

STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION DIVISION

IN THE MATTER OF THE HEARING CALLED
BY THE OIL CONSERVATION DIVISION FOR
THE PURPOSE OF CONSIDERING:

AMENDED APPLICATION OF NGL WATER CASE NOS. 16438,
SOLUTIONS PERMIAN, LLC FOR APPROVAL 16440
OF A SALTWATER DISPOSAL WELL, LEA
COUNTY, NEW MEXICO.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

October 4, 2018

Santa Fe, New Mexico

BEFORE: MICHAEL McMILLAN, CHIEF EXAMINER
 PHILLIP GOETZE, TECHNICAL EXAMINER
 DAVID K. BROOKS, LEGAL EXAMINER

This matter came on for hearing before the New Mexico Oil Conservation Division, Michael McMillan, Chief Examiner, Phillip Goetze, Technical Examiner, and David K. Brooks, Legal Examiner, on Thursday, October 4, 2018, at the New Mexico Energy, Minerals and Natural Resources Department, Wendell Chino Building, 1220 South St. Francis Drive, Porter Hall, Room 102, Santa Fe, New Mexico.

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1 (11:09 a.m.)

2 EXAMINER McMILLAN: Okay. I'd like to call
3 the hearing back to order.

4 We're now going to call Case Number 16440,
5 amended application of NGL Water Solutions Permian, LLC
6 for approval of a saltwater disposal well, Lea County,
7 New Mexico.

8 Call for appearances.

9 MS. BRADFUTE: Jennifer Bradfute on behalf
10 of the Applicant, along with Deana Bennett.

11 EXAMINER McMILLAN: Any other appearances?

12 MR. MOELLENBERG: Dalva Moellenberg on
13 behalf of Oilfield Water Logistics or OWL.

14 MR. PADILLA: Ernest L. Padilla on behalf
15 of Fulfer Oil & Cattle, LLC. We will have no witnesses.

16 EXAMINER McMILLAN: Do we want to have a --
17 anyone want to make an opening statement?

18 MS. BRADFUTE: Mr. Examiner, if we could,
19 we are prepared to put on -- since the exhibits are very
20 similar, also the exhibits for Case 16438, involving the
21 Jack Tank SWD.

22 EXAMINER McMILLAN: Any objections?

23 MR. MOELLENBERG: No objection,
24 Mr. Examiner.

25 Mr. Examiner, I am here only for 16440,

1 just for clarity.

2 MR. PADILLA: I'm here for both cases.
3 We're not going to present any evidence or testimony on
4 either case.

5 EXAMINER McMILLAN: Okay. At this time,
6 for purposes of hearing, 16440 shall be combined with
7 16438, which is -- 16438 is the amended application of
8 NGL Water Solutions Permian, LLC for an approval of a
9 saltwater disposal well, Lea County, New Mexico.

10 Proceed.

11 MS. BRADFUTE: Yes. And, Mr. Examiner, on
12 behalf of the Applicant, I would like to provide just a
13 short statement to begin with, if there are no
14 objections.

15 MR. CARR: May it please the examiner, if
16 we're consolidating with 16438, I'd like to enter an
17 appearance in the case for COG. We did reach an
18 agreement with NGL last night. We are not opposing the
19 case, but I do need to note my entry of appearance.

20 EXAMINER McMILLAN: Okay. Thank you.

21 OPENING STATEMENT

22 MS. BRADFUTE: Mr. Examiner, these cases,
23 16438 and 16440, are for the approval of two different
24 Devonian disposal wells located in southeastern New
25 Mexico.

1 Prior to this hearing, NGL had an extensive
2 pre-hearing conference, before any other parties entered
3 an appearance in the case, with the Division in which we
4 brought several expert witnesses to meet with the
5 Division and discuss in detail the contents of their
6 studies. During that pre-hearing conference, we decided
7 that we would provide technical data that would be
8 verified with affidavits from those experts, which is
9 what we've done today, and we also have a witness who is
10 going to testify on behalf of NGL and his work that he
11 has done with those experts. And we did that in an
12 effort to streamline some of these tubing cases and deep
13 Devonian disposal cases.

14 Over the past week, NGL has had different
15 parties enter an appearance in the case, obviously, and
16 it's been working extensively to get information to
17 those parties and has resolved the objections and
18 questions that have been asserted by the parties who
19 have entered an appearance, other than OWL. And OWL
20 came in the day before yesterday into the case, so they
21 are a fairly new entrant into the case.

22 OWL was not entitled to notice. They're
23 not an affected party. They have a saltwater disposal
24 well that's located over a mile and a half away the
25 McCloy West well that they have entered an appearance

1 for, and so they were not notified of this case because
2 they weren't entitled to be notified. They also did not
3 move to intervene and file a motion for intervention in
4 this case a week before in this case, which is required
5 under the Division's rules. As a result, we ask that
6 OWL's considerations be given less weight. I know that
7 Mr. Moellenberg is here today to ask some questions
8 about the application, and that's okay. I think it's
9 good to weigh the evidence that's before the Division,
10 but we would like the Division to take note of where
11 their interests are located and the type of interest
12 that they have in this application.

13 OPENING STATEMENT

14 MR. MOELLENBERG: Thank you, Mr. Hearing
15 Examiner.

16 Ms. Bradfute is correct. OWL has actually
17 two SWDs in the area. One is -- and the closest one is
18 located about a mile and a half away from the proposed
19 well location. OWL did not receive notice. And I
20 became aware of this case the day before yesterday, and
21 that's when I filed a notice of appearance. So we have
22 exchanged some preliminary information, but that is the
23 basis of OWL's interest, is that well location.

24 EXAMINER BROOKS: You did not file a notice
25 of intervention?

1 MR. MOELLENBERG: I did not.

2 EXAMINER BROOKS: Okay. Are you requesting
3 to do so now, or are you --

4 MR. MOELLENBERG: I do request permission
5 for OWL to intervene to address its interest in the
6 nearby SWD. As I say, it's about a mile and a half
7 away, and injection of this well is -- to be specific,
8 the OWL well is the McCloy SWD No. 2, and it injects
9 into the same formation as the proposed McCloy West SWD
10 No. 1.

11 EXAMINER BROOKS: Okay. I'm looking for
12 the rule on intervention, and I'm not finding it so far,
13 but I know it's somewhere.

14 MS. BRADFUTE: If we need to, during the
15 lunch hour, Mr. Brooks, we can provide that citation.
16 It's under Part 4.

17 EXAMINER BROOKS: That's where I'm looking,
18 and I don't know why I'm not finding it. I guess it's
19 just not --

20 EXAMINER GOETZE: 4.11.

21 EXAMINER BROOKS: 4.11. Okay. I was
22 looking too far back.

23 EXAMINER GOETZE: We don't work with the
24 front much anymore.

25 EXAMINER BROOKS: Thank you for the advice,

1 Mr. Goetze. We're going to make you an honorary
2 chairman.

3 "The division examiner or commission
4 chairman may, at their discretion, allow late
5 intervenors to participate if the intervenor files a
6 written notice on or after the date provided in
7 Subsection A or by oral appearance on the record at the
8 hearing."

9 So I believe Mr. Moellenberg has filed an
10 oral appearance at the hearing, and, therefore, it's in
11 the discretion of the examiner to allow him to
12 participate at this point. So I will bounce it to the
13 examiner -- bounce the ball to the examiner and tell him
14 that he may rule on this in such manner that his
15 discretion determines to do.

16 EXAMINER McMILLAN: I'll allow it.

17 EXAMINER BROOKS: Thank you.

18 Proceed.

19 MS. BRADFUTE: With that, we would like to
20 call our witness in these cases.

21 EXAMINER McMILLAN: Hold on.

22 Do you have anything?

23 EXAMINER GOETZE: It's Mr. Padilla's
24 opportunity.

25 MS. BRADFUTE: Oh, thank you.

1 MR. PADILLA: In light of the rule read by
2 Mr. Brooks, I move for intervention on behalf of Fulfer
3 Oil & Cattle, LLC, if that is the requirement in the
4 rule.

5 EXAMINER McMILLAN: Okay.

6 MR. PADILLA: We did file a pre-hearing
7 statement and an amended pre-hearing statement. I've
8 had very little time to confer with my client, since he
9 was out of the country until Tuesday.

10 EXAMINER BROOKS: Did you receive -- I
11 mean, I'm --

12 MR. PADILLA: We're not within the
13 one-half-mile radius.

14 EXAMINER BROOKS: Okay. So you were
15 entitled to notice?

16 MR. PADILLA: We were not.

17 EXAMINER BROOKS: And you did not file an
18 intervention. So like Mr. Moellenberg, you are now
19 requesting the examiner to exercise his discretion and
20 allow a late intervention.

21 EXAMINER McMILLAN: It's allowed.

22 MR. PADILLA: Thank you.

23 EXAMINER BROOKS: It's always easier to say
24 yes, especially when everything can come in before the
25 Commission anyway.

1 MS. BRADFUTE: Is there anything further?

2 EXAMINER McMILLAN: Do you have an opening
3 statement?

4 MR. PADILLA: I don't have an opening
5 statement. I don't have, really, a position in this in
6 terms of asking any legitimate, substantive questions
7 because I know very little about the status of the
8 property or where we're at in terms of my client's
9 interests.

10 EXAMINER BROOKS: Well, if you don't have
11 any legitimate questions, I don't want you to ask any
12 illegitimate ones.

13 (Laughter.)

14 MR. PADILLA: I'm ill-prepared to be
15 here -- let me put it that way -- because I haven't had
16 a chance to confer with my client except very briefly on
17 Wednesday.

18 EXAMINER McMILLAN: What about COG?

19 MR. CARR: We were negotiating for some
20 information on the wells, and we agreed -- had entered a
21 letter agreement last night whereby they will provide
22 the data, and we are not opposing the application.

23 EXAMINER McMILLAN: Okay.

24 EXAMINER BROOKS: Okay.

25 EXAMINER McMILLAN: Please proceed.

1 MS. BRADFUTE: Okay. Thank you.

2 I would like to call my first witness and
3 only witness.

4 NEEL L. DUNCAN,

5 after having been first duly sworn under oath, was
6 questioned and testified as follows:

7 DIRECT EXAMINATION

8 BY MS. BRADFUTE:

9 Q. Could you please state your name for the
10 record?

11 A. Neel L. Duncan, N-E-E-L.

12 Q. And, Mr. Duncan, you may want to turn slightly
13 towards the court reporter as you're answering so she
14 can hear you.

15 A. Sure.

16 Q. Mr. Duncan, who do you work for?

17 A. IPT Energy Solutions and IPT Energy Partners.

18 Q. And what does IPT Energy Partners do?

19 A. We are consultants for oil and gas.

20 Q. And have you been retained by NGL, the
21 Applicant in these cases?

22 A. Yes, I have.

23 Q. And what has NGL retained you to do?

24 A. They've retained me to testify on their behalf
25 in these matters, and I manage the drilling and

1 operations for NGL.

2 Q. Okay. And are you familiar with the wells that
3 are the subject matters of these applications, which is
4 the Jack Tank SWD No. 1 and the McCloy West SWD No. 1?

5 A. Yes, I am.

6 Q. And are you familiar with the drilling plans
7 for both of those wells?

8 A. Yes.

9 Q. Have you previously testified before the
10 Division?

11 A. Yes, in 1990, for Jack Cole, Tom Dugan and
12 Bayliss. And Bill (indicating) was my attorney.

13 Q. Since it's been a while, could you please
14 explain your educational background?

15 A. Petroleum engineer, from Texas Tech University.

16 Q. Okay. And could you please explain your work
17 experience for the hearing examiners?

18 A. Thirty-five years of oil and gas, including 15
19 in Russia, five in Papua New Guinea and a little bit
20 here in the United States.

21 Q. And does your area of responsibility for NGL's
22 work include the area of southeastern New Mexico?

23 A. Yes, it does.

24 MS. BRADFUTE: I'd like to tender
25 Mr. Duncan as an expert witness in saltwater disposal

1 well operations and engineering matters.

2 MR. MOELLENBERG: No objection.

3 MR. PADILLA: None.

4 MR. CARR: No objection.

5 EXAMINER McMILLAN: So qualified.

6 Q. (BY MS. BRADFUTE) Mr. Duncan, could you please
7 turn to Exhibit 1 in the binder that's in front of you?
8 Is Exhibit 1 a copy of NGL's application in Case 16438
9 for the Jack Tank SWD No. 1 well?

10 A. Yes, it is.

11 Q. Could you please explain what NGL is seeking in
12 this application?

13 A. We're seeking a permit for a water injection
14 well.

15 Q. Okay. And as part of that approval, is NGL
16 seeking approval of certain tubing sizes for this well?

17 A. Yes, we are.

18 Q. And what are the tubing sizes?

19 A. It will be a tapered string of 7-inch and
20 5-1/2-inch tubing.

21 Q. Okay. And is NGL also seeking approval of a
22 maximum daily injection rate for this well?

23 A. Yes.

24 Q. And what is that?

25 A. 50,000 barrels a day.

1 Q. Okay. And could you please turn to Exhibit
2 Number 2 in this binder? Does Exhibit Number 2 contain
3 a copy of NGL's application in Case 16440?

4 A. Yes, it does.

5 Q. And does this application pertain to the McCloy
6 West SWD No. 1 well?

7 A. Yes, it does.

8 Q. And what is NGL seeking in this application?

9 A. Again, a permitted saltwater disposal well with
10 7-inch by 5-1/2-inch tubing.

11 Q. And is NGL also seeking the approval of a
12 maximum daily injection rate of 50,000 barrels per day?

13 A. Yes.

14 Q. Could you please explain to the hearing
15 examiners why NGL is requesting the larger tubing size
16 for these wells?

17 A. It will reduce friction. It will also reduce
18 the horsepower requirements, reduce electrical energy
19 consumption, reduce our carbon footprint, and allow for
20 fewer wells to be drilled in order to meet the disposal
21 needs.

22 Q. Okay. And are you aware of any Devonian
23 disposal wells for which the Division has recently
24 approved the use of 7-inch by 5-1/2-inch tubing?

25 A. Yes. It's been approved for Mesquite.

1 Q. Okay. And are the wells that NGL is proposing
2 spaced out, or are they going to be located close
3 together? If you could explain the spacing to the
4 examiners.

5 A. They're certainly spaced out, and we don't have
6 any other SWDs within the one-mile AOR.

7 Q. Okay. If you could please turn to Exhibit 3
8 and Exhibit 3 contains a few different documents, a few
9 different maps. I want to first look at the first map
10 which folds out. Is this a document that was provided
11 by the Division to NGL?

12 A. Yes, it was.

13 Q. Okay. And is it your understanding that some
14 changes are going to be made to the Red Road SWD shown
15 in this document?

16 A. Yes. That was mistakenly put down in Section
17 2. It's actually up in Section 26.

18 Q. But that well isn't the subject matter of these
19 applications today, correct?

20 A. No, it's not.

21 Q. So we're going to focus on the Jack Tank SWD
22 No. 1, correct?

23 A. That's correct.

24 Q. And where is that well located on this diagram?

25 A. It's to the east in Section 5.

1 Q. Okay. And has the Division drawn a
2 circumference around where that well will be located?

3 A. Yes. That's a one-mile area of review.

4 Q. And if you could please turn to the next map
5 contained within Exhibit 3. Could you please explain
6 what that map is?

7 A. That's also a map of the -- the well we applied
8 for with the area of review on it as well.

9 Q. Okay. And on here, the well that we've applied
10 for in this diagram is the McCloy West SWD No. 1,
11 correct?

12 A. That's correct.

13 Q. Okay. And did the Division indicate to you
14 that the location of the McCloy West SWD No. 1 well was
15 appropriate or okay?

16 A. Yes, during the conference.

17 Q. Okay. And if you could please turn to the next
18 map, which is a map that's been prepared by Lonquist &
19 Company, could you please explain what this document
20 shows?

21 A. It shows the one-mile AOR around the McCloy
22 West SWD No. 1 in blue, and it also shows the location
23 of the OWL well that's in question here.

24 Q. And have you looked at the injection data for
25 the OWL well, the McCloy SWD No. 2 well, that's shown on

1 **on there?**

2 A. Yes, I have. I pulled it from the OCD website.

3 **Q. And what did you find when you looked at that**
4 **data?**

5 A. I found that in recent months, they've injected
6 about 10,000 barrels per day.

7 **Q. Okay. And what was the highest injection rate**
8 **that you found for that well?**

9 A. It looked like about 24- or 25,000 barrels per
10 day.

11 **Q. Okay. Could you please explain to the hearing**
12 **examiners what the casing will be within the Jack Tank**
13 **and the McCloy West wells?**

14 A. The casing -- the final casing at the bottom
15 will be a 7-5/8-inch liner with 39-pound-per-foot
16 casing.

17 **Q. Okay. And inside that casing, what size of**
18 **tubing will be --**

19 A. That's where we'll have the 5-1/2-inch tubing.

20 **Q. Okay. And above that, when you're using the**
21 **7-inch tubing, could you explain what other components**
22 **will be included within the wellbore?**

23 A. Well, the -- the upper casing down -- through
24 the Upper Wolfcamp is 9-5/8-inch casing, and so there'll
25 be 7-inch tubing inside that.

1 Q. Okay. And in your opinion, will there be
2 sufficient clearance in order to perform fishing
3 operations in the event of a tubing failure?

4 A. Yes, there is.

5 Q. Has NGL retained a reservoir engineer to
6 conduct a study of the injection zones for the Jack Tank
7 and the McCloy West wells?

8 A. Yes, we have.

9 Q. And was that engineer Scott Wilson?

10 A. Yes, Scott Wilson of Ryder Scott.

11 Q. And has Mr. Wilson previously testified before
12 the Division and the Commission?

13 A. I believe he has.

14 Q. Yes.

15 And has Mr. Wilson provided an affidavit
16 which discusses his studies for the wells that are at
17 issue today?

18 A. Yes, he has.

19 Q. If you could please turn to Exhibit Number 4,
20 does Exhibit 4 contain a copy of Mr. Wilson's affidavit
21 in this matter?

22 A. Yes, it does.

23 Q. And in that affidavit, does Mr. Wilson confirm
24 that increasing the tubing size for these wells will
25 reduce friction in the wellbore?

1 A. Yes, it does.

2 Q. And attached to this affidavit, does Mr. Wilson
3 include a copy of his reservoir study?

4 A. Yes. It's attached.

5 Q. Okay. And has Mr. Wilson confirmed to you that
6 using increased tubing sizes will only have a very small
7 impact on pore pressures within the formation?

8 A. Yes, he has.

9 Q. Is it Mr. Wilson's opinion that the increased
10 tubing sizes will not cause fractures within the
11 formation?

12 A. Yes.

13 Q. And Mr. Wilson also performed a study looking
14 at models which try to track or which do track the
15 migration of fluids that are injected into the wells,
16 correct?

17 A. Yes.

18 Q. And as a result of that study, does Mr. Wilson
19 conclude that over a period of 20 years, the majority of
20 injected fluids will stay within a mile of where the
21 wells will be located?

22 A. Yes. The fluid will stay within the -- within
23 the AOR.

24 Q. Okay. And Mr. Wilson has included charts which
25 explain that study and the migration of fluids, correct?

1 A. Yes.

2 Q. Has NGL retained a geologist to review the
3 geology in the area where the wells are going to be
4 located?

5 A. Yes, we have.

6 Q. And is that geologist Kate Zeigler?

7 A. Yes.

8 Q. And has Ms. Zeigler previously testified before
9 the Division?

10 A. Yes, she has.

11 Q. And were her credentials accepted and made part
12 of the record?

13 A. Yes, they were.

14 Q. Has Ms. Zeigler also provided an affidavit
15 which outlines her geologic study and conclusions?

16 A. Yes.

17 Q. Could you please turn to Exhibit 5? Does
18 Exhibit 5 contain a copy of Ms. Zeigler's affidavit
19 concerning the Jack Tank and the McCloy West wells?

20 A. Yes, it does.

21 Q. In this affidavit and study, does Ms. Zeigler
22 find that the areas where the wells are located are
23 suitable for injection at increased rates?

24 A. Yes.

25 Q. And did Ms. Zeigler find that there is a

1 permeability barrier both above and below the proposed
2 injection zones which will prevent the migration of
3 fluids throughout the --

4 A. Yes, she did.

5 Q. Okay. If you could please turn to Exhibit 6,
6 does Exhibit 6 contain an affidavit that NGL has
7 requested from Steven Taylor?

8 A. Yes.

9 Q. Who is Steven Taylor?

10 A. He's a geophysicist up in Los Alamos.

11 Q. And did Mr. Taylor look at prior seismic
12 activity in the area where these wells are going to be
13 located?

14 A. Yes, he did.

15 Q. And did he find that there was only minimal
16 prior seismic activity within the area?

17 A. Yes.

18 Q. Did Mr. Taylor also work with FTI Platt Sparks
19 to run the fault slip probability tool analysis for the
20 locations where these wells are going to be located?

21 A. Yes, he did.

22 Q. Okay. And Mr. Taylor reviewed FTI Platt
23 Sparks' analysis, correct?

24 A. Yes.

25 Q. And did both Mr. Taylor and FTI Platt Sparks

1 find that there is very little risk for induced
2 seismicity as a result of these proposed operations?

3 A. Yes.

4 Q. Could you please turn to Exhibit 7? Is Exhibit
5 7 a declaration that NGL has obtained from Steve Nave
6 who is a fishing tools provider in southeastern New
7 Mexico?

8 A. Yes.

9 Q. To your understanding, has Mr. Nave previously
10 testified before the Division?

11 A. Yes.

12 Q. And in this declaration, does Mr. Nave conclude
13 that fishing operations will be possible in the wells if
14 NGL is permitted to use the tubing and casing sizes it
15 requests?

16 A. Yes, as designed.

17 Q. As designed.

18 Could you please turn to Exhibit Number 8?
19 Does Exhibit Number 8 contain an affidavit that's been
20 prepared by NGL's counsel in both of these cases
21 confirming that notice has been provided to affected
22 parties within one mile of where the wells are going to
23 be located?

24 A. Yes, it does.

25 Q. In addition, did NGL also publish notice of

1 both of these applications in a newspaper of general
2 circulation?

3 A. Yes. A copy is attached.

4 Q. Okay. Great.

5 Now, if you look at the very last page of
6 this exhibit, there is an Affidavit of Publication. And
7 there are actually two contained in here, but it's
8 easier to look at the last page, and it contains the
9 Affidavit of Publication with the notices for both of
10 the cases, correct?

11 A. Yes.

12 Q. Were Exhibits 1 through 8 created by you or
13 prepared under your supervision or direction or compiled
14 from NGL's company business records?

15 A. Yes, they were.

16 Q. And in your opinion, does the granting of this
17 application promote the prevention of waste and the
18 protection of correlative rights?

19 A. Yes, it certainly does.

20 MS. BRADFUTE: I would like to tender
21 Exhibits 1 through 8 into the record.

22 MR. MOELLENBERG: No objection as long as
23 this witness can take questions on all of the
24 affidavits.

25 EXAMINER McMILLAN: That's fine. That's

1 acceptable.

2 MR. PADILLA: I don't have any questions.

3 MR. CARR: No objection.

4 EXAMINER McMILLAN: Okay. Exhibits 1
5 through 8 may be accepted as part of the record with
6 questions about the affidavits.

7 (NGL Water Solutions Permian, LLC Exhibit
8 Numbers 1 through 8 are offered and
9 admitted into evidence.)

10 EXAMINER BROOKS: Okay. It's time for me
11 to leave for my meeting. I leave it to the judgment of
12 the examiner if he chooses to proceed without counsel or
13 to recess for lunch.

14 MS. BRADFUTE: Since we are at
15 cross-examination point, it may be helpful to have legal
16 counsel here in case there are objections.

17 EXAMINER BROOKS: Okay. Well, that's okay
18 with me.

19 EXAMINER McMILLAN: Fine. We're coming
20 back.

21 EXAMINER BROOKS: That will occur at 1:30?

22 EXAMINER McMILLAN: Okay. Thanks.

23 (Recess, 11:34 a.m. to 1:35 p.m.)

24 EXAMINER McMILLAN: I'd like to call the
25 hearing back to order.

1 And we will now continue with Cases 16438
2 and 16440.

3 MR. MOELLENBERG: I guess I'm up, huh?

4 EXAMINER McMILLAN: Yes.

5 MR. MOELLENBERG: Thank you, Mr. Hearing
6 Examiner.

7 CROSS-EXAMINATION

8 BY MR. MOELLENBERG:

9 Q. Good afternoon, Mr. Duncan. I hope you had a
10 nice lunch break.

11 A. Good afternoon. I did. First meal of the day.

12 Q. I just have a few questions. Starting with
13 Exhibit 3, the second map relating to Case 16440 -- do
14 you have that there?

15 A. The second map in Exhibit 3. Just a minute.

16 Yes.

17 Q. Do you see the blue-colored versus the
18 black-colored circles on that map?

19 A. Yes.

20 Q. What do those two different circles represent?

21 A. This is a map provided by the NMOCD. There is
22 a one-mile AOR by the black -- sorry -- by the blue
23 line. You can actually scale that off with the
24 sections. That's one mile. So you can scale off that
25 black line that looks like three-quarters of a mile, but

1 that's Phil's line that Phil --

2 Q. Okay. And do you know what the black line
3 represents or why it's there?

4 A. It's a three-quarter-mile line radius around
5 the well.

6 Q. Why was a one-mile area of review selected for
7 this case?

8 A. That was required by the OCD.

9 Q. Did NGL have any input into that area-of-review
10 limit?

11 A. That area-of-review limit was established by
12 Phil's group prior to these applications being filed.

13 Q. Okay. While we're on that exhibit, I note that
14 in the upper, left-hand corner, there is a note about
15 the injection rate for the McCloy SWD No. 2 well being
16 reduced from January to August, and I recall this
17 morning you mentioning that as well. Does that have any
18 significance with respect to this application?

19 A. I don't understand your question.

20 Q. Just the mention of the injection rate for the
21 McCloy SWD No. 2 well being reduced by 50 percent from
22 January to August, per this note and I believe your
23 testimony this morning, does that reduction have any
24 particular significance with regard to NGL's
25 application?

1 A. It doesn't -- it doesn't have much to do with
2 our application. It's just a statement of fact.

3 Q. Okay. And do you have any knowledge about why
4 that -- why OCD's records show that reduction in
5 injection rate?

6 A. I don't know why they have that reduction.

7 Q. I note that a number of the affidavits from
8 NGL's experts mention that injection wells -- and I
9 presume this is referring to NGL's proposed wells --
10 will be spaced out and not located closer than
11 approximately one mile from other disposal wells. And,
12 again, there is a reference to the wells approved for
13 injection into the Devonian and Silurian Formations.
14 What is the basis for that one-mile minimum spacing?

15 A. We don't want to have a disposal well within
16 the AOR of another well --

17 Q. That's --

18 A. -- preview.

19 Q. So NGL does not want to have another SWD well
20 within the one-mile area of review?

21 A. We're really trying to respect the concerns of
22 the Commission and the Commission staff, which stated
23 that they don't want to see a well within a mile of
24 another well.

25 Q. Okay. So that one-mile limit, you're

1 attributing to the Division and not any particular
2 analysis or evaluation of NGL?

3 A. It's guidance by the Commission, to my
4 knowledge.

5 Q. Okay. In Exhibit 2, there is a map -- I don't
6 think there is a page number on it. It's a map prepared
7 by Lonquist, and as I read it, it indicates a two-mile
8 area of review. Do you know why there is a map there
9 showing a two-mile area of review?

10 A. I'm sorry. I'm trying to find what you're
11 referring to.

12 MS. BRADFUTE: I believe it's this map
13 (indicating).

14 Dalva, are you looking at this
15 (indicating)?

16 THE WITNESS: What map are you looking at?

17 Q. (BY MR. MOELLENBERG) Yeah. It's right after
18 the text of the application. I think it's --

19 A. Are you referring to the green line?

20 Q. Yeah. That would be the green line, I believe.
21 And particularly the upper right, there is an indication
22 of a two-mile area of review.

23 A. That's not pertinent to the application. The
24 application is -- we are required to look at it at a
25 one-mile area of review.

1 Q. Okay. Do you know if this two-mile area of
2 review was done for some other purpose?

3 A. No.

4 Q. Okay. In preparing the application, did NGL
5 consult with any other SWD owners or operators in the
6 vicinity, particularly my client, OWL?

7 A. Not to my knowledge.

8 Q. Okay. In selecting the location for the well
9 that's the subject of Case 16440, which is the -- I
10 guess it's the McCloy -- yeah, the McCloy West SWD
11 No. 1, were there any particular constraints in terms of
12 locating that well that NGL considered?

13 A. I'm not aware of constraints that NGL had
14 considered. I just don't --

15 Q. Okay. And NGL has some pretty extensive land
16 holdings in the area of that well; is that right?

17 A. Are you referring to -- what are you referring
18 to?

19 Q. The McCloy Ranch property in general.

20 A. And specifically?

21 Q. Just the size of the McCloy Ranch. How large
22 is it?

23 A. You'd have to reference the press release.

24 Q. Okay. Is it several thousand acres?

25 A. As I recall, it is, but I haven't looked at

1 that in some time. I don't know how many acres exactly
2 it is.

3 **Q. Okay. That's all I have.**

4 **A. Okay. All right.**

5 EXAMINER McMILLAN: Ernie, do you have
6 anything?

7 MR. PADILLA: No questions.

8 MR. CARR: No questions.

9 EXAMINER McMILLAN: Go.

10 EXAMINER GOETZE: First of all, the
11 two-mile, just for reference, it is part of our C-108.
12 We do ask the applicant to provide a two-mile radius to
13 look at, primarily producing wells. And so that's
14 carried over from a historical application.

15 And then for the benefit of those attorneys
16 here representing other parties, of late, for those
17 people who have been making applications, we have been
18 looking at a one-mile area of review, and we're doing
19 that in an effort to space these wells out to minimize
20 their impact between each other. This comes out of
21 several hearings, several efforts by Matador, Chevron,
22 XTO, as well as appearances before the Commission. We
23 look at the three-quarter mile as a minimum,
24 technically, again based upon testimony of Chevron, XTO,
25 Matador about what a typical well would do over its life

1 and its injection rate at a large volume, having a large
2 capacity.

3 The feelings of the prior administration --
4 excuse me -- the prior director, in the sense of doing a
5 one-mile radius of review, is that we would cover our
6 liability associated with correlative rights, that we
7 would have informed people. Now, we do have a case
8 pending regarding what is an affected person, and we do
9 have rulemaking that affected parties will now include
10 SWDs and will oppose change in the injection rule.

11 With that said, what you're looking at is
12 what we're using right now as a way to sort through
13 applications for SWDs in the hopes of alleviating or
14 reducing the potential of what has happened both in
15 Texas and Oklahoma. And so with that, we are treading
16 on new territory, and we're going to have many of these
17 cases because there will be an opportunity to come
18 forward and see if it really is worth it.

19 That said, let's go back to this person
20 (indicating).

21 CROSS-EXAMINATION

22 BY EXAMINER GOETZE:

23 **Q. The application is for a disposal -- saltwater**
24 **disposal. Is the casing program such that it will**
25 **protect underground sources of drinking water, to the**

1 best of your knowledge?

2 A. Yes, it is.

3 Q. Though we don't have an operating rate, we will
4 be running with a .2 psi. Is it your understanding that
5 this well will perform as expected at that point, with a
6 .2 psi pressure gradient?

7 A. Based on our simulations, it's -- it'll -- it
8 should get there. It seems to be mammoth in terms of
9 PhiH -- or kh down there.

10 EXAMINER GOETZE: And I will make a
11 footnote that I did meet with these parties at the end
12 of September, and at that time, we met with their
13 technical staff to address induced seismicity, which we
14 are now asking for as a result of the EPA study and a
15 request by the EPA that we incorporate some sort of
16 program within our UIC Program. And we have offered out
17 models that have been accepted by industry, and we have
18 asked those who wish to apply to seek out a professional
19 qualified person and provide us with documentation.

20 So this has been a work in progress, and as
21 you come in and do the applications, we've been trying
22 to inform people.

23 With that, there are affidavits in here
24 from people I met with, through counsel, in an effort to
25 minimize the redundancy, as well as address issues we

1 have with holes in the original application. And to my
2 knowledge, what was presented at that hearing, our
3 requirements for our permit has been provided, a
4 complete C-108.

5 I would ask Mr. Carr, COG and Jack Tank:
6 So you folks and NGL have come to some sort of
7 agreement?

8 MR. CARR: We have a letter agreement where
9 they're going to share information from the well with
10 us, and we indicated if they would do that, we would not
11 object at this hearing.

12 EXAMINER GOETZE: Okay. It would be the
13 request of the Division if we could get some sort of
14 feeling as to what kind of resolution. We don't want to
15 know the full terms of it. But the concept is that we
16 do have horizontal wells. I believe COG's concern with
17 the Thistle in its proximity to where NGL is promising
18 or saying they're going to drill, this is something
19 we're going to be running into more and more. And if
20 there is a technical aspect of it that you could provide
21 the Division in order that we get some guidance to how
22 close we feel and how uncomfortable, because no one
23 wants to tell us how far their fractures go. So in
24 order to protect correlative rights, as well as drilling
25 new wells, especially these large-volume wells, if you

1 could provide us at least some sort of small,
2 comfortable statement as to what you felt was the best
3 resolution. And if it's just about liability and not
4 technical, we really don't want to know.

5 MR. CARR: Actually, it is NGL's
6 information.

7 MS. BRADFUTE: Yes.

8 MR. CARR: And looking at the letter, it
9 may not be -- you may be disappointed when you see it.

10 MS. BRADFUTE: Yes (laughter).

11 MR. CARR: What we are asking for -- but
12 I'll discuss this with Jennifer and --

13 MS. BRADFUTE: That sounds good.

14 EXAMINER GOETZE: Well, if you could,
15 provide just something so it will be in the record so
16 when this comes up again -- and it will come up again --
17 we have something to just look at.

18 Again, I've been through the applications,
19 and its content is what you have claimed and you've
20 addressed all my concerns as a technical reviewer.

21 MS. BRADFUTE: Okay. Thank you.

22 EXAMINER GOETZE: Thank you.

23 EXAMINER BROOKS: I have no questions.

24 MS. BRADFUTE: With that, we ask that Case
25 Numbers 16438 and 16440 be taken under advisement.

1 EXAMINER McMILLAN: Any closing statements
2 by anybody?

3 MR. MOELLENBERG: Nothing. Thank you for
4 the explanation. That was helpful.

5 EXAMINER GOETZE: And, again, this will be
6 coming more -- the UIC manual is being rewritten. It
7 includes both information with this, as well as drilling
8 in the Delaware Mountain Group, and it has other
9 guidance, too. So hopefully -- but you'll have to bear
10 with us. This is a maddening ride down the hill, and
11 we're trying to steer this without a wheel. And at this
12 point, the consideration is to avoid what other states
13 have gone through. But that doesn't mean or precludes
14 the opportunity to come in and have a hearing to define
15 it, as well as clarify, which is still not clear. So we
16 offer the opportunity for you to protest and certainly
17 come in and have a case.

18 MR. MOELLENBERG: Thank you.

19 EXAMINER GOETZE: With all that said, thank
20 you.

21 EXAMINER McMILLAN: Cases 16438 and 16440
22 shall be taken under advisement.

23 (Case Numbers 16438 and 16440 conclude,
24 1:52 p.m.)

25

1 STATE OF NEW MEXICO
2 COUNTY OF BERNALILLO

3

4 CERTIFICATE OF COURT REPORTER

5 I, MARY C. HANKINS, Certified Court
6 Reporter, New Mexico Certified Court Reporter No. 20,
7 and Registered Professional Reporter, do hereby certify
8 that I reported the foregoing proceedings in
9 stenographic shorthand and that the foregoing pages are
10 a true and correct transcript of those proceedings that
11 were reduced to printed form by me to the best of my
12 ability.

13 I FURTHER CERTIFY that the Reporter's
14 Record of the proceedings truly and accurately reflects
15 the exhibits, if any, offered by the respective parties.

16 I FURTHER CERTIFY that I am neither
17 employed by nor related to any of the parties or
18 attorneys in this case and that I have no interest in
19 the final disposition of this case.

20 DATED THIS 25th day of October 2018.

21

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23 MARY C. HANKINS, CCR, RPR
24 Certified Court Reporter
New Mexico CCR No. 20
Date of CCR Expiration: 12/31/2018
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