

**SPECIAL MEETING MINUTES**

**NEW MEXICO STATE GAME COMMISSION**

New Mexico Department of Game and Fish Office  
3841 Midway Place NE  
Albuquerque, NM 87109  
Thursday, February 19, 2015  
9:00 a.m. – 12:00 p.m.

CHAIRMAN KIENZLE: Meeting called to order at 9:01 am. Can I get a roll call?

DIRECTOR SANDOVAL: Yes. Chairman Kienzle?

CHAIRMAN KIENZLE: Here.

DIRECTOR SANDOVAL: Vice Chairman Montoya?

VICE CHAIRMAN MONTOYA: Here.

DIRECTOR SANDOVAL: Commissioner Espinoza?

COMMISSIONER ESPINOZA: Here.

DIRECTOR SANDOVAL: Commissioner Ramos?

COMMISSIONER RAMOS: Present.

DIRECTOR SANDOVAL: Commissioner Ryan?

COMMISSIONER RYAN: Here

DIRECTOR SANDOVAL: Commissioner Salopek?

COMMISSIONER SALOPEK: Here.

DIRECTOR SANDOVAL: Chairman, I believe we have a quorum.

CHAIRMAN KIENZLE: Can I get a motion to approve the agenda, please?

COMMISSIONER SALOPEK: So moved.

COMMISSIONER RAMOS: Second

CHAIRMAN KIENZLE: All in favor?

All Commissioners voted in favor of approving agenda.

CHAIRMAN KIENZLE: They ayes have it.

CHAIRMAN KIENZLE: Let's do guests for the folks that are here.

DIRECTOR SANDOVAL: OK

GUEST: Assistant Attorney General, Rebecca Parrish

GUEST: Lance Cherry, Chief of Information and Education, Game and Fish

GUEST: Dan Williams, Game and Fish

GUEST: Vicky Hooser, Hooser Ranch Limited Partnership

GUEST: Danelle Smith, Lawyer for Hooser Ranch Limited Partnership

GUEST: Sandra DuCharme, Executive Assistant to the Director

GUEST: Aaron Rodriguez, Deputy General Counsel for the Department

CHAIRMAN KIENZLE: Good morning, everyone. Let's see, new business? I need a motion to adjourn. Actually, let me go over the agenda item myself, which is the Hooser Ranch Litigation, so, can I get a motion to adjourn into Executive Session?

REBECCA PARRISH: I'm sorry, before you make that motion, I thought it might be helpful for the Hooser Ranch people to make a statement about the litigation itself?

CHAIRMAN KIENZLE: OK.

REBECCA PARRISH: It might be beneficial for them.

CHAIRMAN KIENZLE: They can speak before and after, but that's fine, go ahead.

DANELLE SMITH: Thank you very much. First of all, I really want to thank you all for setting up this meeting and allowing us to present this to you. My name is Danelle Smith, and of course I am excited to appear before the Game Commission because even after 40 years of practicing law in Las Vegas, I've never had a cause to appear before the Commission before but my great uncle was Elliott Barker, so I'm very familiar with the Commission since he was here from the very beginning of it so it's exciting for me to get to appear before the Commission. I am a real estate attorney in Las Vegas, New Mexico. I've been practicing there for 40 years, and, so we filed a quiet title suit on behalf of the Hooser Ranch Limited Partnership, and quiet title suits are basically a suit to establish title to a property. And so, when we file a quiet title suit, basically, what we're generally doing and what we did in this case, is we name everybody in the history of title and all the surrounding property owners. And of course, Hooser Ranch, surrounds, mostly surrounds, Charette Lake, and so, the Game Commission got named as a defendant, and, of course, it's our goal, to not pick fights with anybody. Our goal, is to establish our boundaries and to make it clear what our boundaries are and what the Commission

boundaries are. This is sectionalized land, so, everything south of the Ocate River, in Mora County, is the Mora Land Grant, and everything north of the Ocate River, is basically sectionalized land, so this is a sectionalized land situation that we have. And, Charette Lake is sectionalized land. And, after we filed the complaint, and served the Game Commission, Rebecca filed her answer and indicated that there was some portion of the land within the Hooser Ranch that she believed the Game Commission owned. And, that, interesting enough, did not show up in our title search that was done by one of our local title companies, and, so, I asked her for a copy of the deed and she was able to provide an unrecorded copy of the deed to me and eventually we were able to get the title company to get the recorded copy of that deed. And, so, what we could tell is that Charette Lake started as part of the Colmore irrigation project and apparently that irrigation project, this was in the 30's, and by 39, from talking to the title companies up in Colfax County, they say that by 1939, that irrigation project was basically, uh, had failed, and so, the State Game Commission, bought the property at a special masters sale, and, of course, I was excited to see that the application for the change in use of Charette Lake, was actually signed by my great-uncle, when he was with the Game Commission at that time. So, that was filed with the State Office of the Engineer to change the place and use of the waters coming out of Charette Lake from something that was going to be from irrigation to recreation. And, so, once we found this deed, we immediately said, well, we will, in our description, we will accept the description that is in the deed to the special master because this is where the Game Commission actually bought Charette Lake but it was the part that Rebecca had found, which is in the map, is part of the old overflow canal, and why there was just these two four acre sections of the overflow canal that were included, it's hard to say, most of the rest of that was done by way of easements that expired to, there were easements to Colmore irrigation that expired when

they were not used after four years, in some cases, eight years in other cases. There is also a description of the intake canal in that deed, so, Rebecca suggested that we should not only use the language within the deed, unless in accepting any of this the works of Charette Lake, but that we actually also make reference to this special masters deed which we have done in our proposed final judgment and decree. So, we have named all the other parties, served everyone, everyone else except the Game Commission is on board at this point. We have done what we could to preserve the Game Commission lands which is basically intake canals and, Charette Lake was never in our quiet title suit, we were simply adjacent owners, and then these portions of the overflow canal. And, we have included that in our proposed judgment. Certainly, before we knew that we were going to be able to be able to have a meeting with the Game Commission, we went ahead and filed our motion for summary judgment to try and bring this to a conclusion because Hooser Ranch Limited Partnership has a sale on the, in the wings, and we cannot close that sale until this quiet title suit is completed and that's why we have been concerned in trying to move this thing to a conclusion, and, certainly for that reason, we really appreciate the fact that you were willing to have a special meeting for this purpose. In our motion for summary judgment, which she attached a copy of, but not the exhibits, we basically tried to lay out to the court the whole history of how this came about and we did include copies of that, of the deed, the deed as she, as Rebecca presented it to us, the file deed, the application for change of use, only to show the court the history of Charette Lake, how this all came about in the first place. And, we don't believe that there is any dispute at this point between us and the Game Commission and that has certainly been our goal is to acknowledge everything that the Game Commission has and to not attempt in any way to claim anything that the Game Commission owns or that we, as the State of New Mexico, have an interest in. Our goal, and what we have prepared in our proposed

final judgment that we are asking be approved today is a description of our property that completely excludes anything that the Game Commission has an interest in.

CHAIRMAN KIENZLE: Can you point out to us in the final judgment and decree where the Commission is identified?

DANELLE SMITH: Basically, if you look at the final judgment, on page four, well, page three is where we put in our sectionalized land description, and so, what we have done is accepted from our description, the first two paragraphs are the description of the area up to the outflow of the overflow canal, the four acres, and then we also left and accepted the deed itself which was the masters deed between William P. Kearns Jr. as Special Master and the Game Commission as the grantee of that deed. So, we're not saying, at this stage, anything in the final decree that says this is, belongs to the Game Commission other than this reference to this deed, but, basically the idea of quiet title case is, in the quiet title suit, you are claiming a piece of land, and what we have done is claimed that piece of land and specifically excluded our claim for these portions of land that does in fact belong to the Game Commission. So, there is nothing in here that says this belongs to the Game Commission because this is our quiet title suit, it just accepts anything that belongs to the Game Commission from our claim as through the property that the Hooser Ranch owns.

CHAIRMAN KIENZLE: So, page three and four? Anywhere else in here where the Game Commission is identified?

DANELLE SMITH: Then at the very end, it makes reference to the fact that the Game Commission has approved this decree. I believe this would be the end, at the bottom of page

eleven, we recite in the decreed clause the fact that it is, has been approved by the Game Commission. So this is at the bottom of page eleven.

CHAIRMAN KIENZLE: So, we'll probably have you up here again, but I am going to ask the Commissioners, Commissioners, do you have any questions for Ms. Smith?

COMMISSIONERS: No.

CHAIRMAN KIENZLE: All right, we may have questions after we meet.

DANELLE SMITH: OK, I'm happy to answer any.

CHAIRMAN KIENZLE: That's sufficient for now. Is there anything you want to add before we go?

REBECCA PARRISH: No.

CHAIRMAN KIENZLE: All right, well, stay on the line and we'll clear the room and go into executive session. We'll do a motion here to get that done.

COMMISSIONER RICKLEFS: Mr. Chairman?

CHAIRMAN KIENZLE: Yes, Commissioner Ricklefs.

COMMISSIONER RICKLEFS: I move to adjourn into executive session, closed to the public, pursuant to Section 10-15-1(H)(7) NMSA 1978, to discuss matters subject to the attorney-client privilege relating to threatened or pending litigation pertaining to Hooser Ranch Limited Partnership.

CHAIRMAN KIENZLE: Can I get a second?

COMMISSIONER ESPINOZA: Second.

CHAIRMAN KIENZLE: This is a roll call vote.

DIRECTOR SANDOVAL: Chairman Kienzle?

CHAIRMAN KIENZLE: Yes.

DIRECTOR SANDOVAL: Vice Chairman Montoya?

VICE CHAIRMAN MONTOYA: Yes.

DIRECTOR SANDOVAL: Commissioner Espinoza?

COMMISSIONER ESPINOZA: Yes.

DIRECTOR SANDOVAL: Commissioner Ramos?

COMMISSIONER RAMOS: Yes.

DIRECTOR SANDOVAL: Commissioner Ricklefs?

COMMISSIONER RICKLEFS: Yes.

DIRECTOR SANDOVAL: Commissioner Ryan?

COMMISSIONER RYAN: Yes.

DIRECTOR SANDOVAL: Commission Salopek?

COMMISSIONER SALOPEK: Yes.

DIRECTOR SANDOVAL: Mr. Chairman.

CHAIRMAN KIENZLE:     Alright.

**ADJOURNED INTO EXECUTIVE SESSION AT 9:12 AM**

**READJOURNED FROM EXECUTIVE SESSION AT 9:54 am**

CHAIRMAN KIENZLE:     Commissioners ready?

COMMISSIONER RICKLEFS: This Commission had adjourned into executive session, closed to the public. During the executive session, the Commission discussed only those matters specified in its Motion to Adjourn, and it took no action as to any matter.

CHAIRMAN KIENZLE:     I think we are ready to get a motion. Does anybody, does the ranch have anything else you want to say?

DANELLE SMITH:     None at this time.

CHAIRMAN KIENZLE:     Commissioners, do you have any questions for the ranch?

COMMISSIONERS: No.

CHAIRMAN KIENZLE:     OK, if there are none, any questions for the Attorney General's office?

COMMISSIONERS: No.

CHAIRMAN KIENZLE:     I'm going to have the Director read a proposed motion and we'll go from there.

DIRECTOR SANDOVAL:    The recommended motion would be "Motion to approve the Decree and Final Judgment proposed in the Hooser Ranch litigation as presented in the attached

document with a corrected legal description, a statement preserving the land and Commission rights belonging to the State Game Commission, and dismissal with prejudice, any claim inconsistent with the Commission's rights, along with corresponding court motion for its entry in District Court as approved by the State Game Commission Chairman acting on behalf of the entire Commission.”

CHAIRMAN KIENZLE: Commissioner Ricklefs, can I get you to make a motion?

COMMISSIONER RICKLEFS: I move to accept the motion as read by Director Sandoval.

COMMISSIONER RAMOS: I second.

CHAIRMAN KIENZLE: All in favor?

ALL COMMISSIONERS: Aye.

CHAIRMAN KIENZLE: They ayes have it.

DIRECTOR SANDOVAL: The motion carries.

CHAIRMAN KIENZLE: Do you have any questions?

DANELLE SMITH: Yes. Since I only heard the motion, so, Rebecca, did you want some language changed?

REBECCA PARRISH: There was a typo in one of the descriptions of the land, that, it looks like it was carried through from your title, from the title company made a typo and then it came through and one of the attorneys caught that so we just need to correct that it should be a 19 instead of a 20 in one of the descriptions. And then there was, we had discussed just a general

sort of statement that the Game Commissions rights are reserved. We can discuss how we want that.

CHAIRMAN KIENZLE: And I have the ability to approve the final form so we don't have to convene another meeting, so it will be done quickly. That's the bottom line is you don't have to come do this all over again.

REBECCA PARRISH: So, just some tweaks and language that we can work on.

CHAIRMAN KIENZLE: Commissioners, any other questions or anything else you want to add at this time?

COMMISSIONERS: No.

CHAIRMAN KIENZLE: Can I get a motion... I'm sorry, we have one more question from the ranch.

GUEST: Chairman and members of the Commission, I appreciate your having this meeting so that we can get this moving and thank you very much for your time.

CHAIRMAN KIENZLE: Thank you. Good luck and thank you for coming. Can I get a motion to adjourn?

COMMISSIONER RAMOS: Motion to adjourn.

COMMISSIONER SALOPEK: Second

CHAIRMAN KIENZLE: All in favor?

ALL COMMISSIONERS: Aye.

CHAIRMAN KIENZLE: They ayes have it.

**MEETING ADJOURNED AT 9:58 AM**

APPROVAL OF SPECIAL MEETING MINUTES  
NEW MEXICO STATE GAME COMMISSION  
New Mexico Department of Game and Fish Office  
3841 Midway Place NE  
Albuquerque, NM 87109  
February 19, 2015 – 9:00 am to 12:00 pm

  
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**Alexandra Sandoval, Director and Secretary**

  
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**Date**

  
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**Paul M. Kienzle III, Chairman**  
**New Mexico State Game Commission**

  
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**Date**

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