

1 STATE OF NEW MEXICO  
2 ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT  
3 OIL CONSERVATION DIVISION  
4

5 REPORTER'S TRANSCRIPT OF PROCEEDINGS

6 COMMISSIONER HEARING

7 ADOPTION OF AGENDA

8 ADOPTION OF MEETING MINUTES FROM DECEMBER 5, 2016

9 APPROVAL OF ANNUAL RESOLUTION  
10

11 January 4, 2017

12 Santa Fe, New Mexico  
13

14 BEFORE: DAVID R. CATANACH, CHAIRPERSON  
15 PATRICK PADILLA, COMMISSIONER  
16 DR. ROBERT S. BALCH, COMMISSIONER  
17 GABRIEL WADE, ESQ.

18 This matter came on for hearing before the  
19 New Mexico Oil Conservation Commission on Wednesday,  
20 January 4, 2017, at the New Mexico Energy, Minerals and  
21 Natural Resources Department, Wendell Chino Building,  
22 1220 South St. Francis Drive, Porter Hall, Room 102,  
23 Santa Fe, New Mexico.

24 REPORTED BY: Mary C. Hankins, CCR, RPR  
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1 (9:03 a.m.)

2 CHAIRMAN CATANACH: Good morning. Happy  
3 new year.

4 This is the meeting of the New Mexico Oil  
5 Conservation Commission. My name is David Catanach,  
6 Chairman of the Commission. The time is approximately  
7 9:03 a.m. Today's date is January 4th, 2017. This  
8 meeting is being conducted in Porter Hall within the  
9 Wendell Chino State Building. At this time I'll take  
10 roll.

11 Will the Commissioners please introduce  
12 themselves for the record?

13 COMMISSIONER PADILLA: Patrick Padilla,  
14 designee to the New Mexico Commissioner of Public Lands.

15 COMMISSIONER BALCH: Robert Balch, designee  
16 of the Secretary of Energy and Minerals.

17 CHAIRMAN CATANACH: Thank you,  
18 Commissioners.

19 Also present today is Mr. Gabriel Wade, who  
20 will at least sit in for the first case, I believe, the  
21 Caza case. He will be sitting in as the Commission  
22 attorney.

23 Also present today is Ms. Florene Davidson,  
24 who we sorely missed while she was out, and we welcome  
25 her back.

1 MS. DAVIDSON: Thank you.

2 CHAIRMAN CATANACH: Commissioners, in your  
3 packet, you should have an agenda for today's meeting.  
4 If you've reviewed the agenda, do I hear a motion and a  
5 second to adopt the agenda?

6 COMMISSIONER BALCH: I reviewed the agenda,  
7 and I would move to adopt it.

8 COMMISSIONER PADILLA: And I second that.

9 CHAIRMAN CATANACH: All those in favor?  
10 (Ayes are unanimous.)

11 CHAIRMAN CATANACH: Motion to adopt today's  
12 agenda is passed.

13 Also in your packet are the draft minutes  
14 from the December 5th, 2016 Commission meeting.

15 Commissioners, do you have any changes to  
16 the minutes, and if not, is there a motion and a second  
17 to adopt the minutes?

18 COMMISSIONER PADILLA: I don't have any  
19 changes, and I would move to adopt the minutes.

20 COMMISSIONER BALCH: I would second.

21 CHAIRMAN CATANACH: All in favor?  
22 (Ayes are unanimous.)

23 CHAIRMAN CATANACH: The next order of  
24 business this morning is the review and adoption of the  
25 Annual Resolution setting forth reasonable notice

1 standards for Commission Public Meetings. I believe if  
2 we could get Mr. Brancard, who is in the audience and is  
3 the general counsel and the Commission attorney, to  
4 maybe give a brief summary of what this is and why we  
5 need to do it.

6 MR. BRANCARD: Thank you, Mr. Chairman, the  
7 Commission.

8 The New Mexico Open Meetings Act requires  
9 you every year to adopt a resolution providing how you  
10 will provide reasonable notice of your meetings.  
11 Certain types of notice and certain items like the  
12 agenda are provided, but specifically in the Open  
13 Meetings Act in terms of actually how you do notice,  
14 that's up to each Commission. This Commission has had  
15 sort of the same version of this resolution every year  
16 for years and have just adopted new versions of it.

17 This year we took a harder look at the  
18 resolution with the goal of trying to make it fit how  
19 the Commission actually does its business. So you'll  
20 see that we do -- what we normally do is we list the  
21 proposed monthly meetings that the Commission will have,  
22 its regular meetings. As you're aware, as the year goes  
23 on, conflicts happen, changes happen, and you will  
24 change the dates of those meetings. So we've provided  
25 for that in this revised resolution, saying that these

1 are the dates that we tentatively plan to have monthly  
2 meetings. If the Commission decides to change the date,  
3 move it forward a day or two or back, that's fine, as  
4 long as you meet the notice requirements for a regular  
5 meeting that are in the Open Meetings Act. So that  
6 gives you the flexibility that you normally use anyway  
7 in doing your regular meetings.

8 One of the other changes in there is an  
9 issue that constantly comes up, which is continuation of  
10 meetings. And when that is required for notice, there  
11 is actually specific language in the Open Meetings Act  
12 governing that, and we took that language out of the  
13 Open Meetings Act and put that in there. The Commission  
14 follows that practice normally, but that's something  
15 that happens a lot. If a hearing goes beyond a day or  
16 needs to go to a later date, what notice do you provide?

17 And remember, this notice is the notice for  
18 a Commission meeting. Okay? And so one of the issues  
19 is that you have separate regulations for adjudications  
20 and rulemaking that have all separate notice  
21 requirements for those types of hearings. Okay? And so  
22 what Florene has to do often is to sort of merge. Okay,  
23 we're having a hearing today on this matter; it's an  
24 adjudication; I have to do notice according to Rule 4.  
25 It's also a meeting of the Commission, and I have to do

1 notice according to the Open Meetings Act. What we  
2 tried to do in -- and this is sort of saying, you know,  
3 we'll post notice of these meetings -- a meeting on the  
4 Internet, send it out to the people on the mailing list.  
5 In terms of other notice, publication notice, notice to  
6 specific parties, that is governed by whether there is a  
7 hearing going on at that meeting or not. So that way  
8 Florene's not trying to have to merge two types of  
9 notices to the newspapers and meet this or that. So  
10 Rule 3 and Rule 4 will largely govern the meetings.  
11 Okay?

12                   This is an unusual meeting today because  
13 it's a meeting -- it's just a meeting of the Commission,  
14 and you have no hearings planned. So in this case, this  
15 would be the rare occasion in which this resolution  
16 would govern entirely how you give notice. Almost every  
17 other meeting you have, because there is a hearing going  
18 on, that hearing rules will also govern to provide for  
19 notice in the newspapers, whether it's statewide or  
20 local, to joining landowners, whatever is necessary,  
21 whatever notice is required for that type of hearing.

22                   So we just tried to make the resolution fit  
23 more with the practice of the Commission and merge  
24 better with your rules for other kinds of hearings so  
25 that we're not tripping over ourselves, and we're -- in

1 other words, we're doing what we say we do in the  
2 resolution. So that's the basis of the changes that are  
3 in there for this year's resolution.

4 Do you have any questions?

5 And thank you, Mr. Brooks. He actually  
6 spent a bunch of time helping us work on this and  
7 defining these issues.

8 CHAIRMAN CATANACH: Thank you,  
9 Mr. Brancard.

10 I don't have any questions.

11 If the Commissioners would like time to  
12 read through the document before they sign it, that  
13 would be fine, too. We can just sign that during the  
14 course of today's --

15 COMMISSIONER BALCH: That'll be fine.

16 CHAIRMAN CATANACH: Okay.

17 COMMISSIONER BALCH: I can look at the  
18 final --

19 COMMISSIONER PADILLA: Right.

20 MR. BRANCARD: You have to take action on  
21 it at some point.

22 COMMISSIONER PADILLA: Probably later.

23 CHAIRMAN CATANACH: As long as we don't  
24 forget to do it later.

25 MR. BRANCARD: Yeah. You can move it to

1 later.

2 CHAIRMAN CATANACH: We'll do that. We'll  
3 delay that vote until -- until the Commissioners have  
4 had time to review this.

5 COMMISSIONER BALCH: This looks like what I  
6 read before so I can vote now.

7 CHAIRMAN CATANACH: And I've read it  
8 myself.

9 Do you want to glance at it a minute, or do  
10 you want --

11 COMMISSIONER PADILLA: Glance?

12 CHAIRMAN CATANACH: Do you want to read it?

13 COMMISSIONER BALCH: Speed read?

14 (Pause in proceedings.)

15 MR. BRANCARD: Commissioner Balch is  
16 correct. There is a lot of language in the resolution  
17 that is just carried over.

18 COMMISSIONER BALCH: Well, I know that  
19 Florene's been working on that, and your explanation is  
20 very clear that we don't have to worry about those as  
21 much as we have in the past.

22 MR. BRANCARD: What this Commission does is  
23 actually somewhat unusual, in giving the public exact  
24 dates for the entire year. But I think you want to give  
25 yourself the flexibility to deal with circumstances as

1 they evolve over the course of the year as long as you  
2 meet --

3 COMMISSIONER PADILLA: With the built-in  
4 flexibility, I think it's fine. I can go ahead and sign  
5 it if you want.

6 CHAIRMAN CATANACH: Well, let's vote on it.  
7 Do I hear a motion to approve the Annual  
8 Resolution for 2017?

9 COMMISSIONER PADILLA: So moved.

10 COMMISSIONER BALCH: Seconded.

11 CHAIRMAN CATANACH: All in favor?

12 (Ayes are unanimous.)

13 CHAIRMAN CATANACH: And the Annual  
14 Resolution is approved, and we can sign it.

15 (Proceedings conclude, 9:12 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

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22 MARY C. HANKINS, CCR, RPR  
23 Certified Court Reporter  
24 New Mexico CCR No. 20  
25 Date of CCR Expiration: 12/31/2017  
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