

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:)

APPLICATION OF THE VALLES CALDERA TRUST)
TO DENY APPLICATIONS OF GEOPRODUCTS OF)
NEW MEXICO, INC., FOR PERMITS TO)
RE-ENTER ABANDONED GEOTHERMAL WELLS IN)
SANDOVAL COUNTY, NEW MEXICO)

CASE NO. 13,215
RECEIVED
FEB 19 2004
Oil Conservation Division
1220 S. St. Francis Drive
Santa Fe, NM 87505

REPORTER'S TRANSCRIPT OF PROCEEDINGS

COMMISSION HEARING

ORIGINAL

BEFORE: LORI WROTENBERY, CHAIRMAN
JAMI BAILEY, COMMISSIONER
ROBERT LEE, COMMISSIONER

February 12th, 2004

Santa Fe, New Mexico

This matter came on for hearing before the Oil Conservation Commission, LORI WROTENBERY, Chairman, on Thursday, February 12th, 2004, 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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A P P E A R A N C E S

FOR THE COMMISSION:

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 Santa Fe, New Mexico 87505

FOR VALLES CALDERA TRUST:

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 and
 KELLAHIN & KELLAHIN
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 Santa Fe, New Mexico 87504-2265
 By: W. THOMAS KELLAHIN

(Continued...)

A P P E A R A N C E S (Continued)

FOR VALLES CALDERA TRUST (Continued):

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FOR GEOPRODUCTS OF NEW MEXICO:

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Roswell, New Mexico 88202
By: ANDREW J. CLOUTIER
and
JAMES G. BRUCE
Attorney at Law
P.O. Box 1056
Santa Fe, New Mexico 87504

* * *

ALSO PRESENT:

Clifford K. Larsen
Sierra Club
Santa Fe, NM

* * *

1 WHEREUPON, the following proceedings were had at
2 9:12 a.m.:

3 CHAIRMAN WROTENBERY: And that brings us to Case
4 13,215, this is the Application of the Valles Caldera Trust
5 to deny applications of GeoProducts of New Mexico, Inc.,
6 for permits to re-enter abandoned geothermal wells in
7 Sandoval County, New Mexico. Geoproducts of New Mexico,
8 Inc., has filed two Applications for permits to re-enter
9 geothermal wells located on the Baca Grant Number 1 in
10 Sandoval County, New Mexico. I believe it's Number 1
11 rather than Number 4, isn't it, Mr. Brooks?

12 MR. BROOKS: I believe that is correct.

13 CHAIRMAN WROTENBERY: And the Applicant in this
14 case, Valles Caldera Trust, seeks an order of the
15 Commission denying the Applications.

16 We have set this matter for hearing on some
17 preliminary legal issues only for today. We did ask the
18 parties to file briefs on those preliminary legal issues,
19 and the parties have filed those briefs.

20 Neither of the parties asked for oral argument on
21 these issues. But we do, before we to start our
22 deliberations, want to ask the Commissioners if they have
23 any questions of the parties.

24 MR. BROOKS: Are you going to call for
25 appearances?

1 CHAIRMAN WROTENBERY: Yes. And then we also want
2 to give anybody that would like to make a comment on these
3 issues to come forward and make a short statement, if you
4 wish.

5 So at this point I'll call for appearances in
6 this case.

7 MR. GALLEGOS: Appearing on behalf of the Trust,
8 Gene Gallegos, Santa Fe, New Mexico. Along with me is Tom
9 Kellahin, Santa Fe, and Jack McCarthy, Santa Fe.

10 MR. CLOUTIER: Andrew Cloutier and Jim Bruce on
11 behalf of GeoProducts of New Mexico.

12 CHAIRMAN WROTENBERY: Thank you. Is there
13 anybody else here today that would like to make a comment
14 or statement on this matter?

15 Yes, sir?

16 MR. LARSEN: Yes, Cliff Larsen with the Sierra
17 Club.

18 CHAIRMAN WROTENBERY: Thank you.

19 Okay Commissioners, you have had a chance, I
20 believe, to review the briefs that were filed in this
21 matter. Do you have any questions of the parties at this
22 point?

23 COMMISSIONER BAILEY: I don't believe so.

24 COMMISSIONER LEE: Neither do I.

25 CHAIRMAN WROTENBERY: Mr. Brooks, how about you?

1 MR. BROOKS: I don't believe I have at the
2 moment, no.

3 CHAIRMAN WROTENBERY: Okay. In that case I'll
4 just ask, Mr. Gallegos, Mr. Cloutier, would you like to
5 make a brief statement before the Commission? We don't
6 expect extensive oral argument, but if you would like to
7 make a brief statement we'd entertain that at this point.

8 MR. GALLEGOS: Well, thank you, madame Chair. I
9 think we'll stand on the pleadings that have been filed. I
10 think we've covered the issues sufficiently. Unless
11 there's questions on any of those things, which we'd be
12 happy to answer, I think that will be our position. Thank
13 you.

14 CHAIRMAN WROTENBERY: Thank you, Mr. Gallegos.
15 Mr. Cloutier?

16 MR. CLOUTIER: Madame Chair, thank you. In the
17 absence of questions from the Chair or from the
18 Commissioners and counsel, we'll stand on our brief as
19 well. Thank you.

20 CHAIRMAN WROTENBERY: Thank you, Mr. Cloutier.
21 Mr. Larsen?

22 MR. LARSEN: Yes. This case is being governed in
23 part, or in whole, by the rules that were adopted November
24 15th of 1983 pursuant to the Geothermal Resources Act,
25 1978. These particular rules are clearly more than 20

1 years old, and developed at a time -- a considerable
2 difference in the way things were done and how they were
3 done.

4 And I want to call your attention to the Act
5 itself, that suggested that rules needed to be developed in
6 a matter to safeguard health, life, property and natural
7 resources in the public welfare.

8 These rules developed or adopted in 1983, that
9 are not on your website, are done at a time when the goal
10 was to maximize recovery of the resource itself. The rules
11 are virtually silent on other issues that the Act suggested
12 that the rules should encompass.

13 I worked on, as you know, the Pit Rule for some
14 while, taking into consideration some of these issues in
15 oil and gas drilling that this Act suggests should be taken
16 into consideration in geothermal drilling.

17 And I guess what I'm asking at this point is that
18 the Commission panel a working group to overhaul these
19 rules that more fulfill the current environment, as well as
20 the conditions of the Act, and that -- moreover, that until
21 these rules are redrawn and adopted, that no action be
22 taken on any applications to drill, simply because the
23 rules as they are are updated and inappropriate currently.

24 Thank you.

25 CHAIRMAN WROTENBERY: Thank you, Mr. Larsen.

1 Okay, at this point, then, I will entertain a
2 motion that the Commission move into closed executive
3 session, during which it will deliberate in this particular
4 matter.

5 COMMISSIONER BAILEY: I so move.

6 COMMISSIONER LEE: Second.

7 CHAIRMAN WROTENBERY: All in favor say aye.

8 COMMISSIONER BAILEY: Aye.

9 COMMISSIONER LEE: Aye.

10 CHAIRMAN WROTENBERY: Aye. Thank you, everyone.

11 (Off the record at 9:19 a.m.)

12 (The following proceedings had at 10:45 a.m.):

13 CHAIRMAN WROTENBERY: Are we ready to go back on
14 the record?

15 At this point I'll entertain a motion that we go
16 back into open meeting.

17 COMMISSIONER BAILEY: I so move.

18 COMMISSIONER LEE: Second.

19 CHAIRMAN WROTENBERY: All in favor say aye.

20 COMMISSIONER BAILEY: Aye.

21 COMMISSIONER LEE: Aye.

22 CHAIRMAN WROTENBERY: Aye. And I'll note for the
23 record that the only matter discussed by the Commission
24 while we were in closed executive session was Case 13,215.

25 And Commissioners, I believe you have a copy of a

1 proposed order that reflects the discussion we had this
2 morning.

3 COMMISSIONER BAILEY: Yes, I have, and I move
4 that we all sign it.

5 COMMISSIONER LEE: Second.

6 CHAIRMAN WROTENBERY: All in favor say aye.

7 COMMISSIONER BAILEY: Aye.

8 COMMISSIONER LEE: Aye.

9 CHAIRMAN WROTENBERY: Aye. And while we're
10 signing this Order, I'll note, we have some copies of the
11 unsigned version of the Order there on the corner. The
12 signed version will be available later today, a copy.

13 Ms. Davidson?

14 And I believe that concludes our business for
15 today. I'll entertain a motion to adjourn.

16 COMMISSIONER BAILEY: I move we adjourn.

17 COMMISSIONER LEE: Second.

18 CHAIRMAN WROTENBERY: All in favor say aye.

19 COMMISSIONER BAILEY: Aye.

20 COMMISSIONER LEE: Aye.

21 CHAIRMAN WROTENBERY: Aye. Thank you very much,
22 everybody.

23 (Thereupon, these proceedings were concluded at
24 10:50 a.m.)

25 * * *

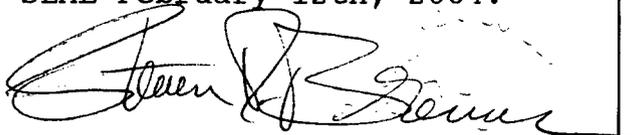
CERTIFICATE OF REPORTER

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 February 12th, 2004.



STEVEN T. BRENNER
CCR No. 7

My commission expires: October 16th, 2006