

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

APPLICATION of SALT CREEK MIDSTREAM, LLC CASE NO. 21476  
TO AMEND ORDER NO. R-20913-C

REPORTER'S TRANSCRIPT OF PROCEEDINGS

COMMISSION HEARING

WEDNESDAY, DECEMBER 9, 2020

This matter came on for hearing before the New Mexico Oil Conservation Commission, on Wednesday, December 9, 2020 Viz Webex Virtual Meeting Platform

MEMBERS PRESENT:

Adrienne Sandoval: Chair Oil Conservation Division  
Thomas Engler: Designee, ENMRD  
Jordan kessler: Designee New Mexico State Land Commissioner

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A P P E A R A N C E S

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FOR NM STATE LAND OFFICE:

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ALSO PRESENT:

CHRISTOPHER MOANDER, ESQ.  
SALLY MALAVE, ESQ.  
Commission Counsel  
FLORENE DAVIDSON  
Commission Clerk

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18 E X H I B I T I N D E X

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| 19 | SALT CREEK MIDSTREAM, LLC                  | ADMITTED |
| 20 | EXHIBIT                                    |          |
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25

1 (Time noted 9:20 a.m.)

2 COMMISSION CHAIR SANDOVAL: All right. So are  
3 now moving on to what was Agenda Item No. 9, Case No.  
4 21476. As was stated earlier Agenda Items Nos. 5, 6, 7, 8  
5 were continued to a later date.

6 Case No. 21476 is the Application of Salt  
7 Creek Midstream, LLC, to Amend Order No. R-20913-C.

8 Ms. Hardy?

9 COMMISSIONER KESSLER: Director, this is Jordan  
10 Kessler, the Designee from the State Land Office. I would  
11 just like to say up front I would be recusing myself from  
12 any decision-making on this case based on a prior conflict  
13 while I was in private practice. Thank you.

14 COMMISSION CHAIR SANDOVAL: Thank you,  
15 Commissioner Kessler.

16 Dr. Engler and I still represent a quorum,  
17 so we can move forward on this matter.

18 Ms. Hardy, are you on?

19 MS. HARDY: Yes, I'm here Madam Chair. Can you  
20 hear me?

21 COMMISSION CHAIR SANDOVAL: Yes. Would you like  
22 to make a brief opening statement in this case?

23 MS. HARDY: Yes. It will be brief.

24 On August 5, 2019, Salt Creek filed an  
25 application seeking authority to inject treated acid gas

1 into the proposed Salt Creek Midstream AGI No. 1 well.  
2 The target injection zone for the well is in the Bell and  
3 Cherry Canyon FORMATIONS of the Delaware Mountain Group.

4 Salt Creek, the Oil Conservation Division  
5 and the State Land Office negotiated a set of permit  
6 conditions that, among other things, required Salt Creek  
7 to complete a second well in the Devonian Formation. The  
8 Commission heard Salt Creek's application on December 11,  
9 2019, and considered extensive evidence submitted by Salt  
10 Creek.

11 The Commission issued an Order granting the  
12 application on January 16th of 2020. The Order required,  
13 among other things, that Salt Creek submit a C-108 for the  
14 Devonian well within six months and provided that Salt  
15 Creek's authorization to inject into the Delaware Mountain  
16 Group well would expire if that did not occur.

17 Although it's common for injection permits  
18 to allow an operator two years to commence an injection  
19 and for extensions to be granted administratively, this  
20 Order did not contain that language. Really, at the time  
21 no one was expecting the disruption in the market that  
22 occurred in early 2020.

23 Salt Creek did not commence drilling the  
24 DMG well, the Delaware Mountain Group well, or submit  
25 C-108s for the Devonian well due to that disruption that

1 occurred in early 2020.

2 At this time Salt Creek does wish to  
3 proceed, and seeks an Order reinstating its authority to  
4 commence injection into the Delaware Mountain Group well,  
5 and requiring Salt Creek to commence that injection within  
6 two years of issuance of a new Order; and also providing  
7 that Salt Creek is required to submit a C-108 for its  
8 Devonian well within six months after it spuds the  
9 Delaware Mountain Group well.

10 We've provided a proposed Order as  
11 Exhibit A to our application, and the form of that Order  
12 has been approved by counsel for the Oil Conservation  
13 Division and also the State Land Office.

14 So we would request that Salt Creek's  
15 application be granted so as to protect public health and  
16 the environment, protect correlative rights, and prevent  
17 waste.

18 Thank you.

19 I do have two witnesses, Madam Chair.

20 COMMISSION CHAIR SANDOVAL: Thank you.

21 Mr. Ames, would the Division like to make  
22 any opening statements?

23 MR. AMES: Thank you, Madam Chair.

24 Madam Chair, members of the Commission,  
25 Eric Ames for OCD. OCD has stipulated to the Draft Order

1 proposed by Salt Creek, as Ms. Hardy has stated.

2 We do have a witness, Mr. Goetze, if  
3 necessary, but we do not intend on presenting any  
4 testimony unless called upon to do so. We have, as I  
5 said, stipulated to the Order and have no objection to the  
6 Commission entering the Amended Order.

7 Thank you.

8 COMMISSION CHAIR SANDOVAL: Thank you.

9 Mr. Biernoff, would you like to make any  
10 statements on behalf of the Land Office?

11 MR. BIERNOFF: Thank you, Director and  
12 commissioners. This is Ari Biernoff on behalf of  
13 Commissioner Stephanie Garcia Richards and the New Mexico  
14 State Land Office.

15 As Mr. Ames said with respect to the Oil  
16 Conservation Division, the State Land Office also has  
17 stipulated to the form of Order that the applicant is  
18 presenting, and does not object to the issuance of the  
19 Order.

20 COMMISSION CHAIR SANDOVAL: Thank you.

21 Ms. Hardy, would you like to call your  
22 first witness.

23 MS. HARDY: Yes, Madam Chair. Our first witness  
24 is Michael Mason. And I believe he is one of the call-in  
25 users.

1                   COMMISSION CHAIR SANDOVAL: Okay. Give me a  
2 second, and I will...

3                   I have unmuted the call-in users. Mr.  
4 Mason, are you there?

5                   MR. MASON: Yes, I am.

6                   COMMISSION CHAIR SANDOVAL: Okay. Great. Would  
7 the court reporter administer the oath.

8                   MICHAEL STEPHEN MASON,  
9 having been duly sworn, testified as follows:

10                   DIRECT EXAMINATION

11 BY MS. HARDY:

12               **Q. Mr. Mason, can you please state your full name.**

13               A. Michael Stephen Mason.

14               **Q. Where do you reside?**

15               A. In Burnham, Texas.

16               **Q. By whom are you employed and in what position?**

17               A. Salt Creek as a project director.

18               **Q. Can you please briefly summarize your**  
19 **educational and professional background.**

20               A. Yes. I have a chemical engineering degree from  
21 the University of Texas at Austin, and have about 25 years  
22 of combined experience in the oil, gas, petrochemical  
23 field.

24               **Q. Are you familiar with Salt Creek's application**  
25 **in this case?**



1           A.    Yes.

2           Q.    Can you please identify the document in front of  
3 you that's marked as Salt Creek Exhibit No. 1.

4           A.    Yes.  It's Commission Order R-2913-C for Case  
5 20780.

6           Q.    Is this a true and correct copy of the Order?

7           A.    Yes, it is.

8           Q.    Are you generally familiar with the requirements  
9 of the Order?

10          A.    Yes, I am.

11          Q.    What did the Order require with respect to  
12 timing?

13          A.    That we would issue a C1 -- excuse me a C-108  
14 for the Devonian well within six months of the issuance of  
15 the DMG permit.

16          Q.    Has Salt Creek submitted a C-108 for the  
17 Devonian well?

18          A.    No.

19          Q.    And why not?

20          A.    The industry market downturn early in 2020 kind  
21 of put some plans in more of an uncertain mode, and we had  
22 to re-evaluate what that program would look like  
23 throughout 2020.

24          Q.    Is it your understanding that Salt Creek still  
25 intends to submit a C-108 for the Devonian well?

1           A.    Yes, it is.

2           **Q.    Can you please identify the document in front of**  
3 **you that's marked as Salt Creek Exhibit No. 2.**

4           A.    Yes, that's Salt Creek's application for this  
5 case, as well as a proposed Order.

6           **Q.    Is the exhibit a true and correct copy of the**  
7 **application and proposed Order?**

8           A.    Yes, it is.

9           **Q.    And have you reviewed those documents?**

10          A.    Yes, I have.

11          **Q.    Can you please summarize Salt Creek's request**  
12 **in this case.**

13          A.    Yes.   1:  To reinstate Salt Creek's  
14 authorizations to commence injection for the treated acid  
15 gas into the first DMG well:

16                       2:  To require Salt Creek to commence  
17 injection into that well within two years of the permit,  
18 the Order.

19                       And 3:  To require Salt creek to submit the  
20 C-108 for the Devonian well within six months of spudding  
21 that first DMG well.

22          **Q.    Does Salt Creek propose that the remaining**  
23 **conditions set out in Order No. R-20913 would remain in**  
24 **effect?**

25          A.    Yes.

1           Q.    And is it your understanding that the proposed  
2   Order is agreeable to the Oil Conservation Division and  
3   the State Land Office?

4           A.    Yes.

5           Q.    Is it your opinion that granting Salt Creek's  
6   request will prevent waste, protect correlative rights,  
7   and protect human health and the environment?

8           A.    Yes, for all the reasons explained at the  
9   hearing in December of 2019.

10           MS. HARDY:  Madam Chair, I have no further  
11   questions for Mr. Mason.  I would move the admission of  
12   Salt Creek Exhibits No. 1 and 2.

13           COMMISSION CHAIR SANDOVAL:  Are there any  
14   objections from the other parties regarding entering the  
15   exhibits?

16           MR. AMES:  No objection, Madam Chair.

17           MR. BIERNOFF:  No objection.

18           COMMISSION CHAIR SANDOVAL:  Okay.  Exhibit No. 1  
19   and 2 -- sorry.  Commissioners, are there any objections  
20   to entering them into the record?

21           COMMISSIONER ENGLER:  This is Tom Engler.  There  
22   is no objection.  Are we supposed to approve Mr. Mason as  
23   an expert, too?

24           MS. HARDY:  Well, I actually hadn't moved to  
25   qualify him as an expert since he's a company

1 representative.

2 COMMISSIONER ENGLER: Okay. Fine.

3 COMMISSION CHAIR SANDOVAL: Okay. Salt Creek  
4 Exhibits Nos. 1 and 2 are now entered into the record.

5 Mr. Ames, do you have any questions for the  
6 witness?

7 MR. AMES: I do not, Madam Chair. Thank you.

8 COMMISSION CHAIR SANDOVAL: Mr. Biernoff, do you  
9 have any questions?

10 MR. BIERNOFF: I do not, Director. Thank you.

11 COMMISSION CHAIR SANDOVAL: Dr. Engler.

12 COMMISSIONER ENGLER: Yes, I have a couple of  
13 clarifications.

14 CROSS EXAMINATION

15 BY COMMISSIONER ENGLER:

16 Q. Mr. Mason, do you have a rough idea when you  
17 think you will spud this well?

18 A. No, sir, no further timeline for the spud of  
19 this well at this time.

20 Q. In Exhibit 2, under 10 and 11, you know, you  
21 said you did your due diligence to try to get a rig. And  
22 of course with the pandemic, I understand the issues. I  
23 guess with the fact that you so desire and still want this  
24 acid gas injection, drilling rigs are becoming available,  
25 I was hoping and thinking that maybe you had some timeline

1     that you would do this.

2                     So are you looking at 2021 as a possible  
3     time frame to drill the DMG well?

4             A.    Yes, sir, 2021 is certainly a possible time  
5     frame for this well.

6             Q.    Why do you want two years -- one of your  
7     requests is two years after commencing TAG.

8                     Why the two years from the new Order?

9             A.    Well, the two years would be, I believe, to  
10    place the well -- to complete the well.  And so from  
11    roughly a six-month overall execution period that would  
12    certainly bring the spud up.  The two years was just  
13    believed to be a time period in which we could re-evaluate  
14    this plan, remobilize the project, and not have to revisit  
15    this timeline again.

16            Q.    You also are requesting the C-108 for a Devonian  
17    after the spudding of the DMG well; is that correct?

18            A.    Yes, it is.

19            Q.    So again -- the previous Order was after the  
20    issuance of the permit, so again that's a slight change or  
21    modification in the request.  Again I would like to know  
22    why.

23            A.    Well, we believe that this new proposed timeline  
24    would give us time to put together a plan and execute for  
25    the DMG well, as well as do repair, do the subsurface

1 work, the due diligence for the Devonian well, and have  
2 that application ready to go once we have the first well,  
3 the DMG well underway.

4 COMMISSIONER ENGLER: Thank you.

5 I have no further questions, Madam Chair.

6 COMMISSION CHAIR SANDOVAL: Thank you.

7 CROSS EXAMINATION

8 BY COMMISSION CHAIR SANDOVAL:

9 Q. So, you know, I think -- I am curious about the  
10 timeline, too. You know, you state in 10 that a rig was  
11 not available to spud the well until early March and the  
12 ability to complete and spud the well was delayed due to  
13 issues related to Covid-19 and associated disruption of  
14 the oil and gas market.

15 I mean, it seems to me we are more talking  
16 about market conditions here. Is that correct?

17 A. Uh, yes. It was both. In mid March the Salt  
18 Creek offices were closed down. Certainly the oil and gas  
19 market downturn prior to Covid was the first and possibly  
20 larger of the two, but the Covid impact that came by mid  
21 March was certainly a compounding effect, as well.

22 Q. Okay. But you can't provide any sort of  
23 estimation here? And I mean --

24 A. What was the questions?

25 Q. Maybe the better question here is: Is the

1     **timeline going forward more related to Covid or more**  
2     **related to your market issues?**

3           A.     Well, certainly the market is the direct source  
4     of the issue.   The Covid compounds that, because it  
5     further deteriorates the market, as well as makes, you  
6     know, certain plans such as travel, et cetera, more  
7     uncertain.   All the things that are required to execute  
8     this project.

9                         So the market is certainly the larger issue  
10    and was the first issue, but it is compounded in its  
11    effect by Covid.

12           **Q.     And with the market recovering some lately, oil**  
13    **prices are now about \$45, we now have, I believe, 59 rigs**  
14    **running, rig counts have been creeping up every day, you**  
15    **don't think you could do things more quickly now?**

16           A.     It is very possible this well could see an  
17    execution in 2021 and perhaps the earlier part of 2021.  
18    That's certainty a possibility.

19                         COMMISSION CHAIR SANDOVAL:   All right.   I don't  
20    have any further questions.

21                         Ms. Hardy, do you have any rebuttal  
22    questions for the witness?

23                         MS. HARDY:   I don't, Madam Chair.

24                         COMMISSION CHAIR SANDOVAL:   All right.   Would  
25    you like to call your next witness?

1 MS. HARDY: Yes, Madam Chair. Our next  
2 witness is Mr. Alberto Gutierrez. And I believe he's on  
3 the line.

4 MR. GUTIERREZ: Yes, I am.

5 ALBERTO A. GUTIERREZ,  
6 having been duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MS. HARDY:

9 Q. Would you state your full name for the record.

10 A. Alberto A. Gutierrez.

11 Q. Where do you reside?

12 A. Albuquerque, New Mexico.

13 Q. What is the name of your company?

14 A. Geolex, Inc.

15 Q. In what capacity do you serve?

16 A. I am a geologist and I am the president of  
17 Geolex.

18 Q. Can you please summarize your educational and  
19 professional background.

20 A. I have a Bachelor's and Master's degree in  
21 geomorphology -- I mean a Bachelor's in geomorphology,  
22 Master's in geology from 1977 and 1980 respectively, and  
23 I've been in the oil and gas, uh, the petroleum geology  
24 and hydrogeology and environmental fields practicing since  
25 about 1975.



1           Q.   And did you testify at the hearing in Case  
2   20780?

3           A.   I did.

4           Q.   And were you qualified as an expert in petroleum  
5   geology and hydrogeology?

6           A.   I was.

7                   MS. HARDY:  Commissioners, I tender Mr.  
8   Gutierrez as an expert in petroleum geology and  
9   hydrogeology.

10                   COMMISSION CHAIR SANDOVAL:  Do you have any  
11   objections, Dr. Engler?

12                   COMMISSIONER ENGLER:  No objections.

13                   COMMISSION CHAIR SANDOVAL:  The witness is  
14   tendered as an expert in his field.

15                   MS. HARDY:  Thank you.

16           Q.   Mr. Gutierrez, did you prepare Salt Creek's  
17   C-108 application for the Salt Creek AGI No. 1 well that  
18   the Division app- -- the Commission approved in Case  
19   No. 20780?

20           A.   Yes.  I prepared it or directly oversaw the  
21   preparation of parts of it.

22           Q.   Have any of the geology, hydrogeology or  
23   engineering matters that you addressed at the hearing in  
24   that case changed?

25           A.   No.

1           Q.    Is it still your opinion that the well will  
2   protect correlative rights, prevent waste, and protect  
3   human health and the environment?

4           A.    Yes.

5           Q.    Are you familiar with the requirements of the  
6   Order that the Commission issued in Case 20780?

7           A.    Yes, I am.

8           Q.    Has Salt Creek submitted a C-108 for the  
9   Devonian well?

10          A.    They have not yet, to my understanding.

11          Q.    And what's your understanding of the reason?

12          A.    As the previous witness described, the market  
13   disruption, both in the oil and gas field, compounded by  
14   the effects of the Covid-19 pandemic basically put their  
15   plans on hold for the well and the associated compression  
16   facility.

17          Q.    Is it your understanding that Salt Creek still  
18   intends to submit a C-108 for the Devonian well?

19          A.    Yes, that is my understanding.

20          Q.    Have you reviewed Salt Creek's application in  
21   this case along with the proposed Order?

22          A.    I have.

23          Q.    Has any party objected to the application or  
24   proposed Order?

25          A.    No, the Division and the State Land Office have

1     agreed to the proposed Order.

2           **Q.     Did you provide notice of Salt Creek's**  
3     **application in the hearing in this case to the affected**  
4     **parties?**

5           A.     We did.   In fact we provided notice originally  
6     on the 29th of October, and then subsequently on the 13th  
7     of November because of the change in the hearing date.

8           **Q.     And have you provided an Exhibit 3, the Hearing**  
9     **Notice Letters and Return Receipts or Delivery**  
10    **Confirmations?**

11          A.     I have.

12          **Q.     Was Notice also published?**

13          A.     The Notice was published as routinely is done by  
14    the Commission for the hearing, yes.

15          **Q.     Is it your opinion that granting Salt Creek's**  
16    **request will prevent waste, protect correlative rights,**  
17    **and protect human health and the environment?**

18          A.     Yes, that is my opinion.   That was my opinion  
19    back in December, and it remains the same.

20               MS. HARDY:   Madam Chair, I have no further  
21    questions for Mr. Gutierrez.   It move the admission of  
22    Salt Creek Exhibit No. 3 and ask if the Commission could  
23    take administrative notice of Salt Creek's testimony and  
24    exhibits in Case No. 20780.

25               COMMISSION CHAIR SANDOVAL:   All right.   Are

1     there any objections from the parties regarding the  
2     exhibits?

3                 MR. AMES:   No objection, Madam Chair.

4                 MR. BIERNOFF:  No objections for the State Land  
5     Office.

6                 COMMISSION CHAIR SANDOVAL:  Dr. Engler?

7                 COMMISSIONER ENGLER:  No objections.

8                 COMMISSION CHAIR SANDOVAL:  Okay.  The exhibits  
9     are entered into the record.

10                Mr. Ames, do you have any questions for the  
11     witness?

12                MR. AMES:  No, Madam Chair.  Thank you.

13                COMMISSION CHAIR SANDOVAL:  Mr. Biernoff, do you  
14     have any questions for the witness?

15                MR. BIERNOFF:  I do not, Director.  Thank you.

16                COMMISSION CHAIR SANDOVAL:  Dr. Engler?

17                COMMISSIONER ENGLER:  Madam Chair, I do not have  
18     any questions.

19                COMMISSION CHAIR SANDOVAL:  Thank you.  I do  
20     not, as well.

21                Thank you, Mr. Gutierrez.

22                MR. MOANDER:  And Madam Chair, just I wish to  
23     interject here.  It sounded to me like Ms. Hardy moved for  
24     two independent pieces of -- well, moved to admit one  
25     exhibit and then secondly to take judicial notice of, I

1 believe it was the testimony.

2 And, Ms. Hardy, please correct me on this.

3 I want to make sure we get this clean.

4 The testimony, and was it the exhibits from  
5 the prior hearing that you sought to have additionally  
6 noticed by the Commission?

7 MS. HARDY: Yes, it was. Thank you.

8 MR. MOANDER: So I would suggest that Exhibit 3  
9 has been admitted, and then the Commission state whether  
10 or not it's going to take judicial notice of the prior  
11 hearing's testimony and exhibits concerning the original  
12 application by Salt Creek.

13 COMMISSION CHAIR SANDOVAL: Thank you, Mr.  
14 Moander. That's a good clarification.

15 Are there any objections?

16 Dr. Engler?

17 COMMISSIONER ENGLER: No, I have no objection to  
18 that.

19 COMMISSION CHAIR SANDOVAL: None from me,  
20 either.

21 So we will enter into the record the  
22 exhibits and testimony from the previous hearing.

23 All right.

24 Ms. Hardy, do you have any other witnesses?

25 MS. HARDY: No, Madam Chair.

1 COMMISSION CHAIR SANDOVAL: Thank you.

2 Mr. Ames, I believe you stated you have one  
3 witness.

4 MR. AMES: Yes, Madam Chair. We have -- Mr.  
5 Goetze is here. I do not intend to call him unless the  
6 Commission would like to ask him questions.

7 COMMISSION CHAIR SANDOVAL: I actually would  
8 like to hear from Mr. Goetze.

9 MR. AMES: That's fine. OCD calls Mr. Phillip  
10 Goetze.

11 MR. GOETZE: Good morning.

12 PHILLIP GOETZE,  
13 having been duly sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MR. AMES:

16 Q. Good morning, Phil.

17 Could you please state your name for the  
18 record.

19 A. My name is Phillip Goetze.

20 Q. And where do you work, Mr. Goetze?

21 A. I work at the Oil Conservation Division and am  
22 part of the UIC Group as acting manager, UIC manager.

23 Q. Did you previously testify regarding Salt  
24 Creek's application, or did you previously testify  
25 regarding its original application?

1           A.    I did.

2           Q.    And at the time did the OCD reach an agreement  
3 with Salt Creek regarding the timeline for drilling the  
4 DMG well and applying for and constructing the Devonian  
5 well?

6           A.    There was an agreement.

7           Q.    And subsequently did OCD learn that Salt Creek  
8 had not spud the well as it intended originally, in  
9 February of this year?

10          A.    Correct.

11          Q.    And did OCD -- excuse me, did Salt Creek  
12 approach OCD and request its concurrence in some  
13 amendments to the original Order?

14          A.    This is also correct.

15          Q.    Are those -- did OCD reach an agreement with  
16 Salt Creek Midstream and the State Land Office regarding  
17 the terms and conditions of an Amended Order?

18          A.    This is also correct.

19          Q.    And finally, my final leading question: Is that  
20 agreement codified in the proposed Order attached to Salt  
21 Creek Midstream's application pending before the  
22 Commission today?

23          A.    It is the same content that we agreed on.

24               MR. AMES: Thank you. No further questions.

25               COMMISSION CHAIR SANDOVAL: Thank you, Mr. Ames.

1                   Ms. Hardy, do you have any questions for  
2   the witness?

3                   MS. HARDY: I do not, Madam Chair.

4                   COMMISSION CHAIR SANDOVAL: Mr. Biernoff, do you  
5   have any questions for Mr. Goetze?

6                   MR. BIERNOFF: I don't, either. Thank you.

7                   COMMISSION CHAIR SANDOVAL: Dr. Engler?

8                   COMMISSIONER ENGLER: Yes. It's Phil so I got  
9   to ask him some questions.

10                  COMMISSION CHAIR SANDOVAL: Great.

11                  COMMISSIONER ENGLER: Well, I guess I'm going to  
12   refer back to, again, the amendments. And there's some  
13   subtle changes. I guess I would just like to hear from  
14   you a little bit.

15                                  CROSS EXAMINATION

16   BY COMMISSIONER ENGLER:

17                  Q. You know, one of the changes about the C-108 for  
18   the Devonian well is at six months after spudding the DMG  
19   well, or it was the issuance of the well permit?

20                                  And I know you just stated for the record  
21   you reviewed and approved these but I guess I'd like to  
22   hear a little more about that change from you.

23                  Q. Well, at this point the issue of extensions for  
24   all our wells, as well as something like this which  
25   appears before Commission, is a big challenge that we're



1     trying to resolve at this point. We tried to respond to  
2     the operators' concerns to their economics as far as what  
3     they can put forward.

4                 We -- in the original Order, typically we  
5     do put a time limit on all our UIC permits with regards to  
6     commencing injection. Unfortunately that created a void  
7     or an opportunity for not knowing with the original Order  
8     how things were going to come about, and then of course  
9     then the impact of the current market.

10                We had to balance out with the request that  
11     this was a well that was needed, and we assumed that Salt  
12     Creek was going to push forward with the DMG well, knowing  
13     that it had an obligation for the Devonian well.

14                And going back and forth with Legal and  
15     talking with the State Land Office, we came up with -- and  
16     this is not unusual -- the two-year option in the sense  
17     that getting that well, the DMG well on line has been  
18     pretty much what we're seeing in our other disposal  
19     applications in getting wells online, and the fact that  
20     the C-108 be submitted with the spudding of the well was  
21     the agreement we came up with regards to getting that in  
22     motion.

23                Q.    So I guess as the UIC manager, as you stated, I  
24     guess what you had said, and I want to make sure I got  
25     that right, this is not unusual terms under things that

1     **you have seen currently or in the past. Is that correct?**

2           A.     That is correct.

3                   COMMISSIONER ENGLER:   That's helpful. Thank  
4     you. Good to see you.

5                   MR. GOETZE:   Nice to see you.

6                   COMMISSION CHAIR SANDOVAL:   I have just have a  
7     couple of quick questions.

8                               CROSS EXAMINATION

9     BY COMMISSION CHAIR SANDOVAL:

10           Q.     So, you know, in kind of looking at, uhm, in  
11    No. 5 on -- 3, I believe.

12                               You know, on the time period, why would it  
13    just -- or would there be an advantage of keeping it at --  
14    instead of giving them six months after the DMG well is  
15    spud to keep it at they need to submit the C-108 when the  
16    well is spud, the DMG well is spud.

17           A.     Well, this is something that, again, we in our  
18    original negotiations had wanted a smaller time span, and  
19    to that end the operator requested a larger time span. So  
20    this is the compromise we came up with.

21                               So it would be beneficial, we'd always like  
22    to see things done a little bit more proactive, and  
23    certainly it would show a commitment.

24           Q.     So what would your ideal timing be, then? What  
25    was the original proposal, maybe, from the OCD?

1           A.   That's hard to -- I think we were almost to the  
2 point of having the Devonian well on line as opposed to  
3 having the C-108 submitted, and to that end, since again  
4 we are playing this futuristic assessment of what's going  
5 to be there, this is what we felt would get us closer to  
6 having a C-108 approved and a well spud in a close time,  
7 because of the obligation to have the other one be a  
8 secondary well.

9           Q.   Okay. Do you know if there are or could be any  
10 safety concerns with delaying, uhm, the Devonian well?  
11 You know, any period of time after having that DMG well  
12 online, could there be potentials safety issues associated  
13 with just having that one well?

14          A.   I don't think there will be safety issues. We  
15 do have the history of what happened with the Monument  
16 facility and the Targo well there, that once that went off  
17 line the impact downstream as far as flaring and venting  
18 was very dynamic. And it's one of those things where the  
19 impact of having a well that's off line sends a big ripple  
20 effect down the production.

21          Q.   So is it safe to say that the less gap between  
22 when the DMG well goes on line and when the Devonian goes  
23 on line is better?

24          A.   Well, it would be beneficial for all parties  
25 concerned, especially since we have worked hard to put the

1 DMG as the secondary well and not the primary well.

2 But to the safety side of it, I don't think  
3 it is a concern that much whether it's Devonian or DMG  
4 well. What we're looking at is to take the push and put  
5 it deeper, and have that secondary well in place.

6 COMMISSION CHAIR SANDOVAL: All right. That was  
7 helpful. Thank you, Mr. Goetze.

8 Mr. Ames, do you have any rebuttal  
9 questions for the witness?

10 MR. AMES: No, I don't. Thank you, Madam Chair.

11 COMMISSION CHAIR SANDOVAL: Thank you.

12 Mr. Biernoff -- and thank, you Mr. Goetze.

13 MR. GOETZE: Thank you.

14 COMMISSION CHAIR SANDOVAL: Mr. Biernoff, do you  
15 have any witnesses?

16 MR. BIERNOFF: I do not, Director. Thank you.

17 MR. AMES: Madam Chair, I believe Ms. Hardy  
18 should be given the opportunity to ask Mr. Goetze  
19 questions, as well.

20 COMMISSION CHAIR SANDOVAL: Oh, sorry.

21 Ms. Hardy, do you have any questions for  
22 Mr. Goetze?

23 MS. HARDY: I don't. Thank you.

24 COMMISSION CHAIR SANDOVAL: Thank you, Mr. Ames.

25 All right. Ms. Hardy, would you like to

1 make a brief closing statement on this matter?

2 MS. HARDY: No, Madam Chair. I would just  
3 reiterate Salt's Creek's request and ask that the  
4 application be granted. Thank you.

5 COMMISSION CHAIR SANDOVAL: Thank you.

6 Mr. Ames, do you have any closing  
7 statements?

8 MR. AMES: Thank you, Madam Chair. I just would  
9 like to make a brief comment.

10 OCD believes that the proposed Order is an  
11 improvement over the original in a couple of respects.  
12 First, the original Order did not clearly specify the date  
13 by which Salt Creek must start drilling the well or  
14 commence injection to the well. The proposed Order does  
15 put a two-year time frame on that, and so that's an  
16 improvement. So this won't be a permit that simply will  
17 extend Salt Creek's authority to inject well into the  
18 future without having drilled the well.

19 Then secondly, the proposed Order ties the  
20 Devonian well process to the spud sundry for the DMG well,  
21 and we think that's an improvement over the original  
22 language which tied it to the issuance of the DMG permit.  
23 We think that the spud sundry is a direct connect to  
24 events on the ground, as opposed to administrative  
25 process.

1                   So I think Mr. Goetze testified that OCD  
2    concurs, you know, in the Order. He testified that while  
3    there are always concerns with AGI wells that he doesn't  
4    have any specific concerns regarding the gap in time  
5    between the DMG and Devonian wells as contemplated by the  
6    proposed Order, and therefore OCD stands on its previous  
7    statement that it stipulates to this Order and recommends  
8    to the Commission that it be adopted.

9                   Thank you.

10                  COMMISSION CHAIR SANDOVAL: Thank you, Mr. Ames.

11                  Mr. Biernoff, do you have any closing  
12   statements?

13                  MR. BIERNOFF: Thank you, Director.

14                  Nothing beyond what I mentioned in opening,  
15   which is that the State Land Office had agreed to this  
16   form of Order and does not oppose the application.

17                  COMMISSION CHAIR SANDOVAL: Thank you.

18                  With that the record of this application is  
19   now closed. The Commission will immediately deliberate so  
20   as to reach our final decision on the application.

21                  I move that the meeting be closed pursuant  
22   to the Administrative Adjudicatory Deliberations exception  
23   of the Open Meetings Act, Section 10-15-1 H(3) to  
24   deliberate on this case.

25                  Is there a second?

1           COMMISSIONER ENGLER: Yes. This is Tom Engler.  
2     There's a second.

3           COMMISSION CHAIR SANDOVAL: Mr. Moander, would  
4     you please do a roll call vote.

5           MR. MOANDER: Chair Sandoval?

6           COMMISSION CHAIR SANDOVAL: Approved.

7           MR. MOANDER: Member Engler?

8           COMMISSIONER ENGLER: Approved.

9           MR. MOANDER: The motion to enter into  
10    deliberative session is passed unanimously.

11          COMMISSION CHAIR SANDOVAL: Thank you.

12                 This Commission will now close the session  
13    and the record. The public may remain on this Webex line  
14    during the closed session and wait for the Commission to  
15    reconvene.

16                 Dr. Engler and counsel, you will see a  
17    second line for us to join that was sent out so we can  
18    start out our deliberations.

19                 So we will go into deliberations at 10:08  
20    and leave this line open, so please just stay on the line  
21    and mute yourself.

22           MS. MALAVE: You need a roll call vote?

23           COMMISSION CHAIR SANDOVAL: We did that. Right?

24           MS. MALAVE: Did you -- I'm sorry.

25                 Okay. Thank you.

1 COMMISSION CHAIR SANDOVAL: No problem. Thank  
2 you.

3 All right. We will be back after  
4 deliberations. Please just mute your lines. Thank you.

5 (Note: In recess from 10:08 a.m. to 10:32 a.m.)

6 COMMISSION CHAIR SANDOVAL: We are back. I'll  
7 let everybody have a moment to get on here.

8 Mr. Ames and Mr. Biernoff, are you on?

9 MR. AMES: I'm here. Thank you.

10 MR. BIERNOFF: I'm here, as well.

11 COMMISSION CHAIR SANDOVAL: Okay.

12 All right. It is 10:33. The commission  
13 meeting and the record are now open.

14 The discussion during the closed session  
15 committee was limited to Case No. 21476.

16 Dr. Engler, is there a motion in this case?

17 COMMISSIONER ENGLER: Yes, Madam Chair.

18 I would like to present to amend Order  
19 R-2913-C. As the form of the Order is presented we have  
20 just one change. Under 1d. we would strike out the  
21 sentence "no later than six months after Salt Creek  
22 submits the spud sundry." We will be replacing that with  
23 the terms of that -- that Salt Creek "...and file at the  
24 same time a C-108 with the OCD."

25 So the reading of the language -- let me



1 clarify -- for d. will be: Salt Creek will file a sundry  
2 with OCD when it spuds the DMG well and file at the same  
3 time the C-108 with OCD for approval.

4 That is the only change that we are  
5 recommending. Thank you.

6 COMMISSION CHAIR SANDOVAL: Thank you, Dr.  
7 Engler.

8 I would second that, because I think it is  
9 important -- so the OCD statutory authority is to prevent  
10 waste, and I think the less amount of time that we have  
11 between the DMG well going into operation and then the  
12 Devonian redundant well going into operation the better.

13 I think that Mr. Goetze testified when  
14 there's only one of those wells in operation, if one of  
15 them were to go down it can create a ripple effect  
16 throughout that gathering system, causing a lot of the  
17 operators on that kind of gathering chain to have to vent  
18 and/or flare that gas. And so the shorter amount of time  
19 between getting the DMG well operating and the Devonian  
20 operating I think is imperative.

21 So I second the motion, Dr. Engler.  
22 Mr. Moander, would you do a roll call, vote please.

23 MR. MOANDER: Yes. Chair Sandoval.

24 COMMISSION CHAIR SANDOVAL: I approve with the  
25 modifications.

1 MR. MOANDER: And Member Engler.

2 COMMISSIONER ENGLER: I approve.

3 MR. MOANDER: The motion is passed unanimously.

4 COMMISSION CHAIR SANDOVAL: Ms. Hardy, would you  
5 please draft a modified Order.

6 MS. HARDY: Yes, Madam Chair.

7 COMMISSION CHAIR SANDOVAL: And circulate with  
8 the commission clerk at least 10 days prior to -- hmm, our  
9 next hearing, which is -- hmm.

10 Well, I think the question, maybe Dr.  
11 Engler and Mr. Moander, so our -- we have the hearing on  
12 the 30th which was a Special Hearing set for the Waste  
13 motion, Rule motions, and then we have our Waste Rule  
14 running the 4th through the 15th.

15 I don't think we are planning to have a  
16 regularly set OCC hearing in January. That kind of gets  
17 eaten up. So the next time would be February, unless we  
18 wanted to hear it either on the 30th or at the waste rule  
19 hearing, which doesn't seem appropriate.

20 MS. MALAVE: Commission Sandoval, this is Sally  
21 Malave.

22 I would also suggest that the Commission  
23 can delegate to you the authority to sign the Final Order,  
24 because you have in front of you essentially the form of  
25 Order and with that one change. So I think that you can

1 look at that and approve it and sign off on it without  
2 further action by the Commission, if you delegate that  
3 authority.

4 COMMISSION CHAIR SANDOVAL: Dr. Engler, would  
5 you be amenable to that?

6 COMMISSIONER ENGLER: Yeah. If I need to move  
7 that, I would move that, I would give you the authority to  
8 sign off, Madam Chair/Director Sandoval.

9 COMMISSION CHAIR SANDOVAL: Okay. I second that  
10 motion. Mr. Moander, would you do a roll call vote,  
11 please.

12 MR. MOANDER: Director Sandoval.

13 COMMISSION CHAIR SANDOVAL: Approve.

14 MR. MOANDER: And Member Engler.

15 COMMISSIONER ENGLER: I approve.

16 MR. MOANDER: The motion passes unanimously to  
17 delegate authority to the Chair to approve and sign off on  
18 the Revised Order in this matter.

19 COMMISSION CHAIR SANDOVAL: Thank you. So, Ms.  
20 Hardy, if you could just circulate that with commission  
21 clerk at your earliest convenience.

22 MS. HARDY: I will do that, Madam Chair. Thank  
23 you.

24 COMMISSION CHAIR SANDOVAL: Thank you.

25 (Time noted.)

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STATE OF NEW MEXICO            )  
  : SS  
COUNTY OF TAOS                )

REPORTER'S CERTIFICATE

I, MARY THERESE MACFARLANE, New Mexico Reporter  
CCR No. 122, DO HEREBY CERTIFY that on Wednesday,  
December 9, 2020 the proceedings in the above-captioned  
matter were taken before me; that I did report in  
stenographic shorthand the proceedings set forth herein,  
and the foregoing pages are a true and correct  
transcription to the best of my ability and control.

I FURTHER CERTIFY that I am neither employed by  
nor related to nor contracted with (unless excepted by the  
rules) any of the parties or attorneys in this case, and  
that I have no interest whatsoever in the final  
disposition of this case in any court.

/s/ Mary Macfarlane

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