMMISSIONER

Volume VII - June 5th, 2006

Santa Fe, New Mexico

2006 JUN 12 PM 1 05

This matter came on for hearing before the Oil Conservation Commission, MARK E. FESMIRE, Chairman, on April 20th-21st, May 4th-6th, May 18th, and June 5th, 2006, at the New Mexico Energy, Minerals and Natural Resources Department, 1220 South Saint Francis Drive, Room 102, Santa Fe, New Mexico, Steven T. Brenner, Certified Court Reporter No. 7 for the State of New Mexico.

* * *

STEVEN T. BRENNER, CCR
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I N D E X

JUNE 5th, 2006 (VOLUME VII):
Commission Hearing
CASE NO. 13,586

REPORTER'S CERTIFICATE

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* * *

1 WHEREUPON, the following proceedings were had at
2 1:50 p.m.:

3 CHAIRMAN FESMIRE: Let's go back on the record.
4 It's 10 minutes to 2:00 on Monday, June 5th, 2006. At this
5 time let the record reflect that all Commissioners are
6 present and there is therefore a quorum present.

7 The Commission is going to take up Cause Number
8 13,586, in the matter of the Application of the New Mexico
9 Oil Conservation Division for repeal of existing Rules 709,
10 710 and 711 concerning surface waste management and
11 adoption of new Rules governing surface waste management.

12 At this time there have been some changes in the
13 scheduling. The way that this case is going to proceed
14 from this point forward, there has been a request that we
15 allow a task force made up of industry, environmental
16 groups and the OCD to review the latest OCD proposal that
17 has come out, and the way that we will proceed from this
18 point forward is that on June 12th the Oil Conservation
19 Division will post, in the afternoon, a copy of the final
20 Oil Conservation Division proposal for proposed Rules.

21 Between now and June 12th the OCD will finish
22 putting together a task force. That task force is made up
23 of four industry representative -- two of which are here, I
24 think, at least -- four representatives from other
25 organizations who haven't been named yet, and two

1 representatives from the OCD. The idea will be to review
2 the final version of the proposed Rules and identify those
3 areas where they can come to consensus and propose comments
4 on those areas where they can come to consensus, and
5 identify areas where they cannot come to consensus and
6 include that in the report.

7 On or about June 19th, depending on who's going
8 to be on the task force, the task force will meet to
9 discuss the draft and generate this report. It will be
10 facilitated by an OCD employee who has not been very active
11 in the process so far. Hopefully, it will not take longer
12 than a couple of meetings during that week to get this
13 done. Again, it depends on who from outside the industry
14 will be available for the meetings.

15 And then on June 26th, the OCD will request that
16 the parties file proposed findings of facts and conclusions
17 of law from each party. I know that at least one party has
18 already filed theirs. They will be allowed to amend or
19 supplement theirs or replace it, up until June 26th, if
20 they so desire. Like I said, it will be due June 26th.

21 It is the intention of the Commission to take up
22 deliberating on the cause at our regular July meeting. So
23 like I said, by June 12th the OCD will have the final
24 version on the website. By June 12th we ought to have the
25 names of people who will be on the commission.

1 June 19th, the week of June 19th, we hope the
2 task force will meet. If it takes more than one day, we
3 hope they will meet consecutively. Again, we happen to be
4 a little loose in the scheduling because we're not sure
5 who's going to be on it from outside industry.

6 And then on June 26th the parties will file the
7 proposed findings of fact and conclusions of law.

8 Mr. Brenner, the court reporter, has available
9 copies of the transcript to date. It's the substantive
10 part of the transcript, I'm sure, so those of you who need
11 it to generate your findings of fact and conclusions of law
12 can make arrangements with Mr. Brenner to get a copy of the
13 transcript.

14 Is there anybody in the audience who needs to
15 make a comment now, either on anything substantive in the
16 Rule or the procedure that we'll follow from this point
17 forward?

18 Karin?

19 MS. FOSTER: Just concerning the procedure.
20 Karin Foster, on behalf of Independent Petroleum
21 Association.

22 In terms of the procedure, the individual that is
23 going to be working most closely with IPANM has asked for
24 my findings of fact based on the transcript. I will not be
25 able to get that to him by June 19th. To review a 1700-

1 page transcript and get him a synopsis of all the testimony
2 and everything that's happened over nine days of testimony
3 and get that to him by June 19th so that he will be able to
4 participate in our meeting on June 19th.

5 That would be my only comment.

6 CHAIRMAN FESMIRE: Okay, that's two weeks from
7 today...

8 MS. FOSTER: If I could even have an extra week.

9 CHAIRMAN FESMIRE: That would make the task force
10 meeting the week of June 26th, which is the same day
11 that --

12 MR. BROOKS: Well, I would add -- Mr. Chairman, I
13 would add, it would be much more -- very helpful to me if I
14 could have two or three days beyond June the 26th to get my
15 findings completed. I wouldn't want to extend it another
16 week, but if I could extend it to, say, the 29th, that
17 would be very helpful for me.

18 CHAIRMAN FESMIRE: The 30th is a Friday. Okay,
19 to -- because we're -- being in such an accommodating mood,
20 we will extend the first meeting of the task force to the
21 week of June 26th, and the findings and facts and
22 conclusions of law will be due June 30th.

23 MR. BROOKS: Thank you, Mr. Chairman.

24 MS. FOSTER: Thank you, sir.

25 CHAIRMAN FESMIRE: Any other comments?

1 COMMISSIONER OLSON: Well, I have a comment, is
2 that findings of fact and conclusions of law -- I think
3 what I'd like to see in that as well is a final version of
4 what each party is proposing if there isn't a consensus at
5 that point, so there's actually a proposed Rule by those
6 parties, and maybe they could work off of that final draft
7 that comes out on the 12th.

8 CHAIRMAN FESMIRE: Okay. Mr. Carr?

9 MR. CARR: We have already prepared that, not
10 based on the draft of the 12th --

11 COMMISSIONER OLSON: Okay.

12 MR. CARR: -- but we can revise it based on the
13 draft of the 12th and file just a redline copy that shows
14 your draft of the 12th and what we are recommending.

15 COMMISSIONER OLSON: And what you're
16 recommending, right.

17 MR. CARR: Right, with the findings.

18 COMMISSIONER OLSON: Right, uh-huh.

19 MR. CARR: Can do.

20 MR. BROOKS: Well, point of information, Mr.
21 Chairman. What we're to file on the 12th, should that be
22 in the form of a redline from the February 27th draft or --

23 CHAIRMAN FESMIRE: No, it should be in the
24 form --

25 MR. BROOKS: -- clean copy?

1 CHAIRMAN FESMIRE: -- of a final -- clean copy of
2 a final version of OCD's proposal.

3 MR. BROOKS: Okay.

4 CHAIRMAN FESMIRE: And that's what it is, OCD's
5 proposal.

6 MR. BROOKS: Okay.

7 CHAIRMAN FESMIRE: That will be the document that
8 the task force works off of.

9 MR. BROOKS: Okay, unless I receive other
10 instructions between now and then, I'm assuming that it
11 will be very little change from the one that we filed prior
12 to the last meeting, but I may receive such a --

13 CHAIRMAN FESMIRE: You and Wayne have to work on
14 that.

15 MR. BROOKS: Thank you.

16 CHAIRMAN FESMIRE: Ms. Foster?

17 MS. FOSTER: Sir, just a question in terms of how
18 this is going to go forward. The OCC will hear -- or make
19 a conclusion on the July 19th meeting -- or -- I mean, in
20 the July meeting, or is that -- My understanding is that if
21 there's a substantive change to the Rule made by your task
22 force, then there will have to be another hearing process.

23 CHAIRMAN FESMIRE: No, the task force will
24 provide comments that the Commission will consider with all
25 the other comments in deciding what the final rule will

1 look like.

2 The task force is to find those areas where they
3 can come to consensus, report that to the Commission, the
4 Commission will consider that in their deliberations. In
5 those areas where they can't come to consensus, we'll rely
6 on the record and the Commission will make its decision in
7 those areas.

8 MS. FOSTER: And will the task force meetings be
9 open to the public?

10 CHAIRMAN FESMIRE: Yes.

11 MS. FOSTER: Thank you.

12 COMMISSIONER BAILEY: When does the Commission
13 receive this information for review prior to our
14 deliberations, so that we can review it?

15 CHAIRMAN FESMIRE: Prior to the July meeting --
16 When is the July meeting, the 15th?

17 MR. CARR: 13th.

18 CHAIRMAN FESMIRE: The 13th of July?

19 MR. BROOKS: I believe that's correct.

20 CHAIRMAN FESMIRE: Let's make sure. Does anybody
21 have a calendar?

22 MR. BROOKS: Well, I can't read it without my
23 glasses, but there is a calendar.

24 CHAIRMAN FESMIRE: You're going to give it to me?

25 (Laughter)

1 CHAIRMAN FESMIRE: Does anybody have proper eyes,
2 young eyes? It's supposed to be the Thursday -- Thursday
3 the 13th.

4 Okay, we will expect the report from the task
5 force to be filed with the Commission secretary by Monday,
6 the -- 10th, right? Or is it the 9th? Monday, July 10th.
7 That will give the Commissioners three days to review the
8 report of the task force.

9 COMMISSIONER BAILEY: Filed and delivered.

10 CHAIRMAN FESMIRE: Filed and delivered, right, so
11 that it can be delivered to the Commissioners before they
12 go home Monday night.

13 MR. HUFFAKER: I think I've got a -- one
14 question.

15 CHAIRMAN FESMIRE: Mr. Huffaker?

16 MR. HUFFAKER: The new redline that we have the
17 opportunity to address to Mr. Brooks' final version of the
18 Rules, are those going to be due the same day as the
19 findings of fact and conclusions of law?

20 CHAIRMAN FESMIRE: Yes.

21 MR. HUFFAKER: The 30th?

22 CHAIRMAN FESMIRE: Right. And those should be
23 based on the June 12th version posted on the web. Okay?

24 Are there any other comments?

25 Okay, with that, this case will be continued to

1 the regularly scheduled July 13th meeting of the Oil
2 Conservation Commission.

3 Okay?

4 Thank you all very much.

5 (Thereupon, recess was taken at 2:02 p.m.)

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CERTIFICATE OF REPORTER

STATE OF NEW MEXICO)
) ss.
COUNTY OF SANTA FE)

I, Steven T. Brenner, Certified Court Reporter and Notary Public, HEREBY CERTIFY that the foregoing transcript of proceedings before the Oil Conservation Commission was reported by me; that I transcribed my notes; and that the foregoing is a true and accurate record of the proceedings.

I FURTHER CERTIFY that I am not a relative or employee of any of the parties or attorneys involved in this matter and that I have no personal interest in the final disposition of this matter.

WITNESS MY HAND AND SEAL June 8th, 2006.



STEVEN T. BRENNER
CCR No. 7

My commission expires: October 16th, 2006