

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

CASE NOS. 13,268 13,163 and 13,163 Amended

AWAITING FINAL COMMISSION ACTION

NO EVIDENCE OR TESTIMONY TAKEN

REPORTER'S TRANSCRIPT OF PROCEEDINGS

COMMISSION HEARING

BEFORE: MARK E. FESMIRE, CHAIRMAN
JAMI BAILEY, COMMISSIONER
FRANK T. CHAVEZ: COMMISSIONER

ORIGINAL

August 12th, 2004

Santa Fe, New Mexico

These matters came on for hearing before the Oil Conservation Commission, MARK E. FESMIRE, Chairman, on Thursday, August 12th, 2004, at the New Mexico Energy, Minerals and Natural Resources Department, 1220 South Saint Francis Drive, Room 102, Santa Fe, New Mexico, Steven T. Brenner, Certified Court Reporter No. 7 for the State of New Mexico.

* * *

STEVEN T. BRENNER, CCR
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I N D E X

August 12th, 2004
Commission Hearing
CASE NOS. 13,268, 13,163 and 13,163 Amended (Awaiting final
Commission Action - No evidence or testimony taken)

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A P P E A R A N C E S

FOR THE COMMISSION:

DAVID K. BROOKS, JR.
Assistant General Counsel
Energy, Minerals and Natural Resources Department
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

* * *

1 WHEREUPON, the following proceedings were had at
2 9:00 a.m.:

3 CHAIRMAN FESMIRE: Well, good morning. I'd like
4 to call this meeting of the Oil Conservation Commission to
5 order.

6 Note that the time is 9:00 a.m. on August 12,
7 2004. We're located in Porter Hall in the Oil Conservation
8 Division office in Santa Fe, New Mexico.

9 My name is Mark Fesmire.

10 To my right is Jami Bailey. Ms. Bailey is the
11 designee of the Commissioner of State Lands, Mr. Patrick
12 Lyons.

13 To my left is Commissioner Frank Chavez. Mr.
14 Chavez is the OCD supervisor in Aztec and is the appointee
15 of the Energy and Minerals Secretary, Ms. Joanna Prukop.

16 To the left of Mr. Chavez is Mr. David Brooks.
17 Mr. Brooks is the Commission counsel.

18 To the right of Ms. Bailey is Florene Davidson.
19 Ms. Davidson is the Commission secretary.

20 Our court reporter as always is Mr. Steve
21 Brenner.

22 Let the record reflect that all three
23 Commissioners or their designees are present.

24 The first order of business today is the adoption
25 of the minutes of the last meeting, which was held July

1 15th, 2004. Have the Commissioners had the opportunity to
2 review the minutes of that meeting?

3 COMMISSIONER BAILEY: Yes, I have, and I move
4 that we adopt them.

5 COMMISSIONER CHAVEZ: I second the motion.

6 CHAIRMAN FESMIRE: The motion having been moved
7 and seconded, all those in favor?

8 COMMISSIONER BAILEY: Aye.

9 COMMISSIONER CHAVEZ: Aye.

10 CHAIRMAN FESMIRE: All those opposed?

11 The minutes of the July 15th, 2004, meeting are
12 hereby adopted.

13 * * *

14
15 CHAIRMAN FESMIRE: The first order of business
16 today is Cause Number 13,268, it's the Oil Conservation
17 Commission proposed amendment to 19.15.5.307 NMAC allowing
18 the operation of wells and gathering systems at below
19 atmospheric pressure.

20 Counsel Brooks, you've been asked to draft an
21 order in this case. Would you review the status of the
22 case and explain the draft order, please?

23 MR. BROOKS: Yes, Mr. Chairman, honorable
24 Commissioners. This case was heard before the Commission
25 on July the 15th, 2004. You will recall that the Division

1 presented its case in favor of a proposed rule. There were
2 some comments. The comments that were made were by the New
3 Mexico Oil and Gas Association and BP America Production
4 Company and Burlington Resources Oil and Gas.

5 The principal issue that was drawn in the case
6 was the result of a proposal of BP America Production that
7 the proposed Rule be amended to require only notice to and
8 not an agreement with a downstream gatherer where a well
9 was operated at below atmospheric pressure and the gas
10 production from that well was delivered to an immediate
11 gathering system and that immediate gathering system then
12 delivered it to a secondary gathering system or pipeline.
13 BP America felt that instead of the Division's proposal,
14 which in that situation would require an agreement with
15 that second gathering system regarding the handling of that
16 gas, that it only would be necessary to have notice to that
17 second gathering system.

18 It was my understanding that the Commission
19 determined that, number one, that suggestion was not
20 appropriate and there should be an agreement with the
21 second gathering system, however the Commission was
22 somewhat concerned about language of the proposed Rule
23 which could have been interpreted as requiring the consent
24 of the downstream gatherer to the manner of the well
25 operator's operation of the well, as opposed to simply the

1 acceptance of the gas from that well, and consequently
2 requested that the proposed Rule be reworded to remove that
3 suggestion. And accordingly, a rewording was adopted, and
4 the new wording appears in Exhibit A to the proposed Order.

5 There was one other change of a technical
6 character in the language -- and I do not have a copy of
7 the proposed Order before me -- ah, yes, this was an issue
8 that was raised by Commissioner Chavez at the previous
9 hearing.

10 There was a concern that because the Rule
11 required notice to the OCD before a well was put on below-
12 atmospheric-pressure operation but was open-ended in the
13 sense that the notice could be filed at any time before the
14 well was put on operation, there was some concern that some
15 operators might simply file those notices on all their
16 wells and therefore defeat the purpose of giving the OCD
17 notice of which wells were to be on below-atmospheric-
18 pressure operation, and consequently the Commission voted
19 to add the language "within 90 days before the beginning of
20 an operation at below atmospheric pressure", as to indicate
21 that the operator was supposed to only file those notices
22 as to wells that they intended within that 90-day period to
23 place on operation at below atmospheric pressure.

24 I believe those were the only changes that were
25 made in the Rule as proposed by the Division, and the

1 Commissioner otherwise voted to adopt it. Obviously, the
2 draft of the Rule is before the Commissioners now, and if
3 they are satisfied with it they can so vote, and if not
4 they can make any changes.

5 The Order was drafted to explain the testimony
6 that appeared before the Commission and the reasons
7 articulated by the Commissioners for adopting the Rule in
8 the form in which it presently exists.

9 CHAIRMAN FESMIRE: Have the Commissioners had the
10 opportunity to review the proposed Order and the new Rule?

11 COMMISSIONER BAILEY: Yes, I have, and I will
12 sign it.

13 COMMISSIONER CHAVEZ: I've read it and I will
14 sign it.

15 CHAIRMAN FESMIRE: Okay, then there's a motion to
16 approve the draft order?

17 COMMISSIONER BAILEY: I move.

18 CHAIRMAN FESMIRE: Is there a second?

19 COMMISSIONER CHAVEZ: Second.

20 CHAIRMAN FESMIRE: All those in favor?

21 COMMISSIONER BAILEY: Aye.

22 COMMISSIONER CHAVEZ: Aye.

23 CHAIRMAN FESMIRE: All those opposed? At this
24 time we'll sign the order adopting the new Rule 307.

25 * * *

1 CHAIRMAN FESMIRE: The next cause before the
2 Commission is Case Number 13,163, the Application of the
3 New Mexico Oil Conservation Division for an Order requiring
4 Saba Energy of Texas to bring six wells into compliance,
5 assessing civil penalties and authorizing the Division to
6 plug said wells and forfeit the applicable security in
7 default of compliance by the operator, in Lea County, New
8 Mexico, and Cause Number 13,163 as amended.

9 Counsel Brooks, will you review the status of
10 this case and explain the draft order?

11 MR. BROOKS: Yes, Mr. Chairman, honorable
12 Commissioners. The Saba case was an action by the Division
13 to require wells that had been inactive for more than 90
14 days plus one year, in some cases considerably more, to be
15 plugged unless they could be restored to production or
16 temporarily abandoned in accordance with Division Rule 203.

17 The Division appeared and presented its case.
18 Saba, although they had filed a *de novo* petition to review
19 the Division's decision in this case, did not appear.
20 Their counsel withdrew prior to the hearing and no one
21 appeared at the hearing on behalf of Saba.

22 An attorney from Midland named James [sic] Short
23 appeared on behalf of certain parties who were claiming an
24 interest in certain of the wells by reversion, the claim
25 being, it was explained at the hearing, that the lease

1 under which Saba had drilled those wells had expired and
2 that his clients were the owners of the mineral fee
3 interest or some portion thereof in those properties. And
4 Mr. Short specifically requested that further time be given
5 in order to resolve the title issues so that his client
6 could take over and restore at least one of those wells to
7 production.

8 The Commission determined, it is my
9 understanding, to allow Saba a limited period of time --
10 basically 30 days, if I recall correctly; and again I do
11 not have the order before me, but I did at the time -- I
12 had the record before me at the time I prepared the draft
13 order. Yes, it was 30 days from the date of issuance of
14 the order, was my understanding of what the Commission had
15 decided to do as to the wells except the two that Mr.
16 Short's clients were interested in. And in order to
17 accommodate Mr. Short's clients, to enable them to resolve
18 the title issues, or to obtain relief from the District
19 Court, the time for compliance was extended to December
20 31st as to those two wells and the draft order prepared
21 accordingly.

22 I believe that is my understanding of the
23 situation in that case.

24 CHAIRMAN FESMIRE: Okay. Have the Commissioners
25 had the opportunity to read the draft order?

1 COMMISSIONER BAILEY: Yes.

2 COMMISSIONER CHAVEZ: Yes, we have. I'd move
3 that it be accepted.

4 CHAIRMAN FESMIRE: Okay, is there a second?

5 COMMISSIONER BAILEY: Yes.

6 CHAIRMAN FESMIRE: All those in favor?

7 COMMISSIONER BAILEY: Aye.

8 COMMISSIONER CHAVEZ: Aye.

9 CHAIRMAN FESMIRE: Opposed?

10 The Commission will adopt the draft order in
11 Cause Number 13,163.

12 (Thereupon, these proceedings were concluded at
13 9:13 a.m.)

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CERTIFICATE OF REPORTER

STATE OF NEW MEXICO)
) ss.
COUNTY OF SANTA FE)

I, Steven T. Brenner, Certified Court Reporter and Notary Public, HEREBY CERTIFY that the foregoing transcript of proceedings before the Oil Conservation Commission was reported by me; that I transcribed my notes; and that the foregoing is a true and accurate record of the proceedings.

I FURTHER CERTIFY that I am not a relative or employee of any of the parties or attorneys involved in this matter and that I have no personal interest in the final disposition of this matter.

WITNESS MY HAND AND SEAL August 13th, 2004.



STEVEN T. BRENNER
CCR No. 7

My commission expires: October 16th, 2006