

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

REPORTER'S TRANSCRIPT OF PROCEEDINGS

COMMISSIONER HEARING

Agenda Items 1 through 3 and 5 through 8

August 15, 2019

Santa Fe, New Mexico

BEFORE: ADRIENNE SANDOVAL, CHAIRWOMAN
SCOTT DAWSON, COMMISSIONER
DR. THOMAS ENGLER, COMMISSIONER
MIGUEL LOZANO, ESQ.

This matter came on for hearing before the New Mexico Oil Conservation Commission on Thursday, August 15, 2019, 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: Irene Delgado, NMCCR 253
PAUL BACA PROFESSIONAL COURT REPORTERS
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1 (Note: In open proceedings at 9:00 a.m.)

2 CHAIRWOMAN SANDOVAL: Good morning, everybody. I
3 will call this meeting to order. It is 9 a.m. on August 15,
4 2019, and this is the meeting of the New Mexico Oil
5 Conservation Commission. I'm Adrienne Sandoval, Director of
6 the Oil Conservation Division and Chair of the Oil
7 Conservation Commission.

8 Will the Commissioners introduce themselves for
9 the record?

10 COMMISSIONER DAWSON: Scott Dawson with the New
11 Mexico State Land Office.

12 COMMISSIONER ENGLER: I'm Tom Engler. I'm
13 designate from the Secretary of Energy and Natural
14 Resources.

15 CHAIRWOMAN SANDOVAL: Also with us is Florene
16 Davidson, clerk to the Commission, and Miguel Lozano,
17 counsel to the Commission. There is a list of items on
18 today's agenda, on the docket for today's meeting.

19 Is there a motion and a second to adopt the
20 agenda?

21 COMMISSIONER ENGLER: Motion to approve the
22 agenda as is.

23 CHAIRWOMAN SANDOVAL: I second that. All those
24 in favor?

25 COMMISSIONER ENGLER: Aye.

1 CHAIRWOMAN SANDOVAL: Aye.

2 MR. LOZANO: Commissioner Dawson, do you abstain?

3 COMMISSIONER DAWSON: I will abstain since I
4 wasn't at the meeting.

5 CHAIRWOMAN SANDOVAL: That was for the agenda.

6 MR. LOZANO: That was for the agenda.

7 COMMISSIONER DAWSON: Okay. I will accept the
8 agenda.

9 (Ayes are unanimous.)

10 CHAIRWOMAN SANDOVAL: For Item Number 3, approval
11 of the minutes, in your packet are the draft minutes from
12 July 18, 2019 meeting.

13 If you have you read the minutes, are there any
14 corrections?

15 COMMISSIONER ENGLER: I have read the minutes,
16 and I have no corrections.

17 CHAIRWOMAN SANDOVAL: I have read the minutes,
18 and there are no corrections, either.

19 Is there a motion and a second to adopt the
20 minutes?

21 COMMISSIONER ENGLER: I move to approve the
22 minutes.

23 CHAIRWOMAN SANDOVAL: I second it. All in favor.

24 COMMISSIONER ENGLER: Aye.

25 CHAIRWOMAN SANDOVAL: Aye.

1 The minutes are approved.

2 (Ayes are unanimous.)

3 CHAIRWOMAN SANDOVAL: Agenda Item Number 4, Case
4 Number 16403 will now be heard.

5 (The proceedings for Agenda Items 1-3 conclude at
6 9:02 a.m., and the proceedings for Agenda Items 5 - 8
7 resumed as follows at 9:53 a.m.)

8 CHAIRWOMAN SANDOVAL: We will now move on to
9 Agenda Item Number 5, discussion of pending litigation.
10 Mr. Lozano, is there anything to report on the Commission's
11 pending litigation?

12 MR. LOZANO: Thank you, Madam Chair.

13 Yes, there are a couple of notifications that we
14 would like to give. In one of the Larry Marker cases, the
15 Commission is probably aware there are several, three before
16 the Commission.

17 The case being handled by the Risk Management
18 Division, the contract counselor, private counsel was
19 dismissed based on a motion to dismiss by the -- the
20 attorney for the Commission. That dismissal was on four
21 counts for lack of subject matter jurisdiction because there
22 is a pending matter before the Court of Appeals which
23 addresses similar issues regarding the rulemaking. And then
24 the remaining were dismissed for failure to state a claim
25 upon which relief could be granted.

1 Due to the dismissal, the Court denied the
2 injunctive relief being requested by Mr. Marker which
3 involved the financial assurance that he had not currently
4 complied with. So that case, in effect, unless it's
5 appealed, has been closed.

6 In the Delaware Energy Matter, which is the most
7 recent case before the Commission, Delaware Energy and Alpha
8 SWD, unfortunately, have ceased settlement negotiations.
9 They filed a motion to extend their deadlines for statement
10 of appellate issues. That motion was granted, and they
11 should be filing a statement of appellant issues on August
12 23, and we will have a response due 30 days after that
13 filing.

14 And that's all the updates I have for the
15 Commission today.

16 CHAIRWOMAN SANDOVAL: Thank you.

17 Agenda Item Number 6, is there any other business
18 or announcements?

19 (No response.)

20 CHAIRWOMAN SANDOVAL: Okay. Agenda Item Number
21 7, rescheduling of September and October meetings.

22 The Commissioners have scheduling conflicts with
23 the currently-scheduled meetings in September and October,
24 and a request was made to reschedule both meetings. Are
25 there specific dates for those meetings or that anybody is

1 available or not available?

2 I think let's start with September. Commissioner
3 Kessler provided us with her availability through e-mail.

4 COMMISSIONER ENGLER: What does she have for
5 September?

6 CHAIRWOMAN SANDOVAL: September 18th and 19th,
7 25th, 27th or 30th.

8 COMMISSIONER ENGLER: 18th, 19th -- what was the
9 other ones?

10 CHAIRWOMAN SANDOVAL: 25th, 27th or 30th.

11 COMMISSIONER ENGLER: 18th, 19th, 26th, 27th,
12 they are fine. 30th is not.

13 CHAIRWOMAN SANDOVAL: When is it originally
14 scheduled?

15 COMMISSIONER ENGLER: The 12th.

16 MR. LOZANO: I am unavailable on the 18th, but
17 the remaining dates should be good.

18 COMMISSIONER ENGLER: Maybe just do the 19th?

19 CHAIRWOMAN SANDOVAL: I could do the 19th.

20 COMMISSIONER ENGLER: It's one week later. Does
21 that work?

22 CHAIRWOMAN SANDOVAL: Does that work, is that
23 good for September 19th?

24 COMMISSIONER ENGLER: So we will do the 19th?

25 MR. FELDEWERT: Madam Chair, Commission,

1 September 19th is an OCD hearing date.

2 CHAIRWOMAN SANDOVAL: Thank you. 25th or 27th, I
3 could do the 25th.

4 COMMISSIONER DAWSON: I'm free as well.

5 COMMISSIONER ENGLER: Sure. That's a Wednesday.

6 CHAIRWOMAN SANDOVAL: Yes.

7 COMMISSIONER ENGLER: That's fine. That works.

8 CHAIRWOMAN SANDOVAL: That works for me.

9 COMMISSIONER ENGLER: So the 25th? It's a
10 Wednesday.

11 CHAIRWOMAN SANDOVAL: Yes. Okay. And then
12 October is currently scheduled for the 10th. Commissioner
13 Kessler could do October 1st through the 4th, 16th through
14 18th, or the 21st.

15 MR. LOZANO: I would say, Madam Chair, we should
16 probably do it after the currently-scheduled meeting so
17 Florene has enough time for notice and the like.

18 CHAIRWOMAN SANDOVAL: Okay. So it's currently
19 scheduled on the 10th, so that would give us the 16th or
20 18th or the 21st, for right now the 16th or 18th I am free.

21 COMMISSIONER ENGLER: That's Wednesday -- 16th
22 through 18th?

23 CHAIRWOMAN SANDOVAL: Yeah, 16th, 17th, or 18th.

24 COMMISSIONER DAWSON: The 17th is an Examiner
25 Hearing.

1 CHAIRWOMAN SANDOVAL: The 17th?

2 MR. LOZANO: I think I can do the 17th.

3 CHAIRWOMAN SANDOVAL: Is that an OCD hearing?

4 MR. FELDEWERT: 17th is an OCD hearing.

5 CHAIRWOMAN SANDOVAL: 16th?

6 COMMISSIONER ENGLER: That's fine, I can do that.

7 CHAIRWOMAN SANDOVAL: October 16th?

8 CHAIRMAN ENGLER: October 16th it is.

9 CHAIRWOMAN SANDOVAL: 16th would work, okay.

10 COMMISSIONER ENGLER: That's a Wednesday?

11 CHAIRWOMAN SANDOVAL: Yes, so basically -- all
12 right. Okay.

13 So September 25 and then October 16th, and since
14 this will be amendments to the current meeting schedule
15 previously adopted, the Commission will entertain a motion
16 to amend the current schedule with meeting dates for
17 September and October to be set on September 25, 2019, and
18 October 16, 2019.

19 Is there a motion and a second to adopt these
20 amendments to the current schedule?

21 COMMISSIONER DAWSON: I will make a motion for a
22 September 25 meeting and an October 16 meeting for the OCC.

23 COMMISSIONER ENGLER: I will second.

24 CHAIRWOMAN SANDOVAL: All those in favor say aye.

25 COMMISSIONER DAWSON: Aye.

1 COMMISSIONER ENGLER: Aye.

2 CHAIRWOMAN SANDOVAL: Aye.

3 (Ayes are unanimous.)

4 CHAIRWOMAN SANDOVAL: Florene, can you please
5 make the necessary changes to the schedule posted online?
6 Also, Florene, can you add a review of the remaining 2019
7 schedule and a creation of the 2020 schedule to the
8 September agenda?

9 MS. DAVIDSON: Yes.

10 CHAIRWOMAN SANDOVAL: If there is no other
11 business before the Commission, this meeting is adjourned at
12 10 o'clock.

13 (The proceedings for Agenda Items 5 - 8 conclude
14 at 10 a.m.)

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STATE OF NEW MEXICO
COUNTY OF BERNALILLO

REPORTER'S CERTIFICATE

I, IRENE DELGADO, New Mexico Certified Court Reporter, CCR 253, do hereby certify that I reported the foregoing proceedings in stenographic shorthand and that the foregoing pages are a true and correct transcript of those proceedings that were reduced to printed form by me to the best of my ability.

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

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

Dated this 15th day of August 2019.

Irene Delgado, NMCCR 253
License Expires: 12-31-19