

**STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION**

**Meeting Minutes
Regular Meeting
February 8-10, 2017
Porter Hall
Wendell Chino Building
1220 S. St. Francis Drive
Santa Fe, New Mexico 87505**

MEMBERS PRESENT:

David R. Catanach Chair Oil Conservation Division
Robert Balch Designee, Energy, Minerals and Natural Resources Department
Patrick Padilla Designee, New Mexico State Land Commissioner

OTHERS PRESENT:

Cheryl Bada, Counsel to the Commission

Item 1. Roll Call.

Roll was taken; a quorum was present.

Item 2. Approval of Agenda.

Action: Commissioner Balch moved adoption of the agenda. Commissioner Padilla seconded the motion. The motion passed unanimously.

Item 3. Approval of minutes of January 9, 2017 meeting.

Action: Commissioner Padilla moved to approve the minutes. Commissioner Balch seconded the motion. The motion passed unanimously.

Item 4. Final action may be taken in:
Case No. 15487: Application of the New Mexico Oil Conservation Division through the supervisor of District II for adoption of special rules for drilling in certain areas, for the protection of fresh water, Chaves and Eddy Counties, New Mexico.

Action: Chair Catanach explained that a draft order and rule were finalized and provided to the Commissioners for their review. Commissioner Balch made a motion to approve the order and rule. Commissioner Padilla seconded the motion. The Commissioners unanimously agreed to adopt the order and rule and signed Order No. R-14164-D.

De Novo Case No. 15437: Application of Caza Petroleum, Inc. for a non-standard oil spacing and proration unit and compulsory pooling, Lea County, New Mexico.

Action: Chair Catanach stated that he had made numerous changes to the draft order that had been provided to the Commissioners for review. He asked the

Commissioners to review the changes he had made and be ready to take final action on the case the next morning.

Item 5. **Case No. 15617:** (Continued from the January 9, 2017 Commission Meeting.)

Application of CK Disposal, LLC for a Commercial Surface Waste Management Facility Permit in Lea County, New Mexico.

Action: Appearances were made by Michael Woodward and Wes McGuffey for CK Disposal, LLC (CK); Henry Bohnhoff, Cynthia Loehr, and Perry Robinson for Louisiana Energy Sources, also known as URENCO (LES); and David Brooks for the Oil Conservation Division (OCD). Chair Catanach stated that all parties previously agreed to attempt to conclude the hearing in three days. He said the session today would end at 5:30, the hearing would begin at 8:00 a.m. on Thursday and Friday mornings (the 9th and 10th), and go until 6:00 p.m. on those days. He said all parties have previously agreed to limit their testimony and cross-examination to one and one-half days. If the hearing is not finished in three days, it will have to be continued to a later date since the Commissioners are not available next week.

Mr. Woodward made an opening statement explaining CK's application and outlining the presentation of his case. Mr. Bohnhoff made an opening statement explaining the opposition of the citizens of Eunice to CK's application and outlining the presentation of his case. Mr. Brooks made an opening statement explaining that he will not present technical evidence but will present by stipulation proof that the Division has complied with the procedural requirements for the granting of this permit.

C.K.'s first witness was Bryce Karger, Major Shareholder of CK. He stated that the application was filed by Parkhill, Smith and Cooper, an engineering firm hired by CK. He explained why the location for the subject waste disposal facility was chosen and discussed financial assurance. Mr. Bohnhoff cross-examined.

During Mr. Bohnhoff's cross-examination, the subject of the permit requirements of other state agencies was raised. After a motion by Commissioner Padilla and a second to the motion by Commissioner Balch, the Commission voted unanimously to close the meeting pursuant to NMSA 1978, Section 10-15-1-H to discuss the issue of allowing testimony on the subject of other agencies' permit requirements at this hearing. After a motion by Commissioner Padilla and a second to the motion by Commissioner Balch, the Commission voted unanimously to go back into open session. Chair Catanach announced that the only matter discussed during the closed session was said issue. Commissioner Padilla stated that the Commission made a determination that it will hear testimony relating to fresh water, public health, safety and the environment but will not consider that testimony as it relates to the permitting requirements of other agencies.

Mr. Bohnhoff continued his cross-examination, Commissioner Balch, Commissioner Padilla, and Chair Catanach cross-examined the witness, and he was excused.

The next witness for CK was Kevin Carel, President and Owner of the Carel Corporation. He said his firm was hired to perform the subsurface

investigation at the site, to compile information regarding groundwater and the geology at the site, and to prepare a report which was presented to CK. Mr. Bohnhoff, Commissioner Padilla, Commissioner Balch, and Chair Catanach cross-examined the witness, and he was excused.

The next witness was Nicholas Ybarra with Parkhill, Smith & Cooper. He said he was the engineer of record on CK's permit and he wrote the application after reviewing the New Mexico Administrative Code Part 36 regulations and borings on site. He presented a general overview of the proposed facility including the location and design plans. Mr. Bohnhoff, Mr. Brooks, Chair Catanach, Commissioner Balch, and Commissioner Padilla cross-examined the witness, and he was excused.

A discussion was held on the scheduling of the rest of the hearing. The hearing was recessed at 5:35 p.m.

The hearing was reconvened at 8:00 a.m. on February 9, 2017.

Mr. McGuffey conducted the direct examination of CK's next witness, Robert Holly Holder, Licensed Professional Engineer with PSC. He said he was the principal in charge of the CK project and discussed design calculations. He discussed the HELP model used to model the liner and final cover system. Mr. Bohnhoff, Chair Catanach, and Commissioner Padilla cross-examined the witness, and he was excused.

Mr. Woodward conducted the direct examination for CK's next witness, Todd Stiggins, who works with permitting design and construction of municipal solid waste landfills. He said OCD Environmental Bureau Chief Jim Griswold contacted him to prepare a report on potential hydrogen sulfide gas emissions from CK's proposed facility. He described the assumptions used in the Screen 3 model to determine maximum concentrations of airborne emissions. He discussed the H₂S Contingency Plan submitted by CK in their application.

Before cross-examination of Mr. Stiggins began, Senators Carroll Leavell and Gay Kernan made statements opposing CK's application and listed their concerns.

After cross-examination by Mr. Brooks, Mr. Bohnhoff, Chair Catanach, Commissioner Balch, and Commissioner Padilla, Mr. Stiggins was excused.

Mr. McGuffey's witness for CK was Mark Turnbough, who works for Nuclear Waste Partners and the Environmental Management Division of the U.S. Department of Energy. He explained he is working as a consultant with Bryce Karger on this project. He discussed the Part 36 requirements for a surface waste management facility and described the geology at the proposed site. Mr. Bohnhoff, Commissioner Padilla, Commissioner Balch, and Chair Catanach cross-examined the witness, and he was excused.

Mr. Brooks presented a stipulation to the Commission that all counsel had agreed to with the exception of Stipulation 1 which Mr. Brooks deleted. Mr. Brooks' witness for the OCD was Jim Griswold, Environmental Bureau Chief in Santa Fe, New Mexico. He explained the practice of permitting applicants to file draft permit applications to be considered by the bureau.

He stated that CK's application that was filed in November of 2015 did not have the owner's signature and therefore was not considered to be administratively complete until the signature page with the owner's signature was received in May of 2016. Mr. Woodward, Mr. Bohnhoff, and Commissioner Padilla cross-examined the witness, and he was excused.

CK's next witness was Dr. Clint Richardson who participated by telephone. Dr. Richardson, a Registered Professional Engineer with experience in designing and reviewing designs of landfills, said he was contacted by Jim Griswold and asked to review CK's application focusing on the parts of the application dealing with the landfill. He said he advised Mr. Griswold that he needed specific design calculations and was provided Mr. Holder's calculations. He discussed the formal erosion plan and the design for the liquid processing facility. Mr. Bohnhoff and Chair Catanach cross-examined the witness, and he was excused.

The first witness for LES was Stephen Cowne, Head of Compliance for URENCO-USA. He explained that LES' function is to enrich uranium and is subject to the oversight of several federal agencies. He stated that LES rules do not allow evacuation of the plant. He explained the process of shutting down the facility. He discussed the storm water drainage pond. Commissioner Balch, Commissioner Padilla, and Chair Catanach cross-examined the witness, and he was excused.

The next witness was Joe Carrillo, Corporate Manager for Sundance Services, appearing pursuant to a subpoena. He gave the location of a new waste disposal facility Sundance is planning. He described the procedure for accepting waste at the Sundance facility and the range of truck traffic. Mr. Woodward, Mr. Brooks, Commissioner Balch, Commissioner Padilla, and Chair Catanach cross-examined the witness, and he was excused.

LES' next witness was Ronald Bohannon, President and Co-Owner of Tierra West, LLC, an engineering company. He said he was asked by LES to provide an expert opinion on traffic engineering and storm water drainage issues related to CK's disposal application. He said he prepared a report on these issues. Mr. Woodward objected to the admission of this report unless the Department of Transportation traffic requirements and traffic analysis were excluded. After a motion by Commissioner Balch and a second to the motion by Commissioner Padilla, the Commission voted unanimously to close the meeting pursuant to NMSA 1978, Section 10-15-1-H to discuss the report. After a motion by Commissioner Balch and a second to the motion by Chair Catanach, the Commission voted unanimously to come back into open session. Chair Catanach announced that the report was the only matter discussed during the closed session. Commissioner Padilla announced that the Commission unanimously agreed to exclude the report based on the fact that it seems to belong to the jurisdiction of the New Mexico Department of Transportation. He said the Commission will allow Mr. Bohannon to testify to the runoff or potential runoff of hydrocarbons or other contaminants in the CK facility. Mr. Bohannon discussed storm water drainage and explained a 100-year and a 25-year storm event. He reviewed the detention ponds in CK's application. Mr. Brooks, Mr. Woodward, Commissioner Balch, Commissioner Padilla, and Chair Catanach cross-examined the witness, and he was excused.

The hearing was recessed at 6:00 p.m. on February 9, 2017.

The hearing was reconvened at 8:00 a.m. on February 10, 2017.

Chair Catanach called De Novo Case 15437, application of Caza Petroleum, Inc. for a non-standard oil spacing and proration unit and compulsory pooling, Lea County, New Mexico, for final action. After reviewing the revisions to the draft order in this case, the Commission unanimously agreed to adopt the order. Order No. R-14191-A in De Novo Case 15437 was adopted and signed by the Commission.

Case 15617 was recalled. Mr. Woodward asked for a discussion on the scheduling of today's hearing. He moved to strike the testimony of two proposed witnesses for LES that he felt was outside the scope of this hearing. Mr. Bohnhoff responded that he was not calling one of the witnesses and the other would be testifying on the environmental impact of volatile organic compounds and hydrogen sulfide emissions. He asked that the motion be denied. Chair Catanach said the Commission will hear testimony relating only to public safety, not to the regulations of the Environment Department.

The LES witness was Clayton Orwig, Senior Air Specialist for Haley & Aldrich. He said he was asked by LES to review CK's application and provide his opinion on any emissions. He discussed the assumptions in the model used by CK to determine emissions and told of an updated model recommended by EPA. He discussed H₂S and VOC concentrations in relation to human health. Mr. Woodward, Chair Catanach, Commissioner Balch, and Commissioner Padilla cross-examined the witness, and he was excused.

Representative David Gallegos made a statement in opposition to CK's application because of location, safety and traffic issues.

LES' next witness was John Peters, Senior Associate Human Health Risk Assessor at Haley & Aldrich. He said he was hired by LES to evaluate whether the hydrogen sulfide management plan proposed in CK's application would be protective of public health. He described the effects of different levels of exposure of hydrogen sulfide emissions on the public. Mr. Brooks, Mr. Woodward, and Commissioner Balch cross-examined the witness, and he was excused.

The next witness was Matthew McGovern, Chemistry Services Manager for URENCO-USA. He said he was asked to evaluate CK's application to see if it would affect any of URENCO's operations. He explained his concern about H₂S concentrations and released chlorides impacting corrosion rates on some electronic equipment and vehicles, and the possibility of chlorides being deposited in storm water detention ponds. Mr. Woodward, Chair Catanach, Commissioner Balch, and Commissioner Padilla cross-examined the witness, and he was excused.

LES' next witness was Nadia Glucksberg, Senior Associate, Lead Hydrogeologist and Program Manager with Haley & Aldrich. She testified on the windblown transport of contaminates. She said she was hired by LES to review CK's permit application with respect to impacts on the

environment. She discussed migratory bird protection and the impact on birds if they ingest any amount of metals or petroleum products which might be transported from CK's ponds to the LES facility. Mr. Woodward, Commissioner Balch, Commissioner Padilla, and Chair Catanach cross-examined the witness, and she was excused.

Robert Holly Holder was recalled as a rebuttal witness to discuss whether CK's facility will be located in a floodplain and the storm event used in the modeling by CK. Mr. Bohnhoff and Mr. Brooks cross-examined the witness, and he was excused.

The Commission decided to begin deliberations of this case on February 27. Chair Catanach asked counsel to provide the Commission with closing arguments, findings of fact, and conclusions of law by February 23. Counsel Bada asked that the closing arguments include a briefing of the issue of whether the Commission has the jurisdiction for traffic safety. Case 15617 was continued to February 27, 2017 for deliberations.

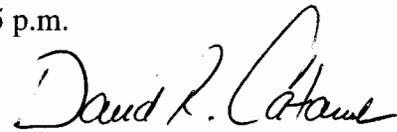
Item 6. Status report by representatives of the Division and Geolex, Inc. on events concerning acid gas injection well replacements at Targa Midstream's Monument Gas Processing Facility, Lea County, NM [informative presentation only].

Action: This report was continued to the April 4, 2017 Commission meeting.

Item 7. Next regular meeting: February 28, 2017

Item 8. Adjournment.

The Chair adjourned the meeting at 4:25 p.m.



DAVID R. CATANACH, Chair