

## Murphy, Kathleen A, EMNRD

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**From:** Seth McMillan <SMcMillan@montand.com>  
**Sent:** Tuesday, January 8, 2019 3:46 PM  
**To:** Adam Rankin; Goetze, Phillip, EMNRD; Brooks, David K, EMNRD  
**Cc:** Kaitlyn A. Luck; 'jimmy@craiglawllc.com'; David Ortiz; Murphy, Kathleen A, EMNRD  
**Subject:** [EXT] RE: Delaware Energy, LLC / NMOCD Nos. 16258-16261 - Delaware's Reply in Support of Motion to Dismiss Foundation Minerals Group

Also no objection to Delaware's request that the Division confirm whether Delaware must move the Bear Trap well to its alternative location. For what it's worth, Foundation Minerals et al. would prefer the alternative location, for the simple reason that the Bear Trap would be located further from the proposed Foundation SWD #1 than was presented at hearing.

Sent from my iPhone

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**From:** Seth McMillan  
**Sent:** Tuesday, January 8, 2019 3:10 PM  
**To:** 'Adam Rankin' <AGRankin@hollandhart.com>; Goetze, Phillip, EMNRD <Phillip.Goetze@state.nm.us>; Brooks, David K, EMNRD <DavidK.Brooks@state.nm.us>  
**Cc:** Kaitlyn A. Luck <Kluck@montand.com>; 'jimmy@craiglawllc.com' <jimmy@craiglawllc.com>; David Ortiz <DOrtiz@montand.com>; Murphy, Kathleen A, EMNRD <KathleenA.Murphy@state.nm.us>  
**Subject:** RE: Delaware Energy, LLC / NMOCD Nos. 16258-16261 - Delaware's Reply in Support of Motion to Dismiss Foundation Minerals Group

No objection from Foundation et al. to the request for continuance. Thanks.

Sent from my iPhone

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**From:** Adam Rankin [<mailto:AGRankin@hollandhart.com>]  
**Sent:** Tuesday, January 8, 2019 12:36 PM  
**To:** Goetze, Phillip, EMNRD <[Phillip.Goetze@state.nm.us](mailto:Phillip.Goetze@state.nm.us)>; Brooks, David K, EMNRD <[DavidK.Brooks@state.nm.us](mailto:DavidK.Brooks@state.nm.us)>  
**Cc:** Kaitlyn A. Luck <[Kluck@montand.com](mailto:Kluck@montand.com)>; 'jimmy@craiglawllc.com' <[jimmy@craiglawllc.com](mailto:jimmy@craiglawllc.com)>; David Ortiz <[DOrtiz@montand.com](mailto:DOrtiz@montand.com)>; Murphy, Kathleen A, EMNRD <[KathleenA.Murphy@state.nm.us](mailto:KathleenA.Murphy@state.nm.us)>; Seth McMillan <[SMcMillan@montand.com](mailto:SMcMillan@montand.com)>  
**Subject:** RE: Delaware Energy, LLC / NMOCD Nos. 16258-16261 - Delaware's Reply in Support of Motion to Dismiss Foundation Minerals Group

Mr. Goetze and Mr. Brooks,

Delaware Energy will need to continue these pending cases (16258, 16259, 16260) for notice purposes to the February 7 docket due to the fact that these cases were not called at the December 20 hearing.

At this point, only Foundation Minerals Group is protesting the Bear Trap (Case No. 16258). As noted in our closing statement, SLO has identified an alternative location for this well that will resolve the Division's concerns regarding overlap with a previously permitted SWD. However, Delaware needs direction from the Division on whether the Division will require it to move the Bear Trap to the alternative location. If so, Delaware needs to provide updated notice of the location as well as the continuance to Feb. 7.

Can the Division advise the parties by response to this email whether the Division will require Delaware to move its Bear Trap to the proposed alternative location (to Unit Letter P, Section 34, T23S, R27E)?

We appreciate the consideration of this request.

Respectfully,  
Adam

**Adam G. Rankin**

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**From:** Adam Rankin

**Sent:** Friday, December 14, 2018 4:10 PM

**To:** Seth McMillan <[SMcMillan@montand.com](mailto:SMcMillan@montand.com)>; 'Goetze, Phillip, EMNRD' <[Phillip.Goetze@state.nm.us](mailto:Phillip.Goetze@state.nm.us)>; Brooks, David K, EMNRD <[DavidK.Brooks@state.nm.us](mailto:DavidK.Brooks@state.nm.us)>; ([florene.davidson@state.nm.us](mailto:florene.davidson@state.nm.us)) <[florene.davidson@state.nm.us](mailto:florene.davidson@state.nm.us)>

**Cc:** Kaitlyn A. Luck <[KLuck@montand.com](mailto:KLuck@montand.com)>; 'jimmy@craiglawllc.com' <[jimmy@craiglawllc.com](mailto:jimmy@craiglawllc.com)>; 'David Ortiz' <[DOrtiz@montand.com](mailto:DOrtiz@montand.com)>; Michael Feldewert <[MFeldewert@hollandhart.com](mailto:MFeldewert@hollandhart.com)>; Jordan L. Kessler <[JLKessler@hollandhart.com](mailto:JLKessler@hollandhart.com)>; 'Murphy, Kathleen A, EMNRD' <[KathleenA.Murphy@state.nm.us](mailto:KathleenA.Murphy@state.nm.us)>; Clory L. Wetzsteon <[CLWetzsteon@hollandhart.com](mailto:CLWetzsteon@hollandhart.com)>

**Subject:** RE: Delaware Energy, LLC / NMOCD Nos. 16258-16261 - Delaware's Reply in Support of Motion to Dismiss Foundation Minerals Group

Counsel and Hearing Examiners,

Attached for service and filing is Delaware Energy, LLC's Reply in Support of its Motion to Dismiss Foundation Minerals Group from Case Nos. 16259 and 16260 with Exhibits A and B thereto. Delaware hereby withdraws its motion to dismiss Foundation Minerals Group from Case No. 16258 since it is an affected person under Division rules in that proceeding. It also withdraws its motion to dismiss the Davises and Ms. Ogden.

In addition, attached are updated C-108 pages containing the supplemental information requested by Examiner Goetze reflecting the well bore diagram for the proposed wells in Case Nos. 16259 (Giant Panda) and 16260 (Grizzly SWD), the well location information for each fresh water sample that was submitted for each case, and in a separate attachment the OSE data reflecting depth to groundwater in the area.

3Bear has withdrawn its objections and entry of appearance in these cases, so their counsel is not being served.

We will present by affidavit at the hearing on December 20 the updated notice issued in Case Nos. 16258 and 16260. We also will be prepared to address the motion to dismiss Foundation Minerals Group if it would be helpful to hear argument from the attorneys on that issue at that time.

Most sincerely,  
Adam

**Adam G. Rankin**

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**From:** David Ortiz <[DOrtiz@montand.com](mailto:DOrtiz@montand.com)>  
**Sent:** Monday, December 10, 2018 4:27 PM  
**To:** Adam Rankin <[AGRankin@hollandhart.com](mailto:AGRankin@hollandhart.com)>; Michael Feldewert <[MFeldewert@hollandhart.com](mailto:MFeldewert@hollandhart.com)>; Jordan L. Kessler <[JLKessler@hollandhart.com](mailto:JLKessler@hollandhart.com)>; 'ccallahan@bwenergyllc.com' <[ccallahan@bwenergyllc.com](mailto:ccallahan@bwenergyllc.com)>; 'jimmy@craiglawllc.com' <[jimmy@craiglawllc.com](mailto:jimmy@craiglawllc.com)>  
**Cc:** Seth McMillan <[SMcMillan@montand.com](mailto:SMcMillan@montand.com)>; Kaitlyn A. Luck <[KLuck@montand.com](mailto:KLuck@montand.com)>  
**Subject:** Delaware Energy, LLC / NMOCD Nos. 16258-16261

Counsel, attached are endorsed copies of:

- Mineral Companies' Joint Response to Delaware Energy, LLC's Oral Motion to Dismiss
- Mineral Companies' Joint Closing Statement

David H. Ortiz  
Assistant to Stephen S. Hamilton, Seth C. McMillan, Edmund H. Kendrick  
& Matthew A. Zidovsky



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