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

**ORIGINAL**

REPORTER'S TRANSCRIPT OF PROCEEDINGS  
COMMISSION MEETING  
DOCKET NO. 22-09

June 18, 2009  
Santa Fe, New Mexico

RECEIVED OGD  
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BEFORE: MARK E. FESMIRE: Commission Chair  
JAMI BAILEY: Commissioner  
WILLIAM C. OLSON: COMMISSIONER

This matter came for hearing before the New Mexico Oil Conservation Commission on June 18, 2009, at the New Mexico Energy, Minerals and Natural Resources Department, 1220 South St. Francis Drive, Room 102, Santa Fe, New Mexico.

REPORTED BY: PEGGY A. SEDILLO, NM CCR NO. 88  
Paul Baca Court Reporters  
500 Fourth Street, NW, Suite 105  
Albuquerque, New Mexico 87102

1 CHAIRMAN FESMIRE: Let the record reflect that  
2 this is the regular monthly meeting of the New Mexico Oil  
3 Conservation Commission, that all three commissioners are  
4 present.

5 It is June 18, 2009. Due to some unfortunate  
6 occurrences, not the least important of which is one of  
7 the attorneys falling down a flight of stairs, we're going  
8 to delay convening the meeting until 11:00.

9 That also gives us a chance to make some  
10 editorial changes that were brought up in the orders that  
11 will be presented today.

12 So at this time, we're going to adjourn and  
13 continue the regularly scheduled meeting of the Commission  
14 until 11:00 this morning back in this room.

15 Is there anything else from the Commission?

16 COMMISSIONER BAILEY: No.

17 COMMISSIONER OLSON: No.

18 CHAIRMAN FESMIRE: So we'll reconvene at 11:00  
19 here in the room.

20 (Note: The meeting adjourned and reconvened at  
21 approximately 12:15 p.m.)

22 CHAIRMAN FESMIRE: Let the record reflect that  
23 this is a continuation of the regularly scheduled June  
24 2009 New Mexico Oil Conservation Commission hearing.

25 It's being held on June 18, 2009 in Porter Hall.

1 The record should also reflect that Commissioners Bailey,  
2 Olson and Fesmire are all present.

3 The first order of business today is the  
4 adoption of the minutes of the May 27, 2009 Commission  
5 meeting. Have the Commissioners had a chance to look at  
6 the minutes as presented by the secretary?

7 COMMISSIONER BAILEY: Yes, I have, and I move  
8 that we adopt them.

9 CHAIRMAN FESMIRE: Is there a second?

10 COMMISSIONER OLSON: I'll second that. I have  
11 reviewed them and I believe they accurately reflect our  
12 actions taken at the meeting.

13 CHAIRMAN FESMIRE: All those in favor of  
14 adopting the minutes as presented by the secretary signify  
15 by saying aye.

16 COMMISSIONER BAILEY: Aye.

17 COMMISSIONER OLSON: Aye.

18 CHAIRMAN FESMIRE: Let the record reflect that  
19 the minutes have been unanimously adopted by the  
20 Commission, signed by the Chairman, and conveyed to the  
21 secretary.

22 The next cause before the Commission is Case  
23 No. 14292, the Application of the New Mexico Oil  
24 Conservation Division for the Adoption of Amendments to  
25 Rule 19.15.17, the "Pit" Rule, Statewide.

1           The Commission has previously taken testimony in  
2           this case and has directed counsel to draft an order that  
3           adopts and memorializes the Commission's decision in this  
4           case.

5           Have the Commissioners had the opportunity to  
6           review the order and the attachment to the order as  
7           presented by counsel?

8           COMMISSIONER BAILEY: Yes, I have, and I move  
9           that we adopt this Order.

10          COMMISSIONER OLSON: I've reviewed it as well  
11          and I believe it accurately reflects our deliberations  
12          that were conducted.

13          CHAIRMAN FESMIRE: All those in favor of -- is  
14          there a second to the motion?

15          COMMISSIONER OLSON: That's a second.

16          CHAIRMAN FESMIRE: Okay. All those in favor of  
17          adopting Order R, No. 12939A in Case No. 14292 signify by  
18          saying aye.

19          COMMISSIONER BAILEY: Aye.

20          COMMISSIONER OLSON: Aye.

21          CHAIRMAN FESMIRE: Aye. Let the record reflect  
22          that the order was unanimously adopted. It will be signed  
23          by the members of the Commission and transmitted to the  
24          secretary.

25          The next order of business before the Commission

1 is Case No. 14255, Application of the New Mexico Oil  
2 Conservation Division through it's Environmental Bureau  
3 Chief for the adoption of an amendment to 19.15.39 NMAC  
4 adding new sections to be codified at 19.15.39.9 and  
5 19.15.39.10 NMAC addressing adding special provisions for  
6 Santa Fe County in the Galisteo Basin, Santa Fe, Sandoval  
7 and San Miguel Counties, New Mexico.

8 The Commission has previously taken testimony in  
9 this case, has deliberated, and has instructed counsel to  
10 draft an order that reflects those deliberations.

11 Have the commissioners had the opportunity to  
12 review that order?

13 COMMISSIONER OLSON: Yes, I have reviewed that  
14 order and I think it reflects the actions and  
15 deliberations accurately that we had conducted. And I  
16 move that we approve the order and the accompanying rule  
17 changes.

18 CHAIRMAN FESMIRE: The Chair will second the  
19 motion. Commissioner Bailey, I understand you might have  
20 something you want to put on the record before we proceed?

21 COMMISSIONER BAILEY: As designee of the  
22 Commissioner of Public Lands, I cannot sign this rule that  
23 negatively impacts the supportive schools, prevents  
24 development of the natural resources and revenues  
25 generated for the beneficiary.

1           It revokes without supporting scientific  
2 testimony certain OCD rules that were developed through  
3 thoroughly reviewed technical presentations and careful  
4 deliberations by the Commission.

5           No unbiased technical testimony has shown  
6 deficiencies in current statewide rules or any  
7 contamination cases in the Galisteo Basin or Santa Fe  
8 County arising from operations conducted under current  
9 rules.

10           I therefore, as representative of the State Land  
11 Office, object to the passage of this rule and I cannot  
12 sign this order.

13           CHAIRMAN FESMIRE: There is a motion before the  
14 Commission to adopt the rule. It's been seconded by the  
15 Chair. All those in favor signify by saying aye. Aye.

16           COMMISSIONER OLSON: Aye.

17           CHAIRMAN FESMIRE: Let the record reflect that  
18 the motion to adopt the rule was passed by a vote of two  
19 to one with Commissioners Fesmire and Olson voting in the  
20 affirmative. The order will be signed by Commissioners  
21 Fesmire and Olson and transmitted to the secretary.

22           The next issue before the Commission is the  
23 presentation of Proposed Findings of Fact and Conclusions  
24 of Law in Case No. 13957, the Amended Application of  
25 Energen Resources Corporation to Amend the Cost Recovery

1 Provisions of Compulsory Order No. R-1960, to Determine  
2 Reasonable Costs and for Authorization to Recover Costs  
3 from Production of Pooled Mineral Interests, Rio Arriba  
4 County, New Mexico.

5 Counsel Smith, I understand that there have been  
6 some requests in this case?

7 MR. SMITH: Yes. I had a phone call from Scott  
8 Hall, the attorney for Energen, who indicated to me that  
9 because he had been out of town a great deal, that he  
10 would be unable to meet the June 18th deadline.

11 He indicated to me that he would submit a letter  
12 or a motion, whichever would be appropriate, to the  
13 Commission, and that he would seek approval of opposing  
14 counsel.

15 CHAIRMAN FESMIRE: Has that been done, do you  
16 know?

17 MR. SMITH: I have not heard anything from  
18 either of them since then. I note, however, that opposing  
19 Counsel, James Bruce, is not here, so --

20 CHAIRMAN FESMIRE: Well, Mr. Bruce has submitted  
21 at the beginning of the commission hearing this morning  
22 his Proposed Findings and Conclusions.

23 MR. SMITH: Okay.

24 CHAIRMAN FESMIRE: Did Mr. Hall say when he  
25 could get his pleadings to us.

1 MR. SMITH: No, he didn't. I know he was out of  
2 town when he spoke with me and I thought he was going to  
3 get that ironed out with opposing counsel. I certainly  
4 can get hold of his secretary or him sometime today to try  
5 to find that out.

6 CHAIRMAN FESMIRE: What's the will of the  
7 Commission concerning this? It was sort of a unilateral  
8 decision on the way to a trip to Hawaii, I understand.

9 COMMISSIONER BAILEY: To allow another timetable  
10 for their submittal.

11 MR. SMITH: I think that's certainly what  
12 Mr. Hall wanted.

13 CHAIRMAN FESMIRE: Did he indicate how long it  
14 would take him?

15 MR. SMITH: No, he did not. I made no inquiry  
16 of these things because my impression was that he was  
17 going to take this to the Commission because I don't have  
18 the authority to okay that kind of thing.

19 CHAIRMAN FESMIRE: Madam Secretary, have you  
20 heard from him?

21 MS. DAVIDSON: I have not heard from him.

22 CHAIRMAN FESMIRE: Would the Commission be  
23 adverse to giving Mr. Hall another week? For the first  
24 time, Mr. Bruce is on time and everybody else is late.

25 COMMISSIONER OLSON: I guess my only concern is

1 whether Mr. Bruce objects to it or not, I don't know.

2 MR. SMITH: Do you want me to go call Mr. Bruce  
3 while you guys are conducting other business? It's 12:30.  
4 He's probably out suntanning.

5 CHAIRMAN FESMIRE: I hope he doesn't read this  
6 transcript. We were planning on acting on this at the  
7 July 16th meeting.

8 MR. SMITH: That's right.

9 CHAIRMAN FESMIRE: How long would it take you to  
10 draft a -- comfortably to draft an order in this case?

11 MR. SMITH: Well, I'm out of town the first week  
12 of July and the last couple of days of this month, so that  
13 will cut me back to about three weeks.

14 I should be able to do it, but on the other  
15 hand, I don't really want to cramp the Commission in their  
16 ability to review this.

17 I can get it ready but it will cramp the  
18 Commission in its review, I think. So in my view, it's  
19 really up to the Commission.

20 CHAIRMAN FESMIRE: If we go another week, that  
21 puts us to the 25th. That's about the time you leave  
22 town, right?

23 MR. SMITH: That is the time I leave town.

24 COMMISSIONER OLSON: Just make it when he comes  
25 back.

1 CHAIRMAN FESMIRE: Why don't you contact  
2 Mr. Hall? Is that okay with you?

3 COMMISSIONER BAILEY: Sure.

4 CHAIRMAN FESMIRE: And give him until you get  
5 back to complete it.

6 MR. SMITH: Okay.

7 CHAIRMAN FESMIRE: And if he does not make it to  
8 the Commission by that time, I think you can draft the  
9 Proposed Findings without his assistance and we'll lean  
10 very heavily on what Mr. Bruce has provided.

11 MR. SMITH: Okay. And you would like to enter  
12 the order --

13 CHAIRMAN FESMIRE: On the 16th of July.

14 MR. SMITH: On the 16th of July.

15 CHAIRMAN FESMIRE: Is that going to be too short  
16 a time period for you?

17 MR. SMITH: No, not if you guys can turn it  
18 around, I'll get it to do, you bet.

19 CHAIRMAN FESMIRE: Well, with that, we will  
20 continue Case No. 13957 and extend the deadline for  
21 submission of Proposed Findings of Facts and Conclusions  
22 to Counsel Smith until the day he returns, which is?

23 MR. SMITH: I'd love to tell you that. Is the  
24 4th on a Saturday? I believe it will be the 6th.

25 CHAIRMAN FESMIRE: The 6th?

1 MR. SMITH: Yes.

2 CHAIRMAN FESMIRE: And you might also contact  
3 Mr. Bruce and give him until then to modify or change his  
4 Proposed Findings and Conclusions so that he has the same  
5 amount of time as Mr. Hall.

6 MR. SMITH: Okay.

7 CHAIRMAN FESMIRE: The next item before the  
8 Commission is Case No. 14055, the Application of the New  
9 Mexico Oil Conservation Division for a Compliance Order  
10 Against C&D Management Company doing business as Freedom  
11 Ventures.

12 I believe at the request of counsel, this case  
13 will be continued to the July 16, 2009 Commission meeting.  
14 Is that correct, Secretary?

15 MS. DAVIDSON: That's correct.

16 CHAIRMAN FESMIRE: The next case before the  
17 Commission is actually two related cases, Case No. 14149,  
18 the Application of the El Paso Exploration and Production  
19 Company, L.P. to Abolish the Van Bremmer Canyon-Vermejo  
20 Gas Pool, Expand the Castle Rock Park-Vermejo Gas Pool,  
21 and to Establish Special Rules and Regulations for the  
22 Castle Rock Park-Vermejo Gas Pool in Colfax County, New  
23 Mexico.

24 The related case is Case No. ~~14150~~ It's the  
25 Application of El Paso Exploration and Production Company,

1 L.P. to Expand the Stubblefield Canyon Raton-Vermejo Gas  
2 Pool, and to Establish Special Rules and Regulations for  
3 the Pool in Colfax County, New Mexico.

4 At the request of counsel, these cases will also  
5 be continued to the July 16th docket.

6 And the last case before the Commission today is  
7 Case No. 14166, the Application of Fasken Oil and Ranch,  
8 Limited for an Order Authorizing the Drilling of an  
9 Additional Well at an Unorthodox Location in the "Potash  
10 Area," Lea County, New Mexico.

11 This case will be continued. Secretary, as of  
12 right now, we have not heard back from --

13 MS. DAVIDSON: That's right.

14 CHAIRMAN FESMIRE: This case will be continued  
15 to July 27th on a special docket and be heard on that day.

16 Any other business before the Commission?

17 COMMISSIONER BAILEY: No.

18 COMMISSIONER OLSON: No.

19 CHAIRMAN FESMIRE: Okay. With that, the Chair  
20 would entertain a motion to adjourn.

21 COMMISSIONER BAILEY: I so move.

22 COMMISSIONER OLSON: Second.

23 CHAIRMAN FESMIRE: Let the record reflect that  
24 the motion has been made. All those in favor signify by  
25 saying aye.

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COMMISSIONER OLSON: Aye.

COMMISSIONER BAILEY: Aye.

CHAIRMAN FESMIRE: The record should reflect that the Commission's meeting was adjourned at 12:35 p.m. on June 18, 2009. Thank you everybody, very much. Thank you for your patience, everybody, and extraordinary efforts.

\* \* \*

1 STATE OF NEW MEXICO )  
2 COUNTY OF BERNALILLO ) ss.  
3 )  
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5 REPORTER'S CERTIFICATE

6  
7 I, PEGGY A. SEDILLO, Certified Court  
8 Reporter of the firm Paul Baca Professional  
9 Court Reporters do hereby certify that the  
10 foregoing transcript is a complete and accurate  
11 record of said proceedings as the same were  
12 recorded by me or under my supervision.

13 Dated at Albuquerque, New Mexico this  
14 24th day of June, 2009.

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