

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION
Regular Meeting
November 12-15, 2024
Meeting Minutes

The Oil Conservation Commission meeting was a hybrid meeting with both in person and virtual participation options. The meeting was held in the Pecos Hall Hearing Room at the Wendell Chino Building, First Floor, 1220 South St. Francis Drive, Santa Fe, New Mexico.

MEMBERS PRESENT:

Gerasimos Razatos	Acting Chair, Oil Conservation Division
Daniel Rubin	Commission Counsel
William Ampomah	Designee, Energy, Minerals and Natural Resources Department
Greg Bloom	Designee, New Mexico State Land Office Commissioner

OTHERS PRESENT:

Felicia Orth, Hearing Officer appointed in Case No. 23580
Sheila Apodaca, Law Clerk

The meeting was called to order by Acting Chair Razatos at 9:00 a.m.

Item 1. Roll Call.

Action: Roll was taken; a quorum was present.

Item 2. Approval of the Agenda.

Action: Commissioner Bloom moved to approve the Agenda. Commissioner Ampomah seconded the motion. Roll call was taken and the motion was unanimously approved.

Item 3. Approval of the October 9, 2024 Meeting Minutes.

Action: Commissioner Bloom motioned for approval of the October 9, 2024 Meeting Minutes and Commissioner Ampomah seconded the motion. Roll call was taken and the motion was approved unanimously.

Item 4. Ratification of Commission motion for limited intervention in Case No. D-506-CV-202301180.

Action: Commission Counsel Rubin requested ratification of a motion filed by the Oil Conservation Commission in Case No. D-506-CV-202301180. Acting Chair Razatos moved for approval. Commissioner Ampomah seconded the motion. Roll call was taken and the ratification carried unanimously.

Item 5. Pending cases:

1 and 2: Consolidated Case Nos. 24816 and 24878: Applications of Avant Operating, LLC for approval of a non-standard unit and compulsory pooling, Lea County, New Mexico: Motion to Consolidate and Status Conference.

Action: Deanna Bennett appeared on behalf of Avant; Jackie McLean appeared on behalf of COG Operating and Concho Oil and Gas; Michael Feldewert appeared on behalf of PBEX, LLC and EGL Resources.

Deanna Bennett requested approval of the unopposed motion to consolidate and to set the two matters for status conference on the December 12, 2024 docket. All parties agreed.

Acting Chair Razatos moved for approval of the motion to consolidate. Commissioner Bloom seconded the motion. Roll call was taken and motion carried unanimously.

3. Case No. 24912: Application of Apache Corporation for an adjudicatory hearing to contest the division's conditions of approval on Apache Corporation's scope of work for additional investigation, Lea County, New Mexico: Status Conference.

Action: Dalva Moellenberg appeared on behalf of Apache Corporation; Jesse Tremaine appeared on behalf of the Oil Conservation Division.

The agenda mistakenly noted that a motion to consolidate was pending, however, that was an erroneous entry. The parties are present for status conference.

The matter is set for hearing on January 16 and 17, 2025. Parties do not believe there will be any preliminary matters to be decided or the need for a scheduling order.

4. Case No. 23580: Application of Wildearth Guardians to Amend the Commission's Rules to Address PFAS, Amendments to 19.15.2, 19.15, 19.15.14, 19.15.16 and 19.15.25 NMAC. Hearing on the Proposed Rule Amendments.

Action: Approximately 9:15 a.m. Felicia Orth was previously appointed by the Commission as the Hearing Officer in this matter and conducted the hearing of the case. Appearances were made by Tim Davis on behalf of Wildearth Guardians, Jesse Tremaine on behalf of the Oil Conservation Division (OCD), Nicholas Maxwell, Pro Se, Cristina Mulcahey and Adam Rankin on behalf of New Mexico Oil and Gas Association (NMOGA), Jordan Kessler and Deanna Bennett appeared on behalf of EOG Resources. Not present on this day but a prior entry of appearance was made by Mariel Nanasi on behalf of New Energy Economy.

Hearing Officer Orth announced results from pre-hearing conference held the week prior. Melissa Troutman will testify as a fact witness. The parties agreed to forego witness summaries. Hearing Officer summarized the procedures that the hearing will follow.

Hearing Officer Orth called for public comments. Commentors will be allotted three minutes apiece. Hearing Officer Orth further announced that the Commission is working to secure a Spanish to English translator for later in the week. Numerous comments were offered by members of the public in person and remotely on the MS Teams platform through the remainder of the morning session.

Morning session broke for lunch at 12:20 p.m

Afternoon session began at 1:15 p.m.

Additional public comments were offered.

1:25 p.m. Tim Davis delivered Wildearth Guardian's opening statement.

1:46 p.m. Jesse Tremaine delivered Oil Conservation Division's opening statement.

2:01 p.m. Nicholas Maxwell reserved his time to offer an opening statement.

2:01 p.m. Cristina Mulcahey delivered New Mexico Oil and Gas Association's opening statement.

2:25 p.m. Wildearth Guardians' witness Dusty Horwitt offered testimony through written direct and rebuttal testimony, cross-examination by the parties, and examination by the Commission. WG Exhibits 9-55 were admitted. Exhibit 94 accepted as an offer of proof with further examination. Witness was excused at 3:30 p.m.

3:45 p.m. Hearing Officer Orth called for public comments and there were none.

3:50 p.m. Wildearth Guardians' next witness, Dr. David Brown offered testimony through written direct and rebuttal testimony, cross-examination by the parties, redirect by Wildearth Guardians, and examination by the Commission. WG Exhibits 56-77 and 97 were admitted. Witness was excused at 5:15 p.m.

Day one of the hearing concluded at 5:15 p.m.

DAY 2 – NOVEMBER 13, 2024 – Continuation of Rulemaking Hearing in Case No. 23580

8:35 a.m. Hearing Officer Orth invited public comment. Members of the public provided comment in person and remotely on the MS Teams platform.

9:00 a.m. Wildearth Guardians' next witness, Dr. John Spear offered testimony through written direct testimony, cross-examination by the parties, redirect by Wildearth Guardians, and examination by the Commission. WG Exhibits 78-89B were admitted. Witness was excused at 11:00 a.m.

11:00 a.m. Wildearth Guardians' next witness, Melissa Troutman was called to the stand. NMOGA objected to this witness. Ms. Troutman was allowed to testify as a fact witness. Ms. Troutman offered testimony through written direct testimony, cross-examination by the parties, redirect by Wildearth Guardians, and examination by the Commission. WG Exhibits 90-93 were admitted. WG Exhibit 3 was admitted. Witness was excused at 11:28 a.m.

Morning session broke for lunch at 11:30 a.m.

Afternoon session began at 12:35 p.m.

Hearing Officer Orth announced that during the break, based on input from the commissioners, the parties agreed to introduce their witnesses and have them offer an approximately three minute summary of their direct testimony prior to cross examination.

OCD introduced their first witness, Dr. Court Sandau. Dr. Sandau offered testimony through written direct testimony, cross-examination by the parties, and examination by the Commission. OCD Exhibits 8-10 were admitted. Witness was excused at 2:15 p.m.

2:32 p.m. OCD introduced their next witness, Dr. Eric Martin. Dr. Martin offered testimony through written direct testimony, cross-examination by the parties, and examination by the Commission. OCD Exhibits 7 and 9 were admitted. Witness was excused at 3:21 p.m.

3:35 p.m. OCD introduced their next witness, Brandon Powell. Mr. Powell offered testimony through written direct and rebuttal testimony. OCD Exhibits 1-6 and 11 were admitted. Witness's testimony was paused for the day at approximately 4:30 p.m.

4:30 p.m. Hearing Officer Orth called for public comments. Commentors will be allotted three minutes apiece. Numerous comments were offered by members of the public in person and remotely on the MS Teams platform. Hearing Officer Orth announced additional opportunities for the public to provide oral comment and that the Commission will have a Spanish to English translator available on Friday morning at 8:30 a.m.

The hearing broke for the day at approximately 5:10 p.m.

DAY 3 – NOVEMBER 14, 2024 – Continuation of Rulemaking Hearing in Case No. 23580

8:30 a.m. Hearing Officer Orth called for public comments. Commentors will be allotted three minutes apiece. Hearing Officer Orth announced that the Commission will have a Spanish to English translator available on Friday morning at 8:30 a.m. Numerous comments were offered by members of the public in person and remotely on the MS Teams platform.

OCD witness, Brandon Powell, resumed the witness stand and continued to offer testimony through direct and rebuttal testimony, cross-examination by the parties and examination by the Commission.

Morning session broke for lunch at 11:30 a.m.

Afternoon session began at 12:30 p.m. Discussion as to order of witnesses. Cross-Examination of Brandon Powell continued until 1:00 p.m.

1:00 pm Mariel Nanasi delivered opening statement on behalf of New Energy Economy.

1:20 p.m. New Energy Economy called their first witness, Kristen Hansen. Ms. Hansen offered testimony through written direct testimony, cross-examination by the parties, redirect by New Energy Economy, and examination by the Commission. NEE Exhibits A and B were admitted. Witness was excused at 2:48 p.m.

2:49 p.m. Cross-examination of Brandon Powell resumed. Powell testified through cross-examination, redirect, and examination by the Commission. Witness was excused at 4:28 p.m.

4:30 p.m. Hearing Officer Orth called for public comments. Commentors will be allotted three minutes apiece. Numerous comments were offered by members of the public in person and remotely on the MS Teams platform. Hearing Officer Orth announced the additional opportunities for the public to provide oral comment and that the Commission will have a Spanish to English translator available on Friday morning at 8:30 a.m.

Hearing closed for the day at 5:15 p.m.

DAY 4 – NOVEMBER 15, 2024 – Continuation of Rulemaking Hearing in Case No. 23580

8:36 a.m. Hearing Officer Orth called for public comments. Orth introduced the Spanish to English interpreter to be utilized for any public commenter wishing to do so. Interpreter made the announcement in Spanish. Numerous comments were offered by members of the public in person and remotely on the MS Teams platform.

9:25 a.m. Sheila Apodaca, OCC Clerk identified Hearing Officer Exhibit 1, which was a State Rules Act Certificate of Compliance regarding public notice of the rulemaking hearing.

9:29 a.m. Tim Davis moved into evidence exhibits WG 4, 5, 7 and 8 and they were admitted.

9:30 a.m. Nick Maxwell delivered his opening statement.

9:37 a.m. NMOGA introduced their first witness, Dr. Janet Anderson.

Dr. Anderson offered testimony through written direct and rebuttal testimony, cross-examination by the parties, redirect testimony and examination by the Commission. NMOGA Exhibits E through E-29 and rebuttal exhibit E-30 are admitted. Witness was excused at 2:03 p.m.

2:04 p.m. Tim Davis moved into evidence WG Exhibits 1 and 2. Exhibits were admitted.

2:08 p.m. NMOGA introduced their next witness, Dr. Stephen Richardson.

Dr. Richardson offered testimony through written direct and rebuttal testimony, cross-examination by the parties, redirect testimony and examination by the Commission. NMOGA Exhibits D through D-14 were admitted. Witness was excused at 4:30 p.m.

Cristina Mulcahey moved into evidence NMOGA Exhibits A, B, C. Exhibits were admitted.

OCC Clerk, Sheila Apodaca, was called back to the stand to identify Substitute Hearing Officer Exhibit 1.

4:41 p.m. Hearing Officer Orth called for public comments. Commentors will be allotted three minutes apiece. Numerous comments were offered by members of the public in person and remotely on the MS Teams platform.

Item 5. Pending Litigation

There are no updates to report.

Item 5. Other business


Action: There was no other business to discuss.

Item 7. Next meeting

The next OCC meeting will be held on December 12, 2024.

Item 8. **Adjournment**

The meeting was adjourned on November 15, 2024 at 5:35 p.m.



Gerasimos Razatos
Acting Chair