

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

**APPLICATION OF DELAWARE ENERGY, LLC  
FOR APPROVAL OF A SALT WATER DISPOSAL  
WELL, EDDY COUNTY, NEW MEXICO.**

**CASE NOS. 16258-16261**

**DELAWARE ENERGY LLC'S MOTION TO DISMISS**

Delaware Energy LLC ("Delaware Energy"), the applicant in the above-referenced cases, moves to dismiss 3Bear Delaware Operating – NM, LLC ("3Bear") from Case Nos. 16258-16261 for failing to file a notice of intervention and for lack of standing. In support of this Motion, Delaware states the following.

**INTRODUCTION**

3Bear is not a Division-designated operator within the area of review for Delaware's proposed disposal wells. It has no application pending before the Division that would bestow upon it status as Division-designated operator or standing to object to Delaware's applications, which have been pending for months. 3Bear also is not an affected person under Division rules. The hearing in these matters has been delayed to accommodate the schedules of the protestants, including 3Bear. The basis for 3Bear's protests and objections, however, has been premised on the apparently false representation that 3Bear has an application pending before the Division for a disposal well in acreage directly offsetting Delaware's planned wells. *See* 3Bear Prehearing Statement, filed July 5, 2018, attached as **Exhibit A** (stating that 3Bear has an agreement to drill and operate disposal wells on Black River Ranch, which is located in Sections 2, 3, 4, 9, 10 and 11, Township 24 South, Range 27 East, NMPM, Eddy County, New Mexico," and that "the first of these planned wells [is] the Carlsbad 960 SWD well—filed on June 25, 2018."). In fact, 3Bear

has no application for disposal pending on that acreage. *See* email from C. Callahan, dated Nov. 2, 2018, attached as **Exhibit B** (stating that 3Bear had not yet filed a C-108 application and only just filed a C-101 and C-102). Notwithstanding the fact that counsel for Delaware elicited the acknowledgement of these deficiencies from 3Bear’s counsel in advance of the time to file a notice of intervention and a prehearing statement, 3Bear has taken no action to establish a proper basis to intervene in these cases or to establish standing to object. 3Bear also has taken no action to correct its apparent misrepresentation to the Division that it has an application for a disposal well in offsetting acreage pending before the Division.

The time for filing notice of intervention is long past. 3Bear cannot demonstrate standing. It has no basis or right to object or participate in these proceedings against Delaware’s applications. It should be dismissed from these cases and prohibited from participating at hearing. Even if 3Bear had filed a timely notice of intervention and could somehow establish standing, 3Bear’s proposed Foundation Minerals Fee SWD is well more than a mile away from Delaware’s proposed Bear Trap, Giant Panda, and Grizzly injection wells. At a minimum, it should be dismissed from Case Nos. 16258-16260.

## **ARGUMENT**

1. Under Division Rule 19.15.4.10 NMAC, parties to an adjudicatory proceeding are required<sup>1</sup> to be limited to the “applicant,” “a person to whom statute, rule or order requires notice” and “who has entered an appearance in the case”; and “a person who properly intervenes in the case.”

2. Division rules governing injection require that notice be given “to each owner of the land surface on which each injection or disposal well is to be located and to each leasehold

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<sup>1</sup> “The parties to an adjudicatory hearing **shall** include . . .” (emphasis added).

operator or other affected person within any tract wholly or partially contained within one-half mile of the well.” 19.15.26.8(B)(2) NMAC.

3. “[A]ffected person” is defined as “the division designated operator; in the absence of an operator, a lessee whose interest is evidenced by a written conveyance document either of record or known to the applicant as of the date the applicant files the application; or in the absence of an operator or lessee, a mineral interest owner whose interest is evidenced by a written conveyance document either of record or known to the applicant as of the date the applicant filed the application for permit to inject.” (Emphasis added).

4. In its prehearing statement, 3Bear represented that it was objecting to Delaware’s applications because it had filed an administrative C-108 application for its proposed Carlsbad 960 SWD well<sup>2</sup> on June 25, 2018, which was to be located in offsetting acreage. *See* Exhibit A. However, that well is in an entirely different Township than Delaware’s four proposed wells. It is proposed to be in Unit P, Section 23, Township 23 South, Range 26 East. *See* C-102 Plat, attached as **Exhibit D**. That location is miles away from Sections 2, 3, 4, 9, 10 and 11, Township 24 South, Range 27 East, and therefore 3Bear is not an affected party.

5. 3Bear is not a “person to whom” notice was required. It is not a Division-designated operator within the area of review. It is not a surface owner on which any of the proposed wells will be located. And it is not a mineral interest owner within the area of review. Its only basis for objecting was that it had a purported C-108 application pending in offsetting acreage. That is demonstratively incorrect.

6. As of the time 3Bear filed its prehearing statement in July 2018, it knew or should have known that it did not have a C-108 application for an injection well in offsetting acreage

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<sup>2</sup> 3Bear has since changed the name of this well through a C-103 Sundry to the Dark Canyon SWD. *See* Form C-103, attached as **Exhibit C**.

pending before the Division. Despite this, 3Bear did nothing in the time afforded by the prejudicial delays imposed on Delaware to reschedule the hearing on these applications to accommodate 3Bear and Foundation Minerals' schedules. It did not prepare and file a C-108 application that would give it some basis to allege an imminent injury, and it did not file a notice of intervention as required by Division rules where 3Bear is not otherwise granted party status. When counsel for Delaware raised this issue by requesting a copy of the C-108, 3Bear disclosed that no such application had been filed. *See* Exhibit A. Despite being apprised of this deficiency, and having had ample time to correct its deficiencies, 3Bear has taken no action to intervene in these cases.

7. Division Rules mandate that parties to an adjudicatory hearing are limited to the applicant, a party requiring notice, or a person who intervenes. *See* 19.15.4.10(A) NMAC.

8. Division Rules lay out the process required for intervention. The Rules provide that "a person with standing with respect to the case's subject matter may intervene by filing a written notice of intervention[.]" 19.15.4.11(A) NMAC (emphasis added). It also provides that the person giving notice of intervention "shall" state "the nature of the intervenor's interest in the application," and "the extent to which the intervenor opposes issuance of the order applicant seeks." 19.15.4.11(A)(3)-(4) NMAC (emphasis added).

9. Notice of intervention is to be filed "at least one business day before the date for filing a pre-hearing statement." 19.15.4.11(A) NMAC.

10. The Division "may," however, "allow late intervenors to participate if the intervenor files a written notice on or after the date provided in Subsection A of 19.15.4.8 NMAC, or by oral appearance on the record at the hearing." 19.15.4.11(B) NMAC.



11. 3Bear has failed to file a timely notice of intervention. Through dilatory tactics and uncorrected misrepresentations made to the Applicant and to the Division, it has unfairly delayed and prejudiced Delaware's applications. The Division should disallow 3Bear to participate as a late intervenor in these cases where 3Bear has known of the applications and the issues since at least July 2018. The Division should preclude 3Bear from participating as a party from Case Nos. 16258-16261.

12. 3Bear's newly proposed Foundation Minerals Fee SWD well, which is to be located in Section 4 of Township 24 South, Range 27 East, is well more than a mile distant from Delaware's proposed Bear Trap, Giant Panda, and Grizzly injection wells. See **Exhibit E**, attached. At a minimum, 3Bear should be dismissed from Case Nos. 16258-16260.

WHEREFORE, Delaware Energy, LLC respectfully requests that this Motion be granted, that 3Bear be denied party status, and that 3Bear be precluded from participating in, presenting evidence and testimony, and cross-examining Delaware's witnesses in Case Nos. 16258-16261 or, in the alternative, that 3Bear be dismissed from Case Nos. 16258-16260.

Respectfully submitted,  
**HOLLAND & HART LLP**



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Jordan L. Kessler, Esq.  
Adam Rankin, Esq.  
Julia Broggi, Esq.  
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**ATTORNEYS FOR DELAWARE ENERGY,  
LLC**

**CERTIFICATE OF SERVICE**

I hereby certify that on November 9, 2018 I served a copy of the foregoing document to  
all counsel of record via Electronic Mail to:

Seth C. McMillan  
PO Box 2307  
Santa Fe NM 87504-2307  
505-982-3873  
smcmillan@montand.com

**Foundation Minerals, LLC**  
**Mavros Minerals, LLC**  
**Oak Valley Mineral and Land, L.P.**

Marion J. Craig III, Esq.  
Marion J. Craig III Attorney at Law,  
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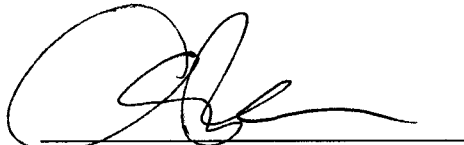
**Jim & Barbara Davis**  
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Candace Callahan, Esq.  
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**3Bear Delaware Operating – NM, LLC**

Katherine M. Moss  
New Mexico State Land Office  
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Santa Fe, NM 87504-1148  
[katherinem@slo.state.nm.us](mailto:katherinem@slo.state.nm.us)

**New Mexico State Land Office**

A handwritten signature in black ink, appearing to read 'Adam G. Rankin', written over a horizontal line.

Adam G. Rankin

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

**APPLICATION OF DELAWARE ENERGY, LLC  
FOR AUTHORIZATION TO INJECT SALT WATER  
FOR PURPOSES OF DISPOSAL THROUGH ITS  
PROPOSED KODIAK SWD #1 WELL,  
EDDY COUNTY, NEW MEXICO**

**CASE NO. 16261**

**PRE-HEARING STATEMENT**

3Bear Delaware Operating – NM, LLC ("3Bear") provides this Pre-Hearing Statement as required by the rules of the Division.

**APPEARANCES**

**APPLICANT**

Delaware Energy, LLC

**APPLICANT'S ATTORNEY**

Adam G. Rankin  
Holland & Hart LLP  
110 North Guadalupe, Suite 1  
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[agrankin@hollandhart.com](mailto:agrankin@hollandhart.com)

**OPPONENTS**

Foundation Minerals, LLC, Mavros  
Minerals LLC, and Oak Valley  
Mineral and Land, L.P.

**OPPONENTS' ATTORNEYS**

Seth C. McMillan  
Montgomery & Andrews, P.A.  
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Tel (505) 982-3873  
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Jim Davis and Barbara Davis

Marion J Craig, III  
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3 Bear Delaware Operating – NM,  
LLC

Candace Callahan  
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### **STATEMENT OF THE CASE**

Applicant seeks an order authorizing the injection of produced water for disposal purposes through its proposed Giant Panda SWD #1, with a surface location 240 feet from the South line and 175 feet from the East line Unit P of Section 9, Township 24 South, Range 27 East, NMPM, Eddy County, New Mexico. The maximum proposed daily injection rate will be approximately 25,000 barrels per day. The proposed injection will occur within the Devonian formation at a depth of approximately 13,255 feet to 14,255 feet deep. The maximum injection pressure will be 2,656 psi.

Opponents Foundation Minerals, LLC, Mavros Minerals LLC, and Oak Valley Mineral and Land, L.P. (collectively “Foundation et al”) own mineral interests beneath the Black River Ranch, which is located in Sections 2, 3, 4, 9, 10 and 11, Township 24 South, Range 27 East, NMPM, Eddy County, New Mexico. The Black River Ranch’s surface is owned by BC Operating, Inc., of which the Opponents Foundation et al are wholly-owned subsidiaries. Opponents initially discussed with Applicant its plans to drill SWD wells on the Black River Ranch, but the parties were unable to come to agreement. Subsequently, Opponents Foundation et al entered into an agreement with 3Bear Delaware Operating - NM, LLC to drill and operate SWD wells on the

Ranch. 3Bear applied for a permit for the first of these planned wells—the Carlsbad 960 SWD well—on June 25, 2018.

Applicant filed the instant application shortly after Opponents Foundation et al proposed their SWD plans for the Black River Ranch to Applicant. In total, Applicant has proposed four SWD wells. In an apparent effort to interfere with Opponents' agreement with 3Bear, all four wells are located directly adjacent to the boundaries of the Black River Ranch. Applicant gave no notice to Foundation Minerals, LLC, Mavros Minerals LLC, Oak Valley Mineral and Land, L.P., BC Operating, or 3Bear of the filing of its SWD applications. Applicant does not have a business lease with the State Land Office and did not get a right of entry to survey from the State. The State Land Office has denied Applicant's location and will not grant Applicant an SWD agreement, business lease or right-of-way. Furthermore, Applicant did not have the surface owners' permission to cross their lands to survey its well location, and therefore has trespassed. For these reasons among others to be fully supported at hearing, all of the Opponents oppose the subject well.

Opponent 3Bear joins Opponents Foundation et al in opposing Applicant's proposed SWD well for all of the reasons stated above among others to be fully supported at hearing.

### **PROPOSED EVIDENCE**

#### **APPLICANT**

#### **WITNESSES**

Unknown at this time.

#### **EST. TIME**

#### **EXHIBITS**

OPPONENT FOUNDATION ET AL

<u>WITNESSES</u>	<u>EST. TIME</u>	<u>EXHIBITS</u>
Brian Arnold – Landman	10 min.	6

OPPONENT 3BEAR

<u>WITNESSES</u>	<u>EST. TIME</u>	<u>EXHIBITS</u>
Kevin Burns	10 min.	1

**PROCEDURAL MATTERS**

None.

Respectfully submitted,

BEATTY & WOZNIAK, P.C.

By:   
Candace Callahan

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Santa Fe, New Mexico 87505  
(505) 983-8764  
ccallahan@bwenergylaw.com

*Attorneys for 3Bear Delaware Operating –  
NM, LLC*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was served on the following counsel of record by electronic mail on July 5, 2018:

Adam G. Rankin  
Holland & Hart LLP  
110 North Guadalupe, Suite 1  
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Candace Callahan

## Adam Rankin

---

**From:** Callahan, Candace <CCallahan@bwenergyllaw.com>  
**Sent:** Friday, November 2, 2018 4:58 PM  
**To:** Adam Rankin  
**Cc:** Seth C. McMillan; Marion Craig; Michael Feldewert  
**Subject:** Re: Delaware: Cases No. 16258 to 16261 - Delaware SWDs  
**Attachments:** C-101 & C-102 Signed - Foundation Minerals Fee SWD No. 1.pdf

Adam,

I've confirmed with 3Bear that only the C-101 and C-102 have been filed for their SWD - the C-108 is still in process. I'm attaching a copy of both to this email.

Thanks for your patience,  
Candace

On Oct 30, 2018, at 4:22 PM, Adam Rankin <[agrarkin@hollandhart.com](mailto:agrarkin@hollandhart.com)> wrote:

Candace,

I've been looking for some time, but do not see a C-108 application pending for 3Bear in the subject area, nor do I see one for the Foundation Minerals SWD. <http://www.emnrd.state.nm.us/OCD/documents/rptAdminsPendingandResolvedByListNotApproved5Oct2018.pdf>. The only application pending for 3Bear is for the Dark Canyon SWD which was protested by Marathon in a different township.

Can you confirm that 3Bear does not have a pending C-108 in Section 4, T24S, R27E or anywhere with 2 miles of the four pending Delaware SWDs?

Thank you for your prompt response.

Very best,  
Adam

**From:** Callahan, Candace <[CCallahan@bwenergyllaw.com](mailto:CCallahan@bwenergyllaw.com)>  
**Sent:** Monday, October 29, 2018 11:25 AM  
**To:** Adam Rankin <[AGRankin@hollandhart.com](mailto:AGRankin@hollandhart.com)>  
**Cc:** Seth C. McMillan <[SMcMillan@montand.com](mailto:SMcMillan@montand.com)>; Marion Craig <[jimmy@craiglawllc.com](mailto:jimmy@craiglawllc.com)>; Michael Feldewert <[MFeldewert@hollandhart.com](mailto:MFeldewert@hollandhart.com)>; Clory L. Wetzsteon <[CLWetzsteon@hollandhart.com](mailto:CLWetzsteon@hollandhart.com)>  
**Subject:** Re: Information Request for Cases No. 16258 to 16261 - Delaware SWD

Same for 3Bear. We're discussing this case this afternoon and hope to be able to respond later today.  
Candace



On Oct 29, 2018, at 11:06 AM, Adam Rankin <[AGRankin@hollandhart.com](mailto:AGRankin@hollandhart.com)> wrote:

Seth,

Thanks for the clarification. I will wait to hear back from you. Is the same true for 3Bear, as well?

Jimmy, I know we just spoke about this, but I would be most grateful if you can confirm your clients' position on the Giant Panda and Bear Trap.

Best,  
Adam

**From:** Seth McMillan <[SMcMillan@montand.com](mailto:SMcMillan@montand.com)>

**Sent:** Monday, October 29, 2018 11:00 AM

**To:** Adam Rankin <[AGRankin@hollandhart.com](mailto:AGRankin@hollandhart.com)>; Callahan, Candace (<[CCallahan@bwenergyllc.com](mailto:CCallahan@bwenergyllc.com)> <[CCallahan@bwenergyllc.com](mailto:CCallahan@bwenergyllc.com)>); Marion Craig (<[jimmy@craiglawllc.com](mailto:jimmy@craiglawllc.com)>

**Cc:** Michael Feldewert <[MFeldewert@hollandhart.com](mailto:MFeldewert@hollandhart.com)>; Clory L. Wetzsteon (<[CLWetzsteon@hollandhart.com](mailto:CLWetzsteon@hollandhart.com)>

**Subject:** RE: Information Request for Cases No. 16258 to 16261 - Delaware SWD

Adam – My clients have protested all four of the “Four Bear” wells. We “re-upped” our protests of Kodiak and Grizzly upon discovery that you’d published the changed surface locations to those wells in connection with advertising your Looney Tunes wells, but our protests to all four Four Bears wells remain live as of today. Accordingly, none of those applications are positioned to be returned to the administrative track, at least not yet. I’m still trying to get a read on which of my clients’ protests are moving forward following the changed surface locations, and I will report back as soon as I’ve hear back from my folks. Sorry for the delay. Thanks.

<image001.jpg>

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**From:** Adam Rankin [<mailto:AGRankin@hollandhart.com>]

**Sent:** Monday, October 29, 2018 10:51 AM

**To:** Seth McMillan <[SMcMillan@montand.com](mailto:SMcMillan@montand.com)>; Callahan, Candace  
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<[CLWetzsteon@hollandhart.com](mailto:CLWetzsteon@hollandhart.com)>  
**Subject:** RE: Information Request for Cases No. 16258 to 16261 - Delaware SWD

Seth, Candace, and Jimmy,

Can you please confirm this week which of the 4 Delaware SWDs your clients are protesting. From OCD's records it appears that your clients oppose only the Kodiak and Grizzly wells. If so, then we Giant Panda (sec. 16) and Bear Trap (sec. 34 in T23S, R27E) should be remanded back to the administrative approval process.

Thank you!

very best,  
Adam

**From:** Seth McMillan <[SMcMillan@montand.com](mailto:SMcMillan@montand.com)>  
**Sent:** Wednesday, October 24, 2018 12:30 PM  
**To:** Adam Rankin <[AGRankin@hollandhart.com](mailto:AGRankin@hollandhart.com)>; Callahan, Candace  
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**Cc:** Michael Feldewert <[MFeldewert@hollandhart.com](mailto:MFeldewert@hollandhart.com)>; Clory L. Wetzsteon  
<[CLWetzsteon@hollandhart.com](mailto:CLWetzsteon@hollandhart.com)>  
**Subject:** RE: Information Request for Cases No. 16258 to 16261 - Delaware SWD

Thanks Adam. My folks are also meeting this week to discuss which of their four protests are going forward. These revised C-108s will help them make that decision. Please stay tuned.

Sent from my iPhone

**From:** Adam Rankin [<mailto:AGRankin@hollandhart.com>]  
**Sent:** Wednesday, October 24, 2018 12:26 PM  
**To:** Goetze, Phillip, EMNRD <[Phillip.Goetze@state.nm.us](mailto:Phillip.Goetze@state.nm.us)>; Seth McMillan  
<[SMcMillan@montand.com](mailto:SMcMillan@montand.com)>; Callahan, Candace ([CCallahan@bwenerylaw.com](mailto:CCallahan@bwenerylaw.com))  
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**Cc:** Michael Feldewert <[MFeldewert@hollandhart.com](mailto:MFeldewert@hollandhart.com)>; Murphy, Kathleen A, EMNRD  
<[KathleenA.Murphy@state.nm.us](mailto:KathleenA.Murphy@state.nm.us)>; Michael Feldewert  
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**Subject:** RE: Information Request for Cases No. 16258 to 16261 - Delaware SWD

All,

Attached are the two other updated C-108s prepared by Delaware and submitted to the Division. With the other two that Mr. Goetze just circulated, the parties now have all the updated C-108s reflecting the updated locations. The locations were the only changes.

Very best,

Adam

**From:** Goetze, Phillip, EMNRD <[Phillip.Goetze@state.nm.us](mailto:Phillip.Goetze@state.nm.us)>  
**Sent:** Tuesday, October 23, 2018 10:49 AM  
**To:** Seth McMillan <[SMcMillan@montand.com](mailto:SMcMillan@montand.com)>; Callahan, Candace  
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<[jimmy@craiglawllc.com](mailto:jimmy@craiglawllc.com)>  
**Cc:** Adam Rankin <[AGRankin@hollandhart.com](mailto:AGRankin@hollandhart.com)>; Michael Feldewert  
<[MFeldewert@hollandhart.com](mailto:MFeldewert@hollandhart.com)>; Murphy, Kathleen A, EMNRD  
<[KathleenA.Murphy@state.nm.us](mailto:KathleenA.Murphy@state.nm.us)>  
**Subject:** FW: Information Request for Cases No. 16258 to 16261 - Delaware SWD

To All:

Florene has brought to my attention that the amended applications were not entered as to the correct docket notice. She will supply an amended Docket notice shortly correcting this difference.

Meanwhile, I have received two new applications for Case No. 16261, the Kodiak SWD No. 1, and for Case 16260, the Grizzly SWD No. 1. A PDF of both applications are attached and will also be available in the case files. If any additional applications for the remaining two cases are submitted, then you will be notified. Please contact me with any questions regarding this docket at you convenience. PRG

Phillip Goetze, PG  
Engineering Bureau, Oil Conservation Division, NM EMNRD  
1220 South St. Francis Drive, Santa Fe, NM 87505  
Direct: 505.476.3466  
E-mail: [phillip.goetze@state.nm.us](mailto:phillip.goetze@state.nm.us)

**From:** Goetze, Phillip, EMNRD  
**Sent:** Tuesday, October 23, 2018 8:02 AM  
**To:** 'Seth McMillan' <[SMcMillan@montand.com](mailto:SMcMillan@montand.com)>; Marion Craig  
<[jimmy@craiglawllc.com](mailto:jimmy@craiglawllc.com)>  
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([CCallahan@bwenergyllc.com](mailto:CCallahan@bwenergyllc.com)) <[CCallahan@bwenergyllc.com](mailto:CCallahan@bwenergyllc.com)>; Adam Rankin  
([AGRankin@hollandhart.com](mailto:AGRankin@hollandhart.com)) <[AGRankin@hollandhart.com](mailto:AGRankin@hollandhart.com)>; Michael Feldewert  
([mfeldewert@hollandhart.com](mailto:mfeldewert@hollandhart.com))  
<[mfeldewert@hollandhart.com](mailto:mfeldewert@hollandhart.com)>; [katherinem@slo.state.nm.us](mailto:katherinem@slo.state.nm.us); Davidson, Florene,  
EMNRD <[florene.davidson@state.nm.us](mailto:florene.davidson@state.nm.us)>  
**Subject:** RE: Information Request for Cases No. 16258 to 16261 - Delaware SWD

To All:

Currently, that is correct. A Special Docket is set for November 13<sup>th</sup> – Porter Hall – with a starting time of 9AM to accommodate travel. Any exhibits are to be presented at the hearing. As per SOP, remember to bring enough for everyone. PRG

Phillip Goetze, PG  
Engineering Bureau, Oil Conservation Division, NM EMNRD

1220 South St. Francis Drive, Santa Fe, NM 87505  
Direct: 505.476.3466  
E-mail: [phillip.goetze@state.nm.us](mailto:phillip.goetze@state.nm.us)

**From:** Seth McMillan <[SMcMillan@montand.com](mailto:SMcMillan@montand.com)>  
**Sent:** Monday, October 22, 2018 4:57 PM  
**To:** Goetze, Phillip, EMNRD <[Phillip.Goetze@state.nm.us](mailto:Phillip.Goetze@state.nm.us)>; Marion Craig <[jimmy@craiglawllc.com](mailto:jimmy@craiglawllc.com)>  
**Cc:** Brooks, David K, EMNRD <[DavidK.Brooks@state.nm.us](mailto:DavidK.Brooks@state.nm.us)>; Callahan, Candace ([CCallahan@bwenergyllaw.com](mailto:CCallahan@bwenergyllaw.com)) <[CCallahan@bwenergyllaw.com](mailto:CCallahan@bwenergyllaw.com)>; Adam Rankin ([AGRankin@hollandhart.com](mailto:AGRankin@hollandhart.com)) <[AGRankin@hollandhart.com](mailto:AGRankin@hollandhart.com)>; Michael Feldewert ([mfeldewert@hollandhart.com](mailto:mfeldewert@hollandhart.com)) <[mfeldewert@hollandhart.com](mailto:mfeldewert@hollandhart.com)>; katherinem@slo.state.nm.us; Davidson, Florene, EMNRD <[florene.davidson@state.nm.us](mailto:florene.davidson@state.nm.us)>  
**Subject:** [EXT] RE: Information Request for Cases No. 16258 to 16261 - Delaware SWD

And, sorry, with respect to Jimmy's initial question below, these matters remain set for November 13, correct?

Sent from my iPhone

**From:** Goetze, Phillip, EMNRD [<mailto:Phillip.Goetze@state.nm.us>]  
**Sent:** Monday, October 22, 2018 4:33 PM  
**To:** Marion Craig <[jimmy@craiglawllc.com](mailto:jimmy@craiglawllc.com)>  
**Cc:** Seth McMillan <[SMcMillan@montand.com](mailto:SMcMillan@montand.com)>; Brooks, David K, EMNRD <[DavidK.Brooks@state.nm.us](mailto:DavidK.Brooks@state.nm.us)>; Callahan, Candace ([CCallahan@bwenergyllaw.com](mailto:CCallahan@bwenergyllaw.com)) <[CCallahan@bwenergyllaw.com](mailto:CCallahan@bwenergyllaw.com)>; Adam Rankin ([AGRankin@hollandhart.com](mailto:AGRankin@hollandhart.com)) <[AGRankin@hollandhart.com](mailto:AGRankin@hollandhart.com)>; Michael Feldewert ([mfeldewert@hollandhart.com](mailto:mfeldewert@hollandhart.com)) <[mfeldewert@hollandhart.com](mailto:mfeldewert@hollandhart.com)>; katherinem@slo.state.nm.us; Davidson, Florene, EMNRD <[florene.davidson@state.nm.us](mailto:florene.davidson@state.nm.us)>  
**Subject:** RE: Information Request for Cases No. 16258 to 16261 - Delaware SWD

Marion:

For an Examiner's hearing, the applicant is not required to provide advance copies of the final exhibits – unlike a Commission hearing where the applicant (as well as all parties appearing) have to provide their exhibits a week before the hearing. This creates a very stimulating process at Examiner's hearings of simultaneously reviewing the exhibits while trying to offer relevant (and, hopefully, intelligent) questions during cross.

But the applicant will be presenting the C-108 applications at the beginning of the hearing which will include testimony as to preparation and the content. This tends to offer the ability to review the applications during the presentation. PRG

Phillip Goetze, PG  
Engineering Bureau, Oil Conservation Division, NM EMNRD  
1220 South St. Francis Drive, Santa Fe, NM 87505  
Direct: 505.476.3466  
E-mail: [phillip.goetze@state.nm.us](mailto:phillip.goetze@state.nm.us)

**From:** Marion Craig <jimmy@craiglawllc.com>  
**Sent:** Monday, October 22, 2018 3:08 PM  
**To:** Goetze, Phillip, EMNRD <Phillip.Goetze@state.nm.us>  
**Cc:** Seth McMillan <SMcMillan@montand.com>; Brooks, David K, EMNRD <DavidK.Brooks@state.nm.us>; Callahan, Candace (CCallahan@bwenerylaw.com) <CCallahan@bwenerylaw.com>; Adam Rankin (AGRankin@hollandhart.com) <AGRankin@hollandhart.com>; Michael Feldewert (mfeldewert@hollandhart.com) <mfeldewert@hollandhart.com>; katherinem@slo.state.nm.us; Davidson, Florene, EMNRD <florene.davidson@state.nm.us>  
**Subject:** [EXT] Re: Information Request for Cases No. 16258 to 16261 - Delaware SWD

Phillip: Thanks for the response. Do we have a date set for these applications, or are you waiting for the C-108s with the new surface locations?

Jimmy Craig

Marion J. Craig III

Marion J. Craig III, Attorney at Law, L.L.C.

P.O. Box 1436

Roswell, NM 88202

(575) 622-1106

[jimmy@craiglawllc.com](mailto:jimmy@craiglawllc.com)

On 10/22/2018 3:02 PM, Goetze, Phillip, EMNRD wrote:

Seth:

Since this is a protested case, I will respond to your request for information for the applications with notice to all. The C-108 for each of the wells will be placed in their respective case file as a separate PDF:

Case No. 16258 – Bear Trap SWD No. 1

Case No. 16259 – Giant Panda SWD No. 1

Case No. 16260 – Grizzly SWD No. 1

Case No. 16261 – Kodiak SWD No. 1

Please note that these are the applications are for the original old locations. The Division has not received any amended applications that include the new surface locations identified in the pre-hearing by legal counsel for Delaware Energy dated September 4, 2018. Please contact if this does not address your request. PRG

Phillip Goetze, PG

Engineering Bureau, Oil Conservation Division

New Mexico Energy, Minerals and Natural Resources Department

1220 South St. Francis Drive, Santa Fe, NM 87505

Direct: 505.476.3466

E-mail: [phillip.goetze@state.nm.us](mailto:phillip.goetze@state.nm.us)

<image002.jpg>

Candace Callahan | Beatty & Wozniak, P.C.

Shareholder

Direct: 505-983-8764

Mobile: 505-670-2924

[www.bwenerylaw.com](http://www.bwenerylaw.com)

Energy in the Law

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# LONQUIST & CO. LLC

AUSTIN  
HOUSTON

PETROLEUM  
ENGINEERS

ENERGY  
ADVISORS

WICHITA  
CALGARY

[www.lonquist.com](http://www.lonquist.com)

November 1, 2018

New Mexico Energy, Minerals, and Natural Resources Department  
Oil Conservation Division  
District II Office  
811 S. First  
Artesia, NM 88210  
(575) 748-1283

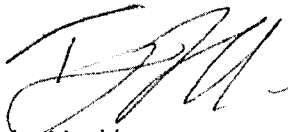
**Subject: FOUNDATION MINERALS SWD NO. 1 APPLICATION FOR PERMIT TO DRILL**

To Whom It May Concern:

Attached for your review is Form C-101, Application for Permit to Drill, and Form C-102, Well Location Plat, prepared for 3Bear Field Services, LLC's Foundation Minerals Fee SWD No. 1 well.

Any questions should be directed towards 3Bear Field Service's agent, Lonquist & Co., LLC.

Regards,



Tyler Moehlman  
Petroleum Engineer  
Lonquist & Co., LLC

(713) 987-4144  
[tyler.moehlman@lonquist.com](mailto:tyler.moehlman@lonquist.com)

**District I**  
1625 N. French Dr., Hobbs, NM 88240  
Phone: (575) 393-6161 Fax: (575) 393-0720  
**District II**  
811 S. First St., Artesia, NM 88210  
Phone: (575) 748-1283 Fax: (575) 748-9720  
**District III**  
1000 Rio Brazos Road, Aztec, NM 87410  
Phone: (505) 334-6178 Fax: (505) 334-6170  
**District IV**  
1220 S. St. Francis Dr., Santa Fe, NM 87505  
Phone: (505) 476-3460 Fax: (505) 476-3462

**State of New Mexico**  
**Energy Minerals and Natural Resources**  
**Oil Conservation Division**  
**1220 South St. Francis Dr.**  
**Santa Fe, NM 87505**

Form C-101  
Revised July 18, 2013

☐ AMENDED REPORT

**APPLICATION FOR PERMIT TO DRILL, RE-ENTER, DEEPEN, PLUGBACK, OR ADD A ZONE**

<sup>1</sup> Operator Name and Address 3Bear Field Services 415 W. Wall St., Suite 1212 Midland, TX 79701		<sup>2</sup> OGRID Number 372603 <sup>3</sup> API Number 30-025-
<sup>4</sup> Property Code	<sup>5</sup> Property Name Foundation Minerals Fee SWD	<sup>6</sup> Well No. 1

**<sup>7</sup> Surface Location**

UL - Lot	Section	Township	Range	Lot Idn	Feet from	N/S Line	Feet From	E/W Line	County
SW ¼	4	24S	27E		2,309	South	366	West	Eddy

**<sup>8</sup> Proposed Bottom Hole Location**

UL - Lot	Section	Township	Range	Lot Idn	Feet from	N/S Line	Feet From	E/W Line	County

**<sup>9</sup> Pool Information**

Pool Name SWD; Silurian-Devonian	Pool Code 97869
-------------------------------------	--------------------

**Additional Well Information**

<sup>11</sup> Work Type N	<sup>12</sup> Well Type SWD	<sup>13</sup> Cable/Rotary R	<sup>14</sup> Lease Type Private	<sup>15</sup> Ground Level Elevation 3,174'
<sup>16</sup> Multiple N	<sup>17</sup> Proposed Depth 14,095	<sup>18</sup> Formation Devonian	<sup>19</sup> Contractor TBD	<sup>20</sup> Spud Date ASAP
Depth to Ground water N/A		Distance from nearest fresh water well 3,210'		Distance to nearest surface water 2,500'

☐ We will be using a closed-loop system in lieu of lined pits

**<sup>21</sup> Proposed Casing and Cement Program**

Type	Hole Size	Casing Size	Casing Weight/ft	Setting Depth	Sacks of Cement	Estimated TOC
Conductor	26"	20"	94.00 lb/ft	120'	328 sks	Surface
Intermediate 1	17.5"	13.375"	54.50 lb/ft	510'	442 sks	Surface
Intermediate 2	12.25	9.625"	40.00 lb/ft	5,495'	1,457 sks	Surface
Production	8.5"	7-5/8"	38.00 lb/ft	5,195'-13,195'	701 sks	5,195'
Tubing	N/A	5.5"	17 lb/ft	0'-13,095'	N/A	N/A

**Casing/Cement Program: Additional Comments**

See attached schematic.

**<sup>22</sup> Proposed Blowout Prevention Program**

Type	Working Pressure	Test Pressure	Manufacturer
Double Hydraulic/ Blinds, Pipe	5,000 psi	8,000 psi	TBD (Schaffer/Cameron)
<sup>23</sup> I hereby certify that the information given above is true and complete to the best of my knowledge and belief. I further certify that I have complied with 19.15.14.9 (A) NMAC <input type="checkbox"/> and/or 19.15.14.9 (B) NMAC <input checked="" type="checkbox"/> , if applicable. Signature:		<b>OIL CONSERVATION DIVISION</b> Approved By:	
Printed name: Tyler Moehlman		Title:	
Title: Consulting Engineer- Agent for 3Bear Field Services, LLC		Approved Date:	Expiration Date:
E-mail Address: tyler.moehlman@lonquist.com			
Date: 11/1/2018	Phone: 713-987-4144	Conditions of Approval Attached	



District I  
1625 N. French Dr., Hobbs, NM 88240  
Phone: (575) 393-6161 Fax: (575) 393-0720  
District II  
811 S. First St., Artesia, NM 88210  
Phone: (575) 748-1283 Fax: (575) 748-9720  
District III  
1000 Rio Brazos Road, Aztec, NM 87410  
Phone: (505) 334-6178 Fax: (505) 334-6170  
District IV  
1220 S. St. Francis Dr., Santa Fe, NM 87505  
Phone: (505) 476-3460 Fax: (505) 476-3462

State of New Mexico  
Energy, Minerals & Natural Resources Department  
OIL CONSERVATION DIVISION  
1220 South St. Francis Dr.  
Santa Fe, NM 87505

Form C-102  
Revised August 1, 2011  
Submit one copy to appropriate  
District Office

☐ AMENDED REPORT

WELL LOCATION AND ACREAGE DEDICATION PLAT

<sup>1</sup> API Number	<sup>2</sup> Pool Code 97869	<sup>3</sup> Pool Name SWD; Silurian-Devonian
<sup>4</sup> Property Code	<sup>5</sup> Property Name FOUNDATION MINERALS FEE SWD	<sup>6</sup> Well Number 1
<sup>7</sup> OGRID No. 372603	<sup>8</sup> Operator Name 3BEAR FIELD SERVICES, LLC	<sup>9</sup> Elevation 3174'

<sup>10</sup> Surface Location

UL or lot no.	Section	Township	Range	Lot Idn	Feet from the	North/South line	Feet from the	East/West line	County
SW 1/4	4	24S	27E		2,309	SOUTH	366	WEST	EDDY

<sup>11</sup> Bottom Hole Location If Different From Surface

UL or lot no.	Section	Township	Range	Lot Idn	Feet from the	North/South line	Feet from the	East/West line	County
<sup>12</sup> Dedicated Acres	<sup>13</sup> Joint or Infill	<sup>14</sup> Consolidation Code	<sup>15</sup> Order No.						

No allowable will be assigned to this completion until all interests have been consolidated or a non-standard unit has been approved by the division.

	<p><b><sup>17</sup> OPERATOR CERTIFICATION</b> I hereby certify that the information contained herein is true and complete to the best of my knowledge and belief, and that this organization either owns a working interest or unleased mineral interest in the land including the proposed bottom hole location or has a right to drill this well at this location pursuant to a contract with an owner of such a mineral or working interest, or to a voluntary pooling agreement or a compulsory pooling order heretofore entered by the division.</p> <p>Signature: <u>Tyler Moehlman</u> Date: <u>11/1/18</u> Printed Name: <u>Tyler Moehlman</u> E-mail Address: <u>tyler.moehlman@longquist.com</u></p> <p><b><sup>18</sup> SURVEYOR CERTIFICATION</b> I hereby certify that the well location shown on this plat was plotted from field notes of actual surveys made by me or under my supervision, and that the same is true and correct to the best of my belief.</p> <p>Date of Survey: <u>5/12/18</u> Signature and Seal of Professional Surveyor: </p> <p>Certificate Number: <u>22896</u></p>
--	--

Submit 1 Copy To Appropriate District Office  
District I - (575) 393-6161  
1625 N. French Dr., Hobbs, NM 88240  
District II - (575) 748-1283  
811 S. First St., Artesia, NM 88210  
District III - (505) 334-6178  
1000 Rio Brazos Rd., Aztec, NM 87410  
District IV - (505) 476-3460  
1220 S. St. Francis Dr., Santa Fe, NM 87505

State of New Mexico  
Energy, Minerals and Natural Resources

Form C-103  
Revised July 18, 2013

OIL CONSERVATION DIVISION  
1220 South St. Francis Dr.  
Santa Fe, NM 87505

WELL API NO. 30-015-45033
5. Indicate Type of Lease STATE <input type="checkbox"/> FEE <input checked="" type="checkbox"/>
6. State Oil & Gas Lease No.
7. Lease Name or Unit Agreement Name <b>321513</b> Carlsbad 960 SWD (to Dark Canyon SWD)
8. Well Number 1
9. OGRID Number <del>320495</del> <b>372603</b>
10. Pool name or Wildcat SWD; Devonian-Silurian

**SUNDRY NOTICES AND REPORTS ON WELLS**  
(DO NOT USE THIS FORM FOR PROPOSALS TO DRILL OR TO DEEPEN OR PLUG BACK TO A DIFFERENT RESERVOIR. USE "APPLICATION FOR PERMIT" (FORM C-101) FOR SUCH PROPOSALS.)

1. Type of Well: Oil Well ☐ Gas Well ☐ Other ☒ **SWD OIL CONSERVATION ARTESIA DISTRICT**

2. Name of Operator  
**3Bear Field Services, LLC**

3. Address of Operator  
**1512 Larimer St., Suite 540, Denver CO 80202**

4. Well Location  
Unit Letter: **P** **1005** feet from the **South** line and **958** feet from the **East** line  
Section **23** Township **23 S** Range **26 E** NMPM **Eddy** County

11. Elevation (Show whether DR, RKB, RT, GR, etc.)  
**3252' GL**

12. Check Appropriate Box to Indicate Nature of Notice, Report or Other Data

NOTICE OF INTENTION TO:		SUBSEQUENT REPORT OF:	
PERFORM REMEDIAL WORK <input type="checkbox"/>	PLUG AND ABANDON <input type="checkbox"/>	REMEDIAL WORK <input type="checkbox"/>	ALTERING CASING <input type="checkbox"/>
TEMPORARILY ABANDON <input type="checkbox"/>	CHANGE PLANS <input type="checkbox"/>	COMMENCE DRILLING OPNS. <input type="checkbox"/>	P AND A <input type="checkbox"/>
PULL OR ALTER CASING <input type="checkbox"/>	MULTIPLE COMPL. <input type="checkbox"/>	CASING/CEMENT JOB <input type="checkbox"/>	
DOWNHOLE COMMINGLE <input type="checkbox"/>			
CLOSED-LOOP SYSTEM <input type="checkbox"/>			
OTHER: <input checked="" type="checkbox"/>		OTHER: <input type="checkbox"/>	

13. Describe proposed or completed operations. (Clearly state all pertinent details, and give pertinent dates, including estimated date of starting any proposed work). SEE RULE 19.15.7.14 NMAC. For Multiple Completions: Attach wellbore diagram of proposed completion or recompletion.

Please change well nomenclature from Carlsbad 960 SWD 1 to Dark Canyon SWD 1. (**322422**)

Spud Date:  Rig Release Date:

I hereby certify that the information above is true and complete to the best of my knowledge and belief.

SIGNATURE Brian Wood TITLE Consultant DATE 9-3-18  
Type or print name Brian Wood E-mail address: brian@permitswest.com PHONE: (505) 466-8120

For State Use Only

APPROVED BY: Rusty Kline TITLE Business Ops Mgr DATE 9-10-2018  
Conditions of Approval (if any):

EXHIBIT C

## DISTRICT I

1635 N. French Dr., Hobbs, NM 88240  
Phone (505) 283-6161 Fax (505) 283-0720

## DISTRICT II

811 S. First St., Artesia, NM 88210  
Phone (505) 746-1223 Fax (505) 746-0722

## DISTRICT III

1000 Rio Brazos Rd., Aztec, NM 87410  
Phone (505) 234-6176 Fax (505) 234-6176

## DISTRICT IV

1220 S. St. Francis Dr., Santa Fe, NM 87505  
Phone (505) 476-5450 Fax (505) 476-5450

State of New Mexico  
Energy, Minerals and Natural Resources Department

## OIL CONSERVATION DIVISION

1220 South St. Francis Dr.  
Santa Fe, New Mexico 87505

Form C-102

Revised August 1, 2011

Submit one copy to appropriate  
District Office

## WELL LOCATION AND ACREAGE DEDICATION PLAT

☐ AMENDED REPORT

API Number <b>30-015-45033</b>	Pool Code <b>97869</b>	Pool Name <b>SWD; Devonian-Silurian</b>
Property Code	Property Name <b>CARLSBAD 960 SWD</b>	Well Number <b>1</b>
OGRID No. <b>372603</b>	Operator Name <b>3 BEAR FIELD SERVICES, LLC</b>	Elevation <b>3252'</b>

## Surface Location

UL or lot No.	Section	Township	Range	Lot Idn	Feet from the	North/South line	Feet from the	East/West line	County
P	23	23 S	26 E		1005	SOUTH	958	EAST	EDDY

## Bottom Hole Location If Different From Surface

UL or lot No.	Section	Township	Range	Lot Idn	Feet from the	North/South line	Feet from the	East/West line	County
Dedicated Acres	Joint or Infill	Consolidation Code	Order No.						

NO ALLOWABLE WILL BE ASSIGNED TO THIS COMPLETION UNTIL ALL INTERESTS HAVE BEEN CONSOLIDATED  
OR A NON-STANDARD UNIT HAS BEEN APPROVED BY THE DIVISION

N: 471917.6 E: 560211.4 (NAD83)	N: 471949.7 E: 562885.6 (NAD83)	N: 471988.1 E: 565558.5 (NAD83)	<p><b>OPERATOR CERTIFICATION</b></p> <p>I hereby certify that the information contained herein is true and complete to the best of my knowledge and belief, and that this organization either owns a working interest or undivided mineral interest in the land including the proposed bottom hole location or has a right to drill this well at this location pursuant to a contract with an owner of such a mineral or working interest, or to a voluntary pooling agreement or a compulsory pooling order heretofore entered by the Division.</p> <p><i>Brian Wood</i> 7-30-18 Signature Date Printed Name <b>Brian Wood</b> Email Address <b>brian@permitswest.com</b> <b>(505) 466-8120</b></p> <p><b>SURVEYOR CERTIFICATION</b></p> <p>I hereby certify that the well location shown on this plat was plotted from field notes of actual surveys made by me or under my supervision, and that the same is true and correct to the best of my belief.</p> <p><b>JULY 19, 2018</b> Date Surveyed Signature &amp; Seal of Professional Surveyor 7977 Certificate No. 7977 BASIS: SURVEY</p> <p>0' 500' 1000' 1500' 2000' SCALE: 1" = 1000' WO Num.: 33932</p>
N: 469261.4 E: 560192.0 (NAD83)	N: 469304.6 E: 565552.3 (NAD83)		
N: 468602.9 E: 560218.9 (NAD83)	N: 468612.3 E: 562882.8 (NAD83)		
<p><b>SURFACE LOCATION</b> Lat - N 32.285550° Long - W 104.258085° NADSPCE - N 467624.1 E 564591.1 (NAD-83)</p>			

**EXHIBIT D**

*Rev 8-1-18*



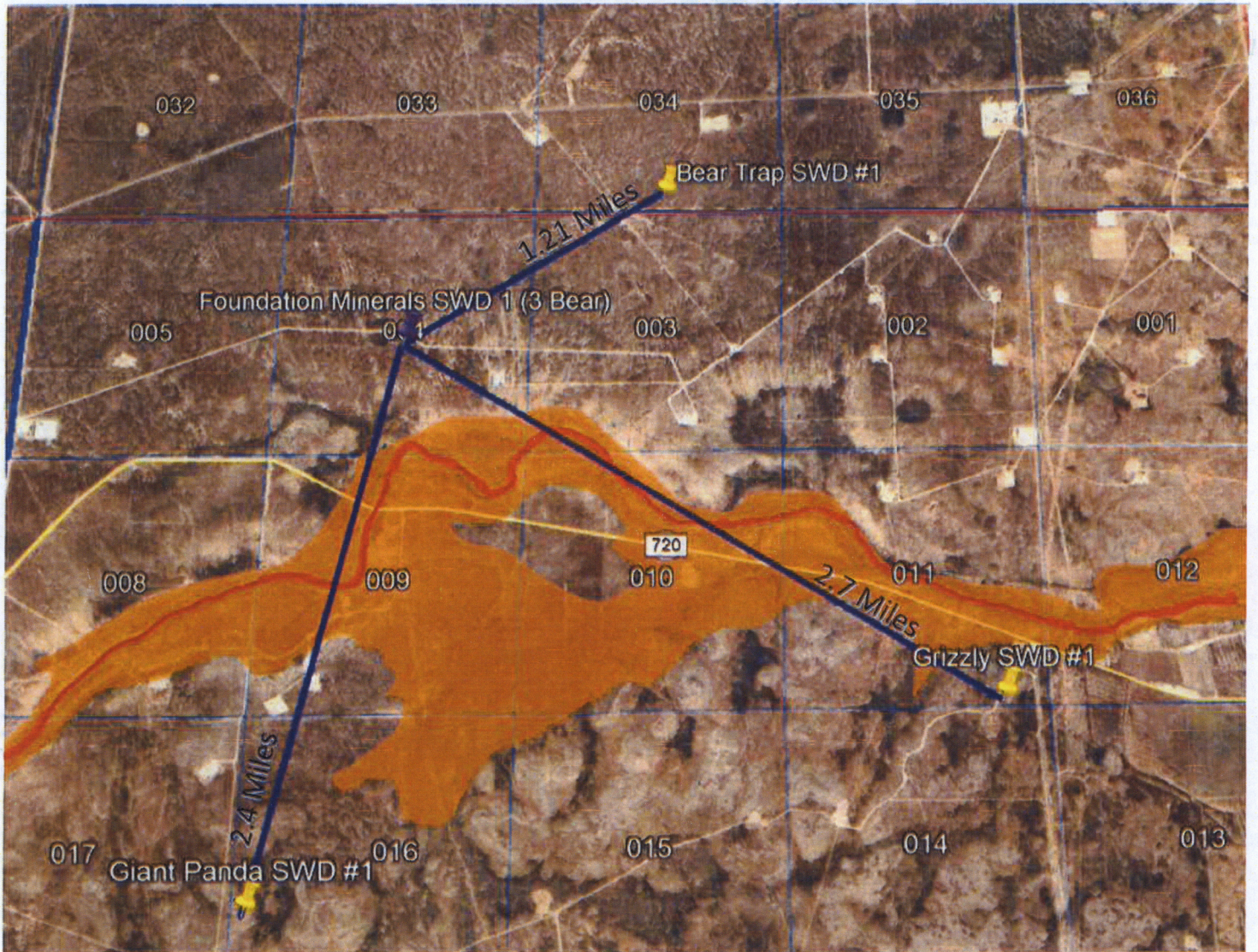


EXHIBIT E