

STATE OF NEW MEXICO
DEPARTMENT OF ENERGY, MINERALS AND NATURAL RESOURCES
OIL CONSERVATION DIVISION

IN THE MATTER OF THE HEARING

CALLED BY THE OIL CONSERVATION
COMMISSION FOR THE PURPOSE
OF CONSIDERING:

ORIGINAL

APPLICATION OF LINN OPERATING,
LLC, INC., TO AMEND COMMISSION
ORDER NO. R-11980-A REGARDING
THE EAST HOBBS SAN ANDRES
UNIT, LEA COUNTY, NEW MEXICO

Case No. 15284

TRANSCRIPT OF PROCEEDINGS
EXAMINER HEARING

BEFORE: DAVID CATANACH

August 13, 2015
8:58 a.m.
Santa Fe, New Mexico

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This matter came on for discussion and possible
before the New Mexico Oil Conservation Division, DAVID
CATANACH, Chairman, on Thursday, August 13, 2015, in
Porter Hall, Wendell Chino Building, Santa Fe, New
Mexico.

REPORTED BY: KELLI A. GALLEGOS, P-409
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A P P E A R A N C E S

THE BOARD:

DAVID CATANACH, Chair
ROBERT BALCH, Member
PATRICK PADILLA, Member

ALSO PRESENT:

BILL BRANCARD, Commission Counsel
FLORENE DAVIDSON, Commission Admin.

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1 TRANSCRIPT OF PROCEEDINGS

2 CHAIRMAN CATANACH: So good morning. This
3 is a meeting of the New Mexico Oil Conservation
4 Commission. My name is David Catanach. I'm
5 chairman of the commission and director of the Oil
6 Conservation Division.

7 The time is approximately 9 o'clock.
8 Today's date is August 13. And if I can have the
9 commissioners take roll at this time. Please
10 identify yourself.

11 COMMISSIONER BALCH: Dr. Robert Balch,
12 designee of the secretary of energy and minerals.

13 COMMISSIONER PADILLA: Patrick Padilla,
14 designee of commissioner of public lands.

15 CHAIRMAN CATANACH: Also present is Mr. Bill
16 Brancard, the commission counsel and general
17 counsel of the Energy, Minerals and Natural
18 Resources Department.

19 The agenda items for this morning,
20 Commissioners, you've had the opportunity to
21 review the agenda for today's hearing, do you have
22 any changes?

23 And if not, do I have a motion to adopt
24 the agenda?

25 COMMISSIONER PADILLA: So moved.

1 COMMISSIONER BALCH: And seconded.

2 CHAIRMAN CATANACH: All in favor.

3 ALL MEMBERS: Aye.

4 CHAIRMAN CATANACH: The motion is passed,
5 and agenda is approved.

6 (3-0 vote. Agenda Item 2 approved.)

7 CHAIRMAN CATANACH: Also in your packets are
8 the minutes from the July 16th, 2015, meeting.

9 If you have had a chance to review
10 those, do you have any changes that you would like
11 to put forth at this time?

12 COMMISSIONER BALCH: I've reviewed the
13 minutes and I would move to approve them.

14 COMMISSIONER PADILLA: I would second that.

15 CHAIRMAN CATANACH: All in favor.

16 ALL MEMBERS: Aye.

17 CHAIRMAN CATANACH: So the minutes of
18 July 16, 2015, are hereby adopted.

19 (3-0 vote. Agenda Item 3 approved.)

20 CHAIRMAN CATANACH: At this time -- at the
21 last hearing, we heard Case Number 15284, which
22 was the application of Linn Operating, Inc., to
23 amend Commission Order Number R-11980-A regarding
24 East Hobbs San Andres Unit in Lea County,
25 New Mexico.

1 The last hearing we took testimony -- I
2 mean -- well, we did take some additional
3 testimony and we actually voted to adopt the
4 order. And I think the business at this time is
5 to go ahead and finalize the order and sign the
6 order.

7 Is that correct, Mr. Brancard.

8 MR. BRANCARD: Yes, it is. And address any
9 questions you all had about the order.

10 CHAIRMAN CATANACH: Do we have a copy of
11 that order here?

12 MR. BRANCARD: I believe so, yes. So one
13 question that Commissioner Catanach raised is on
14 Page 3, I believe that's 6.F. There's some
15 numbers thrown about in the order about the costs
16 of the alternate sources of makeup fluids. There
17 was a question about whether these numbers are
18 correct and what they apply to.

19 Based on that question, I went back and
20 I looked at Exhibit 3 and in the hearing it sort
21 of summarized all the costs of the different
22 alternatives.

23 And it appears in the draft order what
24 Mr. Bruce is referring to when he talks in the
25 second sentence, the costs of the alternative,

1 sources of makeup fluids are 2-and-a-half to 17
2 times more expensive than the city's fresh water,
3 I believe what he's talking about is the first
4 column, which is total cost for two-year capital
5 and operating. Okay?

6 And then his next line is with capital
7 expenditures 3 to 24 times more expensive.

8 And I believe what he's talking about in
9 that case is not capital but the second column,
10 which is the failure case, that if they do it for
11 six months and then stop, then it costs. Those
12 numbers seem to correlate with those two columns.

13 So if we want to change this sentence to
14 make it more precise or accurate, we probably
15 should do so.

16 You don't necessarily need all these
17 numbers. They're in evidence anyway. I mean, you
18 could say initially: The total costs of the
19 alternate source and makeup fluids are, or total
20 costs for a two-year period are estimated to be
21 2-and-a-half to 17 times more expensive.

22 COMMISSIONER BALCH: You probably could just
23 eliminate the --

24 MR. BRANCARD: Eliminate the second phrase?

25 What is that commission's preference

1 here?

2 CHAIRMAN CATANACH: You're suggesting to
3 eliminate the last -- which part of it?

4 MR. BRANCARD: The with capital expenditures
5 part, is that what you're talking about,
6 Commissioner?

7 COMMISSIONER PADILLA: I would say either
8 eliminate it or include language that reflects the
9 fact that that is for possibility of failure, a
10 failure scenario I guess would be a better way to
11 put it, if that's what the numbers reflect.

12 CHAIRMAN CATANACH: Now, it seems like we
13 could make that a little clearer. Although I'm
14 not totally sure it's so critical to do that.

15 COMMISSIONER PADILLA: I'm fine with just
16 scratching everything after the comma. That's the
17 most concise way to reflect it.

18 COMMISSIONER BALCH: Say: The two-year cost
19 of the alternative sources of makeup fluid are
20 2-and-a-half to 17 times more expensive than city
21 fresh water source.

22 COMMISSIONER PADILLA: Then just end it,
23 period.

24 COMMISSIONER BALCH: Just put a little bit
25 in at the beginning of the sentence, scratch the

1 rest.

2 CHAIRMAN CATANACH: I would agree with that,
3 because that's really the issue I had with the
4 second part of that, the three to 24 times.
5 Because I did figure out where they come up with
6 two and one half to 17 times. But I had trouble
7 with the other one, so...

8 COMMISSIONER BALCH: And somebody reading
9 the findings can go back to the evidence and --

10 COMMISSIONER PADILLA: Right.

11 COMMISSIONER BALCH: -- look at Exhibit 3.

12 COMMISSIONER PADILLA: Same thing that you
13 did, is figure out where it came from.

14 CHAIRMAN CATANACH: Do we want to vote on
15 that change? Everybody in favor of that?

16 ALL MEMBERS: Aye.

17 MR. BRANCARD: So you're deleting the last
18 phrase?

19 CHAIRMAN CATANACH: Yes.

20 COMMISSIONER BALCH: After the comma, so
21 source would be -- after source we would eliminate
22 the rest of that sentence.

23 MR. BRANCARD: Okay. Do we want to --

24 COMMISSIONER BALCH: Say the two-year costs
25 of the alternative source are.

1 MR. BRANCARD: Okay.

2 COMMISSIONER BALCH: What if we say: The
3 estimated two-year?

4 Better to be less precise, right, while
5 we're trying to be precise.

6 MR. BRANCARD: The estimated two-year
7 cost -- okay.

8 CHAIRMAN CATANACH: Are there any other
9 changes or questions that commissioners have of
10 this order?

11 MR. BRANCARD: The only other question that
12 was raised, Commissioner Balch raised, said what's
13 the best way to indicate that we have a dissent in
14 this case. Nothing that -- I checked with
15 Florene. There is no sort of standard way that
16 the commission has done it.

17 COMMISSIONER BALCH: When we did rulemaking
18 on Rule Number 17, Commissioner Broom (phonetic)
19 disagreed with certain points, but in the end, he
20 signed the entire document. But the dissent was
21 noted in the text order.

22 In this case, you could leave it all out
23 and then Patrick could not sign it. Or you could
24 notice dissent and sign the record.

25 COMMISSIONER PADILLA: I think it's more

1 clear if we note the dissent and all sign. If
2 someone's looking back through the record, they
3 could read -- a lack of signature could be a
4 little more ambiguous than --

5 COMMISSIONER BALCH: Maybe you just weren't
6 here that day.

7 COMMISSIONER PADILLA: Right.

8 MR. BRANCARD: Well, and when the order at
9 this point just says two commissioners supporting
10 and one commissioner opposing, perhaps when you
11 sign it, Commissioner Padilla, you can just write
12 "No" next to your name.

13 COMMISSIONER BALCH: Or "Opposed."

14 MR. BRANCARD: Or "Opposed."

15 COMMISSIONER PADILLA: Sure.

16 Where's the language that --

17 MR. BRANCARD: Near the end, the ordering
18 paragraph, what we call the ordering paragraph,
19 "It is therefore ordered," that first Number 1.

20 COMMISSIONER BALCH: With two commissioners
21 supporting and one commissioner opposing.

22 COMMISSIONER PADILLA: That works for me.
23 I'll just sign it, put "Opposed" next to it.

24 COMMISSIONER BALCH: Anyone could go to the
25 record and find that anyway.

1 COMMISSIONER PADILLA: Right.

2 COMMISSIONER BALCH: Okay.

3 CHAIRMAN CATANACH: Any other changes or
4 corrections?

5 COMMISSIONER BALCH: I don't have anything
6 else.

7 CHAIRMAN CATANACH: So how will we proceed
8 from this point, Mr. Brancard?

9 MR. BRANCARD: A motion to approve the
10 order.

11 COMMISSIONER PADILLA: So moved.

12 MR. BRANCARD: And second.

13 CHAIRMAN CATANACH: All in favor, say aye.

14 ALL MEMBERS: Aye.

15 (3-0 vote. Agenda Item 4 approved.)

16 COMMISSIONER BALCH: So now we can wait for
17 you to --

18 MR. BRANCARD: I will take this upstairs and
19 print it -- you'll print it out, right.

20 Florene does the formal, nice ones for
21 you all to sign.

22 The only other item on the agenda then
23 is the next case for the next hearing. Just to
24 explain, we've had two separate appeals of the
25 geothermal well applications all for the same

1 facility. Because of the timing, one of them was
2 going to be heard at this month's hearing and one
3 next month's hearing. So the chair consolidated
4 to move them all to next month's hearing.

5 Just so you're aware, the geothermal
6 statute is separate from the gas statute, so we
7 don't really have a set of procedures to govern
8 how we do those hearings. So the chair has so far
9 issued a procedural order that kind of gives some
10 guidance to the parties.

11 And even though we've had some
12 contentious parties, we may actually need a little
13 prehearing conference or something to kind of get
14 them all on the same script for the hearing.

15 So I just want to make sure that the
16 commissioners are okay with the chair moving ahead
17 and making procedural decisions between now and
18 the time of the hearing.

19 COMMISSIONER BALCH: I believe that's why we
20 elected him chair.

21 CHAIRMAN CATANACH: Great. Fine with me.

22 If we do have a prehearing conference,
23 Mr. Brancard, who needs to be present for that?

24 MR. BRANCARD: Well, either both of us or
25 one of us can do it. If you want to delegate it

1 to me, I can just hold a prehearing conference and
2 get some sort of order to be signed afterwards
3 drafted for you.

4 CHAIRMAN CATANACH: So the commission
5 doesn't have to be present?

6 MR. BRANCARD: The commission does not have
7 to be present, no. That's why I'm sort of making
8 it clear to everybody what we're doing here, so
9 you're not wondering why you weren't invited to a
10 meeting with lawyers, which you'd love to go to.

11 CHAIRMAN CATANACH: If we can do anything to
12 make the next hearing less contentious or
13 complicated, it might help. I think it's going to
14 be contentious anyway. But yes, let's do that
15 then.

16 COMMISSIONER BALCH: We have one other case
17 that day as well, and I do remember that the
18 geothermal cases can go long. We may be into two
19 days. It might be useful to -- when do we have to
20 notice the September hearing?

21 MS. DAVISON: You're noticing it today.

22 MR. BRANCARD: And what do we have on the
23 agenda, Florene?

24 MS. DAVISON: We have those two cases, plus
25 four de novo cases, but they may go away, and

1 another acid gas injection.

2 COMMISSIONER BALCH: I'm just wondering if
3 Thursday and Friday is going to be enough time.

4 MR. BRANCARD: You may want to reserve two
5 days. If we go beyond two days, we'll just
6 continue to the next Monday.

7 COMMISSIONER PADILLA: I figured it will be
8 at least two days.

9 COMMISSIONER BALCH: There have been times
10 when we've met earlier in the week when we thought
11 it was going to be long, to a Wednesday or
12 something. But it's probably too late to notice a
13 Wednesday, right?

14 MS. DAVISON: Yes.

15 CHAIRMAN CATANACH: So we'll just have to
16 get the calendars.

17 COMMISSIONER BALCH: So I'm available the
18 first part of next week, anyway.

19 COMMISSIONER PADILLA: I can block mine out,
20 as well. I guess if that's typical -- I mean, do
21 we usually do that, go into the following next
22 Monday or Tuesday?

23 COMMISSIONER BALCH: You have to find a time
24 when all parties can be there and sometimes it's a
25 month or two away.

1 MR. BRANCARD: It may be.

2 COMMISSIONER BALCH: We can just continue it
3 to Monday and then we all have to show up, right?

4 CHAIRMAN CATANACH: In this case, I think
5 Lightning Dock, who is the applicant; is very
6 anxious to get this thing heard. So I think they
7 would probably agree to going as long as we could.

8 COMMISSIONER BALCH: So if we didn't finish
9 Friday by 5 o'clock, we just meet at 9 o'clock
10 Monday?

11 CHAIRMAN CATANACH: We don't want to meet on
12 Saturday?

13 COMMISSIONER BALCH: Not even a little bit.

14 CHAIRMAN CATANACH: Okay. And on the four
15 de novo cases, my understanding is those are
16 probably not going to go. We're trying to resolve
17 that other ways.

18 There is another case with the acid gas.
19 They're requesting to amend the order somehow, but
20 I don't think that --

21 COMMISSIONER BALCH: That's probably a
22 couple hours, I would guess.

23 MR. BRANCARD: But I also told the attorney
24 involved that we had this other big hearing set
25 for September, so govern yourself accordingly.

1 COMMISSIONER PADILLA: The following Monday
2 we have a lease sale and the Carlsbad Energy
3 Summit, so that's not going to work for me.

4 COMMISSIONER BALCH: What about Tuesday?

5 COMMISSIONER PADILLA: Both.

6 MR. BRANCARD: We'll see what happens.

7 COMMISSIONER BALCH: So Thursday, Friday.

8 CHAIRMAN CATANACH: We'll have to see how it
9 goes .

10 So can we adjourn, Mr. Brancard?

11 MR. BRANCARD: Yes, you can adjourn.

12 CHAIRMAN CATANACH: There being nothing
13 further, we'll adjourn this commission meeting and
14 see you guys in September.

15 COMMISSIONER BALCH: I'll make a motion to
16 adjourn.

17 COMMISSIONER PADILLA: I'll second.

18 CHAIRMAN CATANACH: All in favor.

19 (3-0 vote. Motion to adjourn approved.)

20 (Proceedings adjourned at 8:59 a.m.)

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1 STATE OF NEW MEXICO
2 COUNTY OF BERNALILLO

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REPORTER'S CERTIFICATE

6 I, Kelli Gallegos, New Mexico Provisional
7 Reporter, No. P-409, working under the direct
8 supervision of Paul Baca, NM CCR #112, do hereby
9 certify that I reported the foregoing proceedings
10 in stenographic shorthand and the pages are a true
11 and correct transcript of those proceedings and
12 were reduced to printed form under my direct
13 supervision.

14 I FURTHER CERTIFY that I am neither
15 employed by nor related to any of the parties or
16 attorneys in this matter and that I have no
17 interest in the final disposition of this matter.

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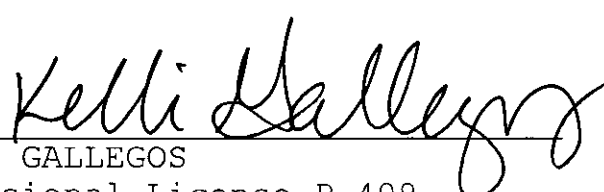
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