

NEW MEXICO OIL CONSERVATION COMMISSION

COMMISSION HEARING

SANTA FE, NEW MEXICO

Hearing Date NOVEMBER 17, 1994 Time: 9:00 A.M.

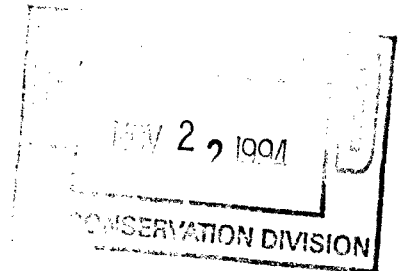
NAME	REPRESENTING	LOCATION
Melvin Trimmer	R.W. Bynum	SF
Bob Castille	Controlled Recovery	Hobbs
R.F. (Frank) Gray	Texaco E&P INC	Midland, TX
RICHARD BRAKEY	PARADO INC.	HOBBS
LOUIS MAZZULLO	Geoscience Consultants	ALBUQUERQUE
Bill Olson	NM OCO	Santa Fe
Ned Kendrick	Montgomery & Andrews	Santa Fe
SCOTT SPRADLIN	EMRAD	SF
SCOTT HALL	MILLER LAW FIRM	SF
Ken Marsh	Controlled Recovery INC	Hobbs
John Cope	CRF	Hobbs

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:)

CASE NO. 11,143

HEARING CALLED BY THE OIL)
CONSERVATION DIVISION TO AMEND)
RULE 711 OF ITS GENERAL RULES)
AND REGULATIONS PERTAINING TO)
THE PERMITTING OF SURFACE WASTE)
DISPOSAL FACILITIES)



ORIGINAL

REPORTER'S TRANSCRIPT OF PROCEEDINGS

COMMISSION HEARING

BEFORE: WILLIAM J. LEMAY, CHAIRMAN
WILLIAM WEISS, COMMISSIONER
JAMI BAILEY, COMMISSIONER

November 17th, 1994

Santa Fe, New Mexico

This matter came on for hearing before the Oil Conservation Commission on Thursday, November 17th, 1994, at Morgan Hall, State Land Office Building, 310 Old Santa Fe Trail, Santa Fe, New Mexico, before Steven T. Brenner, Certified Court Reporter No. 7 for the State of New Mexico.

* * *

STEVEN T. BRENNER, CCR
(505) 989-9317

I N D E X

November 17th, 1994
Commission Hearing
CASE NO. 11,143

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* * *

A P P E A R A N C E S

FOR THE DIVISION:

RAND L. CARROLL
Attorney at Law
Legal Counsel to the Division
State Land Office Building
Santa Fe, New Mexico 87504

FOR THE COMMISSION:

SCOTT SPENCER
Attorney at Law
Legal Counsel to the Commission
Energy Minerals and Natural Resources Department
Santa Fe, New Mexico 87504

(Continued...)

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

FOR CONTROLLED RECOVERY, INC.:

SIMONS, CUDDY & FRIEDMAN
1701 Old Pecos Trail
P.O. Box 4160
Santa Fe, New Mexico, 87502-4160
By: ROBERT D. CASTILLE

FOR BASIN DISPOSAL, INC., and EL PASO NATURAL GAS:

MONTGOMERY & ANDREWS, P.A.
325 Paseo de Peralta
P.O. Box 2307
Santa Fe, New Mexico 87504-2307
By: NED KENDRICK

ALSO PRESENT:

RICHARD BRAKEY
Parabo, Inc.

* * *

1 WHEREUPON, the following proceedings were had at
2 9:02 a.m.:

3 CHAIRMAN LEMAY: The meeting is called to order.
4 This is the Oil Conservation Commission.

5 This is the last time we'll be meeting over here.
6 For those of you that have participated in our Commission
7 hearings, you know the Division and Commission historically
8 has been located in the State Land Office, with Commission
9 hearings held here in Morgan Hall.

10 Starting January, our new office is over at 2040
11 [South] Pacheco Street, and there is a hearing room over
12 there that we'll be using for both the Division Examiner
13 and Commission hearings.

14 So the next time we meet, which will be in
15 January, we'll be over there at 2040 [South] Pacheco
16 Street.

17 We also have new telephone numbers, and for those
18 of you that don't have those, Florene has those here, and
19 they've been published, I know, in the *Oil and Gas*
20 *Newsletter* from the New Mexico Oil and Gas Association and
21 elsewhere. So let us know if you don't have our new
22 numbers and our new location.

23 People refer to our new location as in the back
24 parking lot of Furr's Emporium, and that's close. We're
25 also over with the rest of the people at Energy and

1 Minerals.

2 As I said, this is the Oil Conservation
3 Commission. To my left is Commissioner Bill Weiss, to my
4 right Commissioner Jami Bailey, representing the
5 Commissioner of Public Lands, State of New Mexico.

6 My name is Bill LeMay, I'm the Director of the
7 Oil Conservation Division, Chairman of the Commission.

8 So we shall begin by calling Case 11,143, which
9 is in the matter...called by the Oil Conservation Division
10 to amend Rule 71 of its General Rules and Regulations
11 pertaining to the permitting of surface waste disposal
12 facilities.

13 And right now, I will call for appearances in
14 this case. Let it be known that you do not have to be
15 present at this meeting here to be considered a party to
16 the case. We've taken written appearances, and we will
17 also honor appearances in the case throughout the
18 continuation of the case.

19 But we'll start this morning and call for
20 appearances in the case.

21 MR. CARROLL: May it please the Commissioners, my
22 name is Rand Carroll, and I'm here representing the New
23 Mexico Oil Conservation Division.

24 CHAIRMAN LEMAY: Thank you, Mr. Carroll.

25 I might point out for those of you that in the

1 past -- We're having a slight change in procedure. The Oil
2 Conservation Commission will be represented by someone
3 within the Department, and that's Scott Spencer. Scott, do
4 you want to stand so people know who you are?

5 MR. SPENCER: Good morning.

6 CHAIRMAN LEMAY: Scott is the attorney for the
7 Commission, at least in this case, and we thank him for
8 being part of our body.

9 MR. SPENCER: Don't thank me yet.

10 CHAIRMAN LEMAY: You render good legal advice.
11 We know that, and we're happy to have you as counsel.

12 MR. SPENCER: I try.

13 CHAIRMAN LEMAY: Additional appearances?

14 MR. CASTILLE: Mr. Chairman, my name is Bob
15 Castille with the law firm Simons, Cuddy and Friedman. I'm
16 here in Santa Fe, and I'm representing Controlled Recovery
17 of Hobbs.

18 MR. KELLAHIN: Thank you, Mr. Castille.

19 Additional appearances?

20 MR. KENDRICK: Mr. Chairman, I'm Ned Kendrick
21 with Montgomery and Andrews law firm in Santa Fe. I'm here
22 representing Basin Disposal, Inc., and El Paso Natural Gas.

23 CHAIRMAN LEMAY: Thank you, Mr. Kendrick.

24 Additional appearances?

25 MR. BRAKEY: Mr. Chairman, Richard Brakey of

1 Hobbs, New Mexico, representing Parabo, Incorporated.

2 CHAIRMAN LEMAY: Thank you, Mr. Brakey.

3 Additional appearances?

4 Okay, let me lay out what we plan to do.

5 We're not going to be accepting testimony today,
6 but the format will be as follows: I think you all have
7 copies of the proposed 711 rule changes. If you don't,
8 there's 25 copies in the back; help yourself to those.
9 Those are strictly the initial draft of the recommended
10 changes as presented by the Oil Conservation Division.

11 What we will do is, within the next two weeks the
12 Commission -- or, I guess, myself with Counsel, with the
13 other Commissioners, will appoint a committee composed of
14 approximately six to eight individuals with representation
15 from the waste disposal operators, major oil companies,
16 independent companies, and the environmental community.

17 Those people will -- Their names will be
18 published, I'll put a memorandum out to who the committee
19 members are.

20 The committee will be headed by Roger Anderson,
21 who is bureau chief for the Division and the Environmental
22 Bureau of the Division, and I'll ask the committee to
23 arrange their own schedule to meet, contact their
24 constituents in industry, meet, come back, do what you will
25 with that draft.

1 Hopefully you can reach consensus. But if you
2 can't, we can always have a minority report along with a
3 majority report.

4 But bring that document back no later than April
5 1st.

6 This particular committee can meet as often or as
7 in-often as you deem appropriate.

8 In the event you would like to be considered for
9 the committee, please put your name on the sign-up sheet in
10 the back of the room. There have -- some people that have
11 not been here that have called me that would like to be
12 part of the committee.

13 If you're not picked, rest assured you can always
14 get input through the committee members that represent your
15 particular segment of the industry. So it's not like
16 you'll be cut out.

17 The report comes back April 1st. It will be
18 presented to the full Commission at its next Commission --
19 at the Commission hearing date, which will be May 11th.

20 I'll go over these dates with you next year also;
21 we have dates for the first six months.

22 At May 11th, we'll have a full Commission hearing
23 with witnesses subject to cross-examination, testimony,
24 statements, the whole ball of wax, like we usually do. But
25 strong consideration will be given to that revised

1 committee report as it comes back to us. This has been the
2 procedure in the past, and it's worked well with us.

3 I think in a very informal nature, since we've
4 got such a small group, I'll open it to any questions that
5 you all might have, you know, concerning the procedure and
6 what we plan to do.

7 Does anyone have any questions, any problems with
8 that particular procedure?

9 MR. BRAKEY: Mr. Chairman --

10 CHAIRMAN LEMAY: Yes.

11 MR. BRAKEY: -- I understand you're going to have
12 the April 1st deadline for turning in the committee
13 report --

14 CHAIRMAN LEMAY: Yes.

15 MR. BRAKEY: -- and then the May 11th hearing?

16 CHAIRMAN LEMAY: The May 11th will go out with
17 the docket. We plan to put that out. It comes out three
18 weeks prior to the hearing.

19 I would say -- Maybe some people need more time.
20 If you do, let me know. I can maybe speed up that process
21 to give you more time before the hearing.

22 Usually if you get it three months, you're going
23 to put it on your desk somewhere and you'll address it
24 maybe the -- If you're like some people I know, myself
25 included, you'll address it a week before the hearing and

1 start looking at it closely.

2 We planned on three weeks because that goes out
3 with the -- The revised copy will be out with the docket
4 mail-out.

5 For those of you that came a little late, what I
6 said prior is that we will have a committee appointed, six
7 to eight individuals. There's a sign-up sheet in the back.
8 In the event you want to be part of that committee, please
9 sign up and your name will be considered.

10 We want representation from all segments of the
11 industry, being mainly the waste disposal operators, major
12 oil companies, independent oil companies, those that are
13 using the facility, the environmental community, OCD.

14 Roger Anderson will be chairman of the committee.
15 The committee will be meeting at the committee's pleasure.
16 We just need a revised draft back to the Chairman by April
17 1st. And in the event there's disagreement, strong
18 disagreement, that can be so stated in the draft report.

19 Are there any questions concerning the way we're
20 going to handle this?

21 Okay -- Yes, yeah?

22 MR. MARSH: Not the way you're going to handle
23 it, but will this just be the 711 order, or will there also
24 be some topics that were addressed in the IOGCC review?
25 Will some of those topics be addressed too?

1 CHAIRMAN LEMAY: Not with this Committee.

2 MR. MARSH: Strictly the --

3 CHAIRMAN LEMAY: Strictly 711 rules.

4 MR. MARSH: Thank you, appreciate it.

5 CHAIRMAN LEMAY: And we plan to have quite a few
6 committees operating. Those of you that had a chance to
7 look at the IOGCC peer review report recognize there are 74
8 recommendations in that report that have to be addressed.
9 They're not all that serious, they don't all require
10 committees.

11 For your edification, the plan of action for the
12 Division has been to break down that report into, I think,
13 four categories:

14 Rule changes, like the 711.

15 New rules that are proposed.

16 A third category including minor revisions.

17 Minor, we would consider inserting health and general
18 welfare, that type of language, where that does not exist.
19 But things that aren't substantive can be handled, I think,
20 with one docket and having testimony that day. I don't
21 view that as a major change. Of course, you can not view
22 it as that, but it will turn into that. But we'll see.

23 And then -- Actually, there are five categories.

24 The fourth would be administrative changes, those
25 changes that we can implement without action by the

1 Commission, that just require internal changes within our
2 organization, field reports that are on computers,
3 numbering memos, that type of thing. And of course we will
4 do that internally.

5 And there is a fifth category. That category has
6 to do with advisory, no action needed. Many of the things
7 that were listed in there we've already done, or that are
8 just advisory, we plan not to address. So it's not that we
9 feel obligated to do all 74 of the recommendations.

10 Where we have strong disagreement for one reason
11 or another, that will be so stated, and there will be
12 notations made why that recommendation would not be pursued
13 any further.

14 So that's kind of the way we're going to -- We're
15 going to try and cover those 74 recommendations in a two-
16 year time span beginning with January 1, 1995. So...

17 What's happening in Wyoming, since they were the
18 first state that was reviewed, is Wyoming had their
19 recommendations, they implemented -- I want to say about 60
20 percent of them or somewhere in that neighborhood -- by the
21 time they were reviewed again, which just happened.

22 So there was in the case of Wyoming about a
23 three-year time lag between when the report came out and
24 when they took another look at Wyoming's solid waste
25 disposal program, how much of the recommendations were

1 implemented.

2 And they ran about 60 percent, which I think is
3 -- Since they were the first ones, I think that's a pretty
4 fair batting average.

5 I don't know how we're going to come out. We'll
6 see as we tackle each issue. It's quite an undertaking
7 that you all can appreciate, those of you that have read
8 the report.

9 Does that pretty well answer your questions on --
10 MR. MARSH: Yes.

11 CHAIRMAN LEMAY: -- how those IOGCC peer reviews
12 are going to be handled?

13 The Commission is going to be busy with it since
14 quite a few of those involve rule changes, and any rule
15 changes of new rules have to be by order of the Commission.

16 Anything else on procedure or 711 rule changed,
17 how we're going to handle it?

18 Okay, we will continue this case until May 11.

19 And before you leave, let me give you some dates
20 that the Commission will be meeting in 1995 at 2040 [South]
21 Pacheco Street.

22 Since the Commission will not have a December
23 meeting, the next meeting will be in January, and it will
24 be January 12th, again nine o'clock at 2040 [South] Pacheco
25 Street; February 23rd; March 9th; April 27th; May 11th and

1 June 8th.

2 That's a six-month schedule, subject to change,
3 but we need to get a schedule out. So unless one of us,
4 two of us become unavailable for some reason during that
5 first six months, that will be the schedule for meetings.

6 In some cases that will, with a heavy case load,
7 go over to the next day. We have Friday generally arranged
8 where there's heavy case loads.

9 I might also mention, you might look in terms of
10 having that February date a two-day meeting, because that's
11 not only our proration hearing date but it's also a date
12 that we plan to have industry input, public input to the
13 Commission concerning, I guess, how the Division is doing
14 its job. It's really going to be your agenda. And there
15 will be a memorandum put out, just giving you some advance
16 notice.

17 So you can come and tell us how you would like to
18 see either rule changes, rules eliminated, how we're doing
19 our job in enforcement or anything to do with the Oil
20 Conservation Division rules, procedures and operations.
21 It's a good time to get your input, because we'll be
22 listening. It won't be our agenda.

23 So that's a little -- And hopefully that will
24 take at least a half a day, maybe longer. It just depends
25 on how much interest is generated.

1 This is the first time we've done this, and we're
2 doing it in lieu of what used to be our state-of-the-
3 industry meeting in June, which we didn't have this year.
4 There's been so little interest generated with that type of
5 meeting, with our natural gas fair and all the other
6 meetings around, we wanted to change the perspective a
7 little bit and allow all those parties that have input --
8 or want input to the Commission and Division, to be able to
9 have that input at some date throughout the year, and we
10 picked the February date because a lot of people will be
11 here for the gas proration, and the Legislature is in
12 session.

13 Is there anything further, anything you'd like to
14 bring up?

15 Okay, the meeting is adjourned.

16 Thank you very much.

17 (Thereupon, these proceedings were concluded at
18 9:17 a.m.)

19 * * *

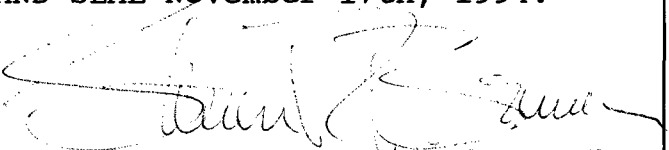
CERTIFICATE OF REPORTER

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 November 17th, 1994.



STEVEN T. BRENNER
CCR No. 7

My commission expires: October 14, 1998