

NMOGA Exhibit #56

TRANSCRIPT OF TESTIMONY BEFORE NEW MEXICO OIL CONSERVATION COMMISSION

APPLICATION OF OIL CONSERVATION DIVISION
TO ADOPT 19.15.27 NMAC AND D19.15.28
NMAC, AND TO AMEND 19.15.7 NMAC,
19.15.18 NMAC, and 19.15.19 NMAC;
STATEWIDE

Reporter's Transcript of Virtual Proceeding, Rulemaking Hearing, Deliberations Volume 1, pp 138-143

Rejection of additional controls on completion

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 NOS: 21528

APPLICATION OF OIL CONSERVATION DIVISION
TO ADOPT 19.15.27 NMAC AND 19.15.28 NMAC, AND
TO AMEND 19.15.7 NMAC, 19.15.18 NMAC, AND
19.15.19 NMAC; STATEWIDE.

REPORTER'S TRANSCRIPT OF VIRTUAL PROCEEDING
RULEMAKING HEARING
DELIBERATIONS VOLUME 1
February 11, 2021
Via Webex Platform
Santa Fe, New Mexico

BEFORE: ADRIENNE SANDOVAL, CHAIRWOMAN
JORDAN KESSLER, COMMISSIONER
DR. THOMAS ENGLER, COMMISSIONER
FELICIA ORTH: Hearing Examiner
CHRIS MOANDER, ESQ.

This matter came on for deliberations before the
New Mexico Oil Conservation Commission on February 11, 2021,
via Webex Virtual Platform, hosted by New Mexico Energy,
Minerals, and Natural Resources Department.

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1 So I really think it makes sense to look at 8C,
2 and then depending on what you do with 8C, let's say you
3 were to adopt their proposal in 8C, I think you would want
4 to define the terms used there.

5 CHAIRWOMAN SANDOVAL: Well, that's quite logical.
6 All right. Thank you, Ms. Orth.

7 COMMISSIONER KESSLER: Go to Page 25?

8 COMMISSIONER ENGLER: Climate Advocates.

9 COMMISSIONER KESSLER: Oh, okay.

10 CHAIRWOMAN SANDOVAL: I think my original
11 statement stands, or what I said a moment ago. I have very
12 strong concerns about -- well, I think there are multiple
13 concerns I have here.

14 One, we heard testimony from Mr. Bolander that
15 there could be some very real safety issues, particularly
16 with oil wells with the slugs of liquid and all of those
17 issues, and so this proposal during flowback could prevent
18 some big issues.

19 He recognized that Colorado had required it, but
20 said he did not agree that that was potentially the route to
21 go. I can't remember the name of the Climate Advocates
22 witness.

23 HEARING EXAMINER ORTH: I think you are thinking
24 of Tom Alexander, Madam Chair.

25 CHAIRWOMAN SANDOVAL: That's it. Thank you. And

1 he, you know, made some testimony, but at the end of the day
2 it sounded like all -- and his testimony was along the
3 lines of, well, it was feasible to do it in these different
4 basins, but at the end of the day, all of those basins were
5 gas basins, not oil basins, and there are different concerns
6 in those different areas.

7 Again, the flowback and the large volumes of
8 liquid that could come and provoke -- and be a venting
9 problem. So then in testimony from Mr. Bolander on the last
10 day during rebuttal, he recognized, yes, that there is a
11 differentiation between gas and oil wells, and it may be
12 feasible on gas wells where it's not feasible on oil wells.

13 And so in his testimony he indicated that it
14 might be feasible to add some statement in (C)(1), but if
15 there is the ability to capture during initial flowback --
16 if capture during initial flowback is feasible, then that
17 should be captured as well, which I believe is the change
18 now in (C)(1) proposed by the Division which would encompass
19 capturing for gas wells.

20 So this is a very long, long way of saying, I
21 have a lot of concerns on multiple levels, but the Climate
22 Advocates' proposal holds the largest theme in safety
23 tissues. But the second -- and this is a theme sort of for
24 both Climate Advocates and EDF's proposals that I think the
25 Commission should be wary of is references that are rooted

1 in an environmental outcome.

2 And when I say that, I mean like these references
3 to combustion efficiencies of 98 percent, I think there is
4 statutory authority for OCD to require gas to be flared as
5 opposed to vented, and there was testimony on that. I am
6 not sure how far that goes. If it goes far enough to not
7 only require flaring but also to insert, I mean, basically
8 environmental regulation phrasing into our rule, I think --
9 I'm very concerned about doing that and sort of overstepping
10 our statutory authority and appearing more like an
11 environmental -- sort of stepping into the environmental
12 regulation aspect as opposed to the waste aspect.

13 And I think we begin to do that when we start to
14 refer to these types of limits as well -- as well as, I
15 mean, I'm very, very concerned about having something in our
16 rule that, air pollution control equipment, first off OCD
17 does not regulate pollution; we regulate waste.

18 Could waste lead to pollution? You know, one
19 could make that argument, but that's not the jurisdictional
20 authority that I think OCD has, and I think we have to be
21 incredibly cognizant not to step over that line and then
22 walk into, I think as NMOGA has talked about quite a bit in
23 their closing statement, you know, then we become some sort
24 of emissions control process or whatever, however you want
25 to term it.

1 So this is a very, very long way of saying I have
2 a lot of concerns about the Climate proposal -- proposals,
3 Climate Advocate's proposals in C. I think that the OCD
4 proposal sort of meets -- poses, as far as it can in a safe
5 way, but again sort of more back as a threshold issue, I
6 very much have concerns about the terminology to anything
7 air pollution, emissions, et cetera, related, and I think we
8 may be stepping over the line when we start to put in those
9 type of -- those types of references.

10 COMMISSIONER KESSLER: I would agree with you,
11 and I think the Division did a nice job explaining why the
12 OCD has authority -- has statutory authority to be able to
13 regulate disposal of a waste product, at least venting and
14 flaring versus (unclear). So I agree we need to be
15 cognizant. I agree about the concerns with the safety
16 described for us by Mr. Bolander and NMOGA, so sort of a
17 concern that is addressed we have.

18 CHAIRWOMAN SANDOVAL: So we -- I'm sorry -- Dr.
19 Engler, where are you on this?

20 COMMISSIONER ENGLER: I'm good with getting rid
21 of air pollution control. I don't associate the reference
22 in it at all.

23 CHAIRWOMAN SANDOVAL: What about sort of in the
24 broad context of, since we are already talking about C --
25 well, let's -- let's address C when we get to C.

1 COMMISSIONER KESSLER: I thought we were in C.

2 CHAIRWOMAN SANDOVAL: I guess we are. My, my

3 proposal would be that we do not take any of the

4 recommendations from Climate Advocates in C. I think -- I

5 agree with the edition from the Division in (C)(1). I think

6 that when feasible, particularly for gas wells -- and maybe

7 my question is, should we specifically call them out to make

8 it very clear? Yes, that would be a question I have. Dr.

9 Engler, if you have comments on the technical side.

10 COMMISSIONER ENGLER: For what part?

11 CHAIRWOMAN SANDOVAL: (C)(1).

12 COMMISSIONER ENGLER: As far as OCD's?

13 CHAIRWOMAN SANDOVAL: Yeah.

14 COMMISSIONER ENGLER: OCD's (unclear) form, and

15 their edition was they want to reserve -- I think a lot of

16 this that we're seeing comes to -- I think it was really

17 prescriptive, and I think there is a level of detail here

18 that's prescriptive from Climate Advocate's (unclear) I

19 would also second what you said about, when I asked the

20 question, Mr. Alexander, his testimony was on gas wells

21 only, and it's not really relevant to New Mexico or what we

22 do. I feel like that was somewhat of a -- it wasn't a good

23 connection for me.

24 COMMISSIONER KESSLER: I apologize, can we --

25 CHAIRWOMAN SANDOVAL: We need to take a

1 five-minute break. Sorry, guys.

2 (Recess taken.)

3 COMMISSIONER ENGLER: We are all in agreement
4 that the (unclear) (C)(1) control equipment should not be
5 accepted. I think (C)(1) would lean towards (unclear)

6 CHAIRWOMAN SANDOVAL: It looks like NMOGA in
7 (C)(1) does not have a proposal. It's -- it just has the
8 previous language, but I think that nails down (C)(1). So
9 do we want to come back and do (C)(2), 3, et cetera.

10 COMMISSIONER ENGLER: Yes.

11 COMMISSIONER KESSLER: That's fine. I guess,
12 just to clarify, we don't specify if it's for gas wells or
13 it's not --

14 (Inaudible.)

15 CHAIRWOMAN SANDOVAL: Mr. Moander, can we go back
16 up. Okay. So OCD proposes to remove the or crude oil,
17 which I think is appropriate for this rule.

18 COMMISSIONER KESSLER: Yes, agree.

19 COMMISSIONER ENGLER: Agree.

20 CHAIRWOMAN SANDOVAL: All right. B, the original
21 B was struck and replaced with -- this was the proposal that
22 came in separately during the hearing. And I think NMOGA
23 has no comment on that. Climate Advocates and EDF have no
24 comments on that. I have no comments on that. I'm good
25 with it.