

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

Application of the Oil Conservation
Division to amend Rules 19-15.2
and 19-15.7 NMAC Case No. 22719

REPORTER'S TRANSCRIPT OF PROCEEDINGS

THURSDAY, APRIL 14, 2022

COMMISSION HEARING

This matter came on for hearing before the New Mexico Oil and Gas Commission on Thursday, April 14, 2022, via Webex Virtual Conferencing Platform hosted by the New Mexico Energy, Minerals and Natural Resources Department

PRESENT:

| | |
|-------------------|----------------------------------|
| ADRIENNE SANDOVAL | COMMISSION CHAIR |
| GREG BLOOM | COMMISSIONER (State Land Office) |
| WILLIAM APOMAH | COMMISSIONER (ENMRD) |
| JOHN KREIENKAMP | COMMISSION COUNSEL |
| FLORENE DAVIDSON | COMMISSION CLERK |

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APPEARANCES

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C O N T E N T S

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1 (Time noted 9:07 a.m.)

2 COMMISSION CHAIR SANDOVAL: Next on the agenda
3 is Case No. 22719, Application of the Oil Conservation
4 Division to amend Rules 19-15.2 and 19-15.7 NMAC.

5 Let's see. Do we have Mr. Tremaine?

6 MR. TREMAINE: Yes, Madam Chair. This is Jesse
7 Tremaine for the Oil Conservation Division.

8 COMMISSION CHAIR SANDOVAL: Great. I can hear
9 you.

10 I did not see any additional entries of
11 appearance. Were there any other parties on this?

12 MR. FELDEWERT: Madam Chair, Members of the
13 Commission, Michael Feldewert with the Santa Fe office of
14 Holland & Hart appearing on behalf of the New Mexico Oil &
15 Gas association.

16 COMMISSION CHAIR SANDOVAL: Okay.

17 Mr. Tremaine, would you go ahead and give
18 kind of an overview for the Commission of the petition,
19 please.

20 MR. TREMAINE: Sure. Thank you, Madam Chair.

21 This case is OCD's application to amend
22 Rule Parts 2 and 7 with the general purpose of modernizing
23 the rules to reflect and enable practical practices and
24 work flow for the Oil Conservation Division.

25 This rule at a high level provides for:

1 Electronic filing by operators and interested parties;
2 provides or reflects and updates the rule to conform to
3 OCD's district reorganization; also provides for, we
4 think, improved coordination with BLM and potentially
5 other agencies; and also works to condense and reorganize
6 certain sections that in the current rule touch on similar
7 subjects but are in separate sections to the gold
8 (phonetic) areas to simply reorganize for clarity
9 purposes.

10 That's it.

11 OCD thinks that this is really just an
12 update to bring this rule up to speed with current
13 practices and the way the world works in 2022 and does not
14 reflect any significant substantive changes to the OCD
15 practice.

16 COMMISSION CHAIR SANDOVAL: Thank you, Mr.
17 Tremaine.

18 Mr. Feldewert, I'll give you an opportunity
19 if you have any comments.

20 MR. FELDEWERT: Thank you, Madam Chair. I don't
21 have any comments at this time.

22 COMMISSION CHAIR SANDOVAL: Okay.

23 Commissioners, do you have any questions
24 for Mr. Tremaine or Mr. Feldewert regarding the petition?

25 COMMISSIONER BLOOM: No, Madam Chair.

1 COMMISSIONER AMPOMAH: No, Madam Chair.

2 COMMISSION CHAIR SANDOVAL: Okay. All right.

3 Well, then I think what we need to discuss, Commissioners,
4 is (1), if we want to move this forward and set it for a
5 date, when that date would be; and then to discuss what we
6 want the procedures for the rulemaking hearing to be.

7 Mr. Tremaine, by chance do you have any of
8 the kind of timelines laid out in terms of when the Legal
9 Notice would be published, what 30 days from that might
10 look like, any of those components?

11 MR. TREMAINE: Yes, Madam Chair. I do have a
12 tentative proposed schedule, if I can screen share.

13 COMMISSION CHAIR SANDOVAL: Let me give you
14 permission. (Note: Pause.) Come on.

15 You should be able to now.

16 MR. TREMAINE: On my end it looks like I'm
17 sharing. Can you see that?

18 COMMISSION CHAIR SANDOVAL: Yes.

19 MR. TREMAINE: So if you have specific
20 questions, I can work through this.

21 This proposed timeline works off of a
22 proposed June 9th OCC hearing for the proposed changes,
23 and the dates all, you know, work according to that
24 proposed date. So that would be my starting point for
25 discussion with the Commission.

1 COMMISSION CHAIR SANDOVAL: Ms. Davidson, are
2 you on? Can you hear me?

3 MS. DAVIDSON: Yes, I'm on.

4 COMMISSION CHAIR SANDOVAL: Okay. Am I
5 recalling correctly that the June 9th docket already has
6 quite a few cases on it?

7 MS. DAVIDSON: Yes. Indeed it has quite a few.

8 COMMISSION CHAIR SANDOVAL: Okay. So we
9 might -- Commission, we might want to look at setting a
10 special date for this.

11 Mr. Tremaine, so I'm just looking here. So
12 it would be published in the Register on the 3rd.

13 What would be the 30-day? So there is a
14 30-day requirement for public comment, at a minimum, so
15 that would, what, put us at June 3rd, roughly?

16 MR. TREMAINE: If we meet the May 3rd
17 publication. I can never remember if May has 30 or 31
18 days.

19 COMMISSION CHAIR SANDOVAL: 31.

20 MR. TREMAINE: So by my math in my head, I'm
21 saying that June 2nd would be the earliest that the OCC
22 could proceed if we meet that May 3rd publication
23 deadline, but I think to play it safe -- and let me run a
24 day calculator here.

25 COMMISSION CHAIR SANDOVAL: I guess while you're

1 doing that, Commissioners does it make sense to look at a
2 special docket for this rulemaking hearing?

3 COMMISSIONER BLOOM: Madam Chair, I'd be fine
4 with that. Absolutely.

5 COMMISSIONER AMPOMAH: Yes.

6 COMMISSION CHAIR SANDOVAL: Mr. Tremaine, do you
7 have an estimate on how long this might take? Do you
8 think it will take more than a day?

9 MR. TREMAINE: I hope it will not take more than
10 a day. I do not think these are proposed changes that
11 will require extensive testimony -- you know, not knowing
12 what other parties will bring to the hearing. I suspect
13 that OCD's presentation will take half a day, perhaps
14 less.

15 COMMISSION CHAIR SANDOVAL: Okay.

16 MR. TREMAINE: And in answer to your earlier
17 question, I ran a day calculation. June 2nd, which I
18 believe is a Thursday, is 30 days from the May 5th date.
19 So that Thursday I think is the earliest date that the OCC
20 will be able to hold a special hearing.

21 COMMISSION CHAIR SANDOVAL: Okay.

22 Commissioners, I'm going to pull up my calendar.

23 COMMISSIONER BLOOM: I'm taking a look at mine,
24 and June 2nd and 3rd would work if we wanted to reserve
25 two days. The 23rd and 24th work for me, as well.

1 COMMISSION CHAIR SANDOVAL: I could do June 2nd
2 and June 3rd.

3 COMMISSIONER AMPOMAH: Madam Chair, that works
4 for me, as well. School will be over by then, so...

5 COMMISSION CHAIR SANDOVAL: Okay. So let's look
6 at that.

7 All right. So if we work backwards from --
8 this is the fun part.

9 If we work backwards from June 3rd, we need
10 to set, I think, a deadline for Prehearing Statements and
11 any motions, and then a Reply date, I think.

12 And Mr. Kreienkamp, if I miss something,
13 please jump in.

14 MR. KREIENKAMP: No, I think everything is fine
15 so far.

16 COMMISSION CHAIR SANDOVAL: Okay. So June 2nd,
17 that's Thursday. We probably want Prehearing Statements
18 at least, what, two weeks in advance?

19 MR. TREMAINE: Madam Chair, I think if we are
20 moving it seven days, then I think we should just go --
21 what I would propose is we go through this timeline and
22 just move everything back one calendar week, seven days,
23 and that should get us to the appropriate deadlines.

24 So for Prehearing Statement, Prefiled
25 Testimony, that's 10 -- we calculated 10 business days.

1 It was May 25th, I think that makes it May 18th, which is
2 a Wednesday.

3 Likewise, to deadline and complete Notice
4 requirements is going to need to be --

5 COMMISSION CHAIR SANDOVAL: That would be the
6 3rd, right?

7 MR. TREMAINE: May 3rd, which is a Tuesday.

8 COMMISSION CHAIR SANDOVAL: When you're saying,
9 just so I can clarify, deadlines are going to be on Notice
10 requirements, Notice requirements for which? What are you
11 intending in that bucket?

12 MR. TREMAINE: That's a good question. I think
13 that is the Notice requirement for the OCC to provide
14 Notice of the hearing.

15 COMMISSION CHAIR SANDOVAL: Okay. So that's
16 more of an internal deadline.

17 MR. TREMAINE: Yes.

18 COMMISSION CHAIR SANDOVAL: So then if we did
19 move it back a week from the 25th is the 18th. So
20 Prehearing Statements, I would think, and the Motions
21 would be due that day.

22 Do we want to set a Motion Reply date, if
23 there are any motions, of the -- a week after? So that
24 would be the 26th, and then any motions can be decided on
25 at the hearing on the 2nd.

1 I'm sorry, the 25th would be a week.

2 Okay. Commissioners, are we -- so the
3 requirement is, you know, a minimum of 30 days for, you
4 know, legal public comment after the Notice is posted. So
5 we will be meeting that. I think generally sometimes
6 we've gone a little bit longer, but I think this seems
7 like a relatively straightforward and simple, potentially,
8 rulemaking so I think the 30 days is likely adequate.

9 I would be comfortable, and we've done this
10 in the past, of allowing written public comment to come in
11 before it's published in -- I think it was, was it after,
12 uhm -- well, I guess we can allow comment at any point, I
13 would say, from now until that date. We've done that, I
14 think, in the past.

15 I'm trying to look at a past Order and see.

16 MR. TREMAINE: Madam Chair, I'm not sure if my
17 having this up is still helpful, I can take it down, but
18 I'm just working back from the proposed date, and I think
19 this means that we have a -- there would be a deadline to
20 submit the rule to the New Mexico Register today, based on
21 this date, because currently, building off of June 9th we
22 originally projected that deadline for a week from today.
23 I'd need to go back in and check that rule, but I think
24 that means that we would have a hard time meeting that --

25 MR. KREIENKAMP: Madam Chair, if I may.

1 COMMISSION CHAIR SANDOVAL: Go ahead.

2 MR. KREIENKAMP: If I could just jump in very
3 briefly. And this is just a suggestion, more than
4 anything else.

5 Mr. Tremaine, in terms of deadline for
6 publishing in the Register, unless there's something
7 unusual about these proceedings that I'm not aware of, the
8 New Mexico Register has certain publication dates and
9 deadlines. I think there's 26 of them or 24 of them per
10 year. And so the next one is fixed at April 21st. And so
11 that's the next deadline that they have. The next time
12 that they publish would be the 3rd.

13 So, you know, those dates generally are
14 not -- I mean, those dates are generally set rather than
15 agency by agency.

16 COMMISSION CHAIR SANDOVAL: I believe
17 that's right. So you're still going to file -- the
18 deadline to submit to the New Mexico Register is still the
19 21st, because that's the due date for the Register, I
20 believe.

21 MR. KREIENKAMP: Yes, it is. And then the
22 publication date would still be May 3rd for that?

23 COMMISSION CHAIR SANDOVAL: Yes.

24 MR. TREMAINE: Thank you.

25 COMMISSION CHAIR SANDOVAL: No problem.

1 Okay. So we have the Prehearing, we have
2 the motions. We are good with the 30-day.

3 Do we -- let's see. I'm going to pull up
4 that password again. Sorry.

5 MR. FELDEWERT: Madam Chair, while you're doing
6 that, this is Michael Feldewert.

7 I just pulled down -- I don't know if it
8 makes a difference or not, but I see that June 2nd is a
9 Division hearing date. I don't know whether that creates
10 an issue for a Commission date at that time or not.

11 COMMISSION CHAIR SANDOVAL: We can have two
12 Webexes running. I guess the only question would be
13 whether or not it's going to be a conflict on the
14 Division. I don't know if any of your witnesses will be
15 involved in the hearing on the Division Side.

16 MR. TREMAINE: Madam Chair, I need to check with
17 Mr. Brancard, who will be the Division's chief witness.
18 As I have indicated, we've discussed the June 9th date.
19 So I will do that now.

20 COMMISSION CHAIR SANDOVAL: Or -- I mean, I
21 think Mr. Brancard's on right now, if, Mr. Brancard, you
22 want to chime in.

23 MR. BRANCARD: Thank you, Madam Chair. June 2nd
24 is a Division hearing date, and I will likely be in that
25 hearing all day.

1 COMMISSION CHAIR SANDOVAL: Okay.

2 Then if we are only expecting this to go
3 potentially a day, we could do it the 3rd.

4 Commissioners, does that work? I think it
5 works for both of you.

6 COMMISSIONER BLOOM: Absolutely that would work.

7 COMMISSIONER AMPOMAH: That will work, too, for
8 me, Madam Chair. It will work.

9 COMMISSION CHAIR SANDOVAL: All right. We can
10 keep the motions and the prehearings still a week from
11 that Thursday just to give a little bit more buffer.

12 One other thing: In the past,
13 Commissioners, for rulemaking we have basically given me
14 the authority to choose a hearing examiner for the case so
15 that, you know, I can focus more on the rulemaking instead
16 of running the hearing and the rulemaking. Is that
17 something we're comfortable doing again, is designating a
18 hearing examiner for this hearing?

19 COMMISSIONER BLOOM: Yes, Madam Chair. That
20 would be just fine.

21 I can't remember whether we need to have a
22 vote on that or not.

23 COMMISSION CHAIR SANDOVAL: We will. We need to
24 wrap all this up in a motion, basically, both the dates
25 and procedures. I'm just trying to line out all of the

1 pieces.

2 COMMISSIONER BLOOM: Very good.

3 COMMISSION CHAIR SANDOVAL: Okay. For public
4 comment, do we want to -- so Written Public Comment due on
5 the 2nd? So by end of day the 2nd?

6 COMMISSIONER BLOOM: Madam Chair, I think I
7 recall a previous discussion that we need to leave this
8 open until -- I'm sorry, I can't remember if it was
9 through the hearing or something like that.

10 I don't love it, because it doesn't always
11 give us a lot of time to review the comments. I don't
12 think we are going to have many in this hearing, but I'm
13 just trying to remember what the rule was for that.

14 COMMISSION CHAIR SANDOVAL: I think there has
15 been some debate over that. In the past we have always
16 required it to be due the night before. There was
17 something that came up at the last hearing, we allowed it
18 to come in through noon the date of the hearing.

19 Mr. Kreienkamp, do you have any thoughts on
20 that?

21 MR. KREIENKAMP: Well, so typically -- and my
22 experience is not with the Commission, obviously. My
23 understanding is that you guys have your own procedural
24 rule for rulemakings, but typically the procedure with
25 other agencies is that the comments are submitted through

1 a written comment period, usually it's the end of the day
2 before the hearings, usually 5:00 o'clock, but also during
3 the hearing, you know, the public is able to submit, you
4 know, written comments.

5 Now, I know that your procedural rule, you
6 know, provides for Prehearing Statements and sort of
7 filings from people who want to participate a little bit
8 more actively in terms of cross-examining and whatnot. I
9 think that that's fine, but someone who's just a random
10 member of the public who wanted to come in and submit a
11 written comment, they probably would be able to do that
12 during the hearing itself, although I would have to check
13 your rule for that.

14 COMMISSION CHAIR SANDOVAL: Okay. So why don't
15 we just be consistent with what we've had to do -- with
16 what did last time, and allow written comments through
17 noon on the date of the hearing so that over lunch, or so
18 be it, if any additional comments come in that day the
19 commissioners can review them.

20 So that would be noon on the 3rd.

21 For any oral public comment do we want to
22 try to set aside a time? You know, the first hour of the
23 hearing and then open it up again later? Make sure we've
24 gotten -- you know, open it up, I guess, periodically to
25 just make sure we get everybody. Try to put a specific

1 time to provide the public with some certainty. We tried
2 to do that in the past.

3 COMMISSIONER BLOOM: That would work for me,
4 Madam Chair.

5 COMMISSION CHAIR SANDOVAL: Okay. So if this
6 hearing starts at 9:00, so from 9:00 to 10:00, and we can
7 encourage people to sign up in advance for a specific time
8 slot.

9 I think in the past we've provided people
10 who have signed up ahead of time with five minutes, as
11 opposed to three.

12 COMMISSIONER AMPOMAH: Okay.

13 COMMISSIONER BLOOM: That would be great.

14 COMMISSION CHAIR SANDOVAL: All right. Are
15 there any other pieces we are missing for this hearing?

16 (Note: No response.)

17 I think that's it. Okay.

18 So with that I move to set the rulemaking
19 hearing in Case No. 22719 to amend Rule 19.15.2 and
20 19.15.7 NMAC to a hearing date of June 3rd, starting at
21 9:00 a.m.

22 For this any Prehearing Statements and
23 Motions will be due on May 18th.

24 Any Replies will be due on May 25th, and
25 motions will be decided at the hearing on the 3rd.

1 The Commission will give the Commission
2 Chair, myself, authority to designate a hearing examiner
3 for this -- you know, as I feel necessary.

4 For Written Public Comments, they will be
5 accepted anywhere from today's date all the way up through
6 noon on June 3rd. Those should be directed to Ms.
7 Florene Davidson at the Wendell Chino Building. Uhm, For
8 Written Comment.

9 For Oral Public Comment, the Commission
10 will set aside time from 9:00 to 10:00 o'clock on the date
11 of the hearing June 3rd for Public Comment; however, if
12 there is not sufficient comment to fill that time space
13 then the Commission will begin, you know, the testimony in
14 the hearing. The public is encouraged to sign up ahead of
15 time with Commission Clerk Ms. Florene Davidson, and if
16 you sign up ahead of time you get additional time of five
17 minutes. If you just show up on the day of, it will be a
18 three-minute public comment.

19 Is there a second on that motion?

20 COMMISSIONER BLOOM: Madam Chair, I so move,
21 second.

22 COMMISSION CHAIR SANDOVAL: Mr. Kreienkamp,
23 would you please do a roll call vote.

24 MR. KREIENKAMP: Absolutely, Madam Chair.

25 So on the motion, Chair Sandoval?

1 COMMISSION CHAIR SANDOVAL: Approve.

2 MR. KREIENKAMP: Commissioner Bloom?

3 COMMISSIONER BLOOM: Approve.

4 MR. KREIENKAMP: And Dr. Ampomah.

5 COMMISSIONER AMPOMAH: Approved.

6 MR. KREIENKAMP: The vote was unanimous, Madam

7 Chair.

8 COMMISSION CHAIR SANDOVAL: Great.

9 Ms. Davidson, can you go ahead and get
10 anything put together that we need to set that special
11 date on June 3rd.

12 MS. DAVIDSON: Yes, I will.

13 COMMISSION CHAIR SANDOVAL: Thank you. All
14 right. I think that completes Agenda item No. 4

15 (Time noted 9:21 a.m.)

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1 STATE OF NEW MEXICO) .

2 : ss

3 COUNTY OF TAOS)

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5 REPORTER'S CERTIFICATE

6 I, MARY THERESE MACFARLANE, New Mexico Reporter
7 CCR No. 122, DO HEREBY CERTIFY that on Thursday, April 14,
8 2022, the proceedings in the above-captioned matter were
9 taken before me; that I did report in stenographic
10 shorthand the proceedings set forth herein, and the
11 foregoing pages are a true and correct transcription to
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17 disposition of this case in any court.

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