

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. 12,897
)
 APPLICATION OF THE NEW MEXICO OIL)
 CONSERVATION DIVISION THROUGH THE)
 ENVIRONMENTAL BUREAU CHIEF FOR THE)
 ADOPTION OF AMENDMENTS TO DIVISION)
 RULE 118 (HYDROGEN SULFIDE GAS))
)

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

COMMISSION HEARING

BEFORE: LORI WROTENBERY, CHAIRMAN
 JAMI BAILEY, COMMISSIONER
 ROBERT LEE, COMMISSIONER

August 30th, 2002

Santa Fe, New Mexico

This matter came on for hearing before the Oil Conservation Commission, LORI WROTENBERY, Chairman, on Friday, August 30th, 2002, 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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 DEPARTMENT OF ENERGY, MINERALS AND NATURAL RESOURCES

I N D E X

August 30th, 2002
Commission Hearing
CASE NO. 12,757

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A P P E A R A N C E S

FOR THE COMMISSION:

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* * *

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1 WHEREUPON, the following proceedings were had at
2 9:03 a.m.:

3 CHAIRMAN WROTENBERY: And I think that was
4 everything, Florene, except for the H₂S rules, and so let's
5 turn our attention to Case 12,897.

6 This is the Application of the New Mexico Oil
7 Conservation Division through the Environmental Bureau
8 Chief for the adoption of amendments to Division Rule 118
9 -- actually the Division is proposing to repeal existing
10 Rule 118 and to adopt a new Rule 52.

11 We heard comments on the proposal at the July
12 19th meeting, and then we also left the record open for the
13 receipt of additional written comments, and those were due
14 by August 16th.

15 We did get quite a few written comments in before
16 August 16th, and I believe we have a set of each of those,
17 Florene, for each of the Commissioners.

18 Okay, so Commissioners, you have a set of the
19 comments, I believe, that came in.

20 COMMISSIONER BAILEY: Yes.

21 CHAIRMAN WROTENBERY: Do you have your set? Yes,
22 you've got your set too.

23 Okay, since August 16th Steve Ross and I have
24 been working through the comments and working with the
25 proposed language. Steve has just handed you a copy of a

1 draft Rule 52 that shows the revisions that Steve and I
2 have made in the Rule in response to the comments that we
3 got and also at some of the discussion we had at the July
4 19th hearing.

5 Steve, do you want to walk us through briefly --

6 MR. ROSS: I can try.

7 CHAIRMAN WROTENBERY: -- the revisions that were
8 made?

9 MR. ROSS: I can try. Actually, the document
10 that's before you is a document I created using the
11 Division's submission to us, along with the original
12 Application, as amended, I believe, three times by the
13 Division, once when it was presented to you at the hearing
14 in July -- that version contains some amendments -- as well
15 as twice since then during the comment period. So those
16 changes are all in this draft.

17 And then in addition there are a few other
18 changes that the Chair just referred to that she and I made
19 earlier this week in response to the written comments
20 received from the ten or so folks that commented.

21 Do you want me to go line by line through this
22 thing, or just in general?

23 CHAIRMAN WROTENBERY: Well, let me ask -- I
24 believe, Commissioners, you got a copy of these revisions
25 yesterday.

1 COMMISSIONER LEE: Yes.

2 CHAIRMAN WROTENBERY: There have been a few minor
3 editorial changes made since then, and I know, Commissioner
4 Bailey, you may have had some suggestions, and we may need
5 to go through those today, I don't know.

6 But do you have -- I'll just ask, do the
7 Commissioners have any questions about any of the
8 particular revisions that were made here?

9 COMMISSIONER BAILEY: Not having read the final
10 copy here --

11 CHAIRMAN WROTENBERY: Uh-huh.

12 COMMISSIONER BAILEY: -- I'm not sure --

13 CHAIRMAN WROTENBERY: Okay.

14 COMMISSIONER BAILEY: -- what changes I suggested
15 have actually been incorporated.

16 CHAIRMAN WROTENBERY: Why don't we go to those?
17 That would help, I think.

18 MR. ROSS: Those -- ?

19 CHAIRMAN WROTENBERY: Commissioner Bailey made
20 some suggestions?

21 MR. ROSS: I need, I think -- I made two of these
22 suggestions in the actual document. Some of Commissioner
23 Bailey's suggestions relating to things over which we have
24 no control -- that is, the codification of the
25 administrative code by the record center, they require us

1 to do certain things.

2 For example, the cross-references that often help
3 us in working through rules are in disfavor now by the
4 Record Center. So Commissioner Bailey's comment that D.3
5 refers to Section -- she wanted to see a more specific
6 reference there -- well, that would be disfavored by the
7 Records Center. We could do it, but we have to write some
8 sort of a justification or something. So I didn't make
9 that comment.

10 Her first comment, though, may need some
11 discussion because I didn't quite understand, Commissioner
12 Bailey, how those two paragraphs related. And the first,
13 D.1.c, relates to submission or a -- not submission but a
14 deadline for testing the hydrogen sulfide content in your
15 gaseous mixture, and the second E.5 refers to submitting
16 your plan. They don't necessarily relate to one another,
17 so I wasn't 100 percent sure last night when I was working
18 on this, really, you meant there.

19 So that change is not reflected in the document,
20 but everything else is.

21 CHAIRMAN WROTENBERY: Okay, well, then, maybe can
22 we talk about that one, just to make sure we understand
23 what the Commissioner's question was?

24 COMMISSIONER BAILEY: The wording was just so
25 very confusing in D.1.c, and the draft says, "If a

1 representative sample from a well, operation or system was
2 tested within one year of the effective date of this
3 section, new testing shall not be required..." okay,
4 "...provided, however, new testing shall not be required
5 for a producing well that was tested at any time prior to
6 the effective date of this section."

7 When I look at that in relationship to the
8 testing that's discussed -- where is it? -- in 5, I see
9 that one does have to do the plan, but the wording of -- I
10 just --

11 CHAIRMAN WROTENBERY: D.1.c is confusing?

12 COMMISSIONER BAILEY: Yes, it really is.

13 CHAIRMAN WROTENBERY: Okay. Let's see if we can
14 clarify that. Okay, the first part of that sentence, I
15 think what that means is, if the well operation or system
16 was tested within 12 months before the effective date of
17 this rule, then new testing will not be required.

18 Is that right, Steve?

19 MR. ROSS: Uh-huh.

20 CHAIRMAN WROTENBERY: Would it help to say
21 "before" to make it clear we're talking about the --

22 COMMISSIONER BAILEY: That would probably help --

23 CHAIRMAN WROTENBERY: -- testing that occurred
24 during the --

25 COMMISSIONER BAILEY: -- was tested before --

1 CHAIRMAN WROTENBERY: Yeah, was tested within one
2 year before the effective date of this section or -- Would
3 that help a little bit --

4 COMMISSIONER BAILEY: Uh-huh.

5 CHAIRMAN WROTENBERY: -- on that part of it?
6 Yeah.

7 And then there's a specific provision for wells.
8 The first part of the sentence applies to any well
9 operation or system, and the second part applies to a
10 producing well.

11 COMMISSIONER BAILEY: So there's the implication
12 that the first line is an inactive well? See, that
13 distinction cloud the --

14 CHAIRMAN WROTENBERY: Uh-huh. Maybe what you
15 could do is make it two sentences and make it clear. The
16 first sentence applies to operations or systems, the second
17 sentence applies to wells?

18 COMMISSIONER BAILEY: That will clear it up.

19 CHAIRMAN WROTENBERY: Would that do it? At least
20 from our standpoint it clears it up, and then I'm going to
21 propose that we get some additional comments --

22 COMMISSIONER BAILEY: Great, great.

23 CHAIRMAN WROTENBERY: -- so if that's not right,
24 we can get that sorted out.

25 MR. ROSS: Okay.

1 CHAIRMAN WROTENBERY: So we're going to have two
2 sentences there. The first one will say, "If a
3 representative sample from an operation or system was
4 tested within one year before the effective date of this
5 section, new testing shall not be required." And then the
6 second sentence will state, "New testing shall not be
7 required for a producing well that was tested at any time
8 prior to the effective date of this section."

9 MR. ROSS: Yeah, I've got it.

10 CHAIRMAN WROTENBERY: Okay, good. And so I think
11 with the exception of the comments you had about the cross-
12 references, all of the comments you made have been
13 incorporated into the draft --

14 MR. ROSS: Right.

15 CHAIRMAN WROTENBERY: -- is that right?

16 COMMISSIONER BAILEY: Okay, great. Thank you.

17 CHAIRMAN WROTENBERY: Okay.

18 MR. ROSS: And so the draft is really as of now,
19 9:00 a.m. this morning, we've got all the comments in
20 there, I think.

21 CHAIRMAN WROTENBERY: Okay. What I'm going to
22 suggest we do is circulate this draft, explain a little bit
23 in the letter accompanying the draft what it is we've done
24 at this stage, ask for specific comments to be submitted,
25 and schedule one more meeting where we will take comments

1 on the Rule. And I would envision it might even be kind of
2 a work session where we try to work through some of the
3 comments that are submitted.

4 All comments will have to be submitted by the
5 close of that meeting, and we're looking at, I think,
6 tentatively the date of September 20th --

7 MR. ROSS: Uh-huh.

8 CHAIRMAN WROTENBERY: -- is that right, Steve?

9 MR. ROSS: That's right.

10 CHAIRMAN WROTENBERY: And I believe he checked
11 that out with all of our schedulers and determined that
12 that would work for all three of us.

13 COMMISSIONER BAILEY: Okay, great.

14 CHAIRMAN WROTENBERY: So about written comments,
15 Steve, would you suggest that we require those to be
16 submitted before September 20th?

17 MR. ROSS: Yeah, I would suggest that so you have
18 an opportunity to review those during your meeting --

19 CHAIRMAN WROTENBERY: Okay.

20 MR. ROSS: -- maybe the 18th or the 19th or
21 something like that --

22 CHAIRMAN WROTENBERY: Okay.

23 MR. ROSS: -- by the close of business.

24 CHAIRMAN WROTENBERY: Why don't we do that?

25 We'll make any additional written comments, except those

1 until the close of business on September 18th --

2 MR. ROSS: 18th, okay.

3 CHAIRMAN WROTENBERY: -- and then we will conduct
4 a hearing at 9:00 a.m. on September 20th, and anybody who
5 wants to come in and present additional testimony
6 concerning the Rule will have an opportunity to do so at
7 that time. The record will be closed at the end of that
8 hearing on the 19th --

9 COMMISSIONER BAILEY: 20th.

10 CHAIRMAN WROTENBERY: I mean the 20th, thank you.
11 -- hearing on the 20th, and we'll have, then, another week
12 before the Commission's regularly scheduled meeting on
13 September 27th to finalize the order, and I would
14 anticipate we'd take final action on September 27th.

15 COMMISSIONER BAILEY: Okay.

16 CHAIRMAN WROTENBERY: Any questions about that
17 process, anything we need to clarify?

18 COMMISSIONER LEE: Well, about the comments here,
19 I talked to you, and we are going to revisit the 711,
20 right?

21 MR. ROSS: Well, we've got some clarifying
22 language in here based on -- that's in the proposed Rule,
23 paragraph B. We've got some clarifying language concerning
24 the applicability of this rule to 711 facilities. That's
25 certainly one of the areas that folks may want to comment

1 on.

2 Right now it says that both rules apply to it.
3 That's the way it's drafted right now, that on its face
4 this rule is a narrow rule, and to the extent this rule
5 would apply to a 711 facility, it applies, and that 711 is
6 a narrow rule that's focused on a particular kind of
7 facility. So it would also apply to those facilities.
8 That's the way it's drafted right now.

9 I understand there's some confusion --

10 COMMISSIONER LEE: But do they have a very huge
11 discrepancy between those two rules?

12 MR. ROSS: There's no discrepancy between the
13 rules, but I understand from some comments we received that
14 the permitting under 711 of hydrogen sulfide emissions is
15 in some cases more stringent than would be applied on a
16 statewide basis to all facilities under this rule.

17 COMMISSIONER LEE: So we're going to pass this
18 rule, then we're going back to revisit --

19 CHAIRMAN WROTENBERY: No, we're not adopting this
20 rule. I was --

21 COMMISSIONER LEE: Okay --

22 CHAIRMAN WROTENBERY: This is --

23 COMMISSIONER LEE: -- you are trying to.

24 CHAIRMAN WROTENBERY: -- Steve's and my best
25 effort, without further input, to address the comments that

1 have been submitted.

2 COMMISSIONER LEE: Okay.

3 CHAIRMAN WROTENBERY: We're going to distribute
4 this and ask people to take a look at it and give us, we
5 hope, very specific comments with suggested language if
6 they still have concerns about particular provisions of the
7 Rule.

8 We found as we were going through the Division's
9 draft and the comments that there were some places we were
10 having a hard time understanding what the recommendation of
11 the Division was, what the real intent was in some of the
12 provisions.

13 We think by making these changes we've
14 highlighted some of those areas where it may not have been
15 clear in the original draft what was intended, and we've
16 done our best at interpreting it. We may not have done it
17 correctly from the Division's standpoint.

18 We also did our best to try to address a number
19 of the comments that were submitted, particularly when
20 there were specific suggestions given to us. We hope the
21 people who submitted those comments will take a very
22 careful reading of the new language and give us some
23 feedback on how well we've done in responding to those
24 comments.

25 There are also some specific issues that will be

1 highlighted in a cover letter that Steve's preparing. And
2 Steve, do you want to just briefly touch on those?

3 MR. ROSS: Well, in trying to deal with the draft
4 over this well, the Chairman and I realized that there are
5 some areas that weren't covered by testimony, and the Rule
6 doesn't specifically deal with the areas, and we think we
7 need some input on what the requirements should be in those
8 areas, and there's four of them.

9 One of them is to the extent that the Rule is
10 supposed to apply to pipelines, flow lines, gathering
11 lines. It's not clear to what extent the Rule applies to
12 pipelines themselves. It applies to pumping stations and
13 other kinds of --

14 CHAIRMAN WROTENBERY: Compressor stations --

15 MR. ROSS: -- compressor stations, surface
16 facilities. But it's not clear to what extent it applies
17 to the pipelines themselves, and that area is not -- wasn't
18 covered in the testimony and it's not clear from the Rule
19 how that issue should be dealt with, and we think it should
20 be dealt with, since this Rule seems to be a broad rule
21 that applies to all the facilities that we regulate. there
22 should be some discussion about pipelines in here.

23 The other area that because of the structure of
24 the Rule is difficult to figure out was, to the extent the
25 Rule applies to facilities that are not in a potentially --

1 they don't create a potentially hazardous volume, but they
2 do contain 100 p.p.m. or more of hydrogen sulfide -- and
3 that would be remote facilities -- I think it's clear from
4 the record that at a minimum, the signage requirements in
5 the Rule apply to all facilities that contain 100 p.p.m. or
6 more, but it's not clear what other requirements may or
7 should apply to other remote facilities. So that's an area
8 that it would be nice to get some clarification on.

9 Another area which the Rule itself is a bit
10 contradictory on is the issue of well control and drilling,
11 workovers, completions, things like that. And --

12 CHAIRMAN WROTENBERY: We also had quite a few
13 comments on that particular issue.

14 MR. ROSS: Quite a few comments on that same
15 issue. Some -- The bulk of the comments are of a practical
16 nature, that the requirements -- required equipment won't
17 fit under wells that commonly operate in the southeast part
18 of the State.

19 So that's an area of concern that we weren't able
20 to pick out from the record or from the Rule itself, and
21 which some comments seemed to, at least to us, make sense.

22 And then there was safety equipment referenced in
23 the Rule in a number of places, but no safety equipment
24 seemed to be specified. So that area needs to be fleshed
25 out a little bit. If there's safety equipment that's not

1 specified in the Rule that's going to be required, it
2 should be spelled out instead of being referred to by a
3 generic term like "safety equipment". So perhaps the
4 safety equipment is the equipment that's already specified
5 in the Rule, but if that's the case, then the Rule as
6 drafted will probably work.

7 CHAIRMAN WROTENBERY: And we weren't quite clear
8 whether the term was referring to personal-protection-type
9 safety equipment or whether it was referring to well-
10 control equipment or something else, so we needed some
11 guidance on that particular issue.

12 MR. ROSS: So -- And then in terms of the overall
13 drafting, there are a lot of qualifications in the Rule
14 that kind of clouded its meaning in a lot of areas. We
15 found -- We located those qualifications and removed them.

16 So if there's a need for general standards, we've
17 created a new area, a new section or paragraph of the Rule,
18 that refers to requirements for all facilities that contain
19 a concentration of 100 p.p.m. or greater. If there's a
20 need for more facilities to be included in -- or more
21 protection equipment to be included in that area, there's a
22 place to do it. And if there's a need for a section in
23 which more stringent requirements should be included, we
24 can do that as well.

25 But just in terms of pure drafting, there were so

1 many qualifications that it's difficult to say, looking
2 through the Rule, in some cases, whether a particular
3 requirement applied under a particular situation such as in
4 a facility that has a potentially hazardous volume. It was
5 a little difficult at times to determine that that alone
6 was the requirement or whether there was an additional
7 requirement in a particular area that it also be near a
8 public road or something like that, or a school or a church
9 or something like that.

10 So we tried to clean a lot of those kinds of
11 issues up so that it's a clean draft and we can work with
12 whatever comments come in.

13 But we hope people will focus on those four areas
14 at a minimum. Well, actually, five areas, the area of the
15 711 -- the applicability of the 711 facilities is probably
16 another area that you could have some more comments on.

17 CHAIRMAN WROTENBERY: Anything else?
18 Commissioner Bailey, are you happy with that process?

19 COMMISSIONER BAILEY: I think it's a good process
20 that we will distribute this and have comments.

21 CHAIRMAN WROTENBERY: Okay. Well, then, Steve is
22 going to put a cover memo on it to explain some of these
23 issues that we've talked about today and how we got where
24 we are.

25 So I think that's all we need to do on the H₂S

1 rule today.

2 COMMISSIONER BAILEY: This would be posted on the
3 website?

4 CHAIRMAN WROTENBERY: It will be posted on the
5 website, and we're going to make an attempt, anyway, to
6 send a copy to those people who submitted comments. There
7 are a few who may have a little difficulty finding the fax
8 number or the e-mail address, but we're going to make an
9 attempt to give them a copy as well.

10 Okay, good.

11 Then is there anything else we need to cover,
12 Florene?

13 I'll take a motion to adjourn.

14 COMMISSIONER BAILEY: I move we adjourn.

15 COMMISSIONER LEE: Second.

16 CHAIRMAN WROTENBERY: Okay, all in favor say aye.

17 COMMISSIONER BAILEY: Aye.

18 COMMISSIONER LEE: Aye.

19 CHAIRMAN WROTENBERY: Aye. Okay, thank you very
20 much.

21 (Thereupon, these proceedings were concluded at
22 9:30 a.m.)

23 * * *

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