

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. 13,348

APPLICATION OF MARBOB ENERGY CORPORATION)
 FOR COMPULSORY POOLING IN EDDY COUNTY,)
 NEW MEXICO)

ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGSCOMMISSION HEARING

BEFORE: MARK E. FESMIRE, CHAIRMAN
 JAMI BAILEY, COMMISSIONER

April 14th, 2005

Santa Fe, New Mexico

2005 APR 28 PM 1 36

This matter came on for hearing before the Oil Conservation Commission, MARK E. FESMIRE, Chairman, on Thursday, April 14th, 2005, 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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I N D E X

April 14th, 2005
Commission Hearing
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REPORTER'S CERTIFICATE

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A P P E A R A N C E S

FOR THE COMMISSION:

DAVID K. BROOKS, JR.
Assistant General Counsel
Energy, Minerals and Natural Resources Department
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

FOR THE APPLICANT:

HOLLAND & HART, L.L.P., and CAMPBELL & CARR
110 N. Guadalupe, Suite 1
P.O. Box 2208
Santa Fe, New Mexico 87504-2208
By: WILLIAM F. CARR

* * *

1 WHEREUPON, the following proceedings were had at
2 10:46 a.m.:

3 CHAIRMAN FESMIRE: The next cause before the
4 Commission is Case Number 13,348, *de novo*, continued from
5 the March 8th, 2005, Commission meeting. It's the
6 Application of Marbob Energy Corporation for compulsory
7 pooling in Eddy County, New Mexico.

8 Are there any entries on that case?

9 MR. CARR: May it please the Commission, my name
10 is William F. Carr with the Santa Fe office of Holland and
11 Hart, L.L.P. We represent Marbob Energy Corporation in
12 this matter.

13 MR. BROOKS: I believe Mr. Bruce is no longer in
14 the audience.

15 MR. CARR: May it please the Commission, as you
16 may recall, a month ago the case that is now on the docket
17 came before you. It was on the *de novo* Application filed
18 on behalf of Mary T. Ard and various entities in which Mrs.
19 Ard owned an interest.

20 CHAIRMAN FESMIRE: Correct.

21 MR. CARR: At that time the Commission was
22 advised that Mrs. Ard was going nonconsent in the subject
23 well and that they were not going to present a case to the
24 Commission at that time. The Applicant in the *de novo*
25 Application, Mrs. Ard, requested that the Commission look

1 at the record below and enter a new order, and it was
2 determined that that was an inappropriate action for the
3 Commission to take.

4 And we requested a month. During that time we
5 have met and, with the help of Mr. Brooks, have developed
6 what is an agreed order which we, the parties, have agreed
7 and accepted as a method of disposing this case. And I can
8 tell you that what it basically does is, it notes that the
9 Application for *de novo* was filed, that there was a motion
10 for stay, it was denied, there were certain time frames set
11 in that order for the parties to make their determination
12 as to whether or not they were going to participate in the
13 well, those time frames ran, and that Mrs. Ard's interest
14 was going to be nonconsent in the well.

15 Instead of just dismissing the *de novo*
16 Application -- that's what Mr. Ard and her counsel
17 preferred -- whatever way, no matter what was acceptable to
18 us, we have signed off on an order. Mr. Bruce has done the
19 same for Mrs. Ard. I can advise you the well is now
20 drilling.

21 And we would request that you simply, by your
22 signature, ratify our agreed order. That takes it out of
23 the realm where you have to look at the evidence, which of
24 course wasn't before you.

25 And so we have an agreed basic consent order that

1 we would request you execute.

2 Mr. Brooks may want to correct me on that, that's
3 been off the cuff. But that's basically my understanding
4 of where we stand today.

5 CHAIRMAN FESMIRE: Mr. Brooks, do you have
6 anything to add?

7 MR. BROOKS: Yes, I believe that Mr. Carr's
8 comments are entirely accurate.

9 I would add that this order is somewhat unusual
10 in that the Commission makes findings in decretal
11 paragraphs, even though the Commission has not heard
12 evidence and deliberated on the matter.

13 We have included, however, in the order
14 provisions that the findings and orders of the Commission
15 are made pursuant to the stipulation of the parties.

16 We've also included a concluding paragraph just
17 above the jurisdictional paragraph that states that the
18 findings and orders in this order will not be considered as
19 precedent in any future issues that may arise before the
20 Commission.

21 Based on that, and based on the signatures of the
22 attorneys for both parties to the order itself, I would
23 recommend that the Commission consider entering this as an
24 agreed order.

25 CHAIRMAN FESMIRE: Commissioner Bailey, have you

1 had a chance to review this?

2 COMMISSIONER BAILEY: No, if you'll give me just
3 a couple more moments I'll look at it.

4 CHAIRMAN FESMIRE: Okay.

5 COMMISSIONER BAILEY: Okay, I expect to sign
6 that.

7 CHAIRMAN FESMIRE: Okay, is that a motion to that
8 effect?

9 COMMISSIONER BAILEY: Yes, it is.

10 CHAIRMAN FESMIRE: I second the motion. All in
11 favor?

12 COMMISSIONER BAILEY: Aye.

13 CHAIRMAN FESMIRE: Opposed? The motion carries.
14 At this time the Commission will sign the agreed order in
15 Case Number 13,348 *de novo*.

16 Let the record reflect that prior to signing it,
17 I too have reviewed it and discussed it with Counsel
18 Brooks.

19 (Thereupon, these proceedings were concluded at
20 10:49 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 April 17th, 2005.



STEVEN T. BRENNER
CCR No. 7

My commission expires: October 16th, 2006