

STATE OF NEW MEXICO  
OIL CONSERVATION COMMISSION

IN THE MATTER OF: )  
THE HEARING CALLED BY THE )  
OIL CONSERVATION COMMISSION )  
TO CONSIDER: )  
MOTION FOR AN ORDER REPEALING RULES ) CASE NO. 10279  
1204 AND 1206 OF THE RULES AND )  
REGULATIONS OF THE DIVISION AND )  
ADOPTING A NEW RULE 1204. )

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REPORTER'S TRANSCRIPT OF PROCEEDINGS

COMMISSION HEARING

BEFORE: WILLIAM J. LeMAY, Chairman  
WILLIAM WEISS, Commissioner  
JAMI BAILEY, Commissioner

April 11, 1991  
9:00 a.m.  
Santa Fe, New Mexico

This matter came on for hearing before the Oil Conservation Commission on April 11, 1991, at 9:00 a.m. at Morgan Hall, State Land Office Building, 310 Old Santa Fe Trail, Santa Fe, New Mexico, before Susan G. Ptacek, a Certified Court Reporter No. 124, State of New Mexico.

FOR: OIL CONSERVATION      BY: SUSAN G. PTACEK  
DIVISION                      Certified Court Reporter  
CCR No. 124

## I N D E X

April 11, 1991  
Commissioner Hearing  
Case No. 12279

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APPEARANCES

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STATEMENT BY MR. STOVALL

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REPORTER'S CERTIFICATE

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## A P P E A R A N C E S

FOR THE DIVISION:

ROBERT G. STOVALL, ESQ.  
General Counsel  
Oil Conservation Division  
State Land Office Building  
Santa Fe, New Mexico 87504

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1           COMMISSIONER LEMAY: The meeting will come to order of  
2 the Oil Conservation Commission hearing, and Jami Bailey is  
3 here representing the Commissioner of Public Lands. My  
4 name is Bill LeMay. I'm chairman of the commission.  
5 Commissioner Weiss will not be able to make the meeting  
6 today.

7           We will begin by calling case 10279. In the  
8 matter of hearing called by the Oil Conservation Division's  
9 own motion for an order repealing rules 1204 and 1206 of  
10 the rules and regulations of the division in adopting a new  
11 rule 1204.

12           Appearances in Case No. 10279?

13           MR. STOVALL: Robert G. Stovall, Santa Fe. I'm  
14 appearing on behalf of the division and am my own witness.

15           COMMISSIONER LEMAY: Thank you, Mr. Stovall. Are  
16 there any other witnesses or appearances in this case? If  
17 not, Mr. Stovall, do you care to be sworn in?

18                               (Whereupon the witness was duly  
19                               sworn.)

20           COMMISSIONER LEMAY: You may proceed.

21                               SWORN STATEMENT

22           MR. STOVALL: What this case is about is to repeal  
23 1204 of the rules and regulations of the division, which  
24 requires under the current rule -- requires publication of  
25 notice of hearings in a newspaper published in Santa Fe

1 County and in a paper published in the county or counties  
2 where the property to be affected is located. Rule 1204 is  
3 a modification of a rule which was in place prior to 1987,  
4 which was virtually identical to the statute which was in  
5 place by provision of the Oil and Gas Act, 70-23-78, which  
6 required publication in Santa Fe County and in the county  
7 where the property was located.

8 In 1987 the legislature amended the Oil and Gas  
9 Act and removed that rather detailed requirement for  
10 publication, and simply said that the division shall  
11 prescribe by rule its procedure and the inclusion of the  
12 procedure for giving notice. However, the rule requiring  
13 publication of notice in Santa Fe continued I assume  
14 primarily because that's the way it had been done, and also  
15 I suspect that somebody thought that maybe that was useful  
16 for giving notice to somebody.

17 I've done a survey of all the attorneys in town.  
18 They never read the New Mexican, where in fact we do  
19 publish in Santa Fe County. There are very few oil  
20 operators who operate in Santa Fe County. They operate  
21 properties outside of Santa Fe County, in the northwest or  
22 southeast.

23 So, in fact, publishing notice of hearings in  
24 the New Mexican provides no notice, no practical notice, to  
25 anybody who has any reason to hear about it. But what it

1 does do is double the cost of the publications because the  
2 division publishes in Santa Fe County and in the county  
3 where the property is.

4           What I propose and submit to the commissioners  
5 is a draft order adopting the new 1204, which would require  
6 publication in a newspaper of general circulation in the  
7 county or counties in which the land, oil and gas property  
8 which is affected may be situated, providing for the new  
9 manner for providing publication as actually contained in  
10 the statutes and in Chapter 14, Article 11 of the New  
11 Mexico Statutes Annotated, rather than detailed provisions  
12 contained in the regulations and rules and all that  
13 information as to a paper of general circulation and what  
14 the frequency is to be. This simply recognizes that and  
15 only requires one publication. It saves the division  
16 thousands of dollars per year in publication costs.

17           Therefore, the division recommends the repeal of  
18 rule 1204 and the adoption of new rule 1204 as provided for  
19 in the application and the proposed order. With respect to  
20 the rule 1206, 1206 again hearkens back to days prior to  
21 '87. The statute had language dealing with personal  
22 service as well as publication service. Apparently the  
23 division or the commission modified that rule sometime  
24 after '87 when the statute was amended.

25           Rule 1206 is now called personal service of

1 notice and actually says the division will pay for the cost  
2 of publication. That really is not necessary. It's rather  
3 redundant. Chapter 14, Article 11 talks about cost of  
4 publication and the division is obligated to do this,  
5 unless it were to adopt a rule to require the applicant to  
6 pay those costs. We're not asking for that.

7           So rule 1206 is sort of space filler, and we're  
8 recommending that rule simply be repealed and the new rule  
9 be enacted in its place.

10           One other point to note, just for the record,  
11 with respect to notice and currently cases pending before  
12 the New Mexico Supreme Court regarding notice, in some  
13 cases we have property rights that are affected,  
14 publication notice is not sufficient and the division  
15 recognizes that. But rule 1207 of the division rules  
16 provides for personal service of notice upon certain  
17 classes of persons in various types of cases, and that rule  
18 satisfies the constitutional due process requirements of  
19 notice and personal service.

20           So, again, with the proposed rule 1204 and the  
21 additional rule 1207, I believe that there will be  
22 appropriate notice procedure for the division and the  
23 commission to follow. And at the same time save the  
24 division -- as I say, save thousands of dollars a year in  
25 publication costs.

1 I have nothing further to add. I would  
2 recommend -- I have issued a proposed order. I would ask  
3 you to read it. We would like it to be effective  
4 immediately. Every time we have to publish it's a greater  
5 expense. If this order meets with your approval, I will  
6 have it put in finalized form and hopefully get your  
7 signatures today and maybe have it effective March 1 and  
8 that would mean we would only have one hearing to be  
9 publish under the old rules. It will be a considerable  
10 savings to the division. .

11 COMMISSIONER LEMAY: Mr. Stovall, thank you. Any  
12 questions of the witness? Ms. Bailey.

13 COMMISSIONER BAILEY: It is clarified those attorneys  
14 and operators located in Santa Fe County are on the mailing  
15 list for notice of hearings if they choose to be on the  
16 mailing list?

17 MR. STOVALL: Correct. We do have a letter from Yates  
18 Petroleum regarding -- Andy Patterson of Yates has asked we  
19 publish in the county where the property is, and that they  
20 send out notice which is published to the mailing list. We  
21 mail the dockets. The docket is the notice. It's the same  
22 thing.

23 What he is really saying, as I understand it, we  
24 send it to him once. I think the 4000 operators, including  
25 all the attorneys and anybody can get on that list. If

1 they want to receive a mailing list, they're welcomed to  
2 it. Yes, I think that addresses anybody who is in Santa  
3 Fe.

4 COMMISSIONER BAILEY: I have no other questions.

5 COMMISSIONER LEMAY: Mr. Stovall, you mentioned March  
6 1. Was that an error? Do you want to make it effective  
7 April 1?

8 MR. STOVALL: Where do I have March 1?

9 COMMISSIONER LEMAY: In your statement you said March  
10 1. The order provides May 1.

11 MR. STOVALL: That's right. I always run a couple of  
12 months behind.

13 COMMISSIONER LEMAY: Are there any other questions of  
14 the witness? If not, he may be excused.

15 Any additional appearances in the case or  
16 statements?

17 We will take the case under advisement. Thank  
18 you.

19 (Whereupon, the hearing was concluded at the  
20 approximate hour of 9:13 a.m.)

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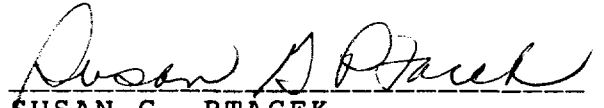
1 STATE OF NEW MEXICO )  
2 ) ss.  
3 COUNTY OF SANTA FE )

4  
5 REPORTER'S CERTIFICATE

6 I, Susan G. Ptacek, a Certified Court Reporter and  
7 Notary Public, do HEREBY CERTIFY that I stenographically  
8 reported the proceedings before the Oil Conservation  
9 Division, and that the foregoing is a true, complete and  
10 accurate transcript of the proceedings of said hearing as  
11 appears from my stenographic notes so taken and transcribed  
12 under my personal supervision.

13 I FURTHER CERTIFY that I am not related to nor  
14 employed by any of the parties hereto, and have no interest  
15 in the outcome thereof.

16 DATED at Santa Fe, New Mexico, this 1st day of May,  
17 1991.

18   
19 My Commission Expires: SUSAN G. PTACEK  
December 10, 1993 Certified Court Reporter  
Notary Public

