

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:

CASE NOS: 22472

REPORTER'S TRANSCRIPT OF VIRTUAL PROCEEDINGS  
EXAMINER HEARING  
February 3, 2022  
SANTA FE, NEW MEXICO

This matter came on for virtual hearing before the New Mexico Oil Conservation Division, HEARING OFFICER WILLIAM BRANCARD and TECHNICAL EXAMINER DYLAN ROSE-COSS on Thursday, February 3, 2022, through the Webex Platform.

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1 HEARING EXAMINER BRANCARD: With that, I will  
2 call -- we have four cases here all involve drilling in the  
3 vicinity of the Carlsbad Brine Well Project, so I guess I  
4 will check with counsel about how we would like to proceed  
5 on this. The first three cases are cases 22534, 22535,  
6 22536, SPC Resources.

7 MR. RANKIN: May it please the Examiner, Adam  
8 Rankin from the Santa Fe office of Holland & Hart appearing  
9 in these three consolidated cases on behalf of the applicant  
10 in these -- in these cases.

11 HEARING EXAMINER BRANCARD: Okay. We have case  
12 22472, Oil Conservation Division.

13 MR. TREMAINE: Good morning, Mr. Hearing  
14 Examiner, Jesse Tremaine for the Division.

15 HEARING EXAMINER BRANCARD: All right. Let me  
16 just ask for the other appearances here and get them on the  
17 record. I have Mewbourne Oil Company.

18 MR. BRUCE: Yes, Mr. Examiner, Jim Bruce here on  
19 behalf of Mewbourne.

20 HEARING EXAMINER BRANCARD: Thank you. Matador  
21 Production Company?

22 MR. RANKIN: Mr. Examiner, Adam Rankin with the  
23 Santa Fe office of Holland & Hart appearing on behalf of  
24 Matador Production Company, WPX Energy Permian LLC and Tap  
25 Rock Operating LLC.

1 HEARING EXAMINER BRANCARD: Thank you.

2 MR. RANKIN: And that's only with respect to  
3 Cases 22472.

4 HEARING EXAMINER BRANCARD: These are the entries  
5 for those cases. Are there any other interested persons for  
6 any of the four cases I have just mentioned, 22534, 535, 536  
7 and 22472?

8 MR. TREMAINE: Mr. Hearing Examiner, Oil  
9 Conservation Division, I did enter an appearance in the  
10 three other cases late yesterday. I don't believe they are  
11 in the record yet, I did file those for a clear record, but  
12 the Division is here to take part in these hearings. I do  
13 not intend to --

14 HEARING EXAMINER BRANCARD: Mr. Tremaine, you're  
15 fading in and out.

16 (Discussion with reporter regarding technical  
17 issues.)

18 HEARING EXAMINER BRANCARD: Mr. Tremaine is going  
19 to change his technology here. So Mr. Tremaine, we did get  
20 your entries of appearance in those three cases. Thank you.

21 Okay. Well, I'll start with, Mr. Rankin, how  
22 would you like to proceed here? Do you want to combine all  
23 of these cases into one big packet, or do you want to move  
24 ahead with your three cases or wait for the last case to go  
25 and then you go?

1           MR. RANKIN: Mr. Examiner, good question. I  
2 suppose my intent is to request that the Division take  
3 administrative notice of the case that's listed for hearing  
4 later, Case 22472, the testimony and the facts and exhibits  
5 and evidence in that case. And presumably the record that  
6 will be developed will be pertinent, I believe, to these  
7 three cases.

8           So I'm happy to defer these three cases until  
9 afterwards in order to allow that record to evolve and be --  
10 so we can then more appropriately dispose -- take  
11 administrative record of these three cases.

12           HEARING EXAMINER BRANCARD: Thank you. That may  
13 be the way to go, but I will ask Mr. Tremaine, how would you  
14 like to proceed, and if we are going to go forward with  
15 22472, how long a presentation do you envision for that?

16           MR. TREMAINE: So first off, I don't have any  
17 objection to proceeding with 22472 first. And in terms of  
18 22472, I think that we are hopefully going to be within half  
19 an hour. I have about seven questions for a witness.

20           My intent is to ask you to also take  
21 administrative notice of the prior entered exhibits and the  
22 testimony and the transcript from Case 22102. The parties  
23 involved and present were aware of -- took part in that  
24 hearing, so I'm hoping that we don't need to go back through  
25 all of that information, and Mr. Griswold's testimony would

1 be to limited to updates of their mediation project of the  
2 Brine Well since about October -- october 1.

3 HEARING EXAMINER BRANCARD: Thank you. I will  
4 just check that with the other parties. And Mewbourne has  
5 filed a prehearing statement, but I don't think you had any  
6 witnesses planned. Is that correct, Mr. Bruce?

7 MR. BRUCE: Correct, Mr. Examiner. We do not  
8 plan to have a witness available, however, Mr. Mitchell will  
9 be available if the Division has any questions.

10 HEARING EXAMINER BRANCARD: All right. Do you  
11 think you might have questions for the witnesses today from  
12 the Division?

13 MR. BRUCE: Really, I think I have essentially  
14 one question at the end of the presentation, at the end of  
15 the witness' presentation. Mr. Rankin, I think you -- since  
16 you are involved in this case, too, do you think you have  
17 questions for the Division?

18 MR. RANKIN: I don't anticipate having any  
19 questions. I suppose it may depend on what is elicited in  
20 the testimony, but I may have question, a clarification, but  
21 I don't have anything that I intend to ask or probe.

22 HEARING EXAMINER BRANCARD: So I'm just trying to  
23 get a sense of whether we can go forward right now or break  
24 for lunch. Sounds like we can go forward right now. Mr.  
25 Rankin, are you okay with that?

1 MR. RANKIN: That's fine with me. I'm happy to  
2 proceed with Mr. Tremaine's case.

3 HEARING EXAMINER BRANCARD: Mr. Tremaine, are you  
4 ready to go?

5 MR. TREMAINE: I am.

6 HEARING EXAMINER BRANCARD: So we are going to  
7 flip the agenda here a little bit and we are going to hear  
8 Case 22472 first, and hopefully that will help us in Cases  
9 22534, 535 and 536. Is everyone okay with that?

10 MR. BRUCE: Yes.

11 HEARING EXAMINER BRANCARD: Thank you. All  
12 right. Mr. Tremaine, you may proceed.

13 MR. TREMAINE: Thank you, Mr. Hearing Examiner,  
14 as introduction to this case, OCD's application represents  
15 an updated position and some concerns related to the  
16 Carlsbad Brine Well Remediation Project that follows on  
17 closely based on the facts of Case 22102. And OCD's  
18 previously requested voluntarily cessation of drilling or  
19 completion activities on the part of operators within  
20 initially three miles and now an area of review up to five  
21 miles.

22 The remediation of the cavity is proceeding as  
23 planned. As part of that plan, OCD finalized a sonar survey  
24 that was conducted in September, finalized by OCD in  
25 October. That survey revealed that the cavity continued to



1 deteriorate at a concerning rate which underscored it's  
2 sensitivity and decreased its groundwater which Mr. Griswold  
3 will discuss shortly.

4           OCD reviewed it's position from October into  
5 November and ultimately moved from requesting voluntarily  
6 cessation on the part of operators to filing this  
7 application.

8           I do want to make note that there is -- that in  
9 discussions with operator WPX, there is one well listed in  
10 the application as 5B which was completed prior to OCD's  
11 submission of this application. So this -- OCD intends to  
12 remove that well from this application.

13           It was included because the completion  
14 information was not filed with OCD until after the  
15 application was submitted. There was one issue raised by  
16 Mr. Bruce of correlative rights, and I can address this  
17 issue in more detail if you wish, Mr. Hearing Examiner, but  
18 my view is that ultimately in the amended prehearing  
19 statement, Mewbourne asked that OCD promptly determine and  
20 notice the operators (inaudible) so completion activities  
21 can commence when appropriate. That's consistent with OCD's  
22 intent. So unless you have any other need for me to address  
23 that argument, I will leave that there.

24           I will, as indicated earlier, ask you to take  
25 administrative notice of Case 22102. The bulk of the

1 information about the Brine Well was established at quite  
2 some length in that hearing. OCD's Exhibit 1 through 11  
3 were submitted without objection in that hearing, and  
4 Exhibit 12, submitted Exhibit 12 is in the back of the  
5 transcript of that hearing.

6 Mr. Griswold was accepted as an expert in the  
7 Brine Well and testified at that hearing. The other counsel  
8 and parties in this case also took part in that hearing.  
9 OCD has one new exhibit, which is Exhibit 13, which is the  
10 updated sonar survey which Mr. Griswold can discuss.

11 So with that I will pause and say that my next  
12 step would be to proceed with questions from Mr. Griswold  
13 regarding updates to the Brine Well from about October 1  
14 through present.

15 HEARING EXAMINER BRANCARD: Okay. Let me just  
16 start with a very basic question, which is, in your  
17 application of this case, 22472, at the end you list a  
18 series of conditions that you would like to add, I believe,  
19 to the HSD. Is that still what your goal is in this  
20 proceeding?

21 MR. TREMAINE: Pardon me, yes, there is two  
22 things. OCD is seeking a 45-day cessation of any drilling  
23 or completion activities for these enumerated wells, and the  
24 second is that OCD is requesting to modify those APDs to  
25 include these conditions of approval.

1 (Inaudible.)

2 REPORTER: Hello, I'm not getting any sound.

3 HEARING EXAMINER BRANCARD: I'm muted, I'm sorry.

4 So your order says you want to cease for 45 days after the  
5 order, and then everything after 45 days is to specific  
6 conditions in the application?

7 MR. TREMAINE: Yes.

8 HEARING EXAMINER BRANCARD: All right. I just  
9 want to be clear what it is we are discussing today. It is  
10 a little unusual proceeding here, but figure out exactly  
11 what the boundaries are. With that, you can proceed with  
12 your presentation.

13 MR. TREMAINE: If it helps, in Case 22102, OCD  
14 was asking for an indefinite stay of drilling and completion  
15 activities for those specific wells, and then ultimately  
16 results to reflect these conditions. In this case, these  
17 were all APDs that were issued with different conditions of  
18 approval prior to the event that led up to Case 22102. And  
19 rather than asking for an indefinite cessation given where  
20 OCD is in the course of the remediation project, that ask  
21 has changed to a specific 45 days cessation, so if that  
22 helps at all.

23 And, with that, I would ask that Mr. Griswold to  
24 introduce himself and be sworn in.

25 MR. GRISWOLD: Can you hear me, Mr. Tremaine?

1 MR. TREMAINE: I can.

2 MR. GRISWOLD: My name is Jim Griswold.

3 HEARING EXAMINER BRANCARD: Thank you.

4 Mr. Griswold, will you raise your right hand. Do you  
5 solemnly swear the testimony you are about to give will be  
6 the truth and nothing but the truth?

7 MR. GRISWOLD: I do.

8 HEARING EXAMINER BRANCARD: Thank you.

9 MR. TREMAINE: Mr. Hearing Examiner, may I  
10 proceed as Mr. Griswold is so accepted as an expert in the  
11 Carlsbad Brine Well.

12 HEARING EXAMINER BRANCARD: Are there any  
13 objections to --

14 MR. BRUCE: No.

15 HEARING EXAMINER BRANCARD: Mr. Rankin?

16 MR. RANKIN: No objection.

17 HEARING EXAMINER BRANCARD: So accepted.

18 JIM GRISWOLD

19 (Sworn, testified as follows:)

20 DIRECT EXAMINATION

21 BY MR. TREMAINE:

22 Q. Mr. Griswold, could you please describe  
23 the status of the Carlsbad Brine Well cavity and remediation  
24 project immediately following the resolution of Case 22102,  
25 so starting in the time period of early October?

1           A.       Certainly. We put a pause in operations seeking  
2 funding in July of 2020. In September of last year 2021, we  
3 remobilized the site. Our first task was to determine if  
4 the cavern was as we left it in July of 2020. We  
5 accomplished that by a sonar survey there in September.

6                   We resumed sand injection operations in mid  
7 October of 2021 and have proceeded actually fairly  
8 expeditiously since we continued injection, and we have had  
9 originally good success in filling the cavern.

10           **Q.       When was the sonar survey that you just**  
11 **referenced conducted?**

12           A.       The actual date, Mr. Tremaine, or I would have to  
13 look at the file. It was in September of 2021 -- in June,  
14 I'm sorry, followed by another one in January, early January  
15 of this year.

16           **Q.       Okay, thank you. Could you please describe the**  
17 **remediation work on the cavity that's commenced between**  
18 **recommencement and today?**

19           A.       Certainly. It basically constitutes injecting a  
20 slurry of sand and brine water into the void, and  
21 withdrawing simultaneously an equivalent volume of brine in  
22 an attempt to backfill that void with sand.

23           **Q.       Okay. And I believe you just referenced that**  
24 **there was a second sonar survey. So just for clarity, when**  
25 **was the second survey conducted?**

1           A.     January 3, 4 and 5, if I recall. It was  
2     undertaken as a gauge in progress since injection restarted  
3     in October.

4           **Q.     And when did you receive the results of the**  
5     **second sonar survey?**

6           A.     Mid January.

7           **Q.     Has backfill injection of the sand proceeded as**  
8     **expected?**

9           A.     Yes, we are on schedule.

10          **Q.     Did -- were there any concerns that were raised**  
11     **based on the first sonar survey?**

12          A.     Just ask for a little bit of clarification, when  
13     you say the first, do you mean the September survey?

14          **Q.     Thank you, yes, not the previous one. The**  
15     **September 2021 sonar survey, was there anything of note from**  
16     **that survey?**

17          A.     Compared to the July 2020 survey, yes. Areas of  
18     the roof and sidewalls of the cavern had indeed collapsed.  
19     We see continuous failure of the void.

20          **Q.     And going back to your testimony at the prior**  
21     **hearing, is it still true that one of OCD's primary concerns**  
22     **is the potential impact to groundwater upon, if the roof**  
23     **continues to fail?**

24          A.     Yes, sir, it is. If it continues to fail,  
25     groundwater will be the first adverse impact we may realize.

1 Q. And based on that September 2021 sonar survey,  
2 how much closer did the roof move towards groundwater?

3 A. Oh, between September and January?

4 Q. No, from the sonar survey prior to September 21,  
5 2021, until -- so the movement in the roof that was  
6 observed in the September 2021 survey, could you indicate  
7 how much that roof has moved?

8 A. Certainly. Approximately five foot vertically  
9 up.

10 Q. Okay. And now the January 2022 survey that was  
11 completed, did you make any -- any observations based on  
12 that survey?

13 A. Yes. Actually the side, just gauging the  
14 progress of the backfill, the roof survey indicates it's a  
15 continuous failure. We lost several more feet of roof  
16 material in certain areas of the void.

17 Q. Back in October at the time that backfill  
18 activities were picking back up or restarting, how much void  
19 space was there in the cavity?

20 A. In September, approaching 63,000 cubic yards. If  
21 you want an exact number it's 62,538 as imaged by the sonar  
22 technique.

23 Q. When was the -- ask this in another way. As of  
24 February 1 of this year, how much void space was observed in  
25 the cavity?

1           A.       Well, as of February 1 it's projected based on  
2 the amount of material we have added. Since we have resumed  
3 sand injection operations in October of 2021, excuse me, as  
4 of the start of the day shift on February 1, we have  
5 injected 59,227 cubic yards of sand, which, if you compare  
6 that to the void space observed in the September 21 sonar  
7 survey, we are about 95 percent backfill.

8           **Q.       So as of today, when is the backfill phase of**  
9 **this project projected to be completed?**

10          A.       We've got a slowdown here in the last few days  
11 because of the inclement weather we can't work when it's  
12 freezing, it's not safe. But taking that delay in mind, we  
13 are hopeful to perhaps be done with the backfill portion of  
14 the project probably Friday of next week.

15          **Q.       Okay. And and in terms of next steps and**  
16 **completion of the project, I believe this is referred to in**  
17 **a contract with Wood as substantial completion; is that**  
18 **correct?**

19          A.       Yeah, there are certain other aspects of the  
20 project that go on other than just finishing the backfill.

21          **Q.       So once backfill is completed, what remaining**  
22 **steps are there prior to reaching substantial completion**  
23 **under the contract?**

24          A.       Well, the next step, after the -- we feel like  
25 we packed down as much sand as we can practically put in is



1 to depressurize the cavity. And we will do that on a  
2 gradual basis. It may take several days while we do that  
3 and monitor the void as we do that.

4 If everything goes successful, then we will start  
5 demobilizing from the site, which also includes removing  
6 fences and surface restoration on leased properties in the  
7 area that are involved in the project. Three of the  
8 properties we have been using are actually privately owned,  
9 and two additional properties are publicly owned, one is the  
10 by the DOT, the right-of-way along US 285, and then other  
11 right-of-way to the south of the Carlsbad irrigation  
12 district main canal.

13 **Q. And what is OCD's current estimate for how long**  
14 **surface restoration, that phase is going to take?**

15 A. Probably on the order of about a month once start  
16 it.

17 **Q. Once you reach a point of substantial completion**  
18 **under the contract, is it true that, that Wood contractually**  
19 **has 60 days to provide the final report?**

20 A. Yes.

21 **Q. Okay. So is it fair to say that the current**  
22 **projection is, is final completion within 90 days?**

23 A. Approximately. No guarantees, though.

24 MR. TREMAINE: Mr. Hearing Examiner, with that I  
25 have no further questions.

1 HEARING EXAMINER BRANCARD: Thank you. I guess I  
2 will start with Mr. Rankin.

3 CROSS-EXAMINATION

4 BY MR. RANKIN:

5 Q. Thank you very much, Mr. Griswold. I just want  
6 to make sure, I may have missed it. Mr. Tremaine asked you  
7 a question that you would have a month to do certain next  
8 steps. What were those next steps and what was the time  
9 frame from which they have a month to do it? I missed the  
10 context of that question and answer.

11 A. Certainly, Mr. Rankin. And let me refer to  
12 undertake this remediation project, it not only involved the  
13 I & W property itself, but we needed access to adjacent  
14 properties, three of them, one to the east and two to the  
15 west.

16 Those areas were fenced in. We have had  
17 equipment, folks working on those areas ever since. So when  
18 we're done we need to return those properties to their  
19 owners in the same state that we found them, in essence. So  
20 activities that we need to replace a second tank in one area  
21 that got inadvertently damaged, probably some work on some  
22 asphalt, pulling down fences that we constructed to maintain  
23 site security in the area, those kind of things need to  
24 happen.

25 Q. That's the one month, essentially, to demobilize

1 on those properties from the time they have completed  
2 depressurization?

3 A. Correct.

4 MR. RANKIN: I think that was the only question I  
5 think I missed I wanted to make sure I understood. Thank  
6 you very much, Mr. Griswold.

7 THE WITNESS: You're welcome.

8 HEARING EXAMINER BRANCARD: Thank you. Mr.  
9 Bruce, any questions.

10 CROSS-EXAMINATION

11 BY MR. BRUCE:

12 Q. Good afternoon, Jim. How are you?

13 A. I'm well, Mr. Bruce.

14 THE WITNESS: Forgive me, Mr. Brancard, for not  
15 having the normal jacket and tie. There has been a bit of  
16 an issue in the last few days.

17 Q. I am sitting here in shorts and a T-shirt. But  
18 looking at your time line, it looks like and this will --  
19 maybe this, these questions, may be answered by you, maybe  
20 also Mr. Tremaine, you said there is certain things will be  
21 done in little over a week and then you've got to backfill.  
22 How long was that estimated to take?

23 A. Our current projection is we will be done with  
24 the sand backfill portion of the project hopefully by next  
25 Friday.

1 Q. Okay.

2 A. And then the next step thereafter would be to  
3 depressurize the cavern. That's a gradual process, and I  
4 can't tell you right now exactly how long it will take, it  
5 depends on how the void responds, but it would be on the  
6 order of days.

7 Q. Okay. And then the surface restoration takes  
8 roughly a month -- and I'm not trying to pin you down, I'm  
9 just trying to understand in general terms what the time  
10 limits are here.

11 A. Yes, we have several project trailers located out  
12 there that need to be moved off. As I said we have a  
13 damaged septic system we need to replace. If there is any  
14 significant damage to asphalt on the properties we need to  
15 replace those as well.

16 Q. Okay.

17 A. There's a substantial amount of fencing around  
18 the entire project that we need to remove.

19 Q. Okay. And then the surface restoration, about a  
20 month, like you just said. Now, is -- I understand the  
21 technical things, the backfill, depressurize, will the  
22 surface restoration slow down operators from recommencing  
23 operations?

24 A. By itself, no.

25 Q. And then Mr. Tremaine mentioned 45 days in

1     **response to Mr. Brancard's question. What is that 45 days?**  
2     **Is that tacked on to the end of this period?**

3           A.     Well, there is a contractual commitment in the  
4     state's contract with Wood that a final completion report be  
5     provided to the Division once substantial completion of the  
6     project has been reached.

7           **Q.     Okay. Okay.**

8           A.     I keep going to all of these terms or those  
9     provisions.

10          **Q.     Okay, okay, yeah, I don't need to go into them.**  
11     **It looks like, you know, looking at anywhere from two to**  
12     **three months from today before the final certification?**

13          A.     Yeah, which is pretty much on our schedule as we  
14     anticipate.

15          **Q.     Okay. Okay. So once the Wood group signs off,**  
16     **would there be any additional time after that before an**  
17     **operator can commence operations other than routine**  
18     **approvals for well operations that the Division always does?**

19          A.     Mr. Bruce that's not a decision that I can make  
20     on my own. That will have to consult technical people with  
21     the contractor, folks within the OCD to come to a decision  
22     in that regard.

23                 Okay. Well, the reason I'm asking this, Jim, is,  
24     you know, we are about ready to enter year three of two  
25     weeks to flatten the curve, and so I'm a little suspicious

1 of time projections at this point in my old life. I'm just  
2 trying to get a handle on it for Mewbourne because -- I'm  
3 not going to go into the prehearing statement that's of  
4 record, but they've got a lot of wells set to be completed  
5 and they've got a lot of money sitting in the ground and  
6 they are kind of anxious. Let's put it that way. But I'm  
7 glad to work with the Division, there is no doubt about  
8 that, but of course, you know, time is money, as people say.

9 A. Speaking for myself, I would like to have this  
10 project in my rearview mirror as well, Mr. Bruce.

11 Q. I'm sure you have other stuff occupying your  
12 time, also, so thank you.

13 MR. BRUCE: Thank you. That's all I have, Mr.  
14 Examiner.

15 HEARING EXAMINER BRANCARD: Mr. Rose-Coss,  
16 questions?

17 TECHNICAL EXAMINER ROSE-COSS: It may be simple  
18 (inaudible) Mr. Griswold (inaudible). Can you describe the  
19 depressurization process. My understanding of the time  
20 line, so a week to finish backfilling and then what goes on  
21 in the depressurization process? And then so -- and can you  
22 also kind of quantify or at least wave your arms at the  
23 risk. It sounds like the risk to the cavern caving in is  
24 decreasing daily and is maybe low at the point of filling  
25 next week, or am I incorrect in that assumption?

1           THE WITNESS: Well, the effort we are undertaking  
2 now and have been since 2019 is not about stabilization of  
3 the roof. It continues to fail, and it will continue to  
4 fail. What we've been working on is mitigating the  
5 consequence of that failure by backfilling that void. I'm  
6 guessing by the look on your face you want me to say more.

7           TECHNICAL EXAMINER ROSE-COSS: When you're  
8 backfilling the void, will you be able to determine kind of  
9 the level of status after that and then also comment on  
10 what's involved in the depressurization or how --

11          THE WITNESS: Oh, yes, certainly. We will know  
12 fairly well once we finish the backfilling effort, we will  
13 (inaudible) down the holes to find out what the final level  
14 of injected sand is.

15          We know where the roof has been, it continues to  
16 (inaudible) so we will have an idea of how much volume we  
17 were not able to backfill. And as the roof continues to  
18 fail, it bulks up in a procedure known as stoping. So at  
19 some point that upward migration or figure will stop, and  
20 it's our projection that even with the backfill we've got  
21 now, that it will stop short of adversely impacting  
22 groundwater.

23          The depressurization process itself, to a large  
24 extent what has been supporting that roof even though it  
25 fails, possibly, has been the liquid in the void because

1 it's incompressible. So as part of our remediation process,  
2 we needed to maintain that pressure.

3 So for every unit volume of injected sand, we  
4 remove a volume of brine maintaining that pressure. Once  
5 we're at that point of putting as much backfill as we think  
6 we can in there, the cavern will still be under pressure,  
7 but we are going to relieve that pressure simply by bleeding  
8 off the remaining brine.

9 And while we do that, we've got, you know, a lot  
10 of instrumentation out there to monitor ground movement,  
11 including microseismicity, to see how that goes.

12 TECHNICAL EXAMINER ROSE-COSS: I see. Thanks for  
13 that explanation. I suppose I will not ask any more  
14 questions.

15 HEARING EXAMINER BRANCARD: All right. Well,  
16 then let me ask a question. So the exhibits that I see we  
17 have here, Mr. Tremaine and Mr. Griswold, are related to the  
18 September seismic sonar.

19 THE WITNESS: Yes, sir.

20 HEARING EXAMINER BRANCARD: We don't have any  
21 exhibits related to the more recent sonar. Is that correct?

22 MR. TREMAINE: You know, Mr. Hearing Examiner, we  
23 did not utilize the January -- the sonar survey which was  
24 received a couple of weeks ago. It -- it would certainly  
25 be informative, but it wasn't available at the time of the



1 application.

2 HEARING EXAMINER BRANCARD: So, Mr. Griswold, my  
3 recollection is there are sort of two phases to sonar  
4 investigation. One is the sonar company's report, which is,  
5 to my layperson knowledge, just a whole bunch of  
6 incomprehensible maps. And then I believe the Division has  
7 relied on the general contractor, Wood, to provide its own  
8 set of interpretation and analysis of the sonar. Is that  
9 correct? And is that going to happen in this case?

10 THE WITNESS: Yes, it will. You are correct.  
11 The sonar basically provides a three dimensional image of  
12 what the void looks like within the constraints of the  
13 technology itself. It's Wood's task, after any given  
14 imaging sonar effort is undertaken, to ascertain what  
15 progress has been made, what adverse consequences may still  
16 be out there, those kinds of things, and if we need to  
17 adjust the program in any way shape or form.

18 HEARING EXAMINER BRANCARD: So as I understand,  
19 they have not provided that; is that correct?

20 THE WITNESS: I don't have any -- a sonar report  
21 on the January 3 sonar, no, I do not.

22 HEARING EXAMINER BRANCARD: Have you discussed  
23 the sonar with Wood?

24 THE WITNESS: Yes, sir, we have. We have  
25 actually at least weekly technical meetings throughout the

1 project.

2 HEARING EXAMINER BRANCARD: Okay. So let me --  
3 I'm trying to figure out how much, you know, uncertainty  
4 remains here. So let me ask the three issues that I'm aware  
5 of. One, the big issue would be the first project in  
6 backfilling was an enormous amount of infiltration of  
7 material so that, per the volume that went in, the amount of  
8 void that got filled was a low percentage. Is that  
9 happening in this situation?

10 THE WITNESS: No. Since backfilling resumed in  
11 October, and we do sonar surveys, you can gauge how much  
12 infiltration still occurred and it was only several thousand  
13 yards initially and it is no longer an issue.

14 However, there are two factors that we need to  
15 consider still now; one is compaction of the material we  
16 have introduced, the second is whatever void that we can  
17 potentially fill, that the sonar could not see for whatever  
18 reason in that technology. So those are the two variables  
19 that still kind of sit out there.

20 HEARING EXAMINER BRANCARD: So there was a second  
21 issue which was that given how the material was put down a  
22 hole, that it was essentially forming a cone and that areas  
23 off to the side were not necessarily being filled up at the  
24 same rate.

25 My sense is that current project has employed

1 technology to try to overcome that and to spread the  
2 material around more evenly. Is that correct? Is that the  
3 fact?

4 THE WITNESS: Yes. And when we first put  
5 together the project looking for funding to resume  
6 operations out there, you're correct, we were concerned that  
7 the injection point -- and there are actually several of  
8 them across the void -- we would build up those cones, these  
9 piles of sand, and the angle of repose is what the steepness  
10 of that cone looks like.

11 So assuming, based on the material and its grain  
12 size, you can kind of predict what that angle of repose will  
13 be, and then, as such, you couldn't backfill the areas  
14 around those cones. And the estimate going in was that was  
15 going to be about 23,000 yards of void that we could not  
16 fill.

17 However, since that was first put forward and  
18 started operations in the field, we have been doing what we,  
19 on a regular basis, was hydraulic jetting where we actually  
20 inject brine water through (inaudible) into those piles to  
21 push that sand laterally.

22 As part of that last survey effort in January of  
23 this year, it firmed that up. And so we've got a very flat  
24 layer of sand down there which is very great, and as I say,  
25 we are going to be able to do a substantially better

1 percentage of backfill than we anticipated going in.

2 HEARING EXAMINER BRANCARD: And part of that  
3 question of sand was you were pushing sand to the north,  
4 correct, underneath the highway?

5 THE WITNESS: Yes. And that's based on some of  
6 the injection was located further north than others, but we  
7 get them all.

8 HEARING EXAMINER BRANCARD: You don't have an  
9 injection point under the highway, you have to push the  
10 material?

11 THE WITNESS: Well, we do have one injection  
12 point that's within the highway right-of-way, yes, but  
13 there's still part of the void that extended further north  
14 into the highway, but based on the sonar logging, that has  
15 been filled.

16 HEARING EXAMINER BRANCARD: Great. So are there  
17 significant areas of uncertainty at this point that still  
18 need to be resolved through analysis?

19 THE WITNESS: I can't say yes or no. My  
20 anticipation is there aren't many, if any. The one that  
21 might change that thinking is what that depressurization  
22 looks like or what the effect of that depressurization is.

23 But perhaps the -- I shouldn't be as  
24 concerned -- we shouldn't be as concerned about that,  
25 because, as I mentioned before, the roof is going to

1 continue to fail, however, our backfilling means that the  
2 impact of that failure has been mitigated to a significant  
3 extent. We are not going to have failure get up and affect  
4 groundwater. It is very unlikely we will see any surface  
5 subsidence out there. So things are looking great.

6 HEARING EXAMINER BRANCARD: And so in terms of  
7 timing, Mr. Bruce was asking about this, you mentioned the  
8 depressurization, there is the final report from Wood, are  
9 any of these points significant that we have to sort of wait  
10 for them to happen before we're really feeling totally good  
11 about this project -- scientific?

12 THE WITNESS: Well, we should wait for Wood's  
13 recommendation or report in that regard.

14 HEARING EXAMINER BRANCARD: Final report, not the  
15 report on the sonar, but the final report.

16 THE WITNESS: The final report. And there is one  
17 other aspect of it that we're just entering it now is  
18 changing Wood's scope because we are going to likely realize  
19 some cost savings in this project to have them undertake  
20 some what we refer to as post backfill monitoring.

21 And so what, what that looks like, I'm unsure  
22 yet. We need to get Wood to provide that to us, and then  
23 the duration of that monitoring will also be a part of that  
24 effort, and it may be that you can only lean out so far in  
25 the future as to when you make another determination as to

1 whether or not you need to continue monitoring it or not.

2 So it's not like just one day you stop injecting  
3 sand and we all walk away. It doesn't quite work that way.

4 HEARING EXAMINER BRANCARD: I guess I will ask  
5 question of both you, Mr. Griswold and Mr. Tremaine. The  
6 application proposed is, once the order is issued, and  
7 that's going to happen in the next few weeks, that there be  
8 a 45-day pause, additional 45-day pause, and then an  
9 additional set of conditions after the 45 days, including  
10 notice in advance of any continued drilling or completion  
11 activity.

12 Based on Mr. Griswold's testimony, the time  
13 frames that have been mentioned today, is the Division still  
14 comfortable with the time frames that are in your  
15 application?

16 MR. TREMAINE: Mr. Hearing Examiner, yes,  
17 because, if I could clarify a couple of things about those  
18 time lines we have been discussing, so the 30 days,  
19 approximately, is a projection for the surface restoration.  
20 The contract defines substantial completion to occur at the,  
21 among other things, at the time the surface restoration is  
22 completed.

23 The final report from Wood, their deadline hinges  
24 upon substantial completion, so they have 60 days after that  
25 to submit the report. That doesn't mean it will take them

1 60 days. Based on the surface restoration estimate, right  
2 now Wood's deadline to submit the final report is  
3 approximately 90 days.

4           It may very well be before that. OCD will  
5 certainly be asking for it as quickly as possible, they have  
6 an interest in getting that report as soon as possible. And  
7 the conditions of approval, so, one, the 45 days that was  
8 requested, that amount of time was requested because those  
9 are the conditions of approval that have been used by the  
10 Division in the other case, and they are looking for a  
11 consistent playing field, for lack of a better term, and it  
12 does provide for an extension.

13           So it could take more than 45 days. OCD could  
14 work administratively under this order and conditions with  
15 operators to, you know, to extend it out to 60 days or  
16 what's necessary. But in the interest of, you know,  
17 transparency of where we are in the project, we are talking  
18 about this 90 days, that's ultimately what we expect to be  
19 the deadline for that final report.

20           And the last point I make is that, you know, OCD  
21 is inconsistent in talking to operators and in the prior  
22 hearing about saying that the -- the director's  
23 determination when drilling and completion can recommence is  
24 going to hinge in part on the recommendation in that report.  
25 Obviously we don't know yet what it would say. The

1 expectation at the very least, it's going to say that  
2 backfill has occurred to a greater extent than what was  
3 originally projected in the work plan, and that gets to that  
4 mitigation of the consequences of the failure.

5 But as of right now the project is still ongoing,  
6 and the risk of roof collapse is the same as it was before,  
7 but Wood having gone through that step of analyzing what  
8 that risk is based on the new level of film. Did that  
9 adequately respond to your question?

10 HEARING EXAMINER BRANCARD: Yes. From the  
11 Division's perspective, that final report from Wood follows  
12 on a whole series of other actions on the ground should be  
13 the point at which the Division is comfortable with relative  
14 success of this project in mitigating this threat?

15 THE WITNESS: Yes, sir, yes.

16 HEARING EXAMINER BRANCARD: Or the final report  
17 indicates that there is really some huge problem still  
18 remaining that we are not aware of today. We don't consider  
19 that likely -- you don't consider that likely, but you have  
20 to make sure that's not going to happen?

21 MR. TREMAINE: That's exactly correct, and that's  
22 why we are asking for the conditions of approval, to address  
23 that unlikely and hopefully not occurring potentiality.

24 HEARING EXAMINER BRANCARD: Thank you. So then I  
25 guess I will throw it back again to Mr. Rankin and Mr.



1 Bruce, if you have any follow-up questions with that. And,  
2 in particular, if you have any questions about those  
3 positions maybe that the Division is proposing in its  
4 application. Mr. Rankin?

5 MR. RANKIN: Thank you, Mr. Examiner. I guess I  
6 just want to make clear and point out that the conditions of  
7 approval that were imposed in Case 22102 are not the same  
8 conditions that are being proposed here. So I just want to  
9 make sure that that's understood, those are different  
10 conditions that were the result of that order in that case.  
11 And that, that is -- I just wanted to make sure the record  
12 is clear in that point.

13 HEARING EXAMINER BRANCARD: Is it the intent of  
14 the Division and SPC, that they replace those. SPC is not  
15 specifically mentioned in this case.

16 MR. RANKIN: Mr. Examiner, just to be clear, SPC  
17 is not a party to this case, so, however -- well, I can  
18 address that issue. SPC is requesting that the same  
19 conditions that were imposed under Case 22012 be imposed on  
20 it in its cases as a result of the extension request.

21 HEARING EXAMINER BRANCARD: The other cases that  
22 we heard today?

23 MR. RANKIN: That's right.

24 MR. TREMAINE: Are we talking about 22472 or the  
25 other cases, because the intent of the application in the

1 instant case was to mirror the conditions and the order in  
2 22102 because this is an analogous set of wells which had  
3 APDs and conditions that existed prior to OCD's issuance of  
4 the emergency order.

5 The other cases, it is true that those APDs have  
6 conditions of approval which are not the same as the  
7 order -- the commission's approval issued in the order in  
8 Case 22102. Sorry, I don't have that order number in front  
9 of me.

10 If there is a difference between the conditions  
11 of approval that are requested here, and those that were  
12 submitted -- that were approved in order 22102, I would need  
13 to go back and look at that because I don't believe that was  
14 the intention.

15 HEARING EXAMINER BRANCARD: Mr. Rankin, you were  
16 the one that mentioned the difference.

17 MR. RANKIN: I'm confirming -- I believe Mr.  
18 Tremaine is correct, that the -- that the conditions that  
19 were proposed in his application are the same as those that  
20 were adopted in order 21888 in case 22102. Apologize for  
21 misspeaking.

22 HEARING EXAMINER BRANCARD: Thank you. Anything  
23 further, Mr. Rankin?

24 MR. RANKIN: No.

25 HEARING EXAMINER BRANCARD: Mr. Bruce?

1 MR. BRUCE: Nothing further, Mr. Examiner.

2 HEARING EXAMINER BRANCARD: All right. So, Mr.  
3 Bruce, you're aware of the conditions that are being  
4 proposed in the application?

5 MR. BRUCE: Yes. And Mewbourne has reviewed the  
6 application, and as stated in the prehearing statement, they  
7 will continue to work with the Division.

8 HEARING EXAMINER BRANCARD: Thank you. All  
9 right. Mr. Rose-Coss, did you have anything further?

10 TECHNICAL EXAMINER ROSE-COSS: Nothing further.

11 HEARING EXAMINER BRANCARD: Mr. Tremaine, how  
12 would you like to proceed? Do you just want the Division to  
13 take this case under advisement, or did you want to propose  
14 an order? Either way, we can do that.

15 MR. TREMAINE: Either way works for me, Mr.  
16 Hearing Examiner. I think we can submit a proposed order,  
17 if that's your pleasure.

18 HEARING EXAMINER BRANCARD: Let me also just go  
19 back quickly, and this I think pertains more to Mr. Bruce  
20 than Mr. Rankin, but Mr. Tremaine has requested that we take  
21 notice of the record in 22102. The party in that, Mr.  
22 Bruce, your clients were not, are you okay with referencing  
23 the record in that order, case?

24 MR. BRUCE: That's okay, Mr. Examiner.

25 HEARING EXAMINER BRANCARD: Okay.

1           MR. BRUCE: I would like it if Mr. Tremaine would  
2 draft a proposed order and ship it around.

3           HEARING EXAMINER BRANCARD: Okay.

4           MR. BRUCE: It would make it cleaner for me to  
5 pass it by my clients and make sure we are okay with  
6 everything.

7           HEARING EXAMINER BRANCARD: All right.  
8 Mr. Tremaine, are you okay with that? You said you would do  
9 it.

10          MR. TREMAINE: I'm fine with that, as long as I  
11 can do it next week.

12          MR. BRUCE: If you do it months from now, I would  
13 be happy, Mr. Tremaine, but --

14          HEARING EXAMINER BRANCARD: You don't want that,  
15 Mr. Bruce.

16          MR. BRUCE: I know. I know. I just got too much  
17 going on, anyway, but whenever Mr. Tremaine can get to it,  
18 that would be okay with me.

19          HEARING EXAMINER BRANCARD: What would be a good  
20 deadline, Mr. Tremaine?

21          MR. TREMAINE: Let me, you know, at the risk of  
22 being overly optimistic, I suspect this is going to work  
23 very much like the order in 102. So how about next Friday  
24 the 11th.

25          HEARING EXAMINER BRANCARD: You know what, I

1 think you can just adopt the findings from that case and  
2 then just add the findings that have happened since then, if  
3 that makes it a little easier.

4 MR. BRUCE: And Mr. Brancard, if I can --  
5 several days into the next week to respond if we so desire.

6 HEARING EXAMINER BRANCARD: I just added  
7 (inaudible) so really, Mr. Tremaine, findings should focus  
8 on the end case here of the project.

9 MR. TREMAINE: Understood.

10 HEARING EXAMINER BRANCARD: All right. If,  
11 Mr. Tremaine, you can have a draft order by the end of next  
12 week, and then if, Mr. Rankin, Mr. Bruce, if you can get  
13 comments back to me by the 18th.

14 MR. BRUCE: That would be great. Thank you.

15 HEARING EXAMINER BRANCARD: Do we have anything  
16 else for this case?

17 (No audible response.)

18 HEARING EXAMINER BRANCARD: We certainly  
19 appreciate the parties working together on this  
20 unconventional issue that we have to face here.

21 So with that, Case 22472, the exhibits are  
22 admitted into the record, and we have a proposed order by  
23 February 11 and responses of the other party by February 18.  
24 Mr. Tremaine, just ship the order around to everybody.

25 MR. TREMAINE: Excellent, thank you.

1 (Exhibits admitted.)

2 (Concluded.)

3 (Prehearing discussion held regarding procedural  
4 scheduling issues.)

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REPORTER'S CERTIFICATE

I, IRENE DELGADO, New Mexico Certified Court Reporter, CCR 253, do hereby certify that I reported the foregoing virtual proceedings in stenographic shorthand and that the foregoing pages are a true and correct transcript of those proceedings to the best of my ability.

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

I FURTHER CERTIFY that the Virtual Proceeding was of poor to good quality.

Dated this 3rd day of February 2022.

/s/ Irene Delgado  
\_\_\_\_\_  
Irene Delgado, NMCCR 253  
License Expires: 12-31-22