

**STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION**

**Meeting Minutes
Regular Meeting
August 20-21, 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 July 19-20, 2018 meeting.

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

Item 4. Final action may be taken in:

Case No. 16078 (Rulemaking): In the matter of Proposed Amendments to the Commission's Rules on Financial Assurance and Plugging and Abandonment of Wells, 19.15.2, 19.15.8, and 19.15.25 NMAC

Action: The hearing in this case was held on July 19-20, 2018. The Commission reached a unanimous decision at that time and Counsel Brancard distributed a draft order and final rule to the Commission for their review. Counsel Brancard stated that Larry Marker filed an application for rehearing in this

matter. He said that no final decision has been made in this case yet, so the application was filed too early. He said that Mr. Marker did not file a pre-hearing statement in the case, so he is not a party to this matter. Counsel Brancard said that if a final decision has not been made in the matter, the hearing cannot be reopened without public notice. He said that Mr. Marker has the option to wait until the order and rule have been finalized and then appeal to the Court of Appeals. The Commission unanimously agreed to deny the application for rehearing because it was premature. Commissioner Balch moved to adopt the proposed rule and order in Case 16078. Commissioner Martin seconded the motion. The motion passed unanimously. All Commissioners signed Order No. R-14834.

Item 5. Final action may be taken in the following:

Case No. 15855 (De Novo): Application of Delaware Energy LLC to Revoke the Injection Authority Granted Under SWD-1680 for the Alpha SWD No. 1 Well Operated by Alpha SWD Operating LLC, Eddy County, New Mexico.

Action: Appearances were made by Michael Feldewert for Delaware Energy LLC (Delaware) and Gary Larson for Alpha SWD Operating LLC (Alpha). Mr. Feldewert and Mr. Larson presented arguments concerning Delaware's request for stay of the Division order, No. R-14484-B, in this case. Mr. Feldewert asked that the stay issued at the July 20, 2018 meeting be continued until the parties address the jurisdictional issues in the case in an appeal. A discussion was held by the Commission. Commissioner Martin moved to stay the order for 60 days, and to continue the stay thereafter, if an appeal is filed, until the district court proceedings are completed. Commissioner Balch seconded the motion. The motion passed unanimously, and the Commission agreed that the chair could sign the order on the Motion for Stay. Subsequent to the hearing, Order No. R-14484-C granting a stay was signed by Chair Riley on August 29, 2018.

Item 6. The Commission will determine whether and when to hear the following rulemaking cases:

Case No. 16376: Application of the New Mexico Oil Conservation Division to Amend Rules of the Commission Concerning the Drilling, Spacing, and Operation of Horizontal Wells and Related Matters by Amending Section 15 of Rule 19.15.16 NMAC; Statewide.

Case No. 16377: Application of the New Mexico Oil Conservation Division to Amend Rules of the Commission for Permitting of Wells for Underground Injection by Amending Certain Sections of Rule 19.15.26 NMAC; Statewide.

Action: After a discussion, Commissioner Balch moved to set both of these rulemaking cases for hearing on October 11, 2018. Commissioner Martin seconded the motion. The motion passed unanimously.

Item 7. **Case No. 16040 (De Novo): Application of the New Mexico Oil Conservation Division Compliance and Enforcement Bureau for a Compliance Order Against Cano Petro of New Mexico, Inc. for Wells Operated in Chaves and Roosevelt Counties, New Mexico**

Item 8. **Case 16359: Application of the New Mexico Oil Conservation Division Compliance and Enforcement Bureau for a Compliance Order against Cano Petro of New Mexico, Inc. for Wells Operated in Chaves and Roosevelt Counties, New Mexico.**

Action: An appearance was made by Keith Herrmann for the Oil Conservation Division Compliance and Enforcement Bureau (OCD or Division)) and Jim Jacobsen, New Mexico Assistant Attorney General, as co-counsel. Mr. Herrmann explained that Cano Petro of New Mexico, Inc. (Cano) filed an appeal of Case 16040 which was set for this hearing. OCD filed Case 16359 and requested the Commission to hear both cases together. He said the surety company, U.S. Specialty Insurance Co., entered an appearance in the De Novo case but not in Case 16359 and requested a continuance of both cases because of Cano's bankruptcy filing. He said the surety company does not have standing in Case 16359. Mr. Jacobsen explained portions of the Bankruptcy Code and discussed exceptions to the Code concerning police and regulatory power. The Commission unanimously agreed to deny the Motion for Continuance. Mr. Herrmann made an opening statement explaining what the OCD is seeking in these two cases.

OCD's first witness was Daniel Sanchez, Compliance and Enforcement Bureau Chief with OCD in Santa Fe, New Mexico. He gave an overview of how an operator meets the requirements of Rule 509 and the ramifications if they do not comply. He explained OCD's liability to plug wells if they remain in non-compliance. Chair Riley, Commissioner Martin, Commissioner Balch, and Counsel Brancard cross-examined the witness, and he was excused.

OCD's next witness was Jim Griswold, Environmental Bureau Chief for the OCD in Santa Fe. He told of releases found on inspections of Cano's well sites. He described the condition of tanks and the discovery of unpermitted surface waste management facilities. Commissioner Martin, Chair Riley, and Commissioner Balch cross-examined the witness, and he was excused.

The next witness for OCD was Marilyn Gruebel, Unit Manager for the Oil and Gas Division of the State Land Office (SLO) in Santa Fe. She testified

that Cano was approved as the successor operator of the Cato Unit in 2007 and explained certain provisions of a unit agreement with the SLO. She said a Plan of Operations has not been filed by Cano with the SLO since 2007. Commissioner Balch and Counsel Brancard cross-examined, and the witness was excused.

Jim Griswold was recalled to present evidence on costs of field surveys.

Mr. Herrmann made a closing statement discussing the time frame for Cano to come into compliance.

After a motion by Commissioner Balch and a second to the motion by Commissioner Martin, the Commission voted unanimously to close the meeting pursuant to NMAC 1978, Section 10-15-1-H to deliberate on the cases. After a motion by Commissioner Balch and a second to the motion by Commissioner Martin, the Commission voted unanimously to go back into open session. Chair Riley announced that the only matters discussed during the closed session were De Novo Case No. 16040 and Case No. 16359. Counsel Brancard announced the Commission's decision that Cano is out of compliance with certain Division rules and will be given 45 days to come back into compliance or be subject to certain requirements. Mr. Herrmann was asked to prepare an order incorporating the Commission's decision to be signed by the Commission at the September 13, 2018 meeting.

The meeting was recessed at 2:55 p.m.

The meeting reconvened at 9:00 a.m. on August 21, 2018.

Item 9. Case No. 16027 (De Novo) Application of Chisholm Energy Operating, LLC for a non-standard spacing and proration unit and compulsory pooling, Eddy County, New Mexico.

Appearances were made by Jordan Kessler and Michael Feldewert for Chisholm Energy Operating, LLC (Chisholm) and Jennifer Bradfute for Cimarex Energy Company (Cimarex). Opening statements were made by Ms. Kessler and Ms. Bradfute in which they each outlined the presentation of their cases.

The first witness for Chisholm was Davis Armour, Landman with Chisholm. He described negotiations between Chisholm and Cimarex before and after the examiner hearing and discussed the JOA. Ms. Bradfute, Commissioner Martin, Commissioner Balch, and Counsel Brancard cross-examined the witness, and he was excused.

Chisholm's next witness was George Roth, Geologist with Chisholm. He explained how Chisholm determined the best reservoir for their drilling plan. Ms. Bradfute and Commissioner Balch cross-examined the witness, and he was excused.

The next witness was James Huling, Reservoir Engineer with Chisholm. He explained the drilling plan and discussed the proposed 200% risk charge. Ms. Bradfute and Commissioner Balch cross-examined the witness, and he was excused.

Cimarex's first witness was Caitlin Pierce, Landman with Cimarex. She discussed negotiations between Cimarex and Chisholm and explained preferential purchase rights. Ms. Kessler, Chair Riley, and Commissioner Balch cross-examined the witness, and she was excused.

Cimarex's next witness was Harrison Hastings, Geologist with Cimarex. He described the geology of the Wolfcamp formation in the subject area. Ms. Kessler, Commissioner Balch, and Chair Riley cross-examined the witness, and he was excused.

The next witness for Cimarex was Landon Riser, Reservoir Engineer with Cimarex. He explained his reasons for believing there is no reservoir risk in drilling the subject wells. Ms. Kessler, Chair Riley, and Commissioner Balch cross-examined the witness, and he was excused.

Ms. Kessler and Ms. Bradfute made closing statements.

After a motion by Commissioner Balch and a second to the motion by Commissioner Martin, the Commission voted unanimously to close the meeting pursuant to NMAC 1978, Section 10-15-1-H to deliberate on the case. After a motion by Commissioner Martin and a second to the motion by Commissioner Balch, the Commission voted unanimously to go back into open session. Chair Riley announced that the only matter discussed during the closed session was De Novo Case 16027. Counsel Brancard announced the Commission's decision to approve the non-standard spacing unit and compulsory pooling requested in the application subject to certain conditions including a 150% risk penalty. A proposed order will be drafted and finalized for signing at the Commission's September 13, 2018 meeting.

The following cases were continued to the September 13, 2018 Commission Meeting:

- Item 10.** ***Case No. 15758 (De Novo): Application of OneEnergy Partners Operating, LLC for a non-standard spacing and proration unit and compulsory pooling, Lea County, New Mexico***

- Item 11.** ***Case No. 15759 (De Novo): Application of OneEnergy Partners Operating, LLC for a non-standard spacing and proration unit and compulsory pooling, Lea County, New Mexico***

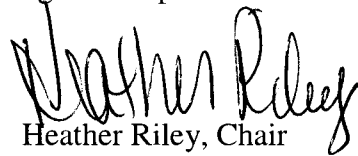
- Item 12.** ***Case No. 15844 (De Novo): Application of XTO Energy Inc. for Approval of the Expansion of the James Ranch Unit, Eddy County, New Mexico***

- Item 13.** **Other business – nothing to report**

- Item 14.** **Next Meeting – September 13, 2018**

- Item 15.** **Adjournment.**

The chair adjourned the meeting at 5:30 p.m.


Heather Riley, Chair