

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 C&D MANAGEMENT COMPANY Case No. 14055
TO REOPEN CASE NO. 14055, EDDY COUNTY,
NEW MEXICO

MOTION OF TARGA MIDSTREAM SERVICES, LLC, Case No. 14575
TO REOPEN CASE TO OFFER PROOF OF
COMPLETION AND RESULTS OF PRESSURE TESTING

OIL CONSERVATION DIVISION'S APPLICATION Case No. 14744
FOR REHEARING OF RULE AMENDMENT 19.15.14.8

REPORTER'S TRANSCRIPT OF PROCEEDINGS
COMMISSIONER HEARING

CASE 14785

BEFORE: JAMI BAILEY, Chairman
ROBERT BALCH, Commissioner
SCOTT DAWSON, Commissioner

February 23, 2012
Santa Fe, New Mexico

This matter came on for hearing before the New
Mexico Oil Conservation Commission, JAMI BAILEY,
Chairman, on Thursday, February 23, 2012, 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
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1 we've missed the date for filing with the New Mexico
2 Register.

3 MR. FELDEWERT: I see.

4 MR. BRANCARD: It only publishes twice a
5 month.

6 COMMISSIONER BALCH: April would be the
7 next hearing, unless we had a special meeting.

8 CHAIRMAN BAILEY: That's true. But I
9 think we'll have plenty of time in April.

10 MR. BRANCARD: Then I need to rewrite your
11 order to indicate we're rejecting re-hearing. We are
12 approving it as a petition for rule-making.

13 CHAIRMAN BAILEY: Okay. And I will sign
14 on behalf of the Commission.

15 MR. BRANCARD: All right.

16 CHAIRMAN BAILEY: Can I get your approval?

17 COMMISSIONER DAWSON: I approve.

18 COMMISSIONER BALCH: Absolutely.

19 MR. BRANCARD: I don't know if the
20 Commissioners are familiar with the proceeding that's
21 going on in the courts now related to the Pit Rule
22 rule-making.

23 Back on January 9th, the Oil & Gas
24 Accountability Project filed a petition for a writ of
25 prohibition with the District Court. This kind of

1 coincided with the motions filed -- prior motions filed
2 by the Oil & Gas Association and the Commission to put
3 the current appeals of the Pit Rule on hold while the
4 rule-making that you all had proposed to go forward with
5 go forward.

6 We had a hearing January 10th in front of
7 District Court Judge Barbara Vigil. She agreed, and she
8 put the current appeals of 2008 and 2009 rule-makings on
9 hold while the Commission rule-making would go forward.

10 However, literally the day before, the Oil &
11 Gas Accountability Project filed a petition for a writ of
12 prohibition. It went to a different District Court Judge
13 in Santa Fe, and it has sort of slowly ground forward
14 there. The judge, after a few weeks, issued an order to
15 issue the writ, but his clerk didn't do anything. And
16 then the Oil & Gas Association finally intervened in the
17 court case.

18 We eventually filed an answer to the petition,
19 and that, I guess, reminded the Court clerk that he
20 hadn't done anything, and then he filed the actual writ
21 with the Court which said that the Commission is
22 prevented from going forward, holding the rule-making,
23 and if it does doesn't like it, it can show up for a
24 hearing on June 12th to discuss it.

25 It's our opinion, and Oil & Gas Association I

1 believe agrees, that the Court actually has rules that
2 say that once they issue a writ, they're supposed to hold
3 a hearing within 10 days. So we have filed a motion with
4 the Court to expedite this hearing so it can be held well
5 in advance of the April hearing.

6 Oil & Gas Accountability Project responded
7 saying this rule doesn't apply. I think we're about to
8 respond. I don't know if you all are going to respond to
9 their response, but we are. And it's just whether we can
10 get the attention of the judge and actually have a
11 hearing on this case, whether we can move forward.

12 But at this point, the April hearing is
13 basically prohibited, unless we can get the judge to
14 quash or deny the writ that's been issued. So just so
15 you're aware --

16 CHAIRMAN BAILEY: Stay tuned.

17 MR. BRANCARD: -- of what the reality is
18 at this point.

19 CHAIRMAN BAILEY: Mr. Feldewert?

20 MS. GERHOLT: Madam Chair, members of the
21 Commission? Mr. Brancard, I think, summarized things
22 aptly. I can only add two things: One, I do believe
23 that the Court is required to hold a hearing on their
24 writ prior to June. And I have so asked the Court, and
25 we are hopeful that at some point in time the Court will

1 look at this and decide if it should have a hearing in
2 advance of June.

3 Secondly, we are also confident that there is
4 a case, at least from our perspective, that's directly on
5 point; that if it is finally -- we have the opportunity
6 to bring it to the Court's attention, that the Court will
7 likewise conclude that it's on point and, therefore,
8 quash the writ of prohibition to allow the hearing to go
9 forward.

10 So on behalf of the Association, I would
11 request that the Commission still plan on having the
12 hearing in April. We are planning on having the hearing
13 in April. We're just trying to get before the judge so
14 that we can have the hearing in April.

15 CHAIRMAN BAILEY: Thank you for your
16 statement.

17 COMMISSIONER BALCH: Do you have a
18 potential timeline for when we may know?

19 MR. FELDEWERT: We are trying to get that
20 accelerated. We've done almost everything we can do to
21 get this to the attention of a judge. And I can't speak
22 for the Court, but for whatever reason, we just haven't
23 been able to get a hearing yet. But we're hopeful that
24 we will soon.

25 MR. BRANCARD: On behalf of the

1 Commission, we have actually filed three separate
2 requests for a hearing to be able to get a hearing.

3 COMMISSIONER BALCH: I'm not a lawyer, but
4 at some point can't it go up the chain there?

5 MR. FELDEWERT: That certainly is an
6 option. We're hoping to avoid that option, but that is
7 the next step. And again, if we have to proceed to the
8 next step, we're hopeful that we can get a decision
9 fairly quick from the Appellant Court, again, because we
10 believe that there is a case on point that would indicate
11 that this writ isn't proper and that the hearing should
12 go forward.

13 MR. BRANCARD: I think I'll work with the
14 Chair on this. I think you all and the parties involved
15 in that hearing -- I don't want everyone to wait until
16 the last minute before you cancel the hearing, so --

17 CHAIRMAN BAILEY: Is there any other
18 business before the Commission today?

19 MS. GERHOLT: Not from the Division.

20 CHAIRMAN BAILEY: Do I hear a motion to
21 adjourn for the day?

22 COMMISSIONER DAWSON: I'll motion.

23 COMMISSIONER BALCH: Second.

24 CHAIRMAN BAILEY: All those in favor?

25 Okay. Thank you very much.

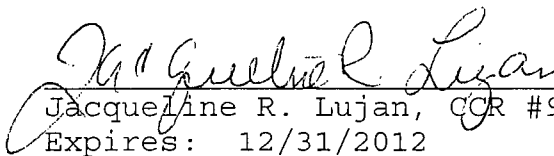
REPORTER'S CERTIFICATE

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I, JACQUELINE R. LUJAN, New Mexico CCR #91, DO
HEREBY CERTIFY that on February 23, 2012, 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 7th day of March, 2012.


Jacqueline R. Lujan, CCR #91
Expires: 12/31/2012