

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

REPORTER'S TRANSCRIPT OF PROCEEDINGS

COMMISSIONER HEARING

ADOPTION OF AGENDA  
AND  
ADOPTION OF JUNE 13, 2017 MEETING MINUTES  
AND  
LITIGATION UPDATE

July 13, 2017

Santa Fe, New Mexico

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

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

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1 (9:00 a.m.)

2 CHAIRMAN CATANACH: Good morning. This is  
3 a meeting of the New Mexico Oil Conservation Commission.  
4 My name is David Catanach. I'm chairman of the  
5 Commission. The time is 9:00 a.m. Today's date is July  
6 13th, 2017. This meeting is being conducted in Porter  
7 Hall within the Wendell Chino State Building.

8 At this time I will take roll, and I'll ask  
9 the Commissioners to introduce themselves for the  
10 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: Thank you, gentlemen.  
17 Also present today is Mr. Bill Brancard,  
18 who will be sitting in as Commission attorney.

19 And also present is Ms. Florene Davidson.  
20 Commissioners, in your packet today, you  
21 should have an agenda for today's meeting. If you've  
22 review the agenda, do I hear a motion and a second to  
23 adopt the agenda?

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

1                   COMMISSIONER MARTIN: I agree with it and  
2 second.

3                   CHAIRMAN CATANACH: All in favor?

4                   (Ayes are unanimous.)

5                   CHAIRMAN CATANACH: Motion to adopt today's  
6 agenda is passed.

7                   Also in your packet are the draft minutes  
8 from the June 13th, 2017 Commission meeting.  
9 Commissioners, I'd ask you if you've reviewed the  
10 minutes, do you have any changes to the minutes, and, if  
11 not, is there a motion and a second to adopt the  
12 minutes?

13                   COMMISSIONER MARTIN: I have reviewed them.  
14 I have no changes, and I move to adopt.

15                   COMMISSIONER BALCH: And I second.

16                   CHAIRMAN CATANACH: All in favor?

17                   (Ayes are unanimous.)

18                   CHAIRMAN CATANACH: Motion to adopt the  
19 minutes from the June 13th Commission meeting is passed.

20                   (The proceedings conclude, 9:02 a.m.)

21                   (12:13 p.m.)

22                   CHAIRMAN CATANACH: Do we need to do a  
23 litigation update?

24                   MR. BRANCARD: Oh, yes.

25                   So just briefly on litigation, we now have

1 four appeals sitting in district court.

2 CHAIRMAN CATANACH: Nice.

3 COMMISSIONER BALCH: Is that a new record?

4 CHAIRMAN CATANACH: Are we doing something  
5 right here or what?

6 MR. BRANCARD: Well, part of it is lack of  
7 decision-making by the district court.

8 So we have the geothermal case, which I  
9 filed a motion to dismiss for, and we had a hearing on  
10 that last December. They have not ruled yet.

11 CHAIRMAN CATANACH: Oh, wow.

12 MR. BRANCARD: So that's still sitting  
13 there.

14 Then there is the Jalapeno-Matador case.  
15 That has been fully briefed. As part of the briefing  
16 filed by Matador, they filed motion to dismiss several  
17 of the issues that Jalapeno had raised. The Court had  
18 set a hearing in November on the case, but because  
19 Matador was the only one who asked for the hearing, the  
20 hearing is only on the motion to dismiss. It's not on  
21 the full case. But I will anticipate, going into the  
22 hearing, the Court will want to hear the whole thing.

23 CHAIRMAN CATANACH: Hmm.

24 MR. BRANCARD: The two more recent cases  
25 are the LES appeal of the 2K [sic] permit. So we've

1 gotten the record in on that case this last week. And  
2 so LES will have their brief due by early August, and  
3 then we'll have to follow 30 days later with our brief  
4 in that case.

5 Now, the fourth case -- it was just filed  
6 yesterday -- was filed by COG in that case you had with  
7 them.

8 CHAIRMAN CATANACH: Nearburg.

9 MR. BRANCARD: Nearburg, right. But their  
10 lawyers, in fact, were here today, and they informed me  
11 that this is kind of just a placeholder appeal, that  
12 they're trying to work it out, and they're going to try  
13 to submit something with the Court staying the case. So  
14 we don't have to file the record right away.

15 COMMISSIONER MARTIN: Better late than  
16 never?

17 MR. BRANCARD: Yeah.

18 CHAIRMAN CATANACH: Okay. I gotcha.

19 COMMISSIONER BALCH: I don't think they  
20 have much of a negotiating place.

21 MR. BRANCARD: So that's where we are with  
22 litigation.

23 COMMISSIONER BALCH: As long as it's not  
24 more Pit Rule stuff, I'm happy.

25 CHAIRMAN CATANACH: Well, there were a

1 couple of controversies in that case. There are some  
2 rule changes coming up. I don't know exactly when.

3 COMMISSIONER BALCH: Those negotiations  
4 will be for the next Commission.

5 CHAIRMAN CATANACH: That's true.

6 MR. BRANCARD: And even in the district  
7 court. They go on for years.

8 COMMISSIONER BALCH: We've only got another  
9 year and a half to go. We can certainly last that long.

10 MR. BRANCARD: I wouldn't be surprised with  
11 the Jalapeno-Matador case, the hearing -- punt it up to  
12 the Court of Appeals. He can do that on his own, given  
13 that's also the same judge. We haven't had the decision  
14 in the geothermal case. I guess he's a little busy.  
15 And the judge who is doing the LES case is about to  
16 retire. So --

17 COMMISSIONER BALCH: Is that going to be  
18 taken over by -- who is the attorney who was going to  
19 become appeals court judge?

20 MR. BRANCARD: Yeah. He's appeals court.  
21 All these cases are in the district court, because your  
22 appeals for adjudicatory matters go to district court.

23 We did change the statute so that  
24 rulemaking appeals now go directly to the Court of  
25 Appeals. Other matters go just to the district court,

1 and they get a several-thousand-page record, and they  
2 don't want to deal with it.

3 COMMISSIONER BALCH: I can't say I blame  
4 them.

5 MR. BRANCARD: That's where we are.

6 CHAIRMAN CATANACH: Okay. Thanks for the  
7 update. Thanks for all the work getting the records  
8 together and stuff.

9 MR. BRANCARD: Yeah. Florene has her hands  
10 full with all that stuff.

11 COMMISSIONER BALCH: Our meeting is moved  
12 to October 5th or moved to October 4th instead?

13 CHAIRMAN CATANACH: That's on a Wednesday.  
14 I don't know what's going on on the docket at this  
15 point, obviously.

16 COMMISSIONER BALCH: Big docket. We have a  
17 couple of days' drive back and forth to --

18 CHAIRMAN CATANACH: We'll shoot for October  
19 4th. I'll still have to -- I think I'm fine with that.

20 (Proceedings conclude, 12:18 p.m.)

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1 STATE OF NEW MEXICO  
2 COUNTY OF BERNALILLO

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5 I, MARY C. HANKINS, Certified Court  
6 Reporter, New Mexico Certified Court Reporter No. 20,  
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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.

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MARY C. HANKINS, CCR, RPR  
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