

**MINUTES OF THE MEETING
OF THE OIL CONSERVATION COMMISSION
HELD ON APRIL 19, 2012**

The Oil Conservation Commission met at 9 o'clock a.m. on April 19, 2012, in Porter Hall, Wendell Chino Building, 1220 S. St. Francis Drive, Santa Fe, New Mexico.

PRESENT: **SCOTT DAWSON, Member**
 ROBERT BALCH, Member
 JAMI BAILEY, Chair

Bill Brancard served as the Commission counsel.

The meeting was called to order by Chairman Bailey. After a motion by Commissioner Balch and a second by Commissioner Dawson, the Commission unanimously approved and adopted the minutes of the March 27, 2012 Commission meeting.

Case 14805, the application of the Oil Conservation Division seeking the following changes to Section 8 of Title 19, Chapter 15 Part 14 of the New Mexico Administrative Code: amend Subsection A of 19.15.14.8 NMAC, was called for final action. After a motion by Commissioner Balch and a second by Commissioner Dawson, the Commission voted unanimously to adopt Order No. R-13499-C and it was signed by all Commissioners.

The Motion for Leave to File Application for Hearing De Novo in Case 14752 filed by Nearburg Producing Company LLC, through its counsel, on March 26, 2012, was called for the purpose of hearing arguments. Appearances were made by Scott Hall for Nearburg Producing Company LLC (Nearburg) and Thomas Kellahin in association with John Cooney for Cimarex Energy Company (Cimarex).

Mr. Hall stated that it was undisputed that the order resulting from the Oil Conservation Division (Division) hearing of this case was not received by him. He discussed the statutory duties of the Commission and the Division which apply in this case, including the protection of operators' property interests. He explained that there is a dispute between the parties over the effects of Cimarex' disposal operation on the drilling of an offset Morrow well by Nearburg. He said that Nearburg would like to be able to present its case to the Commission. He asked that the Commission base its decision on the merits and not on the procedural issues.

Mr. Cooney argued that Nearburg is trying to ignore the rule regarding de novo hearings. He said that the only evidence that the Division order was not timely received by Nearburg is the claim made by Mr. Hall. The order was on the Division's website, and there were numerous ways that Nearburg could have determined that an order had been issued. He said that no evidence or testimony was presented by Nearburg at the Division hearing of this matter, and Nearburg has only claimed that it may drill a well in the Morrow formation which might be affected by the injection well. He informed the Commission that the injection well has already been completed, and the order contains many rigorous requirements imposed on Cimarex to protect offset operators. He said that excusable neglect does not apply in this case.

After a motion by Commissioner Dawson and a second by Commissioner Balch, the Commission, on a roll call vote, voted unanimously to close the session pursuant to NMSA 1978, Section 10-15-1 H, to deliberate on the motion. After a motion by

Commissioner Dawson and a second by Commissioner Balch, the Commission voted unanimously to return the meeting back into open session. Chairman Bailey announced that the motion in Case 14752 was the only matter discussed during the closed session. The Commission unanimously agreed to deny the Motion for Leave to File Application for Hearing De Novo in Case 14752. Chairman Bailey stated an order to this effect will be drafted by the Commission counsel and signed by the Commission at its next meeting on May 14, 2012.

A short discussion was held on whether a larger room would be required for the pit rule hearing scheduled in May. It was decided that the hearing will begin in Porter Hall and moved to another location if necessary.

The meeting was adjourned at 9:45 a.m.

**STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION**

JAMI BAILEY, Chair