

**MINUTES OF THE MEETING
OF THE OIL CONSERVATION COMMISSION
HELD ON NOVEMBER 17, 2011**

The Oil Conservation Commission met at 9 o'clock a.m. on November 17, 2011, in Porter Hall, Wendell Chino Building, 1220 S. St. Francis Drive, Santa Fe, New Mexico.

PRESENT: **SCOTT DAWSON, Member**
 ROBERT BALCH, Member
 JAMI BAILEY, Chair

Cheryl Bada served as the Commission counsel.

The meeting was called to order by Chairman Bailey. The minutes of the October 20-21, 2011 Commission meeting were approved and adopted.

Reopened Case 14161, the application of Targa Midstream Services LP to amend Order No. R-13052 was called for final action. The Commission unanimously approved and signed Order No. R-13052-A in the case.

Case 14753, the application of the New Mexico Oil and Gas Association for amendment of certain provisions of Title 19, Chapter 15, Part 16 of the New Mexico Administrative Code concerning log, completion, hydraulic fracturing, and workover reports, was called. Chairman Bailey read the entire advertisement of this case in order to stress all of the filing deadlines in the advertisement. Appearances were made by William F. Carr, Michael Feldewert and Adam Rankin for the New Mexico Oil and Gas Association (NMOGA), Gabrielle Gerholt for the Oil Conservation Division (OCD), Douglas Meiklejohn for Earthworks' Oil and Gas Accountability Project (OGAP), Scott Hall for Halliburton Energy Services, Inc. (Halliburton) and Karin Foster for the Independent Petroleum Association of New Mexico (IPANM).

Chairman Bailey summarized the OCD's rulemaking rule and procedure. She announced that public statements will be taken before the lunch break and before the end of the day. She said a five-minute time limit will be in place for any person making public statements.

Opening statements were made by Mr. Carr explaining the proposal of NMOGA; Ms. Gerholt explaining OCD's presentation; and Mr. Meiklejohn explaining OGAP's position in support of the disclosing of chemicals injected into fractures as proposed in NMOGA's application but also seeking the disclosure of all chemicals. Mr. Hall had no opening statement but said that Halliburton supports NMOGA and OCD. Ms. Foster had no opening statement but said that IPANM supports NMOGA in its application.

Mr. Feldewert's witness was Larry Dillon, Completion Manager in the San Juan Basin for ConocoPhillips Company. He stated that he oversees all wells until drilling is completed. He explained that FracFocus was developed by a group of state agencies to disclose the fluids used in the hydraulic fracturing process. He said that ConocoPhillips has been reporting on this website since May of 2011. He explained the template used by FracFocus showing the components of the fracture fluids. He discussed the EPA website that shows characteristics and ingredients of chemicals. He stated that a 30-day notice to landowners is not practical because an operator does not know what volumes and types of chemicals will be used in a well before it's actually pumped. He said that log information is used to determine the hydraulic treatment plan. He explained that material

safety data sheets (MSDS) are required by law to be present at the wellsite and show how to deal with exposure to each chemical. He said that 97% of the injectate that goes in the ground is water, sand and nitrogen. He compared the OCD proposed form with the FracFocus template. Mr. Meiklejohn, Commissioner Balch, and Chairman Bailey cross-examined the witness, and he was excused.

Ms. Gerholt's witness was Ed Martin, District IV Supervisor with the OCD in Santa Fe, New Mexico. He said an OCD work group was formed consisting of himself, Terry Warnell, Carl Chavez, Gabrielle Gerholt, and district supervisors to analyze the proposed rule and determine if any modifications should be made. He listed the modifications OCD is proposing, including not extending the filing time for C-105s and submitting disclosure information to the OCD on a form that was created by the work group. He explained the differences in the OCD proposed form and the FracFocus template. He requested the OCD form to be adopted because it is easier for the public to access the information and gives a more complete picture of what was put in the well. He talked of the difficulty OCD has with obtaining confidential information and not being able to keep it confidential because of budgetary restraints and not being fully staffed. Mr. Meiklejohn, Commissioner Balch, Commissioner Dawson, and Chairman Bailey cross-examined the witness, and he was excused.

Public statements were taken as follows:

Maxine Paul, Preservation Associate at Environment New Mexico - believes there is not enough information on chemicals used in the fracturing process. She is supportive of OGAP's disclosure proposal.

John Bartlit on behalf of New Mexico Citizens for Clean Air and Water - supports the principles of efficiency and transparency in the regulatory process. He requested that tracers be added to all fracking fluids.

Kathy Martin, a professional engineer in the State of Oklahoma who worked on the STRONGER Board - supports disclosure of proprietary data to the surface owners. She believes that one of the weaknesses in FracFocus is that it is not updated as operators of a well change.

Jack Scott, member of the Board of San Juan Citizens Alliance - supports the OGAP proposal for complete disclosure and no proprietary exemptions because there is the potential for contamination of groundwater in frac fluids, and all chemicals need to be disclosed.

Karin Foster made a statement in which she explained her purpose in making an appearance on behalf of IPANM in this case is to preserve her right as a legal party to the case, but she will not be presenting any witnesses or conducting cross-examination.

Mr. Meiklejohn's witness was Gwen Lachelt with Earthwork's OGAP in Durango, Colorado. She explained that Earthworks and OGAP merged in 2005, and OGAP is now a program of Earthworks. She is the co-founder and Director of OGAP and has worked with communities throughout Colorado, New Mexico and other states to help landowners understand what their rights are as far as oil and gas issues are concerned. She gave instances where she has worked with hydraulic fracturing issues. She said that the greatest concern of landowners is the possibility of ground and surface water contamination. She told of working with EPA on hydraulic fracturing regulations. She advocated the full disclosure of chemicals used in hydraulic fracturing. She stated that landowners need disclosure prior to fracturing operations so they can perform baseline

testing of their water well quality. She presented information on several states' fracturing rules. She explained that the Surface Owners Protection Act provides that no less than 30 days before entering the surface of the land, an operator shall give the surface owner notice of planned oil and gas operations. She said that OGAP's position is that conditions may be required to be placed on oil and gas operations if hydraulic fracturing is used. She discussed MSDS sheets. She stated that surface owners want to know what chemicals are going to be used on their property and transported to their ranch or through their neighborhood. Mr. Feldewert, Ms. Gerholt, Commissioner Dawson, Commissioner Balch, and Chairman Bailey cross-examined the witness, and she was excused.

After a break, the Commission recalled Ms. Lachelt to ask her opinion about whether the maximum ingredient concentration be entered by mass or reported in gallons. She said it would be more helpful to use gallons. She was excused.

The Commission called Patricio Sanchez, Senior District Engineer with Energen Resources in Farmington, New Mexico. He explained that mass is an actual measurement of the substance in place, and gallons is a volume. Mr. Meiklejohn and Chairman Bailey cross-examined the witness, and he was excused.

Ed Martin was recalled to answer questions from the Commission about the sample form proposed by the OCD. He was excused.

Public statements were taken as follows:

Joan Brown, Executive Director of New Mexico Interfaith Power and Light – expressed concerns about water quality and use of water. She recommended an effective regulatory structure to protect human health and full disclosure of the composition and safety of chemicals used in fracturing.

Closing statements were made by Ms. Gerholt, Mr. Meiklejohn, and Mr. Carr. The record was closed.

The Commission began deliberations on the case and unanimously agreed on the following:

- Number of days after completion of a well to file a report – C-105 due in 20 days and disclosure of fluids in 45 days
- What fluids should be reported – use language of NMOGA for disclosure of fluids, as stated in their application, to require only what is reported on MSDS to FracFocus, and not proprietary information
- Where should the report be filed - with OCD on its form
- Minimum requirements for what's listed on the form – where to send the form, well name and number, API number, footages, unit letter or lot, section, township, range, county, OGRID number, operator name, address, and phone number, an instruction sheet to accompany the form, true vertical depth, pool code, fracture date, surface and bottomhole location, total volume of fluid pumped, hydraulic fluid composition and concentration, certification and e-mail address, production type, gross fracture interval, and gross perforation depths

Chairman Bailey asked all parties to submit findings and conclusions by January 4, 2012 to help the Commission counsel draft an order.

The meeting was adjourned at 3:49 p.m.

**STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION**



JAMI BAILEY, Chair