



Office of the Governor
Pueblo of Tesuque
Route 42 Box 360-T
Santa Fe, New Mexico 87506

RECEIVED

2008 DEC 2 PM 2 12

Proposed Oil Conservation Division Amendment to 19.15.39 NMAC
Testimony of Mark Mitchell, Tribal Historic Preservation Officer, Pueblo of Tesuque

December 11, 2008
Porter Hall, Santa Fe, New Mexico

Good morning, Mr. Fesmire, Ms. Bailey and Mr. Olson. My name is Mark Mitchell. I am a former Governor of the Pueblo of Tesuque and serve as the Pueblo's Tribal Historic Preservation Officer. I am here today to comment on your proposed revision to regulations applicable to exploration and drilling in Santa Fe County and the Galisteo Basin.

The Pueblo of Tesuque has been engaged with this issue since before Governor Richardson issued his executive order in January 2008. We submitted official comments on the moratorium on May 9, 2008, which are attached to our written testimony.

We continue to be gravely concerned about exploration in this area for three reasons which are not addressed by your proposed revision to the regulations. First, the Galisteo Basin is a Traditional Cultural Property, as defined by the National Historic Preservation Act, for the Pueblo because it is visited by Pueblo people for traditional cultural reasons year round. Second, the Pueblo is concerned about destruction of archaeological and historical resources, the vast majority of which are not yet documented. Third, the Pueblo is concerned about detrimental impacts on wildlife. Today I will be addressing our first two concerns. Lieutenant Governor Anthony Dorame will address the wildlife impacts.

Throughout this year, our primary concern has been protection of the highly sensitive cultural and historic resources in the Galisteo Basin. While the amended rule, as currently proposed, addresses impacts on fresh water, human health, and the environment, we are concerned that it fails to address impacts on these resources, as required by Section 18-6-2 and 18-6.8.1 of the New Mexico Cultural Properties Act and various other statutes designed to preserve New Mexico's historic and archaeological resources for the public.

Failure to address cultural and historic resources in the regulation also conflicts with Governor Richardson's Executive Order 2005-003, "Adoption of Statewide Tribal Consultation Policy on the Protection of Sacred Places and Repatriation." This Executive Order states that "consultation is critical and necessary" to "avoid any irreplaceable loss" of Native American cultural and historic sites and sacred places. We take consultation seriously and are very concerned that your agency would omit a consultation requirement from its proposed regulation on oil and gas drilling in the Galisteo Basin.

Phone (505) 983-2667

Fax (505) 982-2331

In conclusion, we find your proposed revision to be incomplete. Our position is that further revisions are necessary in order to protect the heritage of the tribes, the Pueblos, and the citizens of New Mexico.

Cultural and Traditional Importance to Pueblo Tribal Members

The Galisteo Basin is a Traditional Cultural Property ("TCP") of current and historical importance to the Pueblo. Tribal members of the Pueblo visit the Galisteo Basin many times during the year for traditional cultural activities. The Pueblo utilizes traditional plants harvested from the area for medicinal and cultural purposes. Oil and gas exploration and development in the area will potentially limit the ability of tribal members to gather those plants which are significant to the Pueblo.

Destruction of Archaeological and Historical Resources

The Pueblo has strong historical roots in the Galisteo Basin because the ancient pueblos located there are considered an ancestral home to the people of Tesuque and have a place in the lexicon of Tesuque oral history. As recognized in the Galisteo Basin Archeological Sites Protection Act, Public Law 108-208 (2004) the Basin is home to many historic and prehistoric sites which merit and require protection. The Act lists many of these sites, but it is not comprehensive. There are many other places in the basin that have yet to be identified. In fact, with only 12% of the Galisteo Basin surveyed, more than 3,000 cultural resources have been identified.

Exploration of this sensitive Basin will not only result in "incidental" destruction of cultural resources. The influx of people and machinery and the creation of roads into virgin territory will enable pothunters and other miscreants to intentionally exploit and destroy the priceless archaeological heritage of the Pueblos and of the State of New Mexico. Vandalism and looting has been a major problem at oil and gas drilling sites in places such as the Canyons of the Ancients in Colorado. Disturbance of sites in the Galisteo Basin would result in violation of statutes created to protect these sites, including the New Mexico Cultural Properties Act 1978, Section 18-6-8.1, and in the loss of invaluable historical and archaeological resources.