

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:	)	CASE NO. 12,897
	)	
APPLICATION OF THE NEW MEXICO OIL	)	
CONSERVATION DIVISION THROUGH THE	)	
ENVIRONMENTAL BUREAU CHIEF FOR THE	)	
ADOPTION OF AMENDMENTS TO DIVISION	)	
RULE 118 (HYDROGEN SULFIDE GAS)	)	
	)	

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

COMMISSION HEARING

BEFORE: LORI WROTENBERY, CHAIRMAN  
JAMI BAILEY, COMMISSIONER  
ROBERT LEE, COMMISSIONER

August 30th, 2002

Santa Fe, New Mexico

This matter came on for hearing before the Oil Conservation Commission, LORI WROTENBERY, Chairman, on Friday, August 30th, 2002, at the New Mexico Energy, Minerals and Natural Resources Department, 1220 South Saint Francis Drive, Room 102, Santa Fe, New Mexico, Steven T. Brenner, Certified Court Reporter No. 7 for the State of New Mexico.

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STEVEN T. BRENNER, CCR  
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## I N D E X

August 30th, 2002  
Commission Hearing  
CASE NO. 12,757

## PAGE

REPORTER'S CERTIFICATE

19

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## A P P E A R A N C E S

FOR THE COMMISSION:

STEPHEN C. ROSS  
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1220 South Saint Francis Drive  
Santa Fe, New Mexico 87505

\* \* \*

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1           WHEREUPON, the following proceedings were had at  
2   9:03 a.m.:

3           CHAIRMAN WROTENBERY: And I think that was  
4   everything, Florene, except for the H<sub>2</sub>S rules, and so let's  
5   turn our attention to Case 12,897.

6           This is the Application of the New Mexico Oil  
7   Conservation Division through the Environmental Bureau  
8   Chief for the adoption of amendments to Division Rule 118  
9   -- actually the Division is proposing to repeal existing  
10   Rule 118 and to adopt a new Rule 52.

11           We heard comments on the proposal at the July  
12   19th meeting, and then we also left the record open for the  
13   receipt of additional written comments, and those were due  
14   by August 16th.

15           We did get quite a few written comments in before  
16   August 16th, and I believe we have a set of each of those,  
17   Florene, for each of the Commissioners.

18           Okay, so Commissioners, you have a set of the  
19   comments, I believe, that came in.

20           COMMISSIONER BAILEY: Yes.

21           CHAIRMAN WROTENBERY: Do you have your set? Yes,  
22   you've got your set too.

23           Okay, since August 16th Steve Ross and I have  
24   been working through the comments and working with the  
25   proposed language. Steve has just handed you a copy of a

1 draft Rule 52 that shows the revisions that Steve and I  
2 have made in the Rule in response to the comments that we  
3 got and also at some of the discussion we had at the July  
4 19th hearing.

5 Steve, do you want to walk us through briefly --

6 MR. ROSS: I can try.

7 CHAIRMAN WROTENBERY: -- the revisions that were  
8 made?

9 MR. ROSS: I can try. Actually, the document  
10 that's before you is a document I created using the  
11 Division's submission to us, along with the original  
12 Application, as amended, I believe, three times by the  
13 Division, once when it was presented to you at the hearing  
14 in July -- that version contains some amendments -- as well  
15 as twice since then during the comment period. So those  
16 changes are all in this draft.

17 And then in addition there are a few other  
18 changes that the Chair just referred to that she and I made  
19 earlier this week in response to the written comments  
20 received from the ten or so folks that commented.

21 Do you want me to go line by line through this  
22 thing, or just in general?

23 CHAIRMAN WROTENBERY: Well, let me ask -- I  
24 believe, Commissioners, you got a copy of these revisions  
25 yesterday.

1 COMMISSIONER LEE: Yes.

2 CHAIRMAN WROTENBERY: There have been a few minor  
3 editorial changes made since then, and I know, Commissioner  
4 Bailey, you may have had some suggestions, and we may need  
5 to go through those today, I don't know.

6 But do you have -- I'll just ask, do the  
7 Commissioners have any questions about any of the  
8 particular revisions that were made here?

9 COMMISSIONER BAILEY: Not having read the final  
10 copy here --

11 CHAIRMAN WROTENBERY: Uh-huh.

12 COMMISSIONER BAILEY: -- I'm not sure --

13 CHAIRMAN WROTENBERY: Okay.

14 COMMISSIONER BAILEY: -- what changes I suggested  
15 have actually been incorporated.

16 CHAIRMAN WROTENBERY: Why don't we go to those?  
17 That would help, I think.

18 MR. ROSS: Those -- ?

19 CHAIRMAN WROTENBERY: Commissioner Bailey made  
20 some suggestions?

21 MR. ROSS: I need, I think -- I made two of these  
22 suggestions in the actual document. Some of Commissioner  
23 Bailey's suggestions relating to things over which we have  
24 no control -- that is, the codification of the  
25 administrative code by the record center, they require us

1 to do certain things.

2 For example, the cross-references that often help  
3 us in working through rules are in disfavor now by the  
4 Record Center. So Commissioner Bailey's comment that D.3  
5 refers to Section -- she wanted to see a more specific  
6 reference there -- well, that would be disfavored by the  
7 Records Center. We could do it, but we have to write some  
8 sort of a justification or something. So I didn't make  
9 that comment.

10 Her first comment, though, may need some  
11 discussion because I didn't quite understand, Commissioner  
12 Bailey, how those two paragraphs related. And the first,  
13 D.1.c, relates to submission or a -- not submission but a  
14 deadline for testing the hydrogen sulfide content in your  
15 gaseous mixture, and the second E.5 refers to submitting  
16 your plan. They don't necessarily relate to one another,  
17 so I wasn't 100 percent sure last night when I was working  
18 on this, really, you meant there.

19 So that change is not reflected in the document,  
20 but everything else is.

21 CHAIRMAN WROTENBERY: Okay, well, then, maybe can  
22 we talk about that one, just to make sure we understand  
23 what the Commissioner's question was?

24 COMMISSIONER BAILEY: The wording was just so  
25 very confusing in D.1.c, and the draft says, "If a

1 representative sample from a well, operation or system was  
2 tested within one year of the effective date of this  
3 section, new testing shall not be required..." okay,  
4 "...provided, however, new testing shall not be required  
5 for a producing well that was tested at any time prior to  
6 the effective date of this section."

7 When I look at that in relationship to the  
8 testing that's discussed -- where is it? -- in 5, I see  
9 that one does have to do the plan, but the wording of -- I  
10 just --

11 CHAIRMAN WROTENBERY: D.1.c is confusing?

12 COMMISSIONER BAILEY: Yes, it really is.

13 CHAIRMAN WROTENBERY: Okay. Let's see if we can  
14 clarify that. Okay, the first part of that sentence, I  
15 think what that means is, if the well operation or system  
16 was tested within 12 months before the effective date of  
17 this rule, then new testing will not be required.

18 Is that right, Steve?

19 MR. ROSS: Uh-huh.

20 CHAIRMAN WROTENBERY: Would it help to say  
21 "before" to make it clear we're talking about the --

22 COMMISSIONER BAILEY: That would probably help --

23 CHAIRMAN WROTENBERY: -- testing that occurred  
24 during the --

25 COMMISSIONER BAILEY: -- was tested before --

1           CHAIRMAN WROTENBERY: Yeah, was tested within one  
2 year before the effective date of this section or -- Would  
3 that help a little bit --

4           COMMISSIONER BAILEY: Uh-huh.

5           CHAIRMAN WROTENBERY: -- on that part of it?  
6 Yeah.

7           And then there's a specific provision for wells.  
8 The first part of the sentence applies to any well  
9 operation or system, and the second part applies to a  
10 producing well.

11          COMMISSIONER BAILEY: So there's the implication  
12 that the first line is an inactive well? See, that  
13 distinction cloud the --

14          CHAIRMAN WROTENBERY: Uh-huh. Maybe what you  
15 could do is make it two sentences and make it clear. The  
16 first sentence applies to operations or systems, the second  
17 sentence applies to wells?

18          COMMISSIONER BAILEY: That will clear it up.

19          CHAIRMAN WROTENBERY: Would that do it? At least  
20 from our standpoint it clears it up, and then I'm going to  
21 propose that we get some additional comments --

22          COMMISSIONER BAILEY: Great, great.

23          CHAIRMAN WROTENBERY: -- so if that's not right,  
24 we can get that sorted out.

25          MR. ROSS: Okay.



1           CHAIRMAN WROTENBERY: So we're going to have two  
2 sentences there. The first one will say, "If a  
3 representative sample from an operation or system was  
4 tested within one year before the effective date of this  
5 section, new testing shall not be required." And then the  
6 second sentence will state, "New testing shall not be  
7 required for a producing well that was tested at any time  
8 prior to the effective date of this section."

9           MR. ROSS: Yeah, I've got it.

10          CHAIRMAN WROTENBERY: Okay, good. And so I think  
11 with the exception of the comments you had about the cross-  
12 references, all of the comments you made have been  
13 incorporated into the draft --

14          MR. ROSS: Right.

15          CHAIRMAN WROTENBERY: -- is that right?

16          COMMISSIONER BAILEY: Okay, great. Thank you.

17          CHAIRMAN WROTENBERY: Okay.

18          MR. ROSS: And so the draft is really as of now,  
19 9:00 a.m. this morning, we've got all the comments in  
20 there, I think.

21          CHAIRMAN WROTENBERY: Okay. What I'm going to  
22 suggest we do is circulate this draft, explain a little bit  
23 in the letter accompanying the draft what it is we've done  
24 at this stage, ask for specific comments to be submitted,  
25 and schedule one more meeting where we will take comments

1 on the Rule. And I would envision it might even be kind of  
2 a work session where we try to work through some of the  
3 comments that are submitted.

4 All comments will have to be submitted by the  
5 close of that meeting, and we're looking at, I think,  
6 tentatively the date of September 20th --

7 MR. ROSS: Uh-huh.

8 CHAIRMAN WROTENBERY: -- is that right, Steve?

9 MR. ROSS: That's right.

10 CHAIRMAN WROTENBERY: And I believe he checked  
11 that out with all of our schedulers and determined that  
12 that would work for all three of us.

13 COMMISSIONER BAILEY: Okay, great.

14 CHAIRMAN WROTENBERY: So about written comments,  
15 Steve, would you suggest that we require those to be  
16 submitted before September 20th?

17 MR. ROSS: Yeah, I would suggest that so you have  
18 an opportunity to review those during your meeting --

19 CHAIRMAN WROTENBERY: Okay.

20 MR. ROSS: -- maybe the 18th or the 19th or  
21 something like that --

22 CHAIRMAN WROTENBERY: Okay.

23 MR. ROSS: -- by the close of business.

24 CHAIRMAN WROTENBERY: Why don't we do that?

25 We'll make any additional written comments, except those

1 until the close of business on September 18th --

2 MR. ROSS: 18th, okay.

3 CHAIRMAN WROTENBERY: -- and then we will conduct  
4 a hearing at 9:00 a.m. on September 20th, and anybody who  
5 wants to come in and present additional testimony  
6 concerning the Rule will have an opportunity to do so at  
7 that time. The record will be closed at the end of that  
8 hearing on the 19th --

9 COMMISSIONER BAILEY: 20th.

10 CHAIRMAN WROTENBERY: I mean the 20th, thank you.  
11 -- hearing on the 20th, and we'll have, then, another week  
12 before the Commission's regularly scheduled meeting on  
13 September 27th to finalize the order, and I would  
14 anticipate we'd take final action on September 27th.

15 COMMISSIONER BAILEY: Okay.

16 CHAIRMAN WROTENBERY: Any questions about that  
17 process, anything we need to clarify?

18 COMMISSIONER LEE: Well, about the comments here,  
19 I talked to you, and we are going to revisit the 711,  
20 right?

21 MR. ROSS: Well, we've got some clarifying  
22 language in here based on -- that's in the proposed Rule,  
23 paragraph B. We've got some clarifying language concerning  
24 the applicability of this rule to 711 facilities. That's  
25 certainly one of the areas that folks may want to comment

1 on.

2 Right now it says that both rules apply to it.  
3 That's the way it's drafted right now, that on its face  
4 this rule is a narrow rule, and to the extent this rule  
5 would apply to a 711 facility, it applies, and that 711 is  
6 a narrow rule that's focused on a particular kind of  
7 facility. So it would also apply to those facilities.  
8 That's the way it's drafted right now.

9 I understand there's some confusion --

10 COMMISSIONER LEE: But do they have a very huge  
11 discrepancy between those two rules?

12 MR. ROSS: There's no discrepancy between the  
13 rules, but I understand from some comments we received that  
14 the permitting under 711 of hydrogen sulfide emissions is  
15 in some cases more stringent than would be applied on a  
16 statewide basis to all facilities under this rule.

17 COMMISSIONER LEE: So we're going to pass this  
18 rule, then we're going back to revisit --

19 CHAIRMAN WROTENBERY: No, we're not adopting this  
20 rule. I was --

21 COMMISSIONER LEE: Okay --

22 CHAIRMAN WROTENBERY: This is --

23 COMMISSIONER LEE: -- you are trying to.

24 CHAIRMAN WROTENBERY: -- Steve's and my best  
25 effort, without further input, to address the comments that

1 have been submitted.

2 COMMISSIONER LEE: Okay.

3 CHAIRMAN WROTENBERY: We're going to distribute  
4 this and ask people to take a look at it and give us, we  
5 hope, very specific comments with suggested language if  
6 they still have concerns about particular provisions of the  
7 Rule.

8 We found as we were going through the Division's  
9 draft and the comments that there were some places we were  
10 having a hard time understanding what the recommendation of  
11 the Division was, what the real intent was in some of the  
12 provisions.

13 We think by making these changes we've  
14 highlighted some of those areas where it may not have been  
15 clear in the original draft what was intended, and we've  
16 done our best at interpreting it. We may not have done it  
17 correctly from the Division's standpoint.

18 We also did our best to try to address a number  
19 of the comments that were submitted, particularly when  
20 there were specific suggestions given to us. We hope the  
21 people who submitted those comments will take a very  
22 careful reading of the new language and give us some  
23 feedback on how well we've done in responding to those  
24 comments.

25 There are also some specific issues that will be

1 highlighted in a cover letter that Steve's preparing. And  
2 Steve, do you want to just briefly touch on those?

3 MR. ROSS: Well, in trying to deal with the draft  
4 over this well, the Chairman and I realized that there are  
5 some areas that weren't covered by testimony, and the Rule  
6 doesn't specifically deal with the areas, and we think we  
7 need some input on what the requirements should be in those  
8 areas, and there's four of them.

9 One of them is to the extent that the Rule is  
10 supposed to apply to pipelines, flow lines, gathering  
11 lines. It's not clear to what extent the Rule applies to  
12 pipelines themselves. It applies to pumping stations and  
13 other kinds of --

14 CHAIRMAN WROTENBERY: Compressor stations --

15 MR. ROSS: -- compressor stations, surface  
16 facilities. But it's not clear to what extent it applies  
17 to the pipelines themselves, and that area is not -- wasn't  
18 covered in the testimony and it's not clear from the Rule  
19 how that issue should be dealt with, and we think it should  
20 be dealt with, since this Rule seems to be a broad rule  
21 that applies to all the facilities that we regulate. there  
22 should be some discussion about pipelines in here.

23 The other area that because of the structure of  
24 the Rule is difficult to figure out was, to the extent the  
25 Rule applies to facilities that are not in a potentially --

1 they don't create a potentially hazardous volume, but they  
2 do contain 100 p.p.m. or more of hydrogen sulfide -- and  
3 that would be remote facilities -- I think it's clear from  
4 the record that at a minimum, the signage requirements in  
5 the Rule apply to all facilities that contain 100 p.p.m. or  
6 more, but it's not clear what other requirements may or  
7 should apply to other remote facilities. So that's an area  
8 that it would be nice to get some clarification on.

9 Another area which the Rule itself is a bit  
10 contradictory on is the issue of well control and drilling,  
11 workovers, completions, things like that. And --

12 CHAIRMAN WROTENBERY: We also had quite a few  
13 comments on that particular issue.

14 MR. ROSS: Quite a few comments on that same  
15 issue. Some -- The bulk of the comments are of a practical  
16 nature, that the requirements -- required equipment won't  
17 fit under wells that commonly operate in the southeast part  
18 of the State.

19 So that's an area of concern that we weren't able  
20 to pick out from the record or from the Rule itself, and  
21 which some comments seemed to, at least to us, make sense.

22 And then there was safety equipment referenced in  
23 the Rule in a number of places, but no safety equipment  
24 seemed to be specified. So that area needs to be fleshed  
25 out a little bit. If there's safety equipment that's not

1 specified in the Rule that's going to be required, it  
2 should be spelled out instead of being referred to by a  
3 generic term like "safety equipment". So perhaps the  
4 safety equipment is the equipment that's already specified  
5 in the Rule, but if that's the case, then the Rule as  
6 drafted will probably work.

7 CHAIRMAN WROTENBERY: And we weren't quite clear  
8 whether the term was referring to personal-protection-type  
9 safety equipment or whether it was referring to well-  
10 control equipment or something else, so we needed some  
11 guidance on that particular issue.

12 MR. ROSS: So -- And then in terms of the overall  
13 drafting, there are a lot of qualifications in the Rule  
14 that kind of clouded its meaning in a lot of areas. We  
15 found -- We located those qualifications and removed them.

16 So if there's a need for general standards, we've  
17 created a new area, a new section or paragraph of the Rule,  
18 that refers to requirements for all facilities that contain  
19 a concentration of 100 p.p.m. or greater. If there's a  
20 need for more facilities to be included in -- or more  
21 protection equipment to be included in that area, there's a  
22 place to do it. And if there's a need for a section in  
23 which more stringent requirements should be included, we  
24 can do that as well.

25 But just in terms of pure drafting, there were so



1 many qualifications that it's difficult to say, looking  
2 through the Rule, in some cases, whether a particular  
3 requirement applied under a particular situation such as in  
4 a facility that has a potentially hazardous volume. It was  
5 a little difficult at times to determine that that alone  
6 was the requirement or whether there was an additional  
7 requirement in a particular area that it also be near a  
8 public road or something like that, or a school or a church  
9 or something like that.

10 So we tried to clean a lot of those kinds of  
11 issues up so that it's a clean draft and we can work with  
12 whatever comments come in.

13 But we hope people will focus on those four areas  
14 at a minimum. Well, actually, five areas, the area of the  
15 711 -- the applicability of the 711 facilities is probably  
16 another area that you could have some more comments on.

17 CHAIRMAN WROTENBERY: Anything else?  
18 Commissioner Bailey, are you happy with that process?

19 COMMISSIONER BAILEY: I think it's a good process  
20 that we will distribute this and have comments.

21 CHAIRMAN WROTENBERY: Okay. Well, then, Steve is  
22 going to put a cover memo on it to explain some of these  
23 issues that we've talked about today and how we got where  
24 we are.

25 So I think that's all we need to do on the H<sub>2</sub>S

1 rule today.

2 COMMISSIONER BAILEY: This would be posted on the  
3 website?

4 CHAIRMAN WROTENBERY: It will be posted on the  
5 website, and we're going to make an attempt, anyway, to  
6 send a copy to those people who submitted comments. There  
7 are a few who may have a little difficulty finding the fax  
8 number or the e-mail address, but we're going to make an  
9 attempt to give them a copy as well.

10 Okay, good.

11 Then is there anything else we need to cover,  
12 Florene?

13 I'll take a motion to adjourn.

14 COMMISSIONER BAILEY: I move we adjourn.

15 COMMISSIONER LEE: Second.

16 CHAIRMAN WROTENBERY: Okay, all in favor say aye.

17 COMMISSIONER BAILEY: Aye.

18 COMMISSIONER LEE: Aye.

19 CHAIRMAN WROTENBERY: Aye. Okay, thank you very  
20 much.

21 (Thereupon, these proceedings were concluded at  
22 9:30 a.m.)

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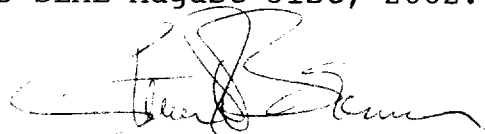
## CERTIFICATE OF REPORTER

STATE OF NEW MEXICO    )  
                                  )   ss.  
COUNTY OF SANTA FE    )

I, Steven T. Brenner, Certified Court Reporter  
and Notary Public, HEREBY CERTIFY that the foregoing  
transcript of proceedings before the Oil Conservation  
Commission was reported by me; that I transcribed my notes;  
and that the foregoing is a true and accurate record of the  
proceedings.

I FURTHER CERTIFY that I am not a relative or  
employee of any of the parties or attorneys involved in  
this matter and that I have no personal interest in the  
final disposition of this matter.

WITNESS MY HAND AND SEAL August 31st, 2002.



STEVEN T. BRENNER  
CCR No. 7

My commission expires: October 14, 2002

STEVEN T. BRENNER, CCR  
(505) 989-9317