

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

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

ORIGINAL

APPLICATION OF THE NEW MEXICO OIL
CONSERVATION DIVISION, THROUGH ITS
ENVIRONMENTAL BUREAU CHIEF, FOR ADOPTION OF AN
AMENDMENT TO 19.15.39 NMAC ADDING NEW SECTIONS
TO BE CODIFIED AT 19.15.39.9 AND 19.15.39.10 NMAC
ADDRESSING SPECIAL PROVISIONS FOR SANTA FE COUNTY
AND THE GALISTEO BASIN, SANTA FE, SANDOVAL AND
SAN MIGUEL COUNTIES, NEW MEXICO

Case No. 14255

APPLICATION OF THE NEW MEXICO OIL
CONSERVATION DIVISION FOR ADOPTION OF
AMENDMENTS TO RULE 19.15.17 (THE "PIT RULE");
STATEWIDE.

Case No. 14292

REPORTER'S TRANSCRIPT OF PROCEEDINGS
COMMISSIONER HEARING

BEFORE: MARK E. FESMIRE, Chairman
JAMI BAILEY, Commissioner
WILLIAM C. OLSON, Commissioner

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April 15, 2009

Santa Fe, New Mexico

This matter came on for hearing before the New
Mexico Oil Conservation Commission, MARK E. FESMIRE,
Chairman, on Wednesday, April 15, 2009, at the New Mexico
Energy, Minerals and Natural Resources Department, 1220
South Saint Francis Drive, Room 102, Santa Fe, New
Mexico.

REPORTED BY: Jacqueline R. Lujan, CCR #91
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A P P E A R A N C E S

FOR THE INDEPENDENT PETROLEUM ASSOCIATION:

Karen V. Foster
5805 Mariola Place, NE
Albuquerque, New Mexico 87111

FOR THE OIL CONSERVATION COMMISSION:

Cheryl Bada
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

ALSO PRESENT:

Florene Davidson

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1 CHAIRMAN FESMIRE: Let's go on the record.
2 The record should reflect that this is the Wednesday,
3 April 15th, 2009 special meeting of the Oil Conservation
4 Commission. The meeting has been called to address two
5 cases, but prior to calling those two cases, we have the
6 matter of the minutes from the April 2nd, 2009 Commission
7 meeting. Have the commissioners had the opportunity to
8 review the minutes as presented by the secretary?

9 COMMISSIONER BAILEY: Yes, I have, and I
10 move that we adopt the corrected edition.

11 CHAIRMAN FESMIRE: Madam Secretary, the
12 version presented this morning has the corrections from
13 the last --

14 MS. DAVIDSON: Yes.

15 CHAIRMAN FESMIRE: Commissioner Olson,
16 have you had a chance to see the --

17 COMMISSIONER OLSON: Yeah. I made a
18 couple of corrections. I'm assuming that those are in
19 there.

20 CHAIRMAN FESMIRE: Those are the ones
21 she's talking about.

22 COMMISSIONER OLSON: I'll second that.

23 CHAIRMAN FESMIRE: So there's a motion
24 before the Commission to adopt the minutes as presented
25 by the secretary. All those in favor signify by saying

1 aye. Let the record reflect that the Commission has
2 unanimously adopted the minutes of the April 2nd meeting.
3 They will be signed by the Chairman and conveyed to the
4 secretary for recording.

5 One more housekeeping matter. The record
6 should also reflect that Commissioners Bailey, Olson and
7 Fesmire are all present. We, therefore, have a quorum.

8 The first case before the Commission is Case
9 Number 14255. It's the reopened application of the New
10 Mexico Oil Conservation Commission through its
11 Environmental Bureau Chief for an adoption of an
12 amendment to 19.15.39 NMAC adding new sections to be
13 codified at 19.15.39.9 and 19.15.39.10 NMAC addressing
14 special provisions for Santa Fe County and the Galisteo
15 Basin, Santa Fe, Sandoval and San Miguel Counties, New
16 Mexico.

17 We did have a question with the notice that
18 the staff has already addressed, but we do need to put it
19 on the record. Counsel Bada, would you like to explain
20 that for the record, please?

21 MS. BADA: We had some scheduling problems
22 and notice wasn't published in the New Mexico Register,
23 so the hearing will have to be continued until notice is,
24 in fact, published in the Register and the newspapers.

25 CHAIRMAN FESMIRE: And that will be

1 addressed by May 27th of this year?

2 MS. BADA: I believe that's when the new
3 notice has the hearing scheduled for.

4 CHAIRMAN FESMIRE: Okay. So what we'll
5 need to do is continue that case until May 27th?

6 MS. BADA: Basically, it will have to be
7 reopened on the 27th since we didn't perfect notice.

8 CHAIRMAN FESMIRE: Thank you, Counsel. Is
9 there any question concerning that case?

10 MS. FOSTER: Mr. Chairman, I do have a
11 question -- Karin Foster on behalf of the Independent
12 Petroleum Association -- concerning that case. I am a
13 party of record in that case. My understanding is that
14 it is going to be reopened. Will there be additional
15 witnesses to testify for that hearing?

16 CHAIRMAN FESMIRE: No. It will be
17 reopened for deliberations. The evidentiary phase has
18 already been closed.

19 MS. FOSTER: Okay. Thank you.

20 MS. BADA: Actually, there will be
21 witnesses. According to the Division's pre-hearing
22 statement, it will be Theresa or Florene for the notice,
23 and Daniel Sanchez.

24 CHAIRMAN FESMIRE: Oh, I stand corrected.
25 There will be evidentiary proceedings in that case on the

1 27th.

2 MS. FOSTER: Would it be necessary for us,
3 as parties to the case, if we feel necessary, to file a
4 statement should we want to have rebuttal witnesses to
5 the testimony?

6 MS. BADA: The deadline for that, I
7 believe, has passed in the Order that was issued by the
8 Chair last month. I don't remember the exact date.

9 MS. FOSTER: But the rebuttal witnesses to
10 this additional testimony -- I don't expect any --

11 MS. BADA: Right.

12 MS. FOSTER: -- but maybe we can talk
13 about it off line. I don't expect anybody, but if there
14 was a deadline, I would like to know about it.

15 CHAIRMAN FESMIRE: There will be no other
16 evidence presented but rebuttal to what's been scheduled
17 will be allowed. Any other questions on Case Number
18 14255? With that, Case Number 14255 will be reopened at
19 the regularly-scheduled Oil Conservation Commission
20 meeting on May 27th.

21 The next cause before the Commission is Case
22 Number 14292, the application of the New Mexico Oil
23 Conservation Division for adoption of the amendments to
24 Rule 19.15.17 (the "Pit Rule") statewide. The transcript
25 was made available on the website on the 13th?

1 MS. DAVIDSON: The 14th.

2 CHAIRMAN FESMIRE: The 14th, yesterday.

3 Have all of the parties to that case been able to pull

4 that transcript up and have a copy of it?

5 MR. FREDERICK: Yes.

6 CHAIRMAN FESMIRE: Okay. We're thinking

7 that it should take about two weeks for the parties to

8 draft their findings of fact and conclusions of law. Is

9 there any party that cannot get it done in two weeks? So

10 two weeks from today will be Wednesday the 29th.

11 Findings of fact and conclusions of law from the parties

12 will be due to the Commission secretary by the close of

13 business on Wednesday the 29th of April, and that case

14 will then be continued to the regularly-scheduled meeting

15 on the 27th when the Commission will deliberate.

16 MR. BROOKS: I want to put a clarification

17 on the record, Mr. Chairman. I believe you said at the

18 hearing that the record from the hearings on the "Pit

19 Rule" in 20-07, in the prior case, were a part of the

20 record. Is the entire record incorporated by reference

21 or only those matters that were referred to during the

22 hearing?

23 CHAIRMAN FESMIRE: Since it is of record

24 before the Commission, anything that was admitted in that

25 hearing, I would think that the Commission --

1 MS. BADA: The Commission could if it
2 chose to.

3 CHAIRMAN FESMIRE: -- could, if it choose
4 to -- if you choose to cite that part of the record --
5 remember that that was a pretty large record -- and if
6 you'd be so kind as to pinpoint the cite and let us know
7 exactly what parts you're --

8 MR. BROOKS: I'm very much aware of the
9 size of that record. Thank you, sir.

10 CHAIRMAN FESMIRE: Is there anything else
11 in Case Number 14292? Anything from the Commission?

12 COMMISSIONER BAILEY: No.

13 CHAIRMAN FESMIRE: Commissioner Olson?

14 COMMISSIONER OLSON: No.

15 CHAIRMAN FESMIRE: With that, we will
16 continue Case Number 14292 to the regularly-scheduled
17 Commission meeting on May 27th, where we will begin our
18 deliberations. And, again, to reiterate, the findings of
19 fact and conclusions of law are due by the close of
20 business on Wednesday, April 29th. Anything else before
21 the Commission today? With that, the Chair would
22 entertain a motion to adjourn.

23 COMMISSIONER BAILEY: I move we adjourn.

24 COMMISSIONER OLSON: Second.

25 CHAIRMAN FESMIRE: All those in favor

1 signify by saying aye. The record should reflect that
2 the meeting was adjourned at 9:16 on April 15th, 2009.

3 Thank you all.

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REPORTER'S CERTIFICATE

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I, JACQUELINE R. LUJAN, New Mexico CCR #91, DO
HEREBY CERTIFY that on April 15, 2009, proceedings in the
above captioned case were taken before me and that I did
report in stenographic shorthand the proceedings set
forth herein, and the foregoing pages are a true and
correct transcription to the best of my ability.

I FURTHER CERTIFY that I am neither employed by
nor related to nor contracted with any of the parties or
attorneys in this case and that I have no interest
whatsoever in the final disposition of this case in any
court.

WITNESS MY HAND this 21st day of April, 2009.


Jacqueline R. Lujan, CCR #91
Expires: 12/31/2009