

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

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

AMENDED APPLICATION OF NGL WATER CASE NOS. 16506,
SOLUTIONS PERMIAN, LLC FOR APPROVAL 20150
OF A SALTWATER DISPOSAL WELL IN LEA
COUNTY, NEW MEXICO.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

May 2, 2019

Santa Fe, New Mexico

BEFORE: SCOTT DAWSON, CHIEF EXAMINER
MICHAEL McMILLAN, TECHNICAL EXAMINER
DAVID K. BROOKS, LEGAL EXAMINER

This matter came on for hearing before the
New Mexico Oil Conservation Division, Scott Dawson,
Chief Examiner; Michael McMillan, Technical Examiner;
and David K. Brooks, Legal Examiner, on Thursday, May 2,
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 (2:46 p.m.)

2 EXAMINER DAWSON: At this point we're going
3 back on the record. It's approximately 2:45.

4 The next case we will hear is NGL Water
5 Solutions Permian, LLC. It's amended to approve
6 saltwater disposal wells in Lea County, New Mexico.
7 It's Case Number 16506.

8 Did you want to consolidate these cases?

9 MS. BENNETT: Yes, Mr. Examiner. I'd like
10 to consolidate Cases 16506 and 20150. The other case,
11 20404, will be heard separately.

12 EXAMINER DAWSON: Okay. So we will
13 consolidate 16506 and 20150.

14 Whenever you're ready, Ms. Bennett.

15 MS. BENNETT: Thank you, Mr. Examiners.

16 My name is Deana Bennett on behalf of the
17 Applicant, NGL Water Solutions Permian, LLC. And I have
18 one witness with me today.

19 EXAMINER DAWSON: Okay. Can your witness
20 please stand and be sworn in by the court reporter?

21 (Mr. Duncan sworn.)

22 MS. BENNETT: I understand there are other
23 parties.

24 EXAMINER DAWSON: Any other parties?

25 MS. ANTILLON: Mr. Examiner, my name is

1 Andrea Antillon. I'm here on behalf of the State Land
2 Office. We don't have any witnesses to put on today. I
3 would just like to make a statement for the record.

4 EXAMINER DAWSON: Okay.

5 MR. RANKIN: Mr. Examiner, Adam Rankin,
6 with the law firm of Holland & Hart in Santa Fe,
7 appearing in both of these cases on behalf of EOG
8 Resources, Incorporated. No witnesses today.

9 EXAMINER DAWSON: Okay.

10 MS. ANTILLON: I'm sorry, Mr. Examiner.
11 Just to clarify, the State Land Office has entered an
12 appearance in Case Number 20150, not the other case,
13 16506.

14 EXAMINER DAWSON: Okay.

15 MS. BENNETT: And, Mr. Examiners, Mr. Bruce
16 has entered an appearance in Case Number 16506 on behalf
17 of Solaris, and Mr. Bruce gave me his authorization to
18 let you know that he has entered his appearance in this
19 case, but he has no opposition to the case going forward
20 by affidavit.

21 EXAMINER DAWSON: Okay.

22 When you're ready, Ms. Bennett.

23 NEEL L. DUNCAN,
24 after having been first duly sworn under oath, was
25 questioned and testified as follows:

1 DIRECT EXAMINATION

2 BY MS. BENNETT:

3 Q. Good afternoon, Mr. Duncan.

4 A. Good afternoon.

5 Q. Mr. Duncan, please state your name for the
6 record.

7 A. Neel Lawrence Duncan.

8 Q. And for whom do you work?

9 A. Integrated Petroleum Technologies.

10 Q. And have you been retained by NGL?

11 A. I have.

12 Q. What are your responsibilities to NGL?

13 A. Drilling and development of saltwater disposal
14 wells in southeast New Mexico.

15 Q. Do your responsibilities include management and
16 oversight of drilling saltwater disposal wells in
17 southeastern New Mexico?

18 A. Yes.

19 Q. Have you previously testified before the Oil
20 Conservation Division or the Commission?

21 A. Yes, I have.

22 Q. And were your credentials accepted as a matter
23 of record?

24 A. Yes, they were.

25 Q. Does your area of responsibility at NGL include

1 the areas in southeast New Mexico?

2 A. Yes.

3 Q. Are you familiar with the amended applications
4 that NGL filed in these matters?

5 A. I am.

6 Q. And are you familiar with the saltwater
7 disposal wells which are the subject of these
8 applications?

9 A. Yes.

10 Q. Great.

11 MS. BENNETT: At this point I'd like to
12 tender Mr. Duncan as an expert in operations and
13 engineering matters.

14 EXAMINER DAWSON: Any objections?

15 MS. ANTILLON: No objection.

16 MR. RANKIN: None.

17 EXAMINER DAWSON: Mr. Duncan will be
18 admitted to the record in operations and petroleum
19 matters at this time.

20 MS. BENNETT: Thank you.

21 EXAMINER DAWSON: Uh-huh.

22 MS. BENNETT: I've passed out a packet of
23 materials to each of the examiners, and it's a
24 relatively thick packet. It's got a binder clip on it,
25 and it's right under your map there. And these

1 materials cover both Case 16506 and Case Number 20150.

2 Q. (BY MS. BENNETT) Mr. Duncan, could you turn to
3 Tab 1 and tell the examiners what is behind Tab 1?

4 A. This is the application for Case Number 16506.

5 Q. Which is Harpoon?

6 A. Which is Harpoon, yes.

7 Q. Did you amend the application to change the
8 location of the well?

9 A. Yes, we did.

10 Q. And why did NGL decide to move the location of
11 the proposed well?

12 A. We worked with EOG to ensure it did not inhibit
13 their development.

14 Q. And in Case 16506, NGL is seeking to drill a
15 saltwater disposal well; is that right?

16 A. That's correct.

17 Q. And what size tubing is NGL seeking?

18 A. We are seeking 7-inch tubing by 5-1/2, tapered
19 string.

20 Q. And about approximately how many barrels per
21 day is NGL requesting to inject in this application?

22 A. Up to 50,000.

23 Q. Let's turn to Tab --

24 Oh, and behind the application is all the
25 backup documentation, right, the C-108 and all the

1 backup documentation?

2 A. Yes. That is correct.

3 Q. Let's turn to Tab 2. And is the Tab 2 the
4 amended application in Case Number 20150, which is the
5 Maverick application?

6 A. Yes, it is.

7 Q. Did NGL amend this application to change the
8 location?

9 A. Yes, we did.

10 Q. And why did NGL change the location of this
11 proposed well?

12 A. Again to accommodate EOG and their development
13 plan.

14 Q. In your opinion, has NGL been responsive to oil
15 and gas operators' requests to move wells?

16 A. Yes, very.

17 Q. And have you entered into -- so you've talked
18 with the operators and entered into agreements with
19 operators, moved wells in response to operator concerns?

20 A. Yes. We have a long history of doing that.

21 Q. Did other parties appear in these cases besides
22 EOG and the State Land Office?

23 A. Yes, Marathon. And they have withdrawn their
24 entry of appearance.

25 Q. Thank you.

1 A. Also -- well, you already discussed Solaris as
2 pertains to 16506.

3 Q. Uh-huh.

4 Do you know if changing the Harpoon
5 location required notice to any additional parties?

6 A. No, it did not.

7 Q. And did changing the -- changing the Maverick
8 location, though, did require notice to additional
9 parties, didn't it?

10 A. Yes. Yes.

11 Q. And that's reflected in the affidavit of
12 Mr. Chris Weyand, which is behind Tab 3?

13 A. Yes, it is.

14 Q. And Mr. Weyand is a consultant that NGL has
15 retained to do this --

16 A. Yes. Lonquist does the permitting.

17 Q. And so he provided additional information to
18 your lawyer to send out notices -- to NGL's lawyer to
19 send out notices?

20 A. Yes, he did.

21 Q. And in the past, we've briefly discussed -- or
22 we've discussed the benefits of increasing the tubing
23 size. Could you quickly go over the benefits of an
24 increased tubing size for the examiners?

25 A. Sure. You can put more water in a single

1 injection well with this tubing size, lower horsepower
2 requirements, less fuel used, less electricity, and just
3 in general a better practice.

4 Q. When Mr. Weyand revised the locations for these
5 two wells, he prepared new C-102s, didn't he?

6 A. That's correct.

7 Q. And those are attached to his exhibit, right?

8 A. Yes.

9 Q. Now, has NGL retained a reservoir engineer to
10 conduct a study of the injection zone for these two
11 wells?

12 A. Yes. That's Scott Wilson at Ryder Scott.

13 Q. And Mr. Wilson has previously testified before
14 the Division; is that right?

15 A. Yes.

16 Q. And has he provided an affidavit for these two
17 cases that discusses his study?

18 A. Yes.

19 Q. And is that affidavit -- or are those
20 affidavits included in Exhibit 4?

21 A. Yes, Tab 4.

22 MS. BENNETT: And for the benefit of the
23 examiners, Mr. Wilson prepared two affidavits, one for
24 each case, but he prepared one study. So the affidavits
25 both pertain to a single study.

1 Q. (BY MS. BENNETT) In his affidavits, does
2 Mr. Wilson confirm that increasing the tubing size for
3 this well will reduce friction in the wellbore?

4 A. Yes, he does.

5 Q. Does he also confirm that using increased
6 tubing sizes will only have a very small impact on pore
7 pressure in the formation?

8 A. Yes, he does.

9 Q. Is it his opinion that the increased tubing
10 sizes will not cause fractures in the formation?

11 A. Yes.

12 Q. Does he also do a reservoir engineering study
13 that looks at models, migration of fluids as fluids are
14 injected into the wells?

15 A. Yes, he does.

16 Q. And that's part of his study?

17 A. That's part of his study.

18 Q. And does he conclude that over a period of 20
19 years, the majority of fluids injected will stay within
20 a mile of where the wells are located?

21 A. Yes.

22 Q. And he's been here and testified to that --

23 A. Yes.

24 Q. -- in person, as well as --

25 A. Yes, he has.

1 Q. -- in other NGL cases?

2 A. Yes.

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

5 A. Yes. And that's Dr. Kate Zeigler.

6 Q. And has Dr. Zeigler previously testified before
7 the Division?

8 A. Yes, she has and is qualified.

9 Q. And has she prepared an affidavit for this case
10 which outlines her studies and her conclusions in these
11 two cases?

12 A. Yes. It's behind Tab 5.

13 Q. Let's turn to Tab 5. And so Tab 5 has the
14 affidavit of Dr. Zeigler where she discusses her
15 results, and it also has a number of documents attached
16 to her affidavit, two of which are these large maps that
17 are cross sections?

18 A. Cross sections, yes.

19 Q. Uh-huh.

20 Does Dr. Zeigler find that the areas where
21 the wells are to be located are suitable for injection
22 at increased rates?

23 A. Yes.

24 Q. Did she find that there is a permeability
25 barrier both above and below the proposed injection

1 zones?

2 A. Yes, she did.

3 Q. And that permeability barrier will prevent the
4 migration of fluid injected into the reservoir?

5 A. Yes.

6 Q. And she's also provided isopach faults and well
7 locations in her studies?

8 A. Yes.

9 Q. Speaking of faults, has NGL obtained or
10 retained a seismologist?

11 A. Yes. That's Dr. Steven Taylor up in Los
12 Alamos.

13 Q. And is Exhibit 6 an affidavit that NGL has
14 obtained from Dr. Steven Taylor?

15 A. Yes, it is.

16 Q. In addition to being a seismologist or formerly
17 working at Los Alamos National Labs, does he now operate
18 a series of monitors at NGL's request?

19 A. Yes. He operates our seismic networks in
20 Colorado and Texas and New Mexico.

21 Q. And has he looked at prior seismic activity in
22 the area where these wells will be located?

23 A. Yes, he has.

24 Q. And has he found -- well, he finds that there
25 is not a lot of seismic activity in this area; is that

1 right?

2 A. That is correct.

3 Q. And does NGL and Mr. -- Dr. Taylor also work
4 with a consultant at FTI Platt Sparks to run a fault
5 slip probability tool analysis?

6 A. Yes, we do. That's Todd Reynolds.

7 Q. And is Todd Reynolds' study included as an
8 attachment to Dr. Taylor's affidavit?

9 A. Yes.

10 Q. So both Dr. Taylor's study and Mr. Reynolds'
11 study are included as exhibits to Dr. Taylor's
12 affidavit?

13 A. Yes, under Tab 6.

14 Q. And do you know if Mr. Reynolds has testified
15 before the Division?

16 A. He has.

17 Q. On behalf of NGL?

18 A. On behalf of NGL.

19 Q. And presented a similar study?

20 A. Yes.

21 Q. Did Mr. Taylor -- Dr. Taylor and FTI Platt
22 Sparks find that there is very little risk of induced
23 seismicity?

24 A. Yes, they did.

25 Q. Let's turn to Tab 7. Is Tab 7 a declaration

1 **obtained from Mr. Steven Nave?**

2 A. Yes, it is.

3 **Q. And can you explain to the examiners who**
4 **Mr. Nave is?**

5 A. He owns a fishing consulting company, well-site
6 services and rentals for getting you out of trouble.

7 **Q. And so he's sort of an expert at fishing**
8 **operations?**

9 A. He's an expert at fishing.

10 **Q. And NGL has talked to Mr. Nave about the**
11 **possibility of fishing out tools from this size well; is**
12 **that right?**

13 A. Yes. One of the -- one of the things we always
14 want to make sure is that what you put in the well can
15 come out. And so he's done a study and he has
16 experience showing that the 5-1/2-inch casing -- or
17 tubing inside the 7-5/8 casing, as long as the 7-5/8 is
18 less than 39-pound per foot, we can fish the 5-1/2.

19 **Q. Great.**

20 And that's in his declaration that he
21 **outlines all of that?**

22 A. That is.

23 **Q. All right. Let's turn to what's marked as**
24 **Exhibit -- or Tab 8. Now, behind Tab 8 is an affidavit**
25 **that I prepared; is that right?**

1 A. Yes.

2 Q. And it includes a list of parties to whom
3 notice was sent, and then it also includes a transaction
4 report that shows the status of mailings; is that
5 correct?

6 A. Yes.

7 Q. And then there is an Affidavit of Publication
8 behind the mailing information; is that correct?

9 A. Yes.

10 Q. And this contains information from both
11 Maverick and Harpoon. Is that accurate?

12 A. Yes.

13 Q. Thank you.

14 A. And mine has the original post office stamp.
15 Is this the one you want?

16 Q. No. They all have -- I have photocopies of
17 them in color, but thank you for pointing that out.

18 A. Okay.

19 MS. BENNETT: I want to circle back to this
20 once I finish the notice -- once I finish my discussions
21 with Mr. Duncan to raise a notice issue with the
22 examiners.

23 Q. (BY MS. BENNETT) Mr. Duncan, were Exhibits 1
24 through 8 created by you or prepared under your
25 supervision or direction or compiled from company

1 **business records?**

2 A. Yes, they were.

3 Q. And in your opinion, does the granting of this
4 application promote the prevention of waste and the
5 protection of correlative rights?

6 A. Yes.

7 Q. And, Mr. Duncan, these exhibits, we went
8 through them relatively quickly even though it's a
9 pretty thick packet. Has NGL met with Mr. Goetze to
10 discuss the type of materials that Mr. Goetze expects to
11 see in an application from NGL?

12 A. Yes, we have. Set this whole stage prior.

13 Q. And these are the type of exhibits and studies
14 that Mr. Goetze expects to see?

15 A. Yes.

16 Q. And is that what we've provided in the past?

17 A. Yes.

18 Q. Thank you.

19 MS. BENNETT: At this time I would like to
20 move the admission of Exhibits 1 through 8.

21 EXAMINER DAWSON: Any objections?

22 MS. ANTILLON: No objection.

23 MR. RANKIN: No objection.

24 EXAMINER DAWSON: At this time Exhibits 1
25 through 8 will be admitted to the record.

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

4 MS. BENNETT: Thank you.

5 I have no further questions for Mr. Duncan.

6 EXAMINER DAWSON: Okay. We'll go to the
7 land office first. Do you have any questions of
8 Mr. Duncan?

9 MS. ANTILLON: No questions.

10 EXAMINER DAWSON: Mr. Rankin?

11 MR. RANKIN: No questions.

12 EXAMINER DAWSON: Mr. McMillan.

13 EXAMINER McMILLAN: Go ahead.

14 EXAMINER DAWSON: Go ahead.

15 CROSS-EXAMINATION

16 BY EXAMINER McMILLAN:

17 **Q. What is the distance between the wells?**

18 A. The two wells here is 1.06 miles, slightly more
19 than a mile.

20 **Q. And is that how the OCD has been attempting to**
21 **space the wells?**

22 A. Well, that's a good question, and that's
23 subject to some debate. We've testified that most of
24 the fluids will remain within one mile of a well, so --
25 and our exhibits show that. So -- but we are good

1 corporate citizens, and we'll always work with the OCD
2 to address any concerns. We can look at injection
3 rates. We can look at a lot of things to make sure we
4 don't ever create induced seismicity. But our science
5 shows now that we will not.

6 MS. BENNETT: And just to clarify -- I
7 apologize. But I wanted to just make clear that one of
8 our exhibits does turn on, in the models, all of the
9 wells that are proposed now and existing wells and run
10 them at full capacity over the life of like up to 2045
11 or 2050, and it still shows there is no likelihood of
12 induced seismicity.

13 Is that right?

14 THE WITNESS: Right.

15 EXAMINER McMILLAN: Any questions?

16 EXAMINER DAWSON: I do.

17 CROSS-EXAMINATION

18 BY EXAMINER DAWSON:

19 Q. You were talking about your negotiations with
20 EOG on the placement of the wells.

21 A. Yes, sir.

22 Q. Can you tell me where EOG's wells are located?

23 A. They are horizontal -- they're planning
24 horizontal wells in those sections. And what we do with
25 EOG is we work with them to get into the setback area so

1 there is no chance of collision.

2 **Q. Okay.**

3 **A. Yeah.**

4 **Q. EOG does not have any production in the**
5 **proposed disposal zone, do they?**

6 **A. Not yet, but they're just preparing for the**
7 **future.**

8 **Q. Okay.**

9 **RECROSS EXAMINATION**

10 **BY EXAMINER McMILLAN:**

11 **Q. What do you mean by most fluids?**

12 **A. What's that?**

13 **Q. I believe your testimony is most fluids will**
14 **not go greater than a mile. Are you saying some could**
15 **go?**

16 **A. Well, it's science. Our calculations show that**
17 **the influence will not be that great. So --**

18 **Q. So you're assuming radial flow?**

19 **A. We're assuming radial flow.**

20 **Q. Do you think that's a correct statement with**
21 **dolomites?**

22 **A. Yeah. I mean, to the best of our knowledge at**
23 **this time, yes. On the balance, I mean, there will be**
24 **fractures that'll -- you know, there's a lot going on.**
25 **But, again, we have to inject. We have to monitor.**

1 That's why we do -- that's why we do seismic monitoring.
2 We just want to make sure that we will not create a
3 problem.

4 MS. BENNETT: May I ask a couple of
5 follow-up questions on your question, Mr. McMillan?

6 EXAMINER McMILLAN: Sure.

7 REDIRECT EXAMINATION

8 BY MS. BENNETT:

9 Q. Mr. Wilson and Mr. Reynolds are familiar with
10 the geology of the area?

11 A. Yes.

12 Q. And they have taken into account in their
13 studies the type of rock --

14 A. Yes.

15 Q. -- and the fact that there may be dolomite?

16 A. That's correct.

17 Q. And they work closely with Dr. Zeigler on the
18 geologic formations in the area?

19 A. That's correct.

20 Q. And they coordinate on their testimony?

21 A. That's correct.

22 Q. And so Mr. Wilson's study and Mr. Reynolds'
23 study, it's probably a fair assessment to say that
24 they've considered the -- based on their studies, they
25 have determined that a radial modeling is appropriate?

1 A. Yes, they have.

2 Q. I wanted to circle back to one question that
3 Examiner Dawson asked a moment ago, which is about EOG
4 production in the area. I believe that Dr. Zeigler
5 testifies in her exhibit -- and correct me if I'm wrong
6 on this -- that there is very little production from
7 these injection zones, hydrocarbon production, in this
8 area, that all of the hydrocarbon production will be
9 above that permeability barrier. Is that your
10 recollection of her --

11 A. Yeah. The EOG development is Wolfcamp.

12 Q. So above?

13 A. Yeah. This is just wet rock down -- down low.
14 I think there's some Devonian production up on the
15 Central Basin Platform, but most of that is depleted now
16 as well.

17 EXAMINER McMILLAN: Wouldn't it be amazing
18 if you had a Devonian producer out there?

19 THE WITNESS: Well, actually, we can't take
20 it because we don't have the mineral interests.

21 RE CROSS EXAMINATION

22 BY EXAMINER DAWSON:

23 Q. So their model is based on the two wells at
24 50,000 barrels of water per day?

25 A. Yes. Actually, I think it's 40. I think they

1 run them at 40. But that's assuming -- I mean, we're
2 asking for a max of 50, right, but that'll never be your
3 average.

4 Q. Okay.

5 A. It'll be up and down. We'll have a few oil
6 crises between now and 20 years.

7 Q. Sure.

8 REDIRECT EXAMINATION

9 BY MS. BENNETT:

10 Q. And the modeling, just to clarify, is based on
11 not just these two wells but all the wells in the area,
12 right?

13 A. Yes. They -- they term [sic] everything they
14 know of.

15 RECROSS EXAMINATION

16 BY EXAMINER DAWSON:

17 Q. I have just a couple of questions on the
18 monitoring network. Where will those monitoring wells
19 be located? Do you have an idea yet?

20 A. They're already in place.

21 Q. They're already there.

22 A. There's one at Striker 2, one at Striker 6. I
23 forget where the furthest east one is right now. We
24 have -- we have four or five now, and we have -- there's
25 an exhibit, actually, that shows where we can detect a

1 magnitude 1 event and a 1.5. And so it circles
2 pretty -- they almost converge. So we can detect down
3 to a pretty good range. And between that, USGS, which I
4 think we're much better than USGS in terms of our
5 density of monitoring.

6 **Q. How long have those been there?**

7 A. When we started drilling the Striker 2 well,
8 what, a little over a year ago, we -- we -- we installed
9 the monitor there. And every time -- every time we've
10 made a location, we've put in the monitor. That's not
11 every well, but we have a smart network through there.

12 **Q. Have you noticed any 1.5 magnitude events?**

13 A. Yes. Yeah. You'll see the small events.

14 **Q. Yeah.**

15 A. Yeah. And the more monitors you put in, the
16 more little things you see.

17 **Q. Sure.**

18 **But you think a lot of those events that**
19 **you've seen, the smaller ones, weren't associated with**
20 **the injection?**

21 A. No. I think it's -- I think you're seeing just
22 the historical natural seismicity that you would always
23 see.

24 **Q. Okay. All right.**

25 MS. BENNETT: And that information is

1 behind Tab 6 in Dr. Taylor's study. He goes through the
2 seismicity within 50 kilometers of the Striker SWD
3 wells, and part of it is based on USGS surveys before
4 our monitors -- or NGL's monitors were put in place.
5 And then part of it is after the monitors were put in
6 place, he identifies the magnitude of the events. So
7 I'm looking at a page that looks like this (indicating)
8 in his exhibit --

9 EXAMINER DAWSON: Okay. Yeah. I saw that.

10 MS. BENNETT: -- and it has the magnitudes
11 running from 1.25 to -- or 1.11 to 1.98.

12 EXAMINER DAWSON: I see it. Yeah. Okay.

13 MS. BENNETT: And then the next page in
14 that exhibit identifies the seismic station locations,
15 which are the yellow pushpins on that map.

16 EXAMINER DAWSON: Perfect. Thank you.

17 Okay. Any further questions?

18 THE WITNESS: And, again, I'll go on record
19 to say that we will work with the Division during the
20 preparation of the orders to make sure your concerns are
21 satisfied.

22 EXAMINER DAWSON: Okay.

23 MS. BENNETT: Before we break on this case,
24 I did want to raise an issue about the notice with the
25 examiners, and I hope to get some guidance from

1 Mr. Brooks, if possible, or the other examiners on this
2 notice issue.

3 So as I mentioned, we filed our original
4 applications, and I published notice for the original
5 applications and mailed out letters for the original
6 applications. I then amended the applications. And I
7 mailed letters for the amended applications, and I also
8 contacted the newspaper to publish. And we publish
9 generally as a matter of course for all of our
10 applications that we file.

11 EXAMINER BROOKS: As I remember, there is
12 something funny about the rule on injection applications
13 as far as publication. It's required -- as between
14 administrative and hearing --

15 MS. BENNETT: Right.

16 EXAMINER BROOKS: -- applications, it's
17 required for one and not the other, and I can't remember
18 which is which.

19 MS. BENNETT: It's required for
20 administrative applications, and it's not required for
21 hearing applications, although under the hearing
22 applications, we go then to the adjudicative rules,
23 which require notice by publication if we can't contact
24 all parties.

25 EXAMINER BROOKS: Okay.

1 MS. BENNETT: And so we just -- my firm, as
2 a matter of course for every application, whether we
3 know we're going to be able to contact all parties or
4 not, we publish as belt and suspenders.

5 Well, in this case, the newspaper, although
6 they charged us for publication of the amended notice,
7 the newspaper did not actually publish the amended
8 notice. And so -- and we do have parties who have not
9 received their letters or for whom their letters will be
10 returned. And so they did not have notice of this
11 hearing.

12 But what I -- the countervailing point that
13 I would like to make is that the change in location was
14 within the same section, township and range. It was a
15 matter of 1,000 feet from Section 9. And so those
16 parties all had notice of the original hearing date.
17 And these two cases have been continued a number of
18 times, and so I feel that the issue with the publication
19 for these two particular cases does not warrant a
20 continuance for notice only given the amount of notice
21 that has happened both on the OCD's website and my
22 original Notice of Publication. And so I'd ask that I
23 not have to publish because the newspaper didn't do it
24 even though they charged us to. But if they did, I am
25 looking for the Division's advice on publishing and when

1 I can come back to hearing just to complete notice.

2 EXAMINER BROOKS: Well, ordinarily, the
3 Division receives advice and doesn't give it.

4 (Laughter.)

5 MS. BENNETT: Well, in that case, I'd like
6 to give some advice.

7 (Laughter.)

8 EXAMINER BROOKS: And this is Case 16506,
9 right?

10 MS. BENNETT: And 20150. It was both of
11 those cases.

12 EXAMINER BROOKS: I'm sorry. Both cases?

13 MS. BENNETT: That's correct.

14 EXAMINER BROOKS: 16506 and 20150.

15 MS. BENNETT: And I'm more than happy to
16 publish, but in so doing, I would like to request that I
17 be allowed to come back on the May 30th docket to
18 perfect publication.

19 EXAMINER BROOKS: Well, I would readily
20 consent to that, but I don't think I have the authority
21 to. And Mr. Warnell is gone on an extended something or
22 other, so I don't know about that. But I'm going to put
23 this notice of pub [sic] -- notice by pub question from
24 Deana --

25 MS. BENNETT: And, unfortunately, I won't

1 be able to publish until we know the date.

2 EXAMINER BROOKS: I know that. And that
3 raises a whole other can of worms, which I won't delve
4 into because I'm famous for delving into.

5 MS. BENNETT: So, I mean, the three of you
6 and me, we could reach, you know, a decision on this.

7 (Laughter.)

8 EXAMINER BROOKS: Let me ask a question of
9 the counsel here. Will there be any objection to my
10 speaking about this notice issue ex parte to
11 Ms. Bennett?

12 MR. RANKIN: No. However, I think, as the
13 policy affects, I think, everybody's practice before the
14 Division, we would like to know how the Division intends
15 to handle situations like this because you understand --

16 EXAMINER BROOKS: So would I, but it's a
17 decision that only the director can make.

18 MR. RANKIN: It's causing more problems
19 than it's solving. That's my two cents.

20 EXAMINER BROOKS: Well, maybe we should
21 schedule a hearing on it when I'm prepared, but I'm not
22 sure that the deputy director will allow us to have a
23 hearing without a court reporter. I don't see any point
24 in having a court reporter for legal argument. Let me
25 just do this then. Let me make a note here, and I will

1 study it, and I will send a report out to everybody and
2 invite comments.

3 MS. BENNETT: Thank you. And my apologies
4 for creating this. I actually didn't create it, so I
5 guess I'm not apologizing.

6 EXAMINER BROOKS: It got created anyway.

7 MS. BENNETT: It did. Yup. I broke -- so
8 off topic, I broke my leg a few years ago, but I didn't
9 break it, so I like to say it got broken.

10 (Laughter.)

11 MS. BENNETT: In this case this situation
12 got created.

13 EXAMINER BROOKS: I don't know of any
14 situations -- I've never heard of somebody who broke
15 their leg intentionally, although it may have happened
16 with draftees.

17 EXAMINER DAWSON: Is there any objection
18 from the other parties as to what Mr. Brooks just
19 proposed?

20 EXAMINER BROOKS: Well, I think -- yeah.
21 What I just proposed was I send a written notification
22 to all counsel. And since we don't have docket sheets
23 around here, I'll need to make notes on who that is.
24 That's Deana and Adam. And who else?

25 MS. ANTILLON: And Andrea Antillon with the

1 State Land Office.

2 MR. RANKIN: And Jim, I suppose.

3 MS. ANTILLON: And the State Land Office
4 doesn't have any objection to that.

5 EXAMINER BROOKS: Andrea at SLO and Jim
6 Bruce.

7 MS. BENNETT: That's right.

8 EXAMINER BROOKS: Okay. Very good. If I
9 lose these scratch pad sheets, I'm in real trouble.

10 MS. BENNETT: We all are.

11 EXAMINER BROOKS: It also has something
12 about depth severances.

13 EXAMINER DAWSON: One thing I wanted to ask
14 you, Ms. Bennett, is on your publication of notice, can
15 you provide us with a copy that's more legible than the
16 one that is in the exhibits?

17 MS. BENNETT: I sure will.

18 EXAMINER DAWSON: Okay. Thank you.

19 MS. ANTILLON: Mr. Examiner, if I could
20 just have a minute to make a quick statement.

21 EXAMINER BROOKS: Please.

22 EXAMINER DAWSON: Okay.

23 MS. ANTILLON: The State Land Office just
24 wanted to put on the record that they are reviewing the
25 application, and we do have concerns with the saltwater

1 disposal well spacing due to its close proximity to
2 State Trust Land.

3 Thank you.

4 EXAMINER DAWSON: Okay.

5 Anything else?

6 MS. BENNETT: No. I would just ask that
7 these cases, Case Numbers 16506 and 20150, be taken
8 under advisement.

9 EXAMINER DAWSON: Okay. Hang on.

10 MS. BENNETT: Oh. Right. I can't ask that
11 they be taken under advisement. I ask that they be
12 continued until we determine whether they can be taken
13 under advisement.

14 EXAMINER DAWSON: Okay. At this time Cases
15 16506 and 20150 will be continued until an undetermined
16 date.

17 EXAMINER BROOKS: An alternative may be --
18 if I can't do it on my own motion because I'll get in
19 trouble, maybe if we can get a date somehow arranged, we
20 could continue it until after that date and then you
21 could -- till that date, and then you could go ahead and
22 arrange the publication, and that would moot the point.

23 MS. BENNETT: That's what I would like,
24 actually, and that's why I was proposing May 30th.

25 EXAMINER BROOKS: That's what I would like,

1 too.

2 MS. BENNETT: And can we agree -- my
3 understanding, though, was that we couldn't agree on May
4 30th, which means the next continuance date is June
5 27th, which is --

6 EXAMINER BROOKS: Yeah. I think that's
7 what we've been told, and I will have to go on my knees
8 and see if I can get an exception to that. But I
9 don't -- I've been there before.

10 MS. BENNETT: Well, I guess that's what I
11 would like -- ultimately, the answer that I am
12 requesting is an answer to what date this has to be
13 continued to, and if it has to be continued to June
14 27th, so be it.

15 EXAMINER BROOKS: Now, when do we have to
16 know to get the publication done?

17 MS. BENNETT: The publication has to be
18 submitted ten business days in advance of the hearing.
19 So if it was May 30th, it would be --

20 EXAMINER BROOKS: May 17th.

21 MS. BENNETT: Ten business days?

22 EXAMINER BROOKS: No. May 16th, because
23 there is Memorial Day in there.

24 MS. BENNETT: Uh-huh. Yeah.

25 EXAMINER BROOKS: And how long do you have

1 to know before you can submit it to --

2 MS. BENNETT: I need about two days' notice
3 just to get it to the newspaper and to have them put it
4 in on time.

5 EXAMINER BROOKS: Okay. How long will it
6 take to go to the appropriate authorities on bended knee
7 and --

8 MS. BENNETT: Thank you. I appreciate
9 that.

10 EXAMINER BROOKS: Okay. Thank you.

11 EXAMINER DAWSON: So both these cases will
12 be continued to a determined date -- undetermined date
13 at this point, but it will be determined soon.

14 MS. BENNETT: Thank you.

15 EXAMINER DAWSON: You're welcome.

16 (Case Numbers 16506 and 20150 conclude,
17 3:23 p.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 21st day of May 2019.

21

22

23 MARY C. HANKINS, CCR, RPR
24 Certified Court Reporter
New Mexico CCR No. 20
Date of CCR Expiration: 12/31/2019
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