

**MINUTES OF THE MEETING
OF THE OIL CONSERVATION COMMISSION
HELD ON JUNE 28-29, 2011**

The Oil Conservation Commission met at 9 o'clock a.m. on June 28, 2011, in Porter Hall, 1220 S. St. Francis Drive, Santa Fe, New Mexico.

PRESENT: **ROBERT BALCH, Member**
 SCOTT DAWSON, Member
 JAMI BAILEY, Chair

Cheryl Bada served as the Commission counsel.

The meeting was called to order by Commissioner Bailey. She introduced the members of the Commission and the Commission counsel. The minutes of the December 9, 2010 Commission meeting and the December 20, 2010 special Commission meeting were approved, adopted and signed by Commissioner Bailey as the only member of the previous Commission who attended those meetings.

Commissioner Bailey was nominated as Chairman of the Oil Conservation Commission by Commissioner Balch, seconded by Commissioner Dawson, and was elected Chairman.

Counsel Bada explained that the purpose of the Open Meetings Resolution is to comply with the provisions of the New Mexico Open Meetings Act by setting out the annual dates for Commission meetings and what is reasonable notice when applied to these meetings or emergency meetings. A motion was made by Commissioner Balch and seconded by Commissioner Dawson to adopt the Commission's Open Meetings Resolution for 2011, and it was adopted unanimously. The resolution is attached to these minutes.

De Novo Case 12276, the application of Burlington Resources Oil & Gas Company for compulsory pooling, San Juan County, New Mexico, to be heard De Novo upon the application of Energen Resources Corporation, was called. The case was dismissed.

De Novo Case 12277, the application of Burlington Resources Oil & Gas Company for compulsory pooling, San Juan County, New Mexico, to be heard De Novo upon the application of Energen Resources Corporation, was called. The case was dismissed.

De Novo Case 14472, the application of COG Operating, LLC for cancellation of operator's authority and termination of spacing units, Yeso Energy, Inc. Dow "B" 28 Federal Well No. 1, Eddy County, New Mexico, to be heard De Novo upon the application of Yeso Energy, Inc; and Case 14547, the application of the New Mexico Oil Conservation Division seeking an order authorizing the Oil Conservation Division to recognize an operator of record for wells currently operated by Yeso Energy, Inc., were called and continued to June 29, 2011.

De Novo Case 14558, the application of Marbob Energy Corporation for vertical expansion of the Burch Keely Unit, Eddy County, New Mexico, to be heard De Novo upon the application of ConocoPhillips Company, was called and continued to the Commission meeting scheduled for July 28, 2011.

De Novo Case 14577, the application of COG Operating LLC for vertical extension of the Grayburg-Jackson (Seven Rivers-Queen-Grayburg-San Andres) Pool to correspond with the unitized formation of the Burch-Keely Unit, Eddy County, New Mexico, to be heard De Novo upon the application of ConocoPhillips Company, was called and continued to the Commission meeting scheduled for July 28, 2011.

De Novo Case 14497, the application of David H. Arrington Oil & Gas Inc. for compulsory pooling, Lea County, New Mexico, to be heard De Novo upon the application of David H. Arrington Oil & Gas Inc., was called and continued to the Commission meeting scheduled for July 28, 2011.

De Novo Case 14538, the application of Marshall & Winston, Inc. to cancel an operator's authority and terminate a spacing unit, and approve a change of operator, Lea County, New Mexico, to be heard De Novo upon the application of David H. Arrington Oil & Gas Inc., was called and continued to the Commission meeting scheduled for July 28, 2011.

The meeting was recessed at 9:15 a.m.

The meeting was reconvened at 9 o'clock a.m. on June 29, 2011.

De Novo Case 14472, the application of COG Operating, LLC for cancellation of operator's authority and termination of spacing units, Yeso Energy, Inc. Dow "B" 28 Federal Well No. 1, Eddy County, New Mexico, being heard De Novo upon the application of Yeso Energy, Inc.; and Case 14547, the application of the New Mexico Oil Conservation Division seeking an order authorizing the Oil Conservation Division to recognize an operator of record for wells currently operated by Yeso Energy, Inc., were called and consolidated for the purposes of this hearing. Appearances were made by Sonny Swazo for the Oil Conservation Division (OCD), Scott Hall for COG Operating, LLC (COG), and Michael Feldewert for Judah Oil, LLC (Judah). Mr. Swazo made an opening statement summarizing the background of these cases and explaining OCD's refusal to approve the transfer of Yeso's wells. He said the OCD is seeking clarification from the Commission of the existing orders issued in Case 14472. Mr. Feldewert made an opening statement explaining Judah's appearance in the OCD case and its interest in two wells for which the Bureau of Land Management (BLM) has issued bonds to Judah. Mr. Hall made an opening statement explaining the history of the COG case, which is meant to delay the plugging of the well for which COG is seeking authority to use as a salt water disposal well. He said there are two procedural matters to be addressed by the Commission: (1) the de novo applicant has not appeared at this hearing today and has asked that it be dismissed from the hearing (Mr. Hall asked that the Commission not release Yeso from the case); and (2) Order No. R-13294 provided for the plugging of the subject well to be delayed until July 31, 2011 (Mr. Hall asked the Commission to extend the plugging date). Chairman Bailey stated that each attorney will be asked to submit draft orders at the conclusion of the hearing and to include any findings they believe to be important.

Mr. Swazo's witness was Daniel Sanchez, Compliance and Enforcement Manager with the OCD in Santa Fe, New Mexico. He testified that a BLM sundry notice proposing to return a well to production showing Judah as operator was denied by the OCD because Judah was not the operator of record. He said that Chica Energy filed a subsequent report of change of operator for the Dow "B" well with the BLM on which the BLM had stamped "Subject to like approval by the State." He said it was his understanding that this stamp meant that BLM approval would wait for the OCD's approval. He explained that the OCD is not required to recognize any operator of record that the BLM recognizes. He testified that Chica Energy objected to allowing COG to use the subject

well as a salt water disposal well because Chica claimed to be the operator of record, but Chica has since withdrawn from the case. Mr. Hall, Mr. Feldewert and Chairman Bailey cross-examined the witness, and he was excused.

Mr. Hall's witness was David Evans, Land Lead for the New Mexico Shelf Team with Concho (also known as COG) in Midland, Texas. He explained that COG's application is for authorization to convert the Dow "B" 28 Federal Well No. 1 to a salt water disposal well. He said COG is also asking to terminate the pool dedications to the well in order to clear up regulatory impediments to the conversion. He explained that COG believes that the Dow "B" well is situated where its use as a salt water disposal well can extend the life of the Skelly Unit. He discussed correspondence with the OCD asking them to delay plugging the Dow "B" well. He talked of the order terminating the operation of the Dow "B" well by Yeso. He discussed COG's Form C-108, the application to inject, which is pending approval until after the disposition of this case. He stated that COG plans to use the well as a private disposal well. Mr. Feldewert and Chairman Bailey cross-examined the witness, and he was excused.

Mr. Feldewert's witness was James Blaise Campanella, an oil and gas producer and operator of commercial disposal wells in Artesia, New Mexico. He explained that he operates wells under the name of Judah Oil LLC and identified its officers and directors. He said he acquired properties from Yeso in August, 2010. He outlined the purchase and sale agreement of wells from Yeso and stated that neither Yeso nor Chica retained any right to operate the wells and did not retain any financial responsibilities for the wells. He discussed the OCD regulations that define an affiliate. He said that the BLM has approved Judah as the operator of record for the Dow "B" well and also approved its notice of intention to inject. He discussed the bonds in place for the Dow "B" well. Mr. Swazo, Mr. Hall, Commissioner Dawson and Chairman Bailey cross-examined the witness, and he was excused.

Mr. Swazo, Mr. Hall and Mr. Feldewert made closing statements. Mr. Hall presented findings and conclusions to the Commission. Chairman Bailey announced that two weeks from today (July 13) all parties are to submit to the Commission proposed draft findings of fact and conclusions of law. The Commission will deliberate on these two cases at the next regularly scheduled Commission meeting on July 28, 2011. Mr. Swazo pointed out that the OCD had filed a proposed draft order with the Commission and asked that he be allowed to submit this in lieu of the proposed findings of fact.

The meeting was adjourned at 2:35 p.m.

**STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION**



JAMI BAILEY, Chair

**STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION**

**A RESOLUTION
ESTABLISHING PROCEDURES FOR GIVING NOTICE OF MEETINGS
OF THE NEW MEXICO OIL CONSERVATION COMMISSION**

WHEREAS, the New Mexico Open Meetings Act, NMSA 1978, § 10-15-1 *et seq.* (as amended), declares each meeting of a quorum of members of any board, council, commission, administrative adjudicatory body or other policy-making body of any state or local public agency which is held for the purpose of formulating public policy, discussing public business or taking any action within the authority of or the delegated authority of such body to be a public meeting, except as otherwise provided in the New Mexico Constitution or the Open Meetings Act;

WHEREAS, the Open Meetings Act requires that each public body determine, at least annually, in a public meeting, what notice is reasonable when applied to public meetings of the public body; and

WHEREAS, the New Mexico Oil Conservation Commission, a policy-making and administrative adjudicatory body of the State of New Mexico with delegated authority under the New Mexico Oil and Gas Act, NMSA 1978, §§ 70-2-1 *et seq.* (as amended), desires to establish herein an open meetings policy consistent with the Open Meetings Act and specify herein what notice is reasonable when applied to its activities throughout the year.

NOW, THEREFORE, BE IT RESOLVED that the New Mexico Oil Conservation Commission does formally adopt the following open meetings policy for calendar year 2011, as follows:

1. Unless specified otherwise in the notice, each public meeting of the New Mexico Oil Conservation Commission (hereinafter referred to as "the Commission") shall be held in Porter Hall, 1st Floor, 1220 South Saint Francis Drive, Santa Fe, New Mexico 87505.

2. Unless specified otherwise in the notice, a regular meeting of the Commission shall be held on June 28, July 28, August 25, September 22, October 20, November 17 and December 8, 2011. Each regular meeting shall commence at 9 a.m. Mountain Time. Any meeting not concluded at the end of the specified day may be continued to the next business day or as otherwise provided by the Commission.

3. A special meeting of the Commission may be called by the Chair or a majority of members of the Commission as needed, and forty-eight (48) hours advance notice of such a meeting shall be given.

4. An emergency meeting of the Commission may be called by the Chair or a majority of members of the Commission as needed, with as much advance notice as the emergency permits.

5. A closed meeting may be held in the following manner:

(a) If the Commission is in an open meeting when a closed meeting is desired and authorized by the Open Meetings Act, a motion to close the meeting shall be approved by a majority of the members, and the authority for the closure shall be stated in the motion. The votes of the members on the motion shall be recorded in the minutes.

(b) If the Commission is not in a public meeting and a closed meeting is desired and authorized, the meeting shall be publicly advertised in the same manner as special or emergency meetings, with a statement in the notice that the meeting will be closed, and the authority for closure.

(c) Following completion of any closed meeting, the minutes of the open meeting that was closed, or the minutes of the next open meeting if the closed meeting was separately scheduled, shall state that the matters discussed in the closed meeting were limited to those specified in the motion for closure or in the notice of the separate closed meeting.

(d) Only those matters specified in the motion to close the meeting may be discussed during a meeting closed in this manner.

(e) Except as provided in Section 10-15-1(H) of the Open Meetings Act, any action taken as a result of discussions in a closed meeting shall be made by vote of the Commission in an open public meeting.

6. Notice of each meeting shall be posted on the door of Porter Hall, 1st Floor, 1220 S. St. Francis Drive, Santa Fe, New Mexico. Notice of each meeting shall be published in a newspaper of general circulation in the counties that are affected by the applications before the Commission, except that when an application affects the entire state, notice may be published in one newspaper of general circulation in the state. Where a written request has been received, notice shall also be provided to broadcast stations licensed by the federal communications commission and newspapers of general circulation. Notice shall be delivered by ordinary first class United States mail or electronic mail to each person who has requested in writing to be notified of such meetings. Notice shall also be posted on the Internet web site of the Oil Conservation Division, <http://www.emnrd.state.nm.us/ocd>.

7. The notice shall include an agenda for the meeting or information on how members of the public may obtain a copy of the agenda.

8. A preliminary agenda for each regular meeting shall be prepared, posted and distributed (if applicable) no later than two weeks prior to the meeting. A final agenda for

each regular and special meeting shall be prepared, posted and distributed (if applicable) no later than twenty-four (24) hours preceding the meeting. A final agenda for each emergency meeting shall be prepared, posted and distributed (if applicable) as much in advance of the meeting as the emergency permits.

9. Each notice shall include the following statement:

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact the New Mexico Oil Conservation Division at 1220 S. St. Francis Drive, Santa Fe, New Mexico 87505, telephone number 476-3460 at least one week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact the New Mexico Oil Conservation Division if a summary or other type of accessible format is needed.

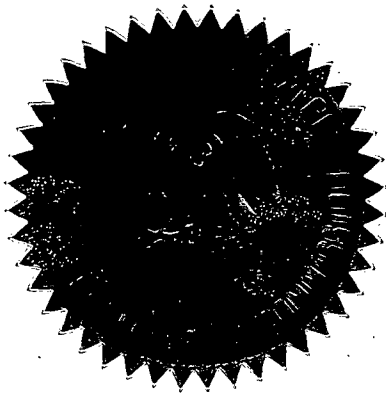
10. Once approved by the Commission, minutes produced as a result of an open meeting shall be available for public inspection. Preliminary minutes produced by staff following a public meeting may also be available for public inspection, but shall be marked as preliminary and unofficial.

11. A stenographic transcript of each meeting may be prepared. If a transcript is prepared, members of the public may inspect a copy of the transcript or obtain a copy through the Oil Conservation Division. Copies will be subject to a reasonable charge. If a transcript has not been prepared, members of the public may obtain a transcript through the Oil Conservation Division upon payment of a reasonable transcription charge.

12. Each meeting shall be conducted in accordance with accepted parliamentary procedures, the Rules of the Oil Conservation Division and, as applicable, the New Mexico Rules of Evidence.

13. Members of the Commission may participate in a meeting by means of conference telephone or other similar communications equipment which allows the member or members so participating to hear the proceedings and to be heard by one another and by persons attending the meeting. A member participating by telephone shall be included in ascertaining the presence of a quorum.

PASSED, APPROVED AND ADOPTED THIS 28th DAY OF JUNE, 2011.



**STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION**

Ray Powell

RAY POWELL, MEMBER

Robert Balch

ROBERT BALCH, MEMBER

Jami Bailey

JAMI BAILEY, MEMBER

SEAL