

**STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION**

**Meeting Minutes
Special Meeting
January 2, 2020
Porter Hall
Wendell Chino Building
1220 S. St. Francis Drive
Santa Fe, New Mexico 87505**

MEMBERS PRESENT:

Adrienne Sandoval Chair, Oil Conservation Division
Thomas Engler Designee, Energy, Minerals and Natural Resources Department
Jordan Kessler Designee, New Mexico State Land Commissioner

OTHERS PRESENT:

Miguel Lozano, Counsel for the Commission
Florene Davidson, Commission Clerk

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

Item 1. Roll Call.

Roll was taken; a quorum was present.

Item 2. Approval of Agenda.

Action: Commissioner Kessler moved adoption of the agenda. Commissioner Engler seconded the motion. The motion passed unanimously.

Item 3. Approval of minutes of December 11, 2019 meeting.

Action: Commissioner Kessler moved to approve the minutes. Commissioner Engler seconded the motion. The motion passed unanimously.

Item 4. *Case No. 20895: Application of the New Mexico Oil Conservation Division to Amend the Commission's Rule for Compliance and Enforcement in Sections 3, 8, 9, and 10 of 19.15.5 NMAC; Statewide*

Action: Chair Sandoval explained how the hearing will be conducted to comply with the provisions of the Open Meetings Act, Oil and Gas Act, as well as the Commission rules regarding adjudication. Appearances were made by Eric Ames for the Oil Conservation Division (OCD); Andrew J. Cloutier and Sunny R. Richardson for the Independent Petroleum Association of New Mexico (IPANM); Michael Feldewert for the New Mexico Oil and Gas Association (NMOGA); and Larry Marker representing himself. Mr. Ames made an opening statement outlining the presentation of OCD's case and explaining the 2019 amendments to the Oil and Gas Act made by the New Mexico Legislature to provide the OCD with enforcement authority to assess civil penalties.

OCD's witness was Gabriel Wade, Deputy Director of the OCD in Santa Fe, New Mexico. He explained that the Legislature recognized that there has been a lack of enforcement by the OCD because it is limited in its enforcement authority. He cited the statutory authority for the proposed amendments. He discussed and explained OCD's proposed amendments to four sections of 19.15.5 NMAC – Compliance and Enforcement. He discussed NMOGA's and IPANM's proposed modifications to the proposed rule and explained OCD's reasons for agreement or disagreement with the modifications. Mr. Feldewert, Mr. Cloutier, Mr. Marker, Commissioner

Kessler, Commissioner Engler, Chair Sandoval, and Counsel Lozano cross-examined the witness, and he was excused.

IPANM's witness was Paul Ragsdale, Operations Manager for Strata Production Company in Roswell, New Mexico. He described the monitoring of wells for situations that put them in non-compliance. He told how prudent operators attempt to comply with OCD rules. He discussed stripper wells and how penalties could cause some operators to cease operation of stripper wells because they would be uneconomic to produce. Mr. Ames, Mr. Feldewert, Mr. Marker, Commissioner Kessler, and Chair Sandoval cross-examined the witness, and he was excused.

Mr. Cloutier explained that his witness, Vanessa Fields, who was to present testimony regarding IPANM's proposed tables for penalty guidelines, was ill and unable to attend the hearing. He informed the Commission that he would be willing to answer any questions the Commission might have regarding the tables. Mr. Ames made a standing objection to the questioning of the attorney on factual evidence. Counsel Lozano provided an opinion on how the Commission should handle the questioning of the attorney regarding the tables. Mr. Cloutier moved adoption of IPANM's proposed modifications to the rule.

Mr. Feldewert made a statement addressing the hearing procedures and penalties assessed an operator who was not aware of a violation. Chair Sandoval and Commissioner Engler questioned Mr. Feldewert on when an operator should be aware of a violation.

Larry Marker was called to present testimony. He described his business and problems connected to the operation of his wells. He expressed his opinion that the proposed rule is against small operators and asked that the penalties issued reflect whether they are civil penalties or criminal penalties. Commissioner Engler and Mr. Ames cross-examined the witness, and he was excused.

Counsel Lozano announced that additional comments by Armstrong Energy Corporation, Thomas M. Beall, and Carolyn R. Beall were received on the date of the hearing and were admitted as exhibits.

Public comments were taken as follows:

Bruce Baizell, Energy Program Director with Earthworks, in support of the proposed rule with amendments. He responded to questions by Mr. Marker and Chair Sandoval.

Buddy DeLay, against the proposed rule with amendments

Mr. Ames and Mr. Cloutier made closing statements.

The case was closed at 4:04 p.m.

Deliberations in open session were begun at 4:17 p.m.

The Commission deliberated on each of OCD's proposed amendments to 19.15.5 NMAC, amending Sections 3, 8, 9 and 10 and the proposed modifications as presented by NMOGA and IPANM at this hearing. The Commission adopted certain changes to the proposed rules and instructed Counsel Lozano to draft a proposed order to be reviewed by the Commission and signed at the January 16, 2020 Commission meeting.

Item 5. Pending litigation

Action: Counsel Lozano announced that oral arguments were taken on December 30, 2019, in the Delaware Energy appeal of the final order in Case 15855.

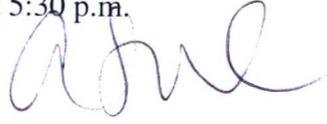
Item 6. Other business

There was no other business.

Item 7. Next meeting: January 16, 2020

Item 8. Adjournment

Chair Sandoval adjourned the meeting at 5:30 p.m.



ADRIENNE SANDOVAL, Chair