

NEW MEXICO OIL CONSERVATION COMMISSION

COMMISSION HEARINGSANTA FE, NEW MEXICOHearing Date NOVEMBER 8, 1990 Time: 9:00 A.M.

NAME	REPRESENTING	LOCATION
Maurice Tinnin	Byram Co.	SF
W. Perry Pearce	Montgomery, Andrews, PA	SF
PAUL MOLLO	GCNM	ALB
Ann Bolton	GCNM	ALB
Ward Camp	GCNM	ALB

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION

IN THE MATTER OF:)
THE HEARING CALLED BY THE)
OIL CONSERVATION COMMISSION)
TO CONSIDER:)

CASE NO. 10143

APPLICATION OF THE OIL CONSERVATION)
DIVISION FOR ORDER ENACTING AND)
ADOPTING A RECODIFICATION OF THE)
RULES AND REGULATIONS OF THE OIL)
CONSERVATION DIVISION)

REPORTER'S TRANSCRIPT OF PROCEEDINGS
COMMISSION HEARING

BEFORE: WILLIAM J. LeMAY, Chairman
WILLIAM WEISS, Commissioner

November 8, 1990
9:05 a.m.
Santa Fe, New Mexico

This matter came on for hearing before the Oil
Conservation Commission on November 8, 1990, at 9:05 a.m.
at Morgan Hall, State Land Office Building, 310 Old
Santa Fe Trail, Santa Fe, New Mexico, before Maureen R.
Hunnicut, RPR, Certified Shorthand Reporter No. 166 and
Notary Public, in and for the County of Santa Fe, State of
New Mexico.

FOR: OIL CONSERVATION
DIVISION

BY: MAUREEN R. HUNNICUTT, RPR
Certified Shorthand Reporter
CSR No. 166

I N D E X

November 8, 1990
Commissioner Hearing
Case No. 10143

PAGE

APPEARANCES

3

OPENING STATEMENT

By Mr. Stovall

5

DIVISION WITNESS:

DIANE RICHARDSON

Direct Examination by Mr. Stovall

8

Direct Examination Commissioner Weiss

11

REPORTER'S CERTIFICATE

15

* * *

E X H I B I T S

DIVISION EXHIBIT

MRKD ADMTD

1 New Rule Book

(To be subsequently presented & marked.)

12

A P P E A R A N C E S

FOR THE DIVISION: ROBERT G. STOVALL, ESQ.
General Counsel
Oil Conservation Commission
State Land Office Building
310 Old Santa Fe Trail
Santa Fe, New Mexico 87504

FOR EL PASO NATURAL GAS COMPANY: MONTGOMERY & ANDREWS, P.A.
Attorneys at Law
BY: W. PERRY PEARCE, ESQ.
325 Paseo de Peralta
Santa Fe, New Mexico 87501

ALSO PRESENT: FLORENCE DAVIDSON
Staff Specialist
Oil Conservation Division

FOR BYRAM COMPANY: MAURICE E. TRIMMER
112 Valley Drive
Santa Fe, New Mexico

* * *

1 CHAIRMAN LeMAY: Good morning, Oil Conservation
2 Commission hearing. Two of the commissioners will be here
3 out of the three: Commissioner Bill Weiss to my left and
4 myself, Bill LeMay. Commissioner Humphries was not able
5 to make it.

6 To begin, we'll call Case No. 10143 in the
7 matter of the application of the New Mexico Oil
8 Conservation Division to adopt a complete recodification
9 of the rules and regulations of the division.

10 Appearances in Case 10143.

11 MR. STOVALL: Robert G. Stovall of Santa Fe on behalf
12 the division.

13 MR. PEARCE: May it please the Commission, I'm
14 W. Perry Pearce of the Santa Fe office of the law firm of
15 Montgomery & Andrews, appearing in this matter on behalf
16 of El Paso Natural Gas Company.

17 CHAIRMAN LeMAY: Thank you, Mr. Pearce.

18 MR. STOVALL: Mr. Chairman, I have one -- I am going
19 to offer a legal opinion, if you will, a history on this.
20 I can do it either under oath or just as a lawyer's
21 address. I have one other witness to testify today as to
22 the contents of the rule book.

23 CHAIRMAN LeMAY: As long as you have a witness, why
24 don't you make an opening statement that will be part of
25 the record? You can cover the history, if you will.

1 Mr. Pearce.

2 MR. PEARCE: I will try not to object.

3 CHAIRMAN LeMAY: You have the same rights, of course,
4 under your opening statement to --

5 MR. PEARCE: Thank you, Mr. Chairman.

6 CHAIRMAN LeMAY: -- take issue with what Mr. Stovall
7 says. Do you have any witnesses, Mr. Pearce?

8 MR. PEARCE: I do not.

9 CHAIRMAN LeMAY: Mr. Stovall, you may proceed.

10 MR. STOVALL: The purpose of this case is to, in
11 effect, repeal -- or actually repeal existing General
12 Rules and Regulations of the Oil Conservation Division and
13 readopt them in this revised format.

14 The history behind this is really quite simple.
15 We found out that we were running out of copies of the
16 rule books. We were going to have to reprint them. About
17 the same time we changed word processing systems. We
18 found out that the rule book, which was on the old word
19 processing system, could not be easily converted to the
20 new word processing system for reproduction.

21 What that meant was the entire rule book had to
22 be typed into the new word processing system manually. In
23 doing so, we looked at the rule book and determined that
24 it was a series of rules adopted over a number of years in
25 different formats, not consistent. Some of them were

1 better than others, what have you.

2 We said, "Why not reproduce it in a manner it
3 could be more consistent, more easily modified or amended
4 when the rules came out?" One of the other problems, I
5 found for an example myself, I've been with the division
6 over a year and a half, and discovered that I was working
7 with an out-of-date rule book. There had been rule
8 revisions which had not been incorporated. We wanted to
9 come up with a system which would reduce that risk.

10 The result is that we took the rule book. Diane
11 Richardson, my witness and assistant, typed it into her
12 word processor. She used a formatting, which she'll
13 explain momentarily, on the word processor which provided
14 a consistency. We're now identifying, and I'll, as I
15 said, offer the exhibit.

16 You'll be able to see each rule is going to have
17 an effective date on the page where it is. Our intention
18 is to develop a list of every rule, showing the effective
19 date; and whenever a rule is amended, a new list with new
20 effective dates will be shown. Anybody, subscribers to
21 the rule book, if you will, will have access to that list.
22 It will be provided
23 to them, it will be sent out. And again you'll be able to
24 look at any given time to determine whether or not you've
25 got an up-to-date rule book.

1 And also it will be much easier to substitute
2 pages in the rule book. If we modify a rule, simply send
3 out replacement pages. Based on our current activity, we
4 anticipate that will probably be no more than twice a
5 year, and half a dozen pages at the most at any given
6 time.

7 That very simply is the history of it. I will
8 tell, and then we'll present the witness to testify, that
9 in making this transition we have typed the rules word for
10 word from the existing rules. There is absolutely no
11 substantive change whatsoever in the rules, so there
12 really isn't any need to look in depth.

13 I will also provide you with copies of the
14 format, or at least part of it -- part of it is still up
15 in the printer at the moment, but the rest of it will be
16 available by the end of the hearing -- for your
17 examination, if you wish.

18 We ask that the rules be adopted effective as of
19 March 1, 1991. The reason we have selected that is simply
20 to allow time to process through the New Mexico Records
21 Center the New Mexico register, a fairly voluminous
22 process, and each rule has to go through the records
23 center individually with individual cover sheets in the
24 processing, so it will take some time. I think we're
25 pretty much ready to get it to the records center, but

1 it's going to take the records center -- we want to give
2 them plenty of time to review the rules, make sure
3 everything conforms to their requirements, get the rules
4 printed, gives us leadtime to get the rules published and
5 available to the users before they actually become
6 effective.

7 At this time I would like to call Diane
8 Richardson, and she does need to be sworn at this time.

9 DIANE RICHARDSON,
10 the Witness herein, having been first duly sworn by
11 Chairman LeMay, was examined and testified as follows:

12 DIRECT EXAMINATION

13 BY MR. STOVALL:

14 Q. Ms. Richardson, would you please state your
15 name and place of employment?

16 A. Diane Richardson. I work with the Energy,
17 Minerals and Natural Resources Department, Oil
18 Conservation Division, Santa Fe, New Mexico.

19 Q. What are your duties with the Oil Conservation
20 Division?

21 A. I am an administrator. I take care of the
22 bonding, rule changes, typing legal briefs and et cetera.

23 Q. Are you the person who performed the process,
24 which I have described, of transcribing the rule book into
25 the new word processing system format, as I've described

1 it?

2 A. Yes, sir.

3 Q. Would you tell me exactly what you've done,
4 please?

5 A. I have -- using what's called Word Perfect, and
6 Word Perfect has a setup where you can define paragraphing
7 indentations, numbering, and so I typed verbatim from the
8 rule book using this Word Perfect paragraphing, indenting,
9 et cetera.

10 Q. Now, in doing so did you actually change the
11 content, the words of any rules?

12 A. No, sir.

13 Q. And all of the contents are within the same
14 rule number? In other words, Rule 101 contains the same
15 words as Rule 101 in the old rule book; is that right?

16 A. Yes, sir, that's right.

17 Q. But within -- and I'm just using this as an
18 example -- Rule 101, the paragraphing may be different
19 than in the new or the old rule book?

20 A. It may have a different number, a different
21 indentation.

22 Q. Now, after you finished the typing of these
23 rules, did you do any followup steps to ensure that it was
24 accurate and consistent with the old rule book?

25 A. Yes. Another woman in the office and myself

1 proofread every rule, and -- we just proofread it.

2 Q. In other words, one of you looked at the old
3 rule book and the other one looked at what has been typed?

4 A. That's correct.

5 Q. Or read it out loud, is that how it was done --

6 A. Read it out loud.

7 Q. -- and found out they were identical?

8 A. Yes.

9 Q. Now, what you and the commissioners have in
10 front of you is what is an unmarked exhibit. Would you
11 describe what that is?

12 A. On Word Perfect there is a master document, and
13 I have pulled the rule book all together from each rule,
14 making it one document; and this is the first time that I
15 have done this, and so this is going to be our rule book;
16 and I did notice that there is one section that is not
17 numbered correctly. Section C starts out C1, 2, 3, and
18 the page numbering is wrong.

19 Q. You're talking about the page numbering,
20 correct?

21 A. Yes, just the page numbering; so I will correct
22 that.

23 Q. Now, what you have in front of you right at
24 this moment only contains through Rule 1002. Are there
25 additional rules which are still in the process of being

1 printed by word processing?

2 A. That's correct.

3 MR. STOVALL: We would request leave to supplement
4 and put the rest of the rule book in evidence for the
5 exhibit at the conclusion of the hearing. It is just
6 simply a matter of printing a hundred pages, and that took
7 more time than we anticipated.

8 I have no further questions of the witness.

9 CHAIRMAN LeMAY: Thank you, Mr. Stovall.

10 Additional questions of the witness?

11 DIRECT EXAMINATION

12 COMMISSIONER WEISS:

13 Q. Has anyone else edited it, other than yourself
14 and the other lady up in the OCD?

15 A. No, sir.

16 COMMISSIONER WEISS: I wonder if that's worth --

17 MR. STOVALL: Commissioner Weiss, I will say that I
18 have reviewed not as closely and carefully as they have,
19 but I have been through the books and reviewed the overall
20 contents.

21 COMMISSIONER WEISS: I'm sure the overall contents
22 are correct, but in the old rules, I recall seeing things
23 that didn't read right or misspellings or typos; and I
24 wonder if it's worthwhile to get this looked at again.

25 THE WITNESS: If I may. There were rule changes that

1 we have made that went over to the records center where
2 some of these corrections were made because they were
3 discovered. If there was a typo, the typo was corrected.
4 I did not change the wording or the word, but I did
5 correct typos.

6 Q. (By Commissioner Weiss) So the English is
7 correct?

8 A. Yes.

9 Q. I don't recall precise examples, but I know the
10 old rules that --

11 A. Yes, we did --

12 Q. -- we could have done a better job.

13 A. Right. And we did pick up on that and send that
14 over to the records center previously so that this could
15 just be typed verbatim; and if there was a typo, that was
16 picked up.

17 COMMISSIONER WEISS: Okay.

18 MR. STOVALL: I anticipate that we may find
19 additional errors. We made every effort to correct them.

20 COMMISSIONER WEISS: Well, that's good, but I wonder
21 if it's worthwhile to make sure there are no errors.

22 MR. STOVALL: We certainly would invite review for
23 that type of correction of errors. We can't make any
24 substantive changes because of the rulemaking process
25 under the statutes.

1 CHAIRMAN LeMAY: Mr. Weiss, I have a suggestion for
2 that if you concur. I think we could leave the record
3 open for one week, so that it didn't put the pressure on
4 them to submit the final document without additional
5 proofreading. By leaving the record open for the exhibit
6 to be submitted within one week, it will be proofread
7 again and then be marked as Exhibit 1, I assume; and then
8 before the order is written, it can be sent to your office
9 and you can look at it as Exhibit 1; and so we'll have a
10 couple of proofreading sessions in there to make it as
11 perfect as possible.

12 COMMISSIONER WEISS: Good.

13 MR. STOVALL: Yes. I think with an effective date of
14 March 1st that allows time as long as we can start the
15 processing through the records center. By sometime in
16 December, actually, is what I think our timetable is to
17 get over to records center to start the process.

18 COMMISSIONER WEISS: That's my only comment.

19 CHAIRMAN LeMAY: Additional questions of the witness?

20 If not, she may be excused.

21 And what will be Exhibit 1, I take it, will be
22 moved to be --

23 MR. STOVALL: It's moved for admission.

24 (Division Exhibit 1 to be subsequently
25 marked and was moved for admission.)

1 CHAIRMAN LeMAY: Right. And it shall go into the
2 record without objection. Also let it be noted that the
3 record will be open for one week, and Exhibit 1 can be
4 modified within that week's period so that a final
5 Exhibit 1 with corrections will be part of the official
6 record.

7 Mr. Pearce.

8 MR. PEARCE: Nothing, Mr. Chairman. Thank you.

9 CHAIRMAN LeMAY: Is there anything else in
10 Case No. 10143?

11 If not, that case will be taken under
12 advisement.

13 (The foregoing proceeding was concluded at the
14 approximate hour of 9:25 a.m.)

15 * * *

1 STATE OF NEW MEXICO)
2) ss.
3 COUNTY OF SANTA FE)

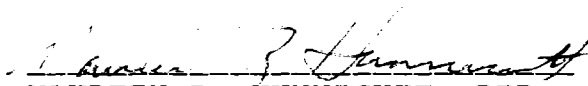
4 REPORTER'S CERTIFICATE

5 BE IT KNOWN that the foregoing reporter's transcript
6 of proceedings before the Oil Conservation Division was
7 taken by me; that I was then and there a Certified
8 Shorthand Reporter and Notary Public in and for the County
9 of Santa Fe, State of New Mexico; that the witnesses
10 before testifying were duly sworn to testify to the whole
11 truth and nothing but the truth; that all statements and
12 questions propounded by counsel and the Commission and the
13 answers of the witnesses thereto were taken down by me,
14 and that the foregoing 14 pages of typewritten matter
15 contain a true and accurate transcript of the proceedings
16 and testimony had and adduced upon the taking of said
17 proceedings, all to the best of my skill and ability.

18 I FURTHER CERTIFY that I am not related to nor
19 employed by any of the parties hereto, and have no
20 interest in the outcome hereof.

21 DATED at Santa Fe, New Mexico, this 29th day of
22 November, 1990.

23
24 My Commission Expires:
25 April 25, 1993


MAUREEN R. HUNNICUTT, RPR
Certified Shorthand Reporter
CSR No. 166, Notary Public