

3 IN THE MATTER OF THE HEARING CALLED  
4 BY THE OIL CONSERVATION COMMISSION FOR  
5 THE PURPOSE OF CONSIDERING:

5 APPLICATION OF THE OIL CONSERVATION  
6 DIVISION (DIVISION) FOR A PRE-HEARING  
7 TO CONSIDER PROPOSED AMENDMENTS TO  
8 CERTAIN PROVISIONS OF TITLE 19,  
9 CHAPTER 15, PART 26 OF THE  
10 NEW MEXICO ADMINISTRATIVE CODE.

CASE NO. 14974

ORIGINAL

10 REPORTER'S TRANSCRIPT OF PROCEEDINGS

11 COMMISSION HEARING

12  
13 BEFORE: JAMI BAILEY, CHAIRPERSON  
14 TERRY WARNELL, COMMISSIONER  
15 ROBERT S. BALCH, COMMISSIONER

16 March 19, 2013

17 Santa Fe, New Mexico

18

19

20

21 This matter came on for hearing before the  
22 New Mexico Oil Conservation Commission on Tuesday,  
23 March 19, 2013, at the New Mexico Energy, Minerals and  
24 Natural Resources Department, 1220 South St. Francis  
25 Drive, Porter Hall, Room 102, Santa Fe, New Mexico.

23 REPORTED BY: Mary C. Hankins, CCR, RPR  
24 New Mexico CCR #20  
25 Paul Baca Professional Court Reporters  
500 4th Street, Northwest, Suite 105  
Albuquerque, New Mexico 87102

2013 APR -2 P 2:21  
RECEIVED OCD

## 1 APPEARANCES

2 FOR NEW MEXICO OIL CONSERVATION COMMISSION:

3 CHERYL L. BADA, ESQ.  
4 NEW MEXICO ENERGY, MINERALS AND NATURAL RESOURCES  
5 DEPARTMENT  
6 OFFICE OF GENERAL COUNSEL  
7 1220 South St. Francis Drive  
8 Santa Fe, New Mexico  
9 (505) 476-3211  
10 cheryl.bada@state.nm.us

11 FOR STATE OF NEW MEXICO OIL CONSERVATION DIVISION:

12 GABRIELLE A. GERHOLT, ESQ.  
13 OIL CONSERVATION DIVISION  
14 OFFICE OF GENERAL COUNSEL  
15 Energy, Minerals and Natural Resources Department  
16 1220 South St. Francis Drive  
17 Santa Fe, New Mexico 87505  
18 (505) 476-3451  
19 gabrielle.gerholt@state.nm.us;

20 FOR OXY USA WTP, LP and OCCIDENTAL PERMIAN:

21 MICHAEL H. FELDEWERT, ESQ.  
22 HOLLAND & HART  
23 110 North Guadalupe, Suite 1  
24 Santa Fe, New Mexico 87501  
25 (505) 988-4421  
mfeldewert@hollandhart.com

26 FOR NEW MEXICO OIL &amp; GAS ASSOCIATION:

27 MICHAEL H. FELDEWERT, ESQ.  
28 HOLLAND & HART  
29 110 North Guadalupe, Suite 1  
30 Santa Fe, New Mexico 87501  
31 (505) 988-4421  
32 mfeldewert@hollandhart.com

33 ALSO PRESENT: Ms. Florene Davidson  
34 Mr. Jesse Allen

35

1	INDEX	
2		PAGE
3	Case Number 14974 Called	4
4	Opening Statement by Ms. Gerholt	4
5	Proceedings Conclude	16
6	Certificate of Court Reporter	17

7

8

9

10 EXHIBITS MARKED, OFFERED AND/OR ADMITTED

11 (No exhibits marked, offered or admitted.)

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 (9:05 a.m.)

2 CHAIRPERSON BAILEY: Today I call Case  
3 14974, which is the application of the Oil Conservation  
4 Division for a pre-hearing to consider proposed  
5 amendments to certain provisions of Title 19, Chapter  
6 15, Part 26 of the New Mexico Administrative Code.

7 Appearances?

8 MS. GERHOLT: Morning, Madam Chair,  
9 Commissioners.

10 Gabrielle Gerholt, Assistant General  
11 Counsel, for the Oil Conservation Division. Joining me  
12 today is Jesse Allen, UNM law intern. We represent the  
13 OCD in this case.

14 MR. FELDEWERT: Madam Chair, members of the  
15 Commission, Michael Feldewert with the Santa Fe office  
16 of Holland & Hart. We're first appearing on behalf of  
17 OXY USA WTP, LP and Occidental Permian, and we're  
18 appearing separately on behalf of New Mexico Oil & Gas  
19 Association.

20 CHAIRPERSON BAILEY: Do you have an opening  
21 statement?

22 MS. GERHOLT: I do, Madam Chair. Thank  
23 you.

24 OPENING STATEMENT

25 MS. GERHOLT: The Oil Conservation Division

1     formed a work group in June of 2012 to review the issue  
2     about acid gas disposal wells. The Division saw a need  
3     to formalize regulation for disposal wells. A work  
4     group was formed with members of academia, the Division  
5     and the industry. The application -- not the  
6     application. The proposed language before you is the  
7     result of that work group.

8                     We have asked for this pre-hearing because,  
9     as you-all know, the Commission must meet in a public  
10    setting, and we wanted the Commission's thoughts as to  
11    whether or not the proposed language is ready to be  
12    reviewed in a formal rulemaking by the Commission or if  
13    the Commission has concerns, clarifications, additions  
14    that need to be taken back to the work group. The goal  
15    of the Division is that when we do get to hearing, that  
16    it is a more efficient process.

17                    Thank you.

18                    CHAIRPERSON BAILEY: Mr. Feldewert, do you  
19    have an opening statement?

20                    MR. FELDEWERT: I do not at this time.

21                    CHAIRPERSON BAILEY: Do you have any  
22    witnesses?

23                    MS. GERHOLT: No, Madam Chair. In a  
24    pre-hearing, the Division chose not to present  
25    witnesses. I am interested in hearing what the

1 Commission's concerns or thoughts are. I can provide --  
2 as a member of the work group, I can provide you some  
3 information as to whether or not the work group even  
4 thought about something or not, but more, what is the  
5 Commission's thoughts at this time. Is the Commission  
6 ready for a rulemaking application, or does the Division  
7 work group need to go back to the drawing board?

8 CHAIRPERSON BAILEY: So this can be more of  
9 a dialogue for discussion purposes of what we would like  
10 to see presented to us the next time this is docketed  
11 for us?

12 MS. GERHOLT: Yes, Madam Chair.

13 CHAIRPERSON BAILEY: Commissioners, do you  
14 have any comments that you would like to afford the work  
15 group?

16 COMMISSIONER WARNELL: Yeah, I do.

17 Reading through your Exhibit A, my first  
18 thought was to define acid gas, and then I got over a  
19 few pages, and I saw that you did have a definition in  
20 there. I guess we could strike that.

21 The second thought was if you've given any  
22 thought to the difference between acid gas and sour gas?  
23 And going on, just reading my notes, you mention  
24 vertical depth. I'm not sure if we're talking about  
25 measured depth or true vertical depth. I assume it's

1 true vertical depth. You might want to give some  
2 thought between measured depth and true vertical depth.

3 You talked about the top of the injection  
4 interval. To me, that's a lot different than the top  
5 perf, and no place did I hear about perfs in order. So  
6 I think I'm comfortable with the top of the injection  
7 interval even though it may be perforated a lot deeper  
8 than the top of the interval.

9 The rest of it looked absolutely fine to  
10 me.

11 CHAIRPERSON BAILEY: Commissioner Balch,  
12 did you have any comments or discussion on what you  
13 would like to see presented to us?

14 COMMISSIONER BALCH: Sure. On page 3 of  
15 Exhibit A, at the top is "half-mile area of interest,"  
16 it looks like, where you're identifying wells. Is there  
17 a reason why you went with a half-mile limit; do you  
18 recall?

19 MS. GERHOLT: Yes, Commissioner Balch. The  
20 work group spent a significant period of time discussing  
21 variations between a half mile, three-quarters of a mile  
22 and a mile. And during the course of that, it was  
23 determined that a half mile was always without --  
24 outside the zone of the projected plume suspension and  
25 that that half mile encapsulated --

1 COMMISSIONER BALCH: Now, that's assuming a  
2 30-year injection plan?

3 MS. GERHOLT: It is.

4 COMMISSIONER BALCH: And there is the  
5 possibility of renewal for an injection, right?

6 MS. GERHOLT: As you're well aware,  
7 Commissioner Balch, certain disposal orders that have  
8 come from the Commission this past year do give that  
9 opportunity for renewal. That is something that I can  
10 take back to the work group and have further discussion  
11 about, given that previous orders have renewal language  
12 in them.

13 COMMISSIONER BALCH: I guess I'm not  
14 necessarily concerned about a half mile, but in a case  
15 of an extended injection time, but at that point, you  
16 may want to trigger a large area of interest, because  
17 the plume is going to exceed the half-mile limit.

18 That's all my questions.

19 CHAIRPERSON BAILEY: I have concerns about  
20 the pressure maintenance aspects that were brought out  
21 in Section F, for pressure maintenance projects.  
22 Recently, we've had an application for pressure  
23 maintenance where an operator wanted to dispose of salt  
24 water in a saltwater disposal well, but the well did not  
25 qualify for saltwater disposal. So then he applied as a

1 pressure maintenance.

2                   It seemed to me that there was no beginning  
3 pressure that was recorded and no end pressure, as a  
4 goal, and my logic tells me that if you want to call it  
5 a pressure maintenance project, we need to have some  
6 idea on the pressures, both beginning and end point. So  
7 I would like to see something along those lines so that  
8 if there is a termination given to a pressure  
9 maintenance project, it would be hinged on the pressure  
10 achieved in reservoir.

11                   I've also seen applications where  
12 operators, rather than continuing to flare gas, in the  
13 southeast particularly, would like to reinject the gas  
14 produced with their products in -- especially in  
15 secondary recovery projects. So for EOR projects, that  
16 reinjection of produced gas seems to me to be very  
17 closely aligned with an acid gas injection well. And  
18 I'm looking for consistent requirements. Whether acid  
19 gas is being injected as a disposal well, the facilities  
20 should be similar, if not the same -- talk about it,  
21 bring it before us -- as to reinjection wells that may  
22 have increasing H<sub>2</sub>S volumes as its continually recycled  
23 through the reservoir.

24                   So in the discussions for the acid gas  
25 disposal well, in 26.9(A), the acid gas definition says

1     that "acid gas may be modified or concentrated by oil  
2     and gas processing facilities for use in enhanced  
3     hydrocarbon recovery." My question is: Do we always  
4     need to have oil and gas processing facilities, or are  
5     we being limited here in the methodology or the  
6     equipment or the techniques for rejection?

7                   MS. GERHOLT: Madam Chair, the work group  
8     discussed that and decided on the inclusion of oil and  
9     gas processing facilities in order to eliminate options  
10    such as the large electrical -- I believe it's  
11    development energy; they also produce acid gas. Some of  
12    the industrial complexes produce it. We do not have  
13    regulatory authority over those industrial complexes,  
14    and we wanted to be clear that the only disposal that  
15    could take place was from oil and gas facilities.

16                   CHAIRPERSON BAILEY: I guess I'm trying to  
17    broaden this out from only disposal to injection of all  
18    kinds for those facilities over which the OCD does have  
19    authority.

20                   MS. GERHOLT: Madam Chair, one  
21    recommendation I would make on behalf of the Oil  
22    Conservation Division is for the Division to go back to  
23    the work group, make some clarifications specifically  
24    for disposal wells.

25                   At the onset, that's what the work group

1 was designed to look at, so we gathered more individuals  
2 with that expertise. We did not include individuals  
3 with the expertise in pressure maintenance enhanced  
4 recovery, because that was not our focus. And given  
5 these additional concerns and questions, what I would  
6 offer is for the Division to have time to form a work  
7 group that includes those individuals, and have that as  
8 a separate application for rulemaking. I think there  
9 will be some interplay between acid gas disposal, but  
10 maybe having those regulations first, so we have a  
11 standard in place, and then see if and how they relate  
12 to other injection types.

13 CHAIRPERSON BAILEY: You have a comment,  
14 Commissioner Balch?

15 COMMISSIONER BALCH: Of course, I do, if  
16 you don't mind the interruption.

17 As I said, I guess I look at injection of  
18 CO2 for EOR as a different thing than injection of TAG  
19 for disposal. Because with EOR, you're primarily  
20 looking at pure CO2, and typically there is a recycling  
21 involved. So the injection is not -- while a portion of  
22 the injection is permanent, the end result of that  
23 injection is production in some oil at another location,  
24 possibly recycling and then reinjection into that same  
25 location or into another location, or even into a

1 completely different field if the EOR project isn't sure  
2 [sic] of. So I think you have to be careful about  
3 lumping those too closely together, because they really  
4 do involve quite different processes.

5 CHAIRPERSON BAILEY: I'm only concerned  
6 about the construction maintenance and operations of the  
7 facilities --

8 COMMISSIONER BALCH: Right.

9 CHAIRPERSON BAILEY: -- for the protection  
10 of public health.

11 COMMISSIONER BALCH: And I think the reason  
12 I want to differentiate there is, a CO2 EOR project is  
13 something that would last on the order of a few years at  
14 a particular location; whereas, a disposal site is  
15 permanent and up to 30 years.

16 CHAIRPERSON BAILEY: Right.

17 COMMISSIONER BALCH: So you might not  
18 necessarily have to have the same -- you might be  
19 able -- you would demand, I think, a higher strength of  
20 materials, a higher monitoring of the disposal than you  
21 might -- which is necessarily fluid. You're going to  
22 inject CO2; maybe you might inject water for a while,  
23 and then move to CO2 to the other part of the field or a  
24 different set of patterns, and those wells don't  
25 necessarily have to sustain CO2 injection for 30 years

1     like the disposal wells do.

2                   CHAIRPERSON BAILEY:   Good point.

3                   COMMISSIONER BALCH:   So I think it's good  
4     to think of it together, but they're not necessarily the  
5     same thing.

6                   CHAIRPERSON BAILEY:   Right.  I'm just  
7     looking at the surface facilities for consistent  
8     operations and maintenance so that we will not have the  
9     EOR wells any less safe for the public or for  
10    operations.

11                  COMMISSIONER BALCH:   Now, are EOR projects  
12    permitted through an existing process, or are they  
13    case-by-case examination, like the acid gas?

14                  CHAIRPERSON BAILEY:   We have unitization  
15    orders, and we have pressure maintenance administrative  
16    orders, but I'm sure that it needs to be brought out in  
17    a public hearing in a rule hearing, so we do address  
18    that.

19                  COMMISSIONER BALCH:   I just wanted that out  
20    there.

21                  CHAIRPERSON BAILEY:   And these are  
22    questions, I think, that need to come out in the public  
23    hearing.

24                  MS. GERHOLT:   I agree with you, Madam  
25    Chair.  Again, I would just make the request that if we

1 can separate that out at all so that we can pull in the  
2 excerpts on enhanced recovery and on pressure  
3 maintenance. I'm not an engineer. I understand there  
4 are some differences, but the extent of those, I'm  
5 unaware of, and I would like to be able to access that  
6 knowledge.

7 CHAIRPERSON BAILEY: I just know we need to  
8 respond to the problem that we see, of the flaring  
9 that's going on in southeast, and for finding methods  
10 that are safe and reasonable and within the regulatory  
11 scheme to ease that problem. So, yes, do come back to  
12 us.

13 Do we have any other questions?

14 What is standard for granting or denying an  
15 application for approval of the acid gas disposal wells?  
16 I think those should be granted -- or discussed and  
17 brought up before the Commission, also.

18 MS. GERHOLT: Yes, Madam Chair.

19 COMMISSIONER BALCH: Good to see a clear  
20 path and alternate paths.

21 CHAIRPERSON BAILEY: Mr. Feldewert, do you  
22 have any comments or additional statements to make?

23 MR. FELDEWERT: Well, I think Commissioner  
24 Balch's comment that acid gas disposal wells in EOR  
25 projects, where they use an injection of CO2 -- that you

1 really are dealing with two different types of animals  
2 there, that there is an apples-and-oranges distinction.  
3 But I do not disagree with the idea that those need to  
4 be discussed, that those need to be brought out at a  
5 hearing before the Commission so that the Commission can  
6 understand the distinctions that are drawn in the rules  
7 with respect to those two types of projects and why you  
8 would have certain requirements for one project -- type  
9 of project and other requirements for, for example, CO2  
10 EOR projects.

11 CHAIRPERSON BAILEY: Then we will look  
12 forward to seeing this docketed again in future.

13 MS. GERHOLT: And for clarification, Madam  
14 Chair, the Commission is asking that the Division go  
15 back and not just look at the proposed language for acid  
16 gas disposal wells, but also, in the same application,  
17 to include additional language or make suggestions in  
18 regards to the pressure maintenance portion?

19 CHAIRPERSON BAILEY: Yes.

20 MS. GERHOLT: Thank you.

21 CHAIRPERSON BAILEY: Anything else in this  
22 case?

23 MS. GERHOLT: Nothing further from the  
24 Division.

25 CHAIRPERSON BAILEY: Okay. Thank you very

1 much.

2 (The proceedings conclude, 9:23 a.m.)

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25


1 STATE OF NEW MEXICO  
2 COUNTY OF BERNALILLO  
3

4 CERTIFICATE OF COURT REPORTER

5 I, MARY C. HANKINS, New Mexico Certified  
6 Court Reporter No. 20, and Registered Professional  
7 Reporter, do hereby certify that I reported the  
8 foregoing proceedings in stenographic shorthand and that  
9 the foregoing pages are a true and correct transcript of  
10 those proceedings that were reduced to printed form by  
11 me to the best of my ability.

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

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

19   
20 MARY C. HANKINS, CCR, RPR  
21 Paul Baca Court Reporters  
22 New Mexico CCR No. 20  
23 Date of CCR Expiration: 12/31/2013  
24  
25