

STATE OF NEW MEXICO  
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT  
OIL CONSERVATION DIVISION

REPORTER'S TRANSCRIPT OF PROCEEDINGS  
COMMISSION MEETING  
ADOPTION OF AGENDA

ORIGINAL

ADOPTION OF MEETING MINUTES OF MAY 18, 2017  
CONTINUATION OF CASE NUMBERS 15726 AND 15185  
AND  
OTHER BUSINESS

June 13, 2017

Santa Fe, New Mexico

BEFORE: DAVID R. CATANACH, CHAIRPERSON  
EDWARD MARTIN, COMMISSIONER  
DR. ROBERT S. BALCH, COMMISSIONER  
CHERYL BADA, ESQ.

This matter came on for hearing before the  
New Mexico Oil Conservation Commission on Thursday,  
June 13, 2017, 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.

REPORTED BY: Mary C. Hankins, CCR, RPR  
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1 (9:00 a.m.)

2 CHAIRMAN CATANACH: Call the hearing to  
3 order this morning. This is the meeting of the  
4 New Mexico Oil Conservation Commission. My name is  
5 David Catanach, Chairman of the Commission. The time  
6 9:00 a.m. Today's date is June 13th, 2017. This  
7 meeting is being conducted in Porter Hall within the  
8 Wendell Chino State.

9 Commissioners, I'll take roll at this time.  
10 Please introduce yourself for the record.

11 COMMISSIONER MARTIN: Ed Martin  
12 representing the State Land Office.

13 COMMISSIONER BALCH: Dr. Robert Balch,  
14 designee of the Secretary of Energy, Minerals and  
15 Natural Resources.

16 CHAIRMAN CATANACH: And also Ms. Florene  
17 Davidson is present today.

18 Commissioners, in your packet today, you  
19 should have an agenda for today's meeting. If you've  
20 reviewed the agenda, do I hear a motion and a second to  
21 adopt the agenda?

22 COMMISSIONER BALCH: I've reviewed the  
23 agenda, and I would move to adopt it.

24 COMMISSIONER MARTIN: Second.

25 CHAIRMAN CATANACH: All in favor?

1 (Ayes are unanimous.)

2 CHAIRMAN CATANACH: Motion to adopt today's  
3 agenda is passed.

4 Also in your packet are the draft minutes  
5 from the May 18th, 2017 Commission meeting.

6 Commissioners, if you've reviewed the minutes, do you  
7 have any changes? And if not, is there a motion and a  
8 second to adopt the minutes?

9 COMMISSIONER MARTIN: I've reviewed the  
10 minutes. I have no changes, and I move that we adopt.

11 COMMISSIONER BALCH: I've also reviewed  
12 them, and I would second the motion.

13 CHAIRMAN CATANACH: All in favor?

14 (Ayes are unanimous.)

15 CHAIRMAN CATANACH: Motion to adopt the  
16 minutes from the May 18th, 2017 hearing is passed.

17 At this time let me just make a couple of  
18 announcements. On today's docket is Case Number 15726,  
19 which is the application of the OCD to amend Section 19  
20 of 19.15.46 NMAC and Section 16 of 19.15.7 NMAC. This  
21 case concerns extending the time for reporting  
22 completion of horizontal wells from 20 to 45 days and  
23 also proposes to require operators to file information  
24 regarding hydraulic fracturing activities with  
25 FracFocus.

1           At the request of the Division, this case  
2 will be continued to the July 13th Commission docket.

3           Also on today's docket is Case Number  
4 15185, which is the application of Ard Energy, LLC to  
5 re-open Case Number 15185 pursuant to NMAC 19.15.13.13  
6 and the provisions of Order Number R-13913-B to  
7 determine reasonable well costs for drilling of the Ivar  
8 The Boneless Federal Well #1H.

9           This case will also be continued to the  
10 July 13th Commission docket.

11                     (The proceedings conclude, 9:03 a.m.)

12                     (10:31 a.m.)

13           CHAIRMAN CATANACH: And before we start  
14 again, a correction on something I mentioned earlier.  
15 On a continued case, Case Number 15185, I mentioned in  
16 my previous statement that that was continued to July  
17 13th. That is actually continued to the August 10th,  
18 2017 Commission meeting. So we'll note that correction.

19                     Thank you, Ms. Davidson.

20                     (10:42 a.m.)

21           COMMISSIONER BALCH: I notice you also had  
22 an application for rehearing from COG.

23           CHAIRMAN CATANACH: I do want to discuss  
24 that briefly with the Commission. We did receive an  
25 application from COG.

1                   COMMISSIONER BALCH: Do you want to discuss  
2 that in open or closed session?

3                   CHAIRMAN CATANACH: Should we close it,  
4 Counselor?

5                   MS. BADA: No. You didn't indicate it on  
6 your agenda, so no.

7                   COMMISSIONER BALCH: Okay. So we can't.

8                   CHAIRMAN CATANACH: Yeah. That's fine.  
9 It is on the agenda; is that correct?

10                  MS. BADA: No, but you didn't indicate you  
11 might go into closed session.

12                  CHAIRMAN CATANACH: I'm sorry?

13                  COMMISSIONER BALCH: We didn't say we might  
14 go into closed session to discuss any of this.

15                  CHAIRMAN CATANACH: Okay. So it's not on  
16 the agenda; is that correct?

17                  MS. BADA: There is "other business" on the  
18 agenda.

19                  CHAIRMAN CATANACH: So is that considered  
20 other business, Counselor?

21                  MS. BADA: Yes. Yes.

22                  CHAIRMAN CATANACH: Okay. So we're safe?

23                  MS. BADA: Yes.

24                  CHAIRMAN CATANACH: COG, again, filed an  
25 application for rehearing.

1                   And you (indicating) were not involved.  
2 Well, you were -- no, you were not involved,  
3 Commissioner Martin --

4                   COMMISSIONER MARTIN: No.

5                   CHAIRMAN CATANACH: -- in the original  
6 case. You missed a lot of fun.

7                   COMMISSIONER MARTIN: I'm sure.

8                   CHAIRMAN CATANACH: I did, just this  
9 morning, receive Nearburg's response to COG's  
10 application for rehearing, and I have not had a chance  
11 to read it.

12                   COMMISSIONER BALCH: Well, it's a  
13 conclusion statement that is relatively short.

14                   CHAIRMAN CATANACH: You already read it?

15                   COMMISSIONER BALCH: Yeah, I did. It says  
16 our decision is proper and was made in accordance with  
17 applicable laws, supported by substantial evidence, and  
18 it's not arbitrary or capricious, which are some of  
19 COG's arguments. And they think, of course, that we  
20 should deny the rehearing.

21                   I was not convinced, in reading the COG  
22 application for rehearing, that it added anything new to  
23 our discussion. That was a really complex set of  
24 deliberations that we had, and it really regarded  
25 jurisdiction. They're basically claiming we do have

1 jurisdiction -- sole jurisdiction for administrative  
2 actions, and then in some of those components of the  
3 order, that we could have actually made a determination  
4 and not passed it off to the later date of the appeals  
5 court.

6 COMMISSIONER MARTIN: I'm familiar with the  
7 details of the case, and I agree with your original  
8 ruling -- the Commission's original ruling, that you do  
9 not have jurisdiction.

10 COMMISSIONER BALCH: I was just getting to  
11 that. And to kind of sum up, I didn't see anything to  
12 change my mind about how we had determined the outcome  
13 of that.

14 CHAIRMAN CATANACH: I think one of COG's  
15 main concerns is that -- and I may be wrong on this. I  
16 think in the original Division order, there was a  
17 finding that COG had a good-faith belief that they had  
18 an agreement in place. And I think in the subsequent  
19 Commission order, I think we did not support that or put  
20 that in there, and I think that was one of their  
21 concerns. And I think that goes to the district court  
22 action. I don't know how that affects -- it may help  
23 them in the district court action, but I still don't  
24 feel that we can make that determination in the case.

25 COMMISSIONER BALCH: I didn't either.

1                   CHAIRMAN CATANACH: So I'm not sure that --  
2     you know, I still believe that at this point I don't  
3     think that we can take any action because we don't --  
4     it's all up in the air as to what -- who owns what, what  
5     kind of interest it is. You know, I just don't think we  
6     can -- I just don't think that rehearing the case would  
7     do any good until such time as we know what exactly is  
8     going on out there with the interest.

9                   COMMISSIONER BALCH: I think the contract  
10    law needs to be sorted before we can take care of our  
11    part.

12                  COMMISSIONER MARTIN: I agree.

13                  CHAIRMAN CATANACH: So I guess I would --  
14    should we vote on that?

15                  MS. BADA: You don't say take any action,  
16    so I wouldn't.

17                  COMMISSIONER BALCH: Normally, it would  
18    just go to you, and you take the action.

19                  CHAIRMAN CATANACH: Yeah, that's true. My  
20    opinion is that we should not re-hear it, and I think  
21    that's --

22                  COMMISSIONER BALCH: So is there a motion?

23                  COMMISSIONER MARTIN: I move that we should  
24    not re-hear it.

25                  COMMISSIONER BALCH: Second.

1 CHAIRMAN CATANACH: All in favor?

2 (Ayes are unanimous.)

3 CHAIRMAN CATANACH: Okay. Motion to deny  
4 the application of COG for a rehearing in that  
5 particular case -- in those particular three cases is  
6 passed.

7 Is there any other business on today's  
8 docket, Commissioners or Counselor?

9 MS. BADA: (Indicating.)

10 CHAIRMAN CATANACH: Okay. The next meeting  
11 is July 13th. It looks like we have two rule changes on  
12 that docket, it looks like we have a contested SWD case,  
13 and I think that's all. I don't know exactly the  
14 duration of what that hearing is going to look at. But  
15 are you available on the 14th?

16 COMMISSIONER BALCH: For extra days? I was  
17 just going to look at that.

18 CHAIRMAN CATANACH: Are you available,  
19 Commissioner Martin --

20 COMMISSIONER MARTIN: I am.

21 CHAIRMAN CATANACH: -- in case it goes two  
22 days?

23 COMMISSIONER BALCH: Yeah. I'm available  
24 on the 14th.

25 CHAIRMAN CATANACH: So that's good to know.

1 It may possibly go into that. At this point I don't  
2 know if it will, but we'll all be available, it looks  
3 like.

4 Anything further?

5 If there is nothing further of this  
6 Commission meeting, we are adjourned.

7 Thank you.

8 (The proceedings conclude, 10:48 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, MARY C. HANKINS, Certified Court  
6 Reporter, New Mexico Certified Court Reporter No. 20,  
7 and Registered Professional Reporter, do hereby certify  
8 that I reported the foregoing proceedings in  
9 stenographic shorthand and that the foregoing pages are  
10 a true and correct transcript of those proceedings that  
11 were reduced to printed form by me to the best of my  
12 ability.

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

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

20

21

*M. Hankins*

22

MARY C. HANKINS, CCR, RPR  
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Date of CCR Expiration: 12/31/2017  
Paul Baca Professional Court Reporters

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