

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

APPEARANCES

FOR APPLICANT DELAWARE ENERGY, LLC:

ADAM G. RANKIN, ESQ.
HOLLAND & HART, LLC
110 North Guadalupe, Suite 1
Santa Fe, New Mexico 87501
(505) 988-4421
agrarkin@hollandhart.com

FOR PROTESTANTS FOUNDATION MINERALS, LLC; MAVROS
MINERALS, LLC; and OAK VALLEY MINERAL AND LAND, LP:
(Foundation Group or Minerals Group or Mineral
Companies):

SETH C. McMILLAN, ESQ.
MONTGOMERY & ANDREWS LAW FIRM
325 Paseo de Peralta
Santa Fe, New Mexico 87501
(505) 982-3873
smcmillan@montand.com

INDEX

	PAGE
Case Numbers 16258, 16259 and 16260 Called	3
Proceedings	3
Proceedings Conclude	9
Certificate of Court Reporter	10

EXHIBITS OFFERED AND ADMITTED

(No exhibits.)

1 (9:15 a.m.)

2 EXAMINER GOETZE: Good morning, ladies and
3 gentlemen. This is a continuation of Docket 01-19,
4 Division examiner hearing, which started on Thursday,
5 January 10th and is now into January 11th. The
6 continuation of the docket will be initiated by me, and
7 then we'll have Mr. Will Jones back as your lead
8 examiner.

9 To my right, your left, is Terry Warnell as
10 an examiner, and to my left, your right, is Mr. Brooks,
11 the legal counsel for the examiners.

12 At this point we will visit a continuation
13 of three cases, so we will call Case Numbers 16258,
14 16259 and 16260. These are the applications of Delaware
15 Energy, LLC for authorization to inject salt water for
16 purposes of disposal through its proposed, in Case
17 16258, the Bear Trap SWD #1, and in Case of 16259, the
18 Giant Panda SWD #1, and in Case 16260, the Grizzly SWD
19 #1, Eddy County, New Mexico.

20 Call for appearances.

21 MR. RANKIN: Mr. Examiner, appearing on
22 behalf of the Applicant in each of these three cases,
23 Adam Rankin, with the law firm of Holland & Hart here in
24 Santa Fe.

25 MR. McMILLAN: Mr. Examiner, appearing on

1 behalf of the Foundation Minerals Group, I believe we
2 were calling them, Seth McMillan, Montgomery & Andrews.

3 EXAMINER GOETZE: Okay. Gentlemen, have a
4 seat.

5 So everyone has filed closing statements.
6 We have had a motion to dismiss, and responses to that
7 motion to dismiss have been considered by Legal. We've
8 also had -- in the case of the Bear Trap, we have
9 looked -- or have been told that we still do not have a
10 final surface location for that C-108 application.

11 MR. RANKIN: So in the case of the Bear
12 Trap, we have a final location. Mr. Examiner, at the
13 hearing, the Division raised the concern that it
14 overlapped closer than the Division's guidelines with
15 the rule SWD well.

16 EXAMINER GOETZE: Uh-huh.

17 MR. RANKIN: And in our closing statement,
18 we suggested that if the Division were to require
19 Delaware to move its well, the Bear Trap, to accommodate
20 the overlap, that the State Land Office has identified
21 an alternative location in the southeast quarter of that
22 existing section. So depending on what the Division is
23 going to require, we would either leave the well where
24 it is or move it to the alternate location, depending on
25 the Division's request or requirements.

1 EXAMINER GOETZE: Well, the Division would
2 like to see these spread out, and if we do for one, we
3 have to do for all. So I would request, on behalf of
4 the Division, that we explore the other location and get
5 back to us on it.

6 MR. RANKIN: Okay. With that,
7 Mr. Examiner, I will confirm with the client that that
8 location is -- can be approved by the State Land Office.
9 My understanding is that it can be. And with that, I
10 would like to renote based on that location.

11 EXAMINER GOETZE: Well, you'll have to go
12 through the full exercise, not only renote but confirm
13 area-of-review wells, as well as any associations,
14 change in lithology, change in -- what items of the 108
15 do not conform to the new location, you'll have to
16 address. Okay?

17 MR. RANKIN: Okay.

18 EXAMINER GOETZE: Now, to the question
19 of -- what did we have, a motion to dismiss and --

20 EXAMINER BROOKS: There were some attempted
21 interventions, and there were some objections to the
22 interventions. And my conclusion was that none of the
23 interventions were filed as required by the rules, one
24 day before the pre-hearing statements were due, and,
25 therefore, the interventions should be stricken.

1 And then I did not -- was not convinced
2 that any of the attempted intervenors were actually
3 parties, and, therefore, I think that they should not be
4 considered to be participants in this case.

5 EXAMINER GOETZE: Comment?

6 MR. RANKIN: None from me.

7 MR. McMILLAN: That goes to, just to be
8 clear, all of the folks who showed up for hearing?

9 EXAMINER BROOKS: So far as I know. I
10 didn't have a complete list of who was involved at the
11 time I was looking at those papers, but I didn't see any
12 of the papers that convinced me that any of the people
13 on whose behalf those were filed were properly -- had
14 properly intervened.

15 MR. McMILLAN: Okay. And with respect
16 to -- okay. So which cases -- I believe that Delaware
17 had actually withdrawn its motion to dismiss as to my
18 clients and the Bear Trap; is that correct? I was just
19 trying to get a sense of which cases we have been
20 dismissed from.

21 EXAMINER GOETZE: Well, I mean, the Bear
22 Trap will be continued, so --

23 MR. McMILLAN: And are we authorized to
24 continue to show up?

25 EXAMINER BROOKS: Well, if there is another

1 hearing scheduled, then there will be another
2 pre-hearing date, and you're entitled to file --

3 MR. McMILLAN: And we will pay close
4 attention to the hearing --

5 EXAMINER BROOKS: You're entitled to file a
6 notice of intervention one day before that day.

7 MR. McMILLAN: Okay. Can do.

8 EXAMINER BROOKS: And, of course, Mr. Adam
9 [sic] can file a motion to strike, and we will take
10 that -- we will consider that at the time it comes
11 before us for consideration.

12 None of the rulings that I have just
13 announced would prejudice one way or another how we
14 would rule on any motion to strike a timely filed
15 intervention.

16 MR. McMILLAN: Okay.

17 MR. RANKIN: With that, Mr. Examiner, we
18 have to still perfect notice on the Bear Trap and then
19 the Giant Panda and Grizzly SWD cases. So my
20 understanding is that the Division has set these for
21 continuation to the February 21st docket; is that
22 correct?

23 EXAMINER GOETZE: And we're not conscious
24 of the fact that we still had notice to resolve, but
25 yes, we can go ahead and put all three cases. Case

1 Numbers 16258, 16259 and 16260 have been continued to
2 February 21st.

3 MR. RANKIN: Now, before I close this, I
4 understand that that was the Division's preference. Is
5 there any way to continue it to the first docket of the
6 month in February?

7 EXAMINER GOETZE: Mr. Warnell has said no.

8 MR. RANKIN: Okay. So it's continued to
9 the February 21st docket?

10 EXAMINER GOETZE: I think it will probably
11 accommodate -- in light of having our opportunity to
12 look at what comes out with regards to the Bear Trap,
13 yeah, I would like to have that time also --

14 MR. RANKIN: Okay.

15 EXAMINER GOETZE: -- realizing that we do
16 have over 100 applications pending. A lot of them are
17 here in this room. So we'd ask to go with the 21st.
18 Okay?

19 EXAMINER BROOKS: And we want proper notice
20 of the Bear Trap because somebody might get caught in
21 it.

22 (Laughter.)

23 MR. RANKIN: Most parties do not change
24 with the new location, so they will be the same group of
25 individuals. So we'll go ahead and get that taken care

1 of, Mr. Goetze. We'll submit the additional materials
2 as soon as possible. So appreciate the consideration.
3 Thank you.

4 EXAMINER GOETZE: Thank you.
5 (Case Numbers 16258, 16259 and 16260
6 conclude, 9:23 a.m.)

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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 23rd of January 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
Paul Baca Professional Court Reporters

25