

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

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

SCHEDULING CONFERENCES FOR:

Case Numbers 20135, 20136, 20137, 20138, 16409 and 16410

and

Case Numbers 20171, 20202, 16481, 16482

and

Case Numbers 16443, 20113 and 20114

January 24, 2019

Santa Fe, New Mexico

BEFORE: MICHAEL McMILLAN, CHIEF EXAMINER  
KATHLEEN MURPHY, TECHNICAL EXAMINER  
TERRY WARNELL, TECHNICAL EXAMINER  
GABRIEL WADE, LEGAL EXAMINER  
DAVID K. BROOKS, LEGAL EXAMINER

This matter came on for hearing before the New Mexico Oil Conservation Division, Michael McMillan, Chief Examiner, Kathleen Murphy and Terry Warnell, Technical Examiners, and Gabriel Wade and David K. Brooks, Legal Examiners, on Thursday, January 24, 2019, 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 (8:27 a.m.)

2 EXAMINER McMILLAN: Good morning. Today's  
3 date is January 24th, 2019. This is Docket 4-19. My  
4 name is Michael McMillan. I'll be the hearing examiner.

5 The first thing we're going to do today,  
6 before we go through all the continuances, we will be  
7 discussing cases 55 through cases 67 on the docket. And  
8 in this situation, Terry Warnell will be in charge of  
9 this portion because he will be setting a date for the  
10 different cases.

11 EXAMINER WARNELL: Thank you.

12 Good morning, everyone.

13 EXAMINER McMILLAN: Please proceed.

14 EXAMINER WARNELL: Yeah. So I hope most of  
15 you know me. I've been around awhile.

16 I've been tasked with the responsibility of  
17 getting the docket to a more manageable level. I think  
18 last hearing, we had 206 cases on the docket, and I  
19 believe everyone would agree that that's insane. So one  
20 of the things we want to do -- and I'll also be the  
21 hearing examiner, I believe, for all the special dockets  
22 that we set up. So if you've got a docket issue, you  
23 can email me or call me, or -- we have a new -- is our  
24 new website up?

25 MS. MURPHY: Almost. We have two dedicated

1 emails, and they're working on getting them in our  
2 boxes. So that'll be posted on the Web page soon  
3 enough, within the next, probably, couple of days.

4 EXAMINER WARNELL: And I'm not sure how  
5 we're going to get to that level, you know, of 30 or 40  
6 cases on the docket, but I'm sure that we can figure it  
7 out some way. It'll take a while. So please be patient  
8 with me. I'll try to work with you in any way that I  
9 can.

10 I think everybody got the message last  
11 hearing that continuances would be on the second docket  
12 of the month.

13 EXAMINER WADE: The first available second  
14 docket.

15 EXAMINER WARNELL: The first available but  
16 never on the first docket.

17 EXAMINER WADE: Question?

18 MS. KESSLER: How are you defining  
19 available?

20 EXAMINER WADE: We are going to define  
21 available by what's literally available. We don't know  
22 what -- we don't know what's an appropriate level yet.  
23 We're going to figure that out.

24 MS. KESSLER: Okay.

25 EXAMINER WARNELL: So I think we'll start

1 with Case 20135.

2 Call for appearances.

3 MS. BENNETT: Good morning. Deana Bennett  
4 on behalf of Marathon Oil Permian, LLC.

5 MR. McMILLAN: Seth McMillan. I'm entering  
6 an appearance on behalf of --

7 MS. BENNETT: ADP.

8 MR. McMILLAN: -- ADP, Advance Energy  
9 Partners.

10 MR. BRUCE: And Jim Bruce for Ascent  
11 Energy.

12 And, Mr. Warnell, cases 55 through 60 are  
13 all connected.

14 EXAMINER WARNELL: 55 through 60?

15 MS. BENNETT: That's right.

16 The parties are currently in negotiation,  
17 the parties being Marathon and Ascent. And we had  
18 asked, I believe, for a special docket date, but the  
19 parties are working diligently towards an agreement.  
20 And so hearing the case in the near term, I think, is  
21 probably not warranted.

22 MR. BRUCE: I agree with Deana.

23 MS. BENNETT: The parties, I think, are  
24 working, as I mentioned, diligently towards an  
25 agreement, and so perhaps we will be able to remove this

1 from the contested case docket and just continue it for  
2 affidavit purposes only, all of these cases, if we're  
3 able to reach agreement.

4 EXAMINER WARNELL: Any idea when you'll be  
5 able to reach that agreement?

6 MR. BRUCE: Do you just want to set it for  
7 the 21st?

8 MS. BENNETT: Yes. Can we reset it, if  
9 it's available.

10 EXAMINER WADE: It is not. If it's a  
11 special hearing docket and you don't know what time it's  
12 going to be set, it would be more appropriate to set it  
13 farther in the future.

14 MR. BRUCE: Well, I mean, February 21st is  
15 the first available continuance docket --

16 EXAMINER WADE: No.

17 MR. BRUCE: -- and we're hoping to have a  
18 settlement, so why not set it for then rather than set  
19 it two months in advance?

20 EXAMINER WADE: Well, because we set  
21 hearings and they get continued, and all that does is  
22 set a cycle of continuances. In other words, you should  
23 be prepared to go to hearing if you're going to go to  
24 hearing.

25 MR. BRUCE: Easier said than done.

1 EXAMINER WADE: Well, so is just setting it  
2 indefinitely.

3 EXAMINER WARNELL: We'd like to able to  
4 reduce the number of continuances going forward. I  
5 mean, there are cases out there that have been continued  
6 six, seven, eight times, and --

7 MS. BENNETT: May I just ask a quick  
8 clarifying question? If we were able to resolve our  
9 differences and reach an agreement to where we could put  
10 these cases on by affidavit, then -- even if we were to  
11 make that decision tomorrow, let's say, we still  
12 wouldn't be able to go on the February 21st docket?  
13 We'd go on the March 21st?

14 EXAMINER WADE: We have to be able to  
15 handle the caseload that we have and be able to issue  
16 orders in a timely manner. So what each docket looks  
17 like is kind of dependent on a month-by-month basis. So  
18 I'm not saying you could. I'm not saying you couldn't.  
19 But this particular docket on the second -- let's see --  
20 the second docket of February is already --

21 How many cases? Over 70?

22 EXAMINER WARNELL: Around 70.

23 EXAMINER WADE: It's looking full.

24 MS. BENNETT: And I think that's the point  
25 I was trying to understand, is even if we were able to

1 reach an agreement, it sounds like we wouldn't be able  
2 to go on the 21st of February. It would have to go on  
3 the 21st of March in any event.

4 EXAMINER WADE: Right.

5 MS. BENNETT: And so what I'm wondering --  
6 and this is a bit -- feel free to shoot this idea down.  
7 Could we go -- continue to March 21st, and then if we  
8 are able to reach an agreement, request to go on the  
9 21st of February, if there is available space, by  
10 affidavit?

11 EXAMINER WADE: You could request a  
12 continuance, and we will place it on the first available  
13 docket.

14 MS. BENNETT: And then if we are able to  
15 reach an agreement, could we request an earlier docket  
16 if there is availability?

17 EXAMINER WADE: You can request, but,  
18 again, that's going to be a question of availability.

19 MS. BENNETT: Understood. With that, I  
20 think I would be okay with requesting a continuance to  
21 the first available docket.

22 MR. BRUCE: That's fine.

23 EXAMINER WADE: Does everyone understand  
24 the concept?

25 MS. BENNETT: Yes.

1                   EXAMINER WADE: We will place it on the  
2 first available continuance docket. So asking for a  
3 specific date, you can ask; that doesn't mean it's going  
4 to happen.

5                   MS. BENNETT: Fantastic. So I would ask  
6 that this be placed on the next -- these five cases or  
7 however many cases there are be placed -- continued to  
8 the next available continuance docket.

9                   EXAMINER WADE: Are these, at this time,  
10 going to be considered request for special hearings? I  
11 mean, that's where we were -- that's what we left off  
12 as.

13                   MS. BENNETT: Yes. I think that requesting  
14 a special hearing date at this time is premature. And  
15 so what we're hopeful is to resolve this issue without  
16 having to request a special hearing date.

17                   EXAMINER WADE: If that's the case, before  
18 special hearing dates are requested, that would be  
19 incredibly helpful. We set these with the understanding  
20 that they would go -- that they would take a day's worth  
21 of time, and that's why we set the whole Friday,  
22 tomorrow, aside for these cases, which means that we  
23 could not set other cases.

24                   MR. BRUCE: Mr. Wade, I was informed that  
25 there would be no contested hearings on this docket or

1 tomorrow, which is why we're in this situation.

2 EXAMINER WADE: Nobody informed you there  
3 would be no contested cases.

4 MR. BRUCE: Well, I was informed. I won't  
5 mention names, but I was informed.

6 EXAMINER WADE: If you have questions, you  
7 can ask me directly. Okay?

8 Okay?

9 MS. BENNETT: Great. Thank you.

10 EXAMINER WADE: Go ahead.

11 EXAMINER WARNELL: Thank you.

12 MR. McMILLAN: Thank you.

13 EXAMINER WARNELL: Let's continue then to  
14 page 5.

15 MR. DeBRINE: Earl DeBrine with Modrall  
16 Sperling for Apache.

17 MR. PADILLA: Mr. Examiner, Ernest Padilla  
18 for EOG Resources.

19 MR. LARSON: Good morning, Mr. Examiner.  
20 Gary Larson on behalf of Mewbourne Oil Company.

21 MR. BRUCE: And, Mr. Examiner, I'm here  
22 just kind of monitoring this situation for Ascent  
23 Energy, LLC. I have been conflicted out of this case,  
24 but Ascent does not have an attorney yet, but they  
25 understand -- I have spoken with them about the need to

1 set a special hearing date, and we can address that  
2 today.

3 EXAMINER WARNELL: All right. So could you  
4 remind me which cases are involved here then?

5 MR. BRUCE: 61 through 64.

6 MR. MOELLENBERG: Mr. Examiner, Dalva  
7 Moellenberg, from Gallagher & Kennedy, for OXY, on Case  
8 16481, which is a part of this.

9 EXAMINER WARNELL: So will we go to hearing  
10 anytime soon? Does this require a special docket?

11 MR. DeBRINE: Mr. Examiner, I believe it  
12 does. It's a complex case with multiple parties.

13 MR. BRUCE: It's kind of a four-way --  
14 four-sided battle at this point, Mr. Warnell.

15 EXAMINER WARNELL: Is it only four-sided?

16 (Laughter.)

17 MR. BRUCE: Mr. Moellenberg is a silent  
18 partner.

19 (Laughter.)

20 EXAMINER BROOKS: Sounds like the  
21 casualties will likely be high.

22 EXAMINER WARNELL: Yeah, they will be.  
23 So where do we stand as far as everyone  
24 ready to go?

25 MR. PADILLA: Not tomorrow.

1 EXAMINER WARNELL: Not tomorrow. Okay.

2 MR. PADILLA: But I think anytime with two  
3 weeks' notice. But there are also some motions to  
4 dismiss and other motions that need to be resolved, I  
5 think, before a hearing.

6 EXAMINER WARNELL: Well, as we all know,  
7 February 21st is full.

8 MR. BRUCE: Any time the week after that?

9 MR. DeBRINE: Mr. Examiner, for Apache, the  
10 dates in February that work for us for a special hearing  
11 date would be February 12, 18, 26 or 27.

12 EXAMINER WARNELL: Do we want to set a  
13 special hearing?

14 EXAMINER WADE: Yeah. I would recommend  
15 that for special hearings, the parties come prepared  
16 with dates.

17 Will any of those dates work for the rest  
18 of the parties?

19 MR. BRUCE: 26th and 27th.

20 EXAMINER WADE: What were the dates?

21 MR. DeBRINE: 12, 18, 26 or 27.

22 MR. PADILLA: I think the 26th and 27th  
23 work for us.

24 EXAMINER WADE: And do you anticipate that  
25 is this going to be a one-day hearing or a two-day

1 hearing?

2 MR. DeBRINE: I think it could be done in a  
3 day.

4 EXAMINER WADE: Do you anticipate that you  
5 need to have a motions hearing prior, or can that happen  
6 the day of the hearing?

7 MR. DeBRINE: It would be preferable,  
8 because it's a motion to dismiss, and it would obviate  
9 the need for the hearing.

10 EXAMINER WADE: Altogether?

11 MR. LARSON: Yes.

12 MR. BRUCE: Yes.

13 EXAMINER WADE: So how long would that  
14 particular hearing take?

15 MR. DeBRINE: 20 minutes.

16 EXAMINER WADE: So we can set a motions  
17 hearing. Anticipate that it would take 20 minutes; is  
18 that correct?

19 MR. DeBRINE: Yes.

20 MR. BRUCE: It'll be short.

21 EXAMINER WADE: Okay. We can set that  
22 either on a docket day, if it'll fit, or we can set that  
23 one -- we can make that one separately. But likely a  
24 20-minute hearing should go onto a normal docket day,  
25 and then if it obviates, then, obviously, we don't need

1 to set the special hearing. So first available docket,  
2 it's looking like we can set this for a motions hearing.  
3 Sound okay to the parties?

4 MR. DeBRINE: Works for Apache.

5 MR. MOELLENBERG: Yes.

6 MR. BRUCE: That's fine.

7 MR. LARSON: Yes.

8 MR. PADILLA: Yes.

9 EXAMINER WARNELL: Mr. Padilla, are you  
10 good with that?

11 MR. PADILLA: I'm sorry?

12 EXAMINER WARNELL: Are you good with that?

13 MR. PADILLA: I'm good with that.

14 EXAMINER WARNELL: Okay.

15 All right. Thank you.

16 Let's take the last three then, docket  
17 numbers 65, 66 and 67, NGL, Case 16443.

18 Call for appearances.

19 MS. BENNETT: Good morning. Deana Bennett  
20 on behalf of NGL Water Solutions Permian, LLC.

21 MR. BRUCE: Jim Bruce on behalf of Solaris  
22 Water Midstream, LLC.

23 MS. KESSLER: Jordan Kessler, from Holland  
24 & Hart, on behalf of EOG Resources.

25 MS. BENNETT: And just to be clear, Jordan,

1 you're here on behalf of EOG Resources in relation to  
2 the Solaris cases, correct?

3 MS. KESSLER: Correct.

4 MS. BENNETT: Earlier, for the Division's  
5 recollection, Santo had entered an appearance in this  
6 case via the Holland & Hart firm, but Santo has since  
7 agreed to withdraw any opposition to the Sidewinder  
8 application.

9 MS. KESSLER: Correct.

10 MS. BENNETT: So the only opposition that  
11 we currently have to the Sidewinder application, which  
12 is 16443, is Solaris.

13 And I did just want to take a quick minute  
14 to talk about how we got here before we talk about the  
15 path forward. So NGL submitted its application for  
16 Sidewinder back on August 24th, and at Mr. Goetze's  
17 request, NGL continued its application so that it could  
18 move the well location to be outside the 1.5-mile buffer  
19 from the Telluride well, which is the well at issue for  
20 Mr. Bruce's client.

21 EXAMINER WADE: Gentlemen, it's hard to  
22 hear.

23 Thank you.

24 MS. BENNETT: So upon Mr. Goetze's request  
25 to move the Sidewinder well, NGL undertook to do that,

1 and it took a month or so to move the location of the  
2 well to be outside the 1.5-mile buffer. And during that  
3 time, Mr. Bruce entered his appearance on behalf of  
4 Solaris asserting that -- or he intervened, actually,  
5 and the basis for his intervention was that the  
6 Sidewinder would be within 1.5 miles of the Telluride  
7 well.

8 Well, on December 14th, approximately, we  
9 filed our amended application that moved the well  
10 outside the 1.5-mile radius or buffer from the Telluride  
11 well. And I communicated that to counsel for Solaris,  
12 along with a request -- multiple requests, actually,  
13 that counsel for Solaris dismiss or drop its protest  
14 given that we are now outside the 1.5-mile buffer.  
15 Those requests to dismiss have been, I guess, not  
16 answered in the affirmative, which why we're here today.

17 And I also wanted to mention that we're  
18 here today because NGL is ready and prepared to go to  
19 hearing on this. We've been ready. We've been  
20 prepared. I've been asking for special docket dates.  
21 We've been trying to work toward getting this case on  
22 the docket, and, in fact, we were prepared to go  
23 tomorrow. And to the extent that there was any  
24 miscommunication on my part about our readiness to go  
25 tomorrow, I certainly apologize for that, Mr. Warnell.

1           We were prepared to go tomorrow, and, in  
2 fact, I have with me three NGL witnesses: Mr. Neel  
3 Duncan, whom you're all familiar.

4           I also have with me Scott Wilson. He is  
5 the senior vice president for Ryder Scott in Denver.  
6 He's testified before the Division twice, I believe, and  
7 we've also presented his affidavits to the Division in  
8 our other NGL cases. And he is a petroleum engineer,  
9 and the work that he's doing for NGL is a nodal analysis  
10 and reservoir stimulations to determine the potential  
11 impacts of the increased tubing size. And as we  
12 presented in our prior cases, his analysis is showing  
13 favorable results, that there is no impact.

14           Also with me today is Mr. Todd Reynolds.  
15 Todd Reynolds is the managing director of FTI Platt  
16 Sparks. Mr. Reynolds hasn't testified before the  
17 Division before, but we have presented his studies in  
18 our prior NGL applications. And he actually does the  
19 fault slip probability analysis based on the Stanford  
20 University tool, and he -- bless you.

21           EXAMINER BROOKS: Thank you.

22           MS. BENNETT: -- and he supports the work  
23 of Dr. Steven Taylor, who is a seismologist. Dr. Steven  
24 Taylor, as you know, based on his prior affidavits, is a  
25 researcher -- former researcher at LANL. He,

1 unfortunately, isn't here with us today because he's in  
2 Idaho for the ski season, but he is and was planning to  
3 be available by phone tomorrow.

4 And also not with us today is Kate Zeigler,  
5 who is our geologist, and Kate is and was planning on  
6 being here tomorrow as well.

7 And so I brought -- asked the witnesses to  
8 come today to clear up any confusion that I may have  
9 caused about our readiness and willingness to go to  
10 hearing. We are willing. We are ready. We are  
11 prepared.

12 And so I would just ask that if there is a  
13 possibility of dismissing Solaris' protest -- I know  
14 this is unconventional, but I would like to ask that it  
15 be dismissed because it is moot. But to the extent that  
16 we can't have a hearing tomorrow -- obviously, we're  
17 here at the Division's pleasure. We would like to have  
18 a hearing tomorrow. That would be fantastic. But to  
19 the extent we can't have a hearing tomorrow, I would  
20 like to suggest special hearing dates in early February,  
21 with the understanding that Mr. Bruce is unavailable the  
22 13th through the 19th. So we're available the week  
23 before or the week after for a special hearing date, and  
24 we would prefer the week before given the circumstances  
25 but understand that it may need to be the week after.

1 EXAMINER WARNELL: Ready to go tomorrow?

2 MR. BRUCE: What's that?

3 EXAMINER WARNELL: Are you ready to go  
4 tomorrow?

5 MR. BRUCE: No, I'm not. Again, it was my  
6 understanding there would no contested cases, so I told  
7 my witnesses not to come.

8 EXAMINER WADE: There is also a motion to  
9 dismiss that needs to be disposed of.

10 MR. BRUCE: I think that could be done on  
11 the special hearing date.

12 And I suppose the other thing is if -- you  
13 know, they've asked to dismiss. And I will ask my  
14 clients again, believe me. But are they willing to  
15 dismiss their protest against the Aspen and Telluride  
16 Solaris cases?

17 MS. BENNETT: And the answer to that is no,  
18 we are not willing to dismiss those. We -- just to put  
19 this in context, NGL is a landowner, fee surface owner,  
20 and not only was the Sidewinder and Telluride well  
21 within the 1.5-mile proximity, but we moved the  
22 Sidewinder well. The Telluride well is currently  
23 proposed to be drilled only 1,200 feet away from the  
24 boundary of NGL's fee property on a BLM lease.

25 EXAMINER WADE: If I could interrupt. So

1 this is a whole separate case; am I correct?

2 MS. BENNETT: This is the Telluride.

3 EXAMINER WADE: Is this consolidated?

4 MS. BENNETT: No. They're not  
5 consolidated.

6 EXAMINER WADE: So we're talking about a  
7 whole different case that we haven't called and it's not  
8 before us at this moment?

9 MS. BENNETT: It's part of the scheduling  
10 conference.

11 EXAMINER WARNELL: Yeah. It's part of  
12 these three.

13 EXAMINER WADE: Okay. Okay.

14 MS. BENNETT: And, in fact, my  
15 understanding is that EOG is also protesting the  
16 location of the Telluride or Aspen well. I'm not sure  
17 which one. But even if NGL were to dismiss its protest,  
18 which it's not willing to do because of its status as a  
19 fee owner and the implications to NGL's ability to make  
20 use and fully develop its fee interests, there would  
21 still be the independent protest from EOG to Solaris'  
22 application.

23 So one of the things that I had suggested  
24 in an email was uncoupling these three cases, letting  
25 the Sidewinder case go. And if Solaris wants to come in

1 and have witnesses just for the Sidewinder case, if  
2 that's more efficient for the Division, we're happy to  
3 do that, and then handle the Telluride and Aspen cases  
4 separately with EOG's participation in that as well.

5 MR. BRUCE: And it's my point that why  
6 bring the witnesses back for two hearings rather than  
7 just one?

8 MS. BENNETT: And just circling back to the  
9 motion to dismiss, if I need to make a more formal  
10 motion to dismiss, I will. But if it were granted, then  
11 I believe NGL would be able to just put this case on by  
12 affidavit, and we would request that we be allowed to do  
13 so at the next available docket date. I understand that  
14 normally that would have to be on the next available  
15 docket date for continuances, but under the  
16 circumstances, I would ask that it be on the next  
17 available docket date, but I understand that may not be  
18 possible. That would be our preference. But that's  
19 assuming the motion to dismiss would be granted or that  
20 Solaris' -- I mean, if Solaris is willing to drop its  
21 protest, that would make it more convenient for all of  
22 us, I think.

23 MR. BRUCE: I will check on that, but,  
24 again, I suggest a hearing date sometime that week  
25 before.

1 MS. BENNETT: Yes. That's the week of  
2 February -- I don't have the dates right in front of me,  
3 but the week before.

4 MR. BRUCE: 3rd or 4th.

5 MS. BENNETT: 3rd or 4th through the 8th or  
6 9th, I think it would be. That's the week of the new  
7 cases, which is February 7th.

8 EXAMINER WARNELL: February 7th.

9 MS. BENNETT: But if we could have the  
10 hearing on the 5th, if that works for your availability.  
11 As I mentioned and as you can see, we're ready to go, so  
12 we're flexible and ready.

13 EXAMINER WADE: Okay. So we have some  
14 proposed dates for a special hearing. We also have a  
15 motion to dismiss. I think it probably would be easier  
16 if you did a formal motion and a response.

17 MS. BENNETT: Thank you. I will do that.

18 MR. BRUCE: Okay.

19 EXAMINER WADE: And maybe we can dispose of  
20 that prior to the hearing dates. I think that's what we  
21 need.

22 Oh, well, I guess the third issue is -- are  
23 you saying these need -- they're not consolidated cases,  
24 right?

25 MS. BENNETT: They're not.

1 EXAMINER WADE: But they have witnesses in  
2 common?

3 MR. BRUCE: They have witnesses in common.

4 EXAMINER WADE: And are you proposing that  
5 they be completely heard separately, or it sounds like  
6 it's most efficient to hear all three in one day?

7 MS. BENNETT: The only reason I propose  
8 that they be heard separately was due to scheduling  
9 conflicts. I agree that having all of our witnesses  
10 together is the ideal situation and would be more  
11 efficient if we have to have a contested hearing.

12 EXAMINER WADE: How long for each case?

13 MS. BENNETT: Well, I anticipate that  
14 Sidewinder might take -- well, our witnesses would  
15 probably take about three hours, based on the Division's  
16 questions, and I'm not certain how long  
17 cross-examination of our witnesses would take, but  
18 assuming half as much time. Perhaps four-and-a-half  
19 hours for Sidewinder. And then I believe the Solaris --  
20 and I'm not trying to speak for Mr. Bruce. But if those  
21 two were consolidated, so then they're only asking  
22 questions of -- although there are two very different  
23 locations. But I don't know how much time he would need  
24 for his witnesses.

25 MR. BRUCE: I think combined, a day.

1                   EXAMINER WADE: All three cases in one day?  
2     But it sounds like you were anticipating one case would  
3     take three hours, case-in-chief. That would be a day.  
4     And then cross-examination, you know, let's assume half.  
5     That's not a bad assumption. You're talking  
6     four-and-a-half hours. That's one case. That's roughly  
7     a day.

8                   MS. BENNETT: I think, though, the issues  
9     here, to go to Mr. Bruce's point, are interrelated, such  
10    that much of my cross -- or his cross of my witnesses  
11    would then perhaps shorten the direct or cross of his  
12    witnesses on the Solaris -- I mean the Aspen and  
13    Telluride issues. So there is that interrelationship  
14    that might make the questioning more efficient.

15                  EXAMINER WADE: Well, I mean, the idea  
16    behind the scheduling conference is to get a good idea  
17    of when and how to schedule a hearing, right?

18                  MS. BENNETT: Uh-huh.

19                  EXAMINER WADE: Maybe it would be best if  
20    you two discussed this more and gave us a pre-hearing  
21    statement maybe in the next week that would give us a  
22    better idea of when we should set this and how long we  
23    should set this for.

24                  MR. BRUCE: Okay. That's fine. I'll take  
25    care of that today or tomorrow.

1 MS. BENNETT: And I did submit a  
2 pre-hearing statement last week in anticipation of  
3 hoping to go tomorrow, and I laid out in my pre-hearing  
4 statement the amount of time that I thought would be  
5 required. And I roughly set 40 minutes per witness, and  
6 we will have five witnesses. If I need to provide a  
7 more fulsome pre-hearing statement, I'm happy to do  
8 that.

9 EXAMINER WADE: I don't think so, other  
10 than maybe if this idea of consolidating needs to be  
11 explored a little bit more.

12 MS. BENNETT: And in the meantime, I  
13 understand you want us to set the pre-hearing -- or get  
14 a pre-hearing statement with those times in it, but I  
15 also am hopeful that we'll still be able to get a  
16 hearing date set in the relatively near future, since we  
17 are ready to go and want to go and are prepared to go.  
18 So I would hope that we can work together efficiently  
19 and expeditiously to get this before the Division so  
20 that we can set a hearing date in the early week of  
21 February.

22 EXAMINER WADE: Yeah. Maybe in your formal  
23 motion to dismiss, you can explore that a little bit as  
24 well.

25 I mean, you can see the tension, where it's

1 difficult to set cases when we don't know necessarily  
2 how long they're going to be, whether they're  
3 consolidated or not. You know, we put dates aside, and  
4 they get continued. It doesn't help -- it's difficult  
5 for us to schedule.

6 MS. BENNETT: And right now, standing here  
7 right now, I am willing to say I will trim down my  
8 witness list to take one day, if that would -- and work  
9 with Jim to get it down to one day so that we can set a  
10 hearing date today, and I would be committed to a  
11 one-day hearing.

12 EXAMINER WADE: So maybe you discuss this a  
13 little bit more and circle back?

14 MR. BRUCE: Sure. Tomorrow, I'll --

15 EXAMINER WADE: I don't know that we're  
16 having a hearing date for tomorrow.

17 MR. BRUCE: No, no. I'm just saying report  
18 back.

19 EXAMINER WADE: Back by tomorrow? So would  
20 file a pre-hearing statement, essentially?

21 MR. BRUCE: Yeah. I already filed  
22 pre-hearing statements, but I can revise those.

23 EXAMINER WADE: Ms. Kessler, EOG?

24 MS. KESSLER: EOG is just monitoring the  
25 situation, so whatever proposed dates, we will make

1 work, and we will not have any witnesses.

2 EXAMINER WARNELL: Okay. We're good with  
3 that.

4 MS. BENNETT: Great. Thank you very much.  
5 Appreciate you.

6 EXAMINER McMILLAN: Thank you very much.  
7 (The scheduling conferences conclude, 9:58  
8 a.m.)

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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 8th day of February 2019.

21

22

23 MARY C. HANKINS, CCR, RPR  
24 Certified Court Reporter  
New Mexico CCR No. 20  
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