

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

APPLICATION OF THE NEW MEXICO OIL
CONSERVATION DIVISION FOR A COMPLIANCE
ORDER AGAINST XERIC OIL & GAS CORP.

Case No. 14106

CASE NO. 13957; CONTINUED TO MAY 27, 2009
CASE NO. 14149; CONTINUED TO APRIL 9, 2009
CASE NO. ~~14150~~ CONTINUED TO APRIL 9, 2009

REPORTER'S TRANSCRIPT OF PROCEEDINGS

COMMISSIONER HEARING

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

March 12, 2009

Santa Fe, New Mexico

This matter came on for hearing before the New
Mexico Oil Conservation Commission, MARK E. FESMIRE,
Chairman, on Thursday, March 12, 2009, at the New Mexico
Energy, Minerals and Natural Resources Department, 1220
South St. Francis Drive, Room 102, Santa Fe, New Mexico.

REPORTED BY: Jacqueline R. Lujan, CCR #91
Paul Baca Professional Court Reporters
500 Fourth Street, N.W., Suite 105
Albuquerque, NM 87103 505-843-9241

A P P E A R A N C E S

FOR THE OIL CONSERVATION COMMISSION:

CHERYL BADA, ESQ.
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

ALSO PRESENT:

Florene Davidson

REPORTER'S CERTIFICATE

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1 CHAIRMAN FESMIRE: At this time we'll go
2 on the record with the March 12th, 2009,
3 regularly-scheduled committee of the Oil Conservation
4 Commission. The record should reflect that Commissioners
5 Bailey, Olson and Fesmire are present. It is 9:25 a.m.
6 We're located in Porter Hall, at 1220 St. Francis in
7 Santa Fe, New Mexico.

8 The first order of business before the
9 Commission is to approve the minutes of the February
10 24th, 2009, Commission meeting. Have the Commissioners
11 had a chance to review those minutes?

12 COMMISSIONER BAILEY: Yes, I have, and I
13 move that we adopt them.

14 COMMISSIONER OLSON: I'll second that.
15 I've reviewed them, and I think they accurately reflect
16 our actions and discussions at the meeting.

17 CHAIRMAN FESMIRE: There's been a motion
18 and a second to approve the minutes. All those in favor
19 signify by saying aye. Let the record reflect that the
20 minutes were unanimously adopted by the Commission and
21 that they will be signed by the Chairman and conveyed to
22 the secretary.

23 The next order of business before the
24 commission is the final action to be taken in the De Novo
25 Case 14106, the application of New Mexico Oil

1 Conservation Division for a Compliance Order against
2 Xeric Oil & Gas. Counsel Bada, I understand that there's
3 some new developments in this case that the Commission
4 needs to be informed of?

5 MS. BADA: The Supreme Court ruled in the
6 Marbob case yesterday that the Commission does not have
7 the authority to impose penalties. It has to be pursuant
8 to a District Court action. So I've taken the penalty
9 references in what used to be 19 and 20 in your findings
10 paragraph, and then the two ordering paragraphs -- I
11 believe they were 5 and 6 or 6 and 7 -- out of the Order
12 for Xeric.

13 CHAIRMAN FESMIRE: Commissioner Bailey,
14 have you had a chance to review the revised Order?

15 COMMISSIONER BAILEY: Yes, I have, and I
16 believe it accurately reflects our decisions.

17 CHAIRMAN FESMIRE: Commissioner Olson, I
18 know you probably haven't.

19 COMMISSIONER OLSON: Yeah. I was just
20 going to say -- so it was 19 and 20?

21 MS. BADA: I believe it was 19 and 20. It
22 was the last two findings paragraphs.

23 COMMISSIONER OLSON: So the provision,
24 "knowing and willfully violating the Oil and Gas Act,"
25 and that -- "assessment of the penalty"?

1 MS. BADA: Yes. And the second to the
2 last -- two paragraphs right before the last paragraph in
3 the Order, what used to be 6 and 7 -- no -- 5 and 6.

4 COMMISSIONER OLSON: So I guess my
5 question is, how will this work? Will we, then, still
6 pursue penalties against Xeric?

7 MS. BADA: I don't know. That would be up
8 to the Division whether they want to file it in District
9 Court.

10 CHAIRMAN FESMIRE: Commissioner Olson, the
11 Division is going to meet this afternoon to figure out
12 what this does to our enforcement program and how we'll
13 proceed from here. Because as of this minute, we don't
14 know exactly how we're going to address it.

15 COMMISSIONER OLSON: Okay. I guess I just
16 might say that I think, you know, penalties are warranted
17 for this type of violations of the rules and the act,
18 so -- just leave it at that. Otherwise, I -- I'll second
19 this.

20 CHAIRMAN FESMIRE: All those in favor as
21 adopting the Order as drafted by Counsel signify by
22 saying aye. Let the record reflect that all three
23 Commissioners have voted in the affirmative to adopt the
24 Order as drafted by Counsel. We will sign the Order and
25 convey it to the secretary.

1 The next case before the Commission is Case
2 Number 13957, the De Novo amended application of Energen
3 Resources Corporation to amend the cost recovery
4 provisions of Compulsory Pooling Order No. R-1960, to
5 determine reasonable costs, and for authorization to
6 recover costs from production of pooled mineral
7 interests, in Rio Arriba County, New Mexico. This case
8 at the request of Counsel has been continued to the May
9 27, 2009 Commission meeting.

10 The next case before the Commission is Case
11 Number 14149, the De Novo application of El Paso
12 Exploration & Production Company, L.P. to abolish the Van
13 Bremmer Canyon-Vermejo Gas Pool, expand the Castle Rock
14 Park-Vermejo Gas Pool, and to establish special rules and
15 regulations for the Castle Rock Park-Vermejo Gas Pool in
16 Colfax County, New Mexico. This case will be continued
17 to the April 9th, 2009 Commission meeting at the request
18 of Counsel.

19 The next case before the Commission is Case
20 Number 14150, the De Novo application of El Paso
21 Exploration & Production Company, L.P., to expand the
22 Stubblefield Canyon Raton-Vermejo Gas Pool, and to
23 establish special rules and regulations for the pool, in
24 Colfax County, New Mexico. This case will also be
25 continued to the April 9th, 2009 Commission meeting.

1 Is there any other business before the
2 Commission this morning?

3 COMMISSIONER BAILEY: No.

4 COMMISSIONER OLSON: I guess our next
5 meeting is now on the 2nd, right, for the pit rules?

6 CHAIRMAN FESMIRE: Yeah. We were
7 discussing that scheduling a while ago. We have a pit
8 rule meeting on the 2nd. We've been unable to get the
9 proper notice in Sandoval County. We have to publish in
10 the Rio Rancho paper for the Galisteo Basin rules, so
11 we're going to have to look at April 15th. Are you
12 available?

13 COMMISSIONER OLSON: I have to check,
14 because I may have a public meeting. It may be in the
15 evening. I have to check on that.

16 CHAIRMAN FESMIRE: Okay. Because we
17 couldn't get this notice published in time, we're going
18 to have to reschedule. We're going to try to reschedule
19 that as soon as possible, but it doesn't look like we
20 have enough time to do it on the regularly-scheduled
21 meeting on the 9th.

22 COMMISSIONER OLSON: Let me check that
23 when I get back to the office and I'll get back to the
24 Commission secretary.

25 CHAIRMAN FESMIRE: We still have the

1 meeting on the 2nd --

2 COMMISSIONER OLSON: Oh, we do?

3 CHAIRMAN FESMIRE: Yes -- on the pit rule
4 amendment so we end up meeting once a week for three
5 weeks in a row. But we'll hold that 15th day in abeyance
6 and notice it out after we find out if you're available.

7 COMMISSIONER OLSON: I'll check as soon as
8 I get back to the office.

9 CHAIRMAN FESMIRE: Is there any other
10 business before the Commission? With that, the Chair
11 would entertain a motion to adjourn.

12 COMMISSIONER BAILEY: I so move.

13 COMMISSIONER OLSON: Second.

14 CHAIRMAN FESMIRE: All those in favor
15 signify by saying aye. Let the record reflect that the
16 Commission voted to adjourn at 9:35 a.m. of the
17 aforementioned date.

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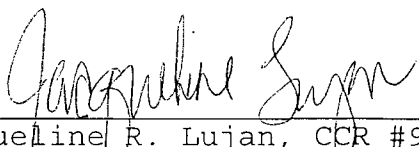
REPORTER'S CERTIFICATE

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I, JACQUELINE R. LUJAN, New Mexico CCR #91, DO
HEREBY CERTIFY that on March 12, 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 16th day of March, 2009.


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