

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

REPORTER'S TRANSCRIPT OF PROCEEDINGS

THURSDAY, NOVEMBER 18, 2021

REGULAR MEETING

This matter came on before the New Mexico Oil Conservation Commission on Thursday, November 18, 2021, via Webex Virtual Conferencing Platform hosted by the New Mexico Department of Energy, Minerals and Natural Resources

PRESENT:

ADRIENNE SANDOVAL	Commission Chair
COMMISSIONER GREG BLOOM	NMSLO Designee
COMMISSIONER TERRY WARNELL	NMENMRD Designee

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1 (Time noted 9:06 a.m.)

2 COMMISSION CHAIR SANDOVAL: All right. It is
3 recording.

4 Good morning. It is 9:06 on November 18,
5 2021, and this is a regularly scheduled meeting of the Oil
6 Conservation Commission. I'm Adrienne Sandoval. I'm the
7 Chair of the Oil Conservation Commission and Director of
8 the Oil Conservation Division.

9 Would the other commissioners introduce
10 themselves for the record

11 COMMISSIONER BLOOM: Greg Blom. Good morning,
12 everyone. I'm the Designee of the Commissioner of Public
13 Lands?

14 COMMISSIONER WARNELL: Good morning. Terry
15 Warnell representing EMNRD.

16 COMMISSION CHAIR SANDOVAL: Thank you. Also
17 with us today is Commission Clerk Florene Davidson and
18 Commission Counsel Chris Moander.

19 The first item on the agenda is Approval of
20 the October 14, 2021 Minutes.

21 Is there a motion for approval of the
22 Minutes? (Note: Pause.)

23 Greg, I think you're muted.

24 COMMISSIONER BLOOM: Madam Chair, I move to
25 approve the Minutes from the last meeting.

1 COMMISSION CHAIR SANDOVAL: Is there a second.

2 COMMISSIONER WARNELL: Madam Chair, I second
3 that motion.

4 COMMISSION CHAIR SANDOVAL: Mr. Moander, would
5 you do a roll call vote, please.

6 MR. MOANDER: Yes, Madam Chair.

7 Commissioner Bloom.

8 (Note: No audible response.)

9 COMMISSION CHAIR SANDOVAL: I couldn't hear.

10 MR. MOANDER: I did not hear.

11 COMMISSIONER BLOOM: Approve.

12 MR. MOANDER: Commissioner Warnell.

13 COMMISSIONER WARNELL: Approved.

14 MR. MOANDER: Madam Chair.

15 COMMISSION CHAIR SANDOVAL: Approved.

16 MR. MOANDER: The motion passes.

17 COMMISSION CHAIR SANDOVAL: All right. The next
18 item is the approval of the agenda. Before we do that, I
19 just want to make a couple of notes.

20 Agenda Item No. 5, De Novo Case No. 21744
21 will be -- is rescheduled for a special meeting on
22 December 10th, I believe.

23 MR. MOANDER: Let me check that, Madam Chair. I
24 thought it was the 3rd .

25 COMMISSIONER WARNELL: I was thinking the 3rd.

1 COMMISSION CHAIR SANDOVAL: I'm sorry, the 3rd.

2 MR. MOANDER: Yes.

3 COMMISSION CHAIR SANDOVAL: My bad. We have so
4 many in December. Okay. Let me say that again.

5 Item No. 5, Case No. 21744, has been
6 rescheduled for a Special Meeting on December 3rd and will
7 not be heard today.

8 And I will just note that for Agenda Item
9 No. 9 the next meetings -- there are three meetings in
10 December, so it will be December 3rd, December 9th, and
11 then December 17th.

12 So those are the two modifications to the
13 agenda.

14 Is there a motion to approve the amended
15 agenda?

16 COMMISSIONER BLOOM: I move to approve the
17 amended agenda.

18 COMMISSIONER WARNELL: I second that motion.

19 COMMISSION CHAIR SANDOVAL: Mr. Moander, would
20 you do a roll call vote, please.

21 MR. MOANDER: Yes, Madam Chair.

22 Commissioner Bloom.

23 COMMISSIONER BLOOM: Approved.

24 MR. MOANDER: Commissioner Warnell?

25 COMMISSIONER WARNELL: Yes, approved.

1 MR. MOANDER: Madam Chair.

2 COMMISSION CHAIR SANDOVAL: Approved.

3 MR. MOANDER: The motion carries.

4 COMMISSION CHAIR SANDOVAL: All right. Agenda
5 Item No. 4 is appointment of a hearing officer in Case No.
6 22225, Application of the Oil Conservation Division for
7 Proposed Amendments to the Commission's Rules on Natural
8 Gas Gathering Systems, 19.15.28 NMAC.

9 In our last regularly scheduled meeting we
10 set -- uh, laid out the procedural order and procedures
11 for that rulemaking hearing; however, I do think we did
12 not appoint a hearing examiner at that time or give me
13 delegation to appoint a hearing examiner. And I would
14 like to appoint a hearing examiner for that rulemaking
15 hearing as we've done in the past, but would welcome
16 feedback and input from the other commissioners.

17 COMMISSIONER BLOOM: Okay. I support appointing
18 a hearing officer in Case 22225. I have no issue with
19 that. Thank you.

20 COMMISSION CHAIR SANDOVAL: Commissioner
21 Warnell.

22 COMMISSIONER WARNELL: I'm fine with that, Madam
23 Chair.

24 COMMISSION CHAIR SANDOVAL: Great.

25 Mr. Moander, do we just need to make a

1 motion? does it need to be for somebody specific?

2 MR. MOANDER: I think since someone has a
3 proposed hearing officer and I just thought that's the
4 case, then I would make a motion to nominate that
5 individual and then there can be discussion about whether
6 the Commission wants to retain that individual for
7 purposes of being a hearing officer.

8 COMMISSION CHAIR SANDOVAL: Okay. In our
9 previous rulemaking hearings we've used Hearing Officer
10 Felicia Orth. She did the waste rule hearing, as well as
11 our spill rule hearing earlier this year.

12 I would nominate her again to do this
13 rulemaking hearing. She has done -- she has also been a
14 hearing officer for Oil Conservation Division hearings, so
15 she's very familiar with the Oil Conservation Division
16 processes, as well as the Oil Conservation Commission.
17 And so I would propose to nominate Ms. Orth as the hearing
18 officer for Case No. 22225.

19 COMMISSIONER BLOOM: Madam Chair, I think Ms.
20 Orth has always done a fine job for us, so I would be
21 supportive with that.

22 COMMISSION CHAIR SANDOVAL: Commissioner
23 Warnell?

24 COMMISSIONER WARNELL: Madam Chair, I'm fine
25 with Ms. Orth.

1 COMMISSION CHAIR SANDOVAL: Okay. Is there a
2 motion to appoint Ms. Orth as the hearing examiner for
3 Case No. 22225 on December 17, which is a Special Hearing
4 date?

5 MR. MOANDER: Madam Chair, one thing I might
6 represent here. I believe we've got a representative of at
7 least one party to that rulemaking, and I think we might
8 have another, although it's not one of the attorneys. So
9 if there was any input that the parties would make, it
10 would probably be a good time to do that before the motion
11 is voted on.

12 COMMISSION CHAIR SANDOVAL: Mr. Feldewert, do
13 you have any input on behalf of your clients?

14 MR. FELDEWERT: I don't -- you know, not really.
15 I anticipate and I hope that this is not going to be a
16 very long hearing. Last time I checked no other parties
17 has entered an appearance. We are going to be filing a
18 Prehearing Statement indicating my client has no
19 objections to each of the proposed amendments, and we do
20 not anticipate calling any witnesses or providing any
21 exhibits. And I know I have been in touch with Mr. Ames
22 and they are intending to call one witness. So hopefully
23 it won't be very long.

24 COMMISSION CHAIR SANDOVAL: We will reserve our
25 judgment on that until the day.

1 Okay.

2 MR. MOANDER: I think Ms. Salvidrez is here. I
3 don't know if she is here in any capacity with the
4 Division.

5 COMMISSION CHAIR SANDOVAL: She is a law clerk
6 with the Division.

7 MR. MOANDER: Right. I wasn't sure if she had
8 something that she was intending to add to the record, so
9 I wanted to make sure we didn't overlook the Division
10 here.

11 I see she is silent, so...

12 COMMISSION CHAIR SANDOVAL: I think Marlene is,
13 and you can speak up Marlene if you have different input.
14 But I think Marlene is here for -- because of the court
15 reporter snafu.

16 MS. SALVIDREZ: Yes, you are correct.

17 COMMISSION CHAIR SANDOVAL: Thank you, Marlene.

18 All right. With that, is there a motion to
19 appoint Ms. Orth as the hearing officer in Case No. 22225
20 for the special meeting date of December 17th?

21 COMMISSIONER BLOOM: I move to appoint Felicia
22 Orth as the hearing examiner in Case 22225 on December
23 17th.

24 COMMISSIONER WARNELL: I second that motion,
25 Madam Chair.

1 COMMISSION CHAIR SANDOVAL: Thank you. Mr.
2 Moander, would you please do a roll call vote.

3 MR. MOANDER: Yes, Madam Chair.

4 Commissioner Bloom.

5 COMMISSIONER BLOOM: Approved.

6 MR. MOANDER: Commissioner Warnell.

7 COMMISSIONER WARNELL: Approved.

8 MR. MOANDER: Madam Chair.

9 COMMISSION CHAIR SANDOVAL: Approved.

10 MR. MOANDER: The motion carries.

11 COMMISSION CHAIR SANDOVAL: All right. As I
12 mentioned earlier Agenda Item No. 5, De Novo Case No.
13 21744 has been moved to a Special Meeting scheduled on
14 December 3rd at 9:00 a.m.

15 Agenda Item No. 6 has been dismissed, so
16 Case No. 22233, an unopposed Motion for Dismissal.

17 Mr. Moander, do you have any updates on
18 pending litigation?

19 MR. MOANDER: I do, Madam Chair.

20 This is Case A-1-CA-39578. The Appellant
21 submitted his Brief in Chief in mid October. Our Response
22 Brief will be due on November 29th. I anticipate we will
23 be filing that probably a week early.

24 I realized last time this case came up, the
25 last couple of times I didn't give a little thumbnail of

1 it, and if there is a desire for greater discussion we can
2 address that elsewhere, but this appeal is from Mr. Larry
3 Marker, and he's challenging the enactment of the Water --
4 I just forgot the title of the name of the Bill. But
5 basically --

6 COMMISSION CHAIR SANDOVAL: Produced Water Act.

7 MR. MOANDER: The Produced Water Act. Thank
8 you, Madam Chair. He's challenging the enactment of that
9 statute.

10 So that's the crux of the case. So it's
11 fairly important, but we anticipate the briefing process
12 should wrap up sometime in early -- probably, let's see,
13 early January.

14 I don't have any sense of whether the Court
15 will request oral argument. They may, they may not. But
16 by the next time the Commission meets I probably won't
17 have much to update, because the Appellant will still be
18 within the window for drafting his Reply Brief.

19 COMMISSION CHAIR SANDOVAL: Thank you.

20 Is there any other business before the
21 Commission? (Note: No response.)

22 All right. With that, our next meeting is
23 a Special Meeting on December 3rd followed by our
24 regularly scheduled OCC meeting on December 9th, followed
25 by another Special Meeting on December 17th for

1 Case No. 22225.

2 And with that, it is 9:19, and this meeting
3 is adjourned. Thanks all.

4 (Time noted 9:19 a.m.)

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REPORTER'S CERTIFICATE

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I, MARY THERESE MACFARLANE, New Mexico Reporter

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November 18, 2021, the proceedings in the above-captioned

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that I have no interest whatsoever in the final

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disposition of this case in any court.

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