

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:

ORIGINAL

REOPENED APPLICATION OF THE NEW
MEXICO OIL CONSERVATION DIVISION, THROUGH
ITS ENVIRONMENTAL BUREAU CHIEF, FOR ADOPTION
OF AN AMENDMENT TO 19.15.39 NMAC ADDING NEW SECTIONS
TO BE CODIFIED AT 19.15.39.9 AND 19.15.39.10 NMAC
ADDRESSING SPECIAL PROVISIONS FOR SANTA FE COUNTY
AND THE GALISTEO BASIN, SANTA FE, SANDOVAL AND
SAN MIGUEL COUNTIES, NEW MEXICO

Case No. ~~14255~~

DE NCVO AMENDED APPLICATION OF ENERGEN
RESOURCES CORPORATION TO AMEND THE COST
RECOVERY PROVISIONS OF COMPULSORY POOLING ORDER
NO. R-1960, TO DETERMINE REASONABLE COSTS, AND FOR
AUTHORIZATION TO RECOVER COSTS FROM PRODUCTION OF
POOLED MINERAL INTERESTS, RIO ARRIBA COUNTY,
NEW MEXICO

Case No. 13957

REPORTER'S TRANSCRIPT OF PROCEEDINGS
COMMISSIONER HEARING

BEFORE: MARK E. FESMIRE, Chairman
JAMI BAILEY, Commissioner
WILLIAM C. OLSON, Commissioner

May 27, 2009

Santa Fe, New Mexico

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This matter came on for hearing before the New
Mexico Oil Conservation Commission, MARK E. FESMIRE,
Chairman, on Wednesday, May 27, 2009, at the New Mexico
Energy, Minerals and Natural Resources Department, 1220
South Saint Francis Drive, Room 102, Santa Fe, New
Mexico.

REPORTED BY: Jacqueline R. Lujan, CCR #91
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16 ALSO PRESENT:

17 Florene Davidson

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1 CHAIRMAN FESMIRE: At this point we will
2 call the Wednesday, May 27th regularly-scheduled meeting
3 of the New Mexico Oil Conservation Commission to order.
4 The record should reflect that Commissioners Bailey,
5 Olson and Fesmire are all present. We, therefore, have a
6 quorum. The first order of business before the
7 Commission this morning is the adoption of the minutes of
8 the April 15th, 2009, special Commission meeting. Have
9 the Commissioners had a chance to review those minutes?

10 COMMISSIONER BAILEY: Yes, I have, and I
11 move that we adopt them.

12 COMMISSIONER OLSON: Second.

13 CHAIRMAN FESMIRE: All those in favor
14 signify by saying aye.

15 Let the record reflect that the minutes of the
16 April 15th meeting were unanimously adopted by the
17 Commission, signed by the Chairman and conveyed to the
18 secretary.

19 At this point we probably need to talk about
20 scheduling. The next item on the agenda is Case Number
21 14255, the Galisteo Basin matter. The Commission has
22 decided, in order to facilitate scheduling this morning,
23 that we will address the Galisteo Basin first, then we
24 will address the Energen case, and then we'll go into
25 deliberations on the "Pit Rule". So if you are brave

1 enough to want to venture how long it will take to
2 address those three issues, you can plan your day
3 accordingly.

4 The first item before the Commission this
5 morning is Case Number 14255, the reopened Application of
6 the New Mexico Oil Conservation Division, through its
7 Environmental Bureau Chief, for adoption of an amendment
8 to 19.15.39 NMAC adding new sections to be codified at
9 19.15.39.9 and 19.15.39.10 NMAC addressing special
10 provisions for Santa Fe County and the Galisteo Basin,
11 Santa Fe, Sandoval and San Miguel Counties. May we have
12 the entry of appearance for the attorneys in that case,
13 please?

14 MS. MACQUESTEN: Mr. Commissioner, my name
15 is Gail MacQuesten. I'm here representing the Oil
16 Conservation Division.

17 CHAIRMAN FESMIRE: Ms. MacQuesten, are you
18 the only attorney in this case?

19 MS. MACQUESTEN: Now I am.

20 CHAIRMAN FESMIRE: Are you prepared to
21 begin?

22 MS. MACQUESTEN: Yes, I am. Mr.
23 Commissioner, I have two witnesses, Theresa Duran-Saenz
24 and Daniel Sanchez. Ms. Duran-Saenz is here to provide
25 information on notice. You should have in front of you

1 Exhibit 48, which is our Affidavit of Notice. It was not
2 provided with the prehearing statement but it was
3 provided this morning. I would move for admission of the
4 affidavit. However, if you have questions about notice,
5 Ms. Duran-Saenz is here to testify to answer your
6 questions.

7 CHAIRMAN FESMIRE: Have the Commissioners
8 had a chance to review the --

9 COMMISSIONER BAILEY: Yes, I have, and I
10 have no questions.

11 COMMISSIONER OLSON: I have no questions.

12 CHAIRMAN FESMIRE: Neither do I. We will
13 go ahead and admit OCD Exhibit 48 in Case Number 14255.

14 (Exhibit 48 was admitted.)

15 MS. MACQUESTEN: In that case, I would
16 call Daniel Sanchez.

17 CHAIRMAN FESMIRE: Mr. Sanchez, would you
18 proceed to the stand, please? Would you raise your right
19 hand?

20 (The witness was sworn.)

21 CHAIRMAN FESMIRE: Ms. MacQuesten before
22 we start, can you bring the Commission up to speed of
23 where we are and why we're doing this in this case?

24 MS. MACQUESTEN: Certainly. The Division
25 had proposed special rules for the Galisteo Basin and the

1 remainder of Santa Fe County. After the case was
2 concluded and the Commission entered into its
3 deliberations, it made the determination that the rules
4 should apply only to the Galisteo Basin and not the
5 remainder of Santa Fe County.

6 At that time the Commission asked the OCD to
7 provide a legal description of the Galisteo Basin so that
8 the rule could be limited to just that area. The OCD
9 provided a legal description and also copies of the maps
10 that we used to create that legal description. The
11 information was put out for comment. We did not receive
12 any comments or proposed modifications for the legal
13 description. However, the Commission order indicated
14 that the Commission would like to have this brought to a
15 hearing so that testimony could be taken on the legal
16 description and any comments or questions could be raised
17 at that time.

18 CHAIRMAN FESMIRE: At this point -- and
19 we're not scheduling right now -- is there anyone here
20 who has any comments on the proposed legal description?
21 Ms. MacQuesten, why don't you proceed?

22 DANIEL SANCHEZ

23 Having been first duly sworn, testified as follows:

24 DIRECT EXAMINATION

25

1 BY MS. MACQUESTEN:

2 Q. Would you please state your name for the
3 record?

4 A. Daniel Sanchez.

5 Q. And what is your title?

6 A. I am the Compliance and Enforcement Manager
7 for the OCD.

8 Q. Are you here to introduce and explain the
9 exhibits pertaining to the legal description for the
10 Galisteo Basin?

11 A. Yes, I am.

12 Q. Could you turn to what's been marked as
13 Exhibit 45?

14 A. Okay.

15 Q. What is this exhibit?

16 A. This is an exhibit of the Galisteo Basin and
17 watershed as defined by the State Engineer's office.

18 Q. Where did you obtain this map?

19 A. From the State Engineer's office. Darrio
20 Rodriguez, who is now retired from the State Engineer's
21 office, put together the database that came up with these
22 coordinates, and Manuel Pasquel from the State Engineer's
23 office put together the maps and provided those maps to
24 us.

25 Q. Is this map pulled from the database of the

1 State Engineer's office?

2 A. Yes, it is.

3 Q. The map has a dotted line boundary. What does
4 that indicate?

5 A. That is the boundary of the Galisteo Basin
6 watershed.

7 Q. Is the State Engineer the entity that defines
8 the Galisteo Basin watershed?

9 A. Yes, they are.

10 Q. What are the small squares on the map?

11 A. Those are the sections within that area.

12 Q. And what are the numbers within each section?

13 A. They indicate the range within each section.

14 Q. What are the blank areas that are marked,
15 "MS"?

16 A. Those are areas that have not been surveyed
17 and in this case, they're land grants.

18 Q. Could you turn to what's been marked as
19 Exhibit 46, please?

20 A. Okay.

21 Q. What is this exhibit?

22 A. This, as well, is a blown-up version of that
23 map, and this shows the sections. The sections are
24 penciled in for the entire area.

25 Q. Could you turn to what's been marked as

1 Exhibit 47, please?

2 A. Okay. Exhibit 47 is the legal description of
3 the entire basin, both sides.

4 Q. And this is by section, township and range?

5 A. Yes, it is.

6 Q. How were the unsurveyed areas described?

7 A. They were described by the surveyed sections
8 around those areas that were not surveyed.

9 Q. Why not just name the land grants involved?

10 A. Some of the land grants were only partly
11 within the Galisteo Basin.

12 Q. Now, in paragraph A(1) and A(2), some of the
13 section numbers are highlighted. Why is that?

14 A. Those highlighted numbers are additional areas
15 or descriptions of additional areas within Sandoval and
16 San Miguel Counties that we originally didn't see in our
17 version of the original map. When the State Engineer
18 gave us the coordinates for the new map, those little
19 sections, those areas, actually came out, so we decided
20 to put those in, every single piece that we could, within
21 that map -- within the boundaries of the watershed.

22 Q. To be clear, those highlighted sections were
23 not included in the original description that was
24 provided with the application?

25 A. No, they were not.

1 Q. Did the OCD receive any comments on the
2 proposed legal description?

3 A. No, we did not.

4 Q. Did the OCD receive any proposed
5 modifications?

6 A. No.

7 MS. MACQUESTEN: I would move for
8 admission of Exhibits 45 through 47.

9 CHAIRMAN FESMIRE: Is there any objection
10 to the admission of Exhibits 45 through 47? They'll be
11 so admitted.

12 (Exhibits 45 through 47 were admitted.)

13 MS. MACQUESTEN: That concludes the OCD's
14 presentation.

15 CHAIRMAN FESMIRE: Thank you. Do you have
16 anything to add?

17 MS. MACQUESTEN: Just that the reason we
18 provided this level of detail on the map for you and in
19 the legal description was so that we could give you the
20 raw data to fashion the legal description however you see
21 fit to fashion it.

22 And, also, I wanted to point out that you can
23 put the legal description of the Galisteo Basin in
24 several different locations within the proposed rule.
25 Again, we're leaving it to the Commission to decide how

1 to do it. But the NMAC structure would allow you to take
2 this description and put it in subsection 7, which is the
3 area of Part 39 that's reserved for definitions, because
4 it is a very lengthy legal description. So it would be
5 possible that you can either build it into the rule or
6 you could put it in the definition section of that part.

7 CHAIRMAN FESMIRE: Ms. MacQuesten, thank
8 you very much. At this time the Commission will take
9 Case Number 14255 under consideration with the intention
10 of deliberating at the end of the -- towards the end of
11 the meeting today. Is that acceptable? Thank you very
12 much. Thank you, Mr. Sanchez.

13 The next case before the Commission is Case
14 Number 13957, the amended application of Energen
15 Resources Corporation to amend the cost recovery
16 provision of Compulsory Pooling Order No. R-1960, to
17 determine reasonable costs, and for the authorization to
18 recover costs from production of pooled mineral interests
19 in Rio Arriba County, New Mexico. Are the attorneys
20 present for that case?

21 MR. HALL: Yes, sir.

22 MR. BRUCE: Yes, sir.

23 CHAIRMAN FESMIRE: May we have an entry of
24 appearance?

25 MR. HALL: Mr. Chairman, Commissioners,

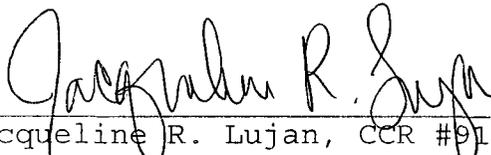
REPORTER'S CERTIFICATE

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I, JACQUELINE R. LUJAN, New Mexico CCR #91, DO
HEREBY CERTIFY that on May 27, 2009, proceedings in the
above captioned case were taken before me and that I did
report in stenographic shorthand the proceedings set
forth herein, and the foregoing pages are a true and
correct transcription to the best of my ability.

I FURTHER CERTIFY that I am neither employed by
nor related to nor contracted with any of the parties or
attorneys in this case and that I have no interest
whatsoever in the final disposition of this case in any
court.

WITNESS MY HAND this 9th day of June, 2009.


Jacqueline R. Lujan, CCR #91
Expires: 12/31/2009