

STATE OF NEW MEXICO  
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT  
OIL CONSERVATION COMMISSION  
REPORTER'S TRANSCRIPT OF PROCEEDINGS  
EXAMINER HEARING  
OCTOBER 16, 2019  
SANTA FE, NEW MEXICO

BEFORE: ADRIENNE SANDOVAL, CHIEF EXAMINER  
THOMAS ENGLER, COMMISSIONER  
JORDAN KESSLER, COMMISSIONER  
MIGUEL LOZANO, COMMISSION COUNSEL

ALSO PRESENT: Florene Davidson

This matter came on for hearing before the New Mexico Oil Conservation Division, Adrienne Sandoval, Chief Examiner; Commissioner Thomas Engler; Commissioner Jordan Kessler and Commission Counsel Miguel Lozano, on Wednesday, October 16, 2019, at the New Mexico Energy, Minerals and Natural Resources Department, Wendell Chino Building, 1220 South St. Francis Drive, Porter Hall, Room 102, Santa Fe, New Mexico.

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1 (Commenced at 9:00 a.m.)

2 COMMISSIONER SANDOVAL: Good morning. I  
3 will call the meeting to order. It is 9:02 a.m. on  
4 October 16, 2019. This is a meeting of the New Mexico  
5 Oil Conservation Commission. I am Adrienne Sandoval,  
6 director of the Oil Conservation Division and Chair of  
7 the Oil Conservation Commission.

8 Will the commissioners introduce  
9 themselves for the record?

10 COMMISSIONER KESSLER: Jordan Kessler,  
11 Assistant Commissioner of Mineral and Resources at the  
12 State Land office.

13 COMMISSIONER ENGLER: Tom Engler,  
14 Professor, New Mexico Tech and designated from the  
15 cabinet secretary.

16 COMMISSIONER SANDOVAL: Also with us is  
17 Florene Davidson, clerk to the commission, and Miguel  
18 Lozano, counsel for Commission.

19 There's a list of the items on today's  
20 agenda on the docket for today's meeting.

21 Is there a motion and a second to adopt  
22 the agenda?

23 COMMISSIONER KESSLER: So moved.

24 COMMISSIONER ENGLER: Second.

25 COMMISSIONER SANDOVAL: All those in

1 favor signify by saying Aye.

2 COMMISSIONER KESSLER: Aye.

3 COMMISSIONER ENGLER: Aye.

4 COMMISSIONER SANDOVAL: The motion  
5 carries.

6 In your packet are the draft minutes from  
7 the September 25th meeting. If you have read the  
8 minutes, are there any corrections?

9 COMMISSIONER ENGLER: No corrections.

10 COMMISSIONER KESSLER: None.

11 COMMISSIONER SANDOVAL: Is there a motion  
12 and a second to adopt the minutes?

13 COMMISSIONER KESSLER: So moved.

14 COMMISSIONER ENGLER: I'll second.

15 COMMISSIONER SANDOVAL: All in favor say  
16 Aye.

17 COMMISSIONER ENGLER: Aye.

18 COMMISSIONER KESSLER: Aye.

19 COMMISSIONER SANDOVAL: Motions carries.

20 Moving to Item Number 4 and 5, the  
21 Hearings Scheduled in Case Numbers 20779 and 20780 have  
22 been continued to the November 6th commission meeting.

23 Discussion of pending litigation.

24 Mr. Lozano, is there anything to report on the  
25 Commission's pending litigation?

1                   COMMSSION COUNSEL LOZANO: Madam chair,  
2 members, I checked all of the pending cases this  
3 morning, there's no change. We will be filing a  
4 response to statement appellate issues in the Delaware  
5 matter which is the newest case next Wednesday. That's  
6 all I have.

7                   COMMISSIONER SANDOVAL: Thank you. Is  
8 there any other business or announcements?

9                   COMMSSION COUNSEL LOZANO: A couple  
10 things, madam chair. As I understand the -- either the  
11 division is planning on proposing rules in January; is  
12 that correct?

13                   COMMISSIONER SANDOVAL: Yes.

14                   COMMSSION COUNSEL LOZANO: So, I just  
15 wanted to -- and they may have this well in hand -- but  
16 I just wanted to alert you that in order to get -- get  
17 that hearing held, we have to have it published within  
18 30 days in the Register, which means, based on my  
19 calendar, it will need to be to the Register by  
20 November 14th for a November 26th publishing.

21                   COMMISSIONER SANDOVAL: Sorry, by  
22 November 14th?

23                   COMMSSION COUNSEL LOZANO: So, yeah. The  
24 submittal date is November 14th. It will then be  
25 published on November 26th. That is the latest we can

1 do it to get the 30-day window.

2 COMMISSIONER SANDOVAL: Okay. Thank you.

3 COMMISSION COUNSEL LOZANO: And then what  
4 else -- I think that's all I have for new -- or other  
5 business.

6 COMMISSIONER KESSLER: Counsel, can I  
7 request that the -- when it is published in the Register  
8 that it be circulated to commission members so we can  
9 have time to take a look at it?

10 COMMISSION COUNSEL LOZANO: Prior to  
11 publishing Commissioner or?

12 COMMISSIONER KESSLER: Either way.

13 COMMISSION COUNSEL LOZANO: Okay.

14 COMMISSIONER KESSLER: At the time of the  
15 submittal or just in advance of the hearing.

16 COMMISSIONER SANDOVAL: All right.  
17 Anything else?

18 COMMISSION COUNSEL LOZANO: I think that's  
19 all I have for other business.

20 COMMISSIONER SANDOVAL: All right.  
21 Agenda Item Number 8, 2020 meeting schedule discussion.  
22 So, I believe so far we have January scheduled.

23 COMMISSION COUNSEL LOZANO: The 2nd?  
24 January 2nd?

25 COMMISSIONER SANDOVAL: We have -- no,

1 it's 13th.

2 COMMISSIONER ENGLER: 13th, okay.

3 COMMISSION COUNSEL LOZANO: Yeah. The 2nd  
4 I think is a potential rule hearing.

5 COMMISSIONER KESSLER: Special hearing,  
6 yeah.

7 COMMISSION COUNSEL LOZANO: Florene, do we  
8 have a division hearing scheduled already or is that  
9 still pending?

10 MS. DAVIDSON: They're proposed. They're  
11 not official yet, but I have copies here.

12 COMMISSION COUNSEL LOZANO: Okay.

13 COMMISSIONER SANDOVAL: Thank you.

14 COMMISSION COUNSEL LOZANO: Thank you  
15 Florene.

16 MS. DAVIDSON: You're welcome.

17 COMMISSIONER SANDOVAL: So, right now we  
18 had OCC on the 16th of January, right?

19 MS. DAVIDSON: And all of these, again,  
20 are proposed hearings on Thursdays.

21 COMMISSIONER SANDOVAL: Okay.

22 COMMISSIONER KESSLER: And as a reminder,  
23 Director, I believe we discussed that Dr. Engler had  
24 scheduled his classes to accommodate Thursday meetings;  
25 is that right?

1                   COMMISSIONER ENGLER:  Yeah.  Thursday,  
2  Fridays, yeah.

3                   COMMISSIONER KESSLER:  That works for me  
4  as long as we schedule those --

5                   COMMISSIONER SANDOVAL:  Let's -- okay.  
6  And do we want to like go through and schedule them or  
7  what do we --

8                   COMMISSION COUNSEL LOZANO:  So, I think  
9  what might be a good way is if we're going to pick a  
10 date, we can prepare a schedule.  Like a day of the  
11 week, we can prepare a schedule for next meeting and  
12 then we'll adjust from that if there's conflicts.  I  
13 think that might be -- so if we're still planning on  
14 doing Thursday, we can have Florene prepare us a  
15 schedule for next year and then we can adjust from that.

16                  COMMISSIONER SANDOVAL:  Okay.  Yeah.  I  
17 mean, some of these are going to be kind of -- two of  
18 the -- at least two of the months have three proposed  
19 dates for OCD hearings which basically leaves one.

20                  COMMISSIONER KESSLER:  I think it's  
21 typically been the third Thursday of the month, as long  
22 as I can remember.

23                  MS. DAVIDSON:  Right.  Typically between  
24 the two scheduled.

25                  COMMISSIONER SANDOVAL:  Okay.  Should we

1 just keep that?

2 COMMISSIONER ENGLER: That's fine with  
3 me.

4 COMMISSIONER KESSLER: That's fine with  
5 me.

6 COMMISSIONER SANDOVAL: Okay.

7 COMMISSIONER ENGLER: So third Thursday  
8 of each month, right?

9 COMMISSIONER SANDOVAL: Yes. Okay. So,  
10 for 2010 we'll look at the third Thursday of every  
11 month, and then just address any issues as they arise.

12 COMMISSION COUNSEL LOZANO: Yeah. Yeah.  
13 Florene, if you want to prepare a schedule for the next  
14 meeting?

15 MS. DAVIDSON: Sure.

16 COMMISSION COUNSEL LOZANO: And then at  
17 least in the first three, four months maybe we can make  
18 sure there are no conflicts.

19 MS. DAVIDSON: Okay.

20 COMMISSION COUNSEL LOZANO: And then one  
21 other matter I should have brought up for November 6th.  
22 We moved both of the hearings today to November 6th. I  
23 don't know that it's likely, maybe Commissioner Kessler  
24 would have a better idea of this, but it could -- I  
25 suppose it could bleed over to the 7th. I know we moved

1 the November 7th meeting a day earlier because of  
2 conflicts. So, either we prepare to potentially hold  
3 hearings the next day or pick a day the following week  
4 to finish up.

5 COMMISSIONER KESSLER: And let me just  
6 say on the record. I am conflicted on Case Number  
7 20780, and I'll circulate email to that effect in  
8 advance of the hearing date. Just trying to determine  
9 which cases are going, so I'm not sending out multiple  
10 emails on that. So, yeah, I think it's quite likely if  
11 there's a contested case -- if you recall the last acid  
12 gas case that we had was about three and a half, four  
13 hours, and it was not contested. So, I would anticipate  
14 multiple, or likely contested --

15 COMMISSION COUNSEL LOZANO: So, I don't  
16 know what the 7th looks like. I know Director said she  
17 could do the morning. Otherwise, we can try to push it  
18 to the next week.

19 COMMISSIONER SANDOVAL: I can do the  
20 morning to about noon on the 7th.

21 COMMISSIONER ENGLER: I'm good the 7th.  
22 So, I could do the 7th.

23 COMMISSION COUNSEL LOZANO: Okay. So,  
24 Commissioner Kessler, whoever is the designee, if you  
25 want to let them know?

1 All right.

2 COMMISSIONER ENGLER: Is there going to  
3 be a designate for both cases or just the one?

4 COMMISSIONER KESSLER: Well, we'll see  
5 what happens with timing of each of the cases. So, this  
6 is assuming that both of the cases go on November 6th.  
7 Okay. I'm not conflicted on the -- one, but I don't  
8 want to jump in at the halfway mark. Just going to play  
9 it by ear.

10 COMMISSIONER SANDOVAL: Okay. The next  
11 meeting is scheduled for November 6th, 2020. There's no  
12 other business before the commission. This meeting is  
13 adjourned 9:11 a.m. on Wednesday, October 16th.

14 (Hearing concluded at 9:11 a.m.)

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1 STATE OF NEW MEXICO  
2 COUNTY OF BERNALILLO

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4 CERTIFICATE OF COURT REPORTER

5 I, BELEN A. SOTO, New Mexico Certified Court  
6 Reporter No. 106, and Registered Merit Reporter, do  
7 hereby certify that I reported the following proceedings  
8 in stenographic shorthand and that the foregoing pages  
9 are a true and correct transcript of those proceedings  
10 that were reduced to printed form by me to the best of  
11 my ability.

12 I FURTHER CERTIFY that the Reporter's Record  
13 of the Proceedings truly and accurately reflects the  
14 exhibits, if any, offered by the respective parties.

15 I FURTHER CERTIFY that I am neither employed  
16 by nor related to any of the parties or attorneys in  
17 this case and that I have no interest in the final  
18 disposition of this case.

19 DATED THIS 29th day of October, 2019.

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BELEN A.SOTO, CSR, RMR  
Certified Court Reporter  
New Mexico CCR No. 106  
Date of CCR Expiration: 12/31/2019  
Paul Baca Professional Court Reporters

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