

**STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION**

**Meeting Minutes
Regular Meeting
March 10, 2016
Porter Hall
Wendell Chino Building
1220 S. St. Francis Drive
Santa Fe, New Mexico 87505**

MEMBERS PRESENT:

David R. Catanach Chair, Oil Conservation Division
Robert Balch Designee, Energy, Minerals and Natural Resources Department
Patrick Padilla Designee, New Mexico State Land Commissioner

OTHERS PRESENT:

Bill Brancard, Counsel for the Commission

The meeting was called to order by Chair Catanach at 9:00 a.m.

Item 1. Roll Call.

Roll was taken; a quorum was present.

Item 2. Approval of Agenda.

Action: Commissioner Balch moved adoption of the agenda. Commissioner Padilla seconded the motion. The motion passed unanimously

Item 3. Approval of minutes of February 11, 2016 meeting.

Action: Commissioner Padilla moved to approve the minutes. Commissioner Balch seconded the motion. The motion passed unanimously.

Item 4. Approve and adopt order in Case 15366 (De Novo), the application of Matador Production Company for a non-standard spacing and proration unit, compulsory pooling, and a non-standard location, Lea County, New Mexico.

Action: Counsel Brancard said that this case was heard by the Commission on February 11, 2016. He stated that after the draft order had been reviewed by the Commissioners, he made changes to the order as requested by the Commissioners. Commissioner Balch moved to adopt and sign Order No. R-14091-A in De Novo Case 15366, Commissioner Padilla seconded the motion, and all Commissioners adopted and signed the order.

Item 5. Case No. 15443: Application of the New Mexico Oil Conservation Division to amend certain provisions of Title 19, Chapter 15, Part 36 of the New Mexico Administrative Code concerning surface waste management facilities, Part 35 of the New Mexico Administrative Code

concerning waste disposal, and Part 2 of the New Mexico Administrative Code concerning the definition of oil field waste.

Action: Appearances were made by Gabriel Wade for the Oil Conservation Division (OCD or Division), Michael Feldewert and Adam Rankin for the New Mexico Oil and Gas Association (NMOGA), and Karin Foster for the Independent Petroleum Association of New Mexico (IPANM). Ms. Foster explained that she had not submitted a pre-hearing statement but planned to make a public comment.

Mr. Wade made an opening statement explaining that the proposed rule changes are meant to clarify certain portions of the rules. OCD's first witness was Jim Griswold, Environmental Bureau Chief with the Oil Conservation Division in Santa Fe, New Mexico. He explained what a surface waste management facility is. He identified problems with the current rule. He said the proposed process places firm deadlines on the Division and allows for discussions between the applicant and the Division. He explained that the current transitional provisions have a cap on financial assurance which is insufficient. He said a working group was established to address portions of Rule 36. They met on multiple occasions and agreed on the proposed rule changes, which include, among other things, the definition of operator of a surface waste management facility, to correct certain internal rule references, to have consistent language throughout the rules, to strike the word "safety" from the rule, to adopt certain changes to the minor modifications language, to require the applicant to be the owner, and certain changes to the administrative processes. He explained when and how an application can be set for hearing. He said that financial assurance should be provided before the permit is issued. Commissioner Balch, Commissioner Padilla, Chairman Catanach, and Mr. Feldewert cross-examined the witness, and he was excused.

OCD's next witness was Allison Marks, Legal Counsel for the Oil Conservation Division in Santa Fe, working on matters related to financial assurance. She explained the proposed amendments to Part 36 relating to financial assurance and the flexibility to accept bank forms as well as Division forms for the bonds. She discussed forfeitures payable to the Division and changes to surety bonds regarding signing and notarizing by the applicant and by a corporate surety licensed by the Superintendent of Insurance. She discussed changes to letters of credit extending the time, from 90 days to 120 days, for an issuer to notify the Division of non-renewal. Commissioner Balch, Commissioner Padilla, Chair Catanach, and Mr. Feldewert cross-examined the witness, and she was excused.

Public comments were taken as follows:

Karin Foster on behalf of the Independent Petroleum Association of New Mexico and TNT Environmental – in favor of amending the rule but concerned about the technical aspects of the proposed rule, especially the operational and monitoring aspects. She asked that the proposed form be generated to the industry before it is adopted. She listed her concerns with changes to major and minor modifications, the provision that requires notice

to the large e-mail list that OCD maintains, transitional provisions, and the amount of time allowed for new bonding.

Bill Marley with Gandy Marley Inc. – stated that landfarms were originally permitted under Rule 711 and asked that they continue to be operated under Rule 711.

Wayne Price on behalf of Gandy Marley Inc. – listed problems with the major modification interpretation by OCD employees, the grandfathering provisions of Rule 36, and stated his belief that the revised rule will cause most landfarms to close.

Craig Schmitz with TNT Environmental – listed problems with the grandfathering provisions and transitional requirements.

The meeting recessed for lunch at 12:00 p.m. and reconvened at 1:15 p.m.

Jim Griswold was recalled by the OCD. He explained the proposed changes, including those to the financial assurance cap and transitional provisions. He stated that the Rule 36 provisions do not apply to prior Rule 711 permits. He discussed the proposed rule amendment to the definition of oil field waste and the clarification of the provision to properly dispose of oil field waste. Mr. Feldewert, Commissioner Balch, Commissioner Padilla, Chair Catanach and Counsel Brancard cross-examined the witness, and he was excused.

Wayne Price made an additional public comment regarding the definition of oil field waste in Rule 29, the leak and spill rule, and Rule 30, the remediation rule.

The Commission began deliberations on the proposed rule changes as described in Case 15443. The Commissioners discussed the proposed amendments to Title 19, Chapter 15, Part 2, Part 35 and Part 36 of the New Mexico Administrative Code presented at the hearing. They unanimously agreed on the amendments with certain changes. They requested the Division to submit the revised rule incorporating their changes and the new Form C-137-A to them one week before the next hearing date, April 7, for their review. The record was left open and the case was continued to the Commission meeting scheduled for April 7, 2016.

Item 7. The Gas Capture Plan Committee will provide an informational presentation regarding committee actions and status.

Action: Charlie Perrin, Chairman of the Gas Capture Plan Committee, presented a summary of the committee formation and actions. He explained that the Governor requested Secretary Martin to have the OCD study the flaring issue, so the Gas Capture Plan Committee was formed in July of 2015, initially consisting of NMOCD and industry representatives. The first meeting was held in August, 2015. The membership was expanded in November, 2015 to include representatives from the New Mexico Environment Department, the State Land Office, the Bureau of Land Management, and the Energy Conservation and Management Division. He identified the issues studied by the Committee and said that a Gas Capture Plan document has been drafted outlining actions to be taken by the

operator. He said that the OCD plans to conduct an outreach training in the near future. Chair Catanach thanked Mr. Perrin and complimented the Committee for all of their hard work.

Item 8. Next meeting: April 7, 2016

Item 9: Adjournment.

The Chair adjourned the meeting at 4:55 p.m.



DAVID R. CATANACH, Chair