

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:

APPLICATION OF SOLARIS WATER  
MIDSTREAM, LLC FOR APPROVAL OF  
A SALTWATER DISPOSAL WELL, EDDY  
COUNTY, NEW MEXICO.

CASE NO. 20587

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

July 11, 2019

Santa Fe, New Mexico

BEFORE: WILLIAM V. JONES, CHIEF EXAMINER  
DAVID K. BROOKS, LEGAL EXAMINER

This matter came on for hearing before the  
New Mexico Oil Conservation Division, William V. Jones,  
Chief Examiner, and David K. Brooks, Legal Examiner, on  
Thursday, July 11, 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 (10:08 a.m.)

2 EXAMINER JONES: Let's go back on the  
3 record.

4 And the next two cases I have are the  
5 Solaris Water Midstream cases, 20587 and 20588. Do  
6 these need to be called separately?

7 MR. DOMENICI: Yes, they do.

8 EXAMINER JONES: Let's start with 20587,  
9 application of Solaris Water Midstream, LLC for a  
10 saltwater disposal well in Eddy County, New Mexico.

11 Call for appearances.

12 MR. DOMENICI: Good morning. Pete Domenici  
13 on behalf of the Applicant, Solaris.

14 MS. BENNETT: Good morning. Deana Bennett  
15 from Modrall, Sperling on behalf of NGL Water Solutions  
16 Permian, LLC.

17 MR. RANKIN: Good morning, Mr. Examiner.  
18 Also appearing on behalf of EOG Resources, Incorporated  
19 in Case 20588, Adam Rankin with the law firm of Holland  
20 & Hart.

21 EXAMINER JONES: So remind me again when we  
22 call that one because we haven't called it yet.

23 MR. RANKIN: You haven't called that one.

24 EXAMINER JONES: Not yet.

25 So not in 20587?

1                   MR. RANKIN: No, we're not. We have no  
2   objection to the applications in that case.

3                   EXAMINER JONES: Any other appearances?

4                   Okay. Is this an actively contested case?

5                   MS. BENNETT: I don't know why you're  
6   looking at me on this question (laughter). I believe  
7   that Solaris has a pending motion to dismiss my protest,  
8   an administrative protest.

9                   EXAMINER JONES: Okay. This is the one we  
10   were going to hear the motion?

11                  MR. DOMENICI: Yes.

12                  So may I proceed on this?

13                  EXAMINER JONES: You may. I'm not sure, so  
14   go ahead. Go ahead.

15                  MR. DOMENICI: We have very similar motions  
16   on this case and the next one on the docket.

17                  EXAMINER JONES: Okay.

18                  MR. DOMENICI: And they're both essentially  
19   the same argument, which is the protests were untimely.  
20   And the way this transpired and what the motion outlines  
21   is so the -- the application is going through the  
22   administrative process. It's published. Then notice  
23   comes in on both of these approximately 60 days after  
24   the 15-day mandatory -- or the protest comes in 60 days  
25   late. And then we receive a letter, which looks like a

1 standard letter perhaps from OCD, saying, We've received  
2 a protest, and you will need to proceed to hearing  
3 unless you can negotiate a withdrawal of the protest  
4 with the protesting party. And so in both cases, we did  
5 request a hearing fairly quickly after that letter. And  
6 then we looked more carefully at this and found out the  
7 protest was very late. And so our essential argument is  
8 that the protest cannot be considered because it's after  
9 the mandatory protest deadline.

10 I think the response is something along the  
11 lines -- I want to restate -- counsel can restate it. I  
12 just want to state it so I can respond to it. It was  
13 something like: We waived our 15-day requirement by  
14 asking for a hearing and moving forward to hearing. And  
15 then we replied on that and said, "We can't waive that  
16 15-day deadline. That's mandatory." So none of our  
17 conduct waives that or extends that or in any way, you  
18 know, eliminates that as being a requirement.

19 And, therefore, this is an appropriate  
20 motion, and the protest should be dismissed as untimely.

21 EXAMINER JONES: Okay. I have a couple of  
22 emails here, but neither one of them say when the admin  
23 application came in.

24 MR. DOMENICI: So on the -- on the Captain  
25 Call, the Affidavit of Publication is dated March 1st,

1 2019, and then that would have triggered the 15 days,  
2 which would be March 15th. And then the actual protest  
3 was May -- let me make sure I have this date.

4 EXAMINER JONES: May the 15th.

5 MR. DOMENICI: May the 15th.

6 EXAMINER JONES: Okay. Was there anything  
7 that you received or that you're aware of that you  
8 received from the Division saying it was  
9 administratively complete, the application?

10 MR. DOMENICI: I'm not aware of that.

11 EXAMINER JONES: Okay. Okay.

12 MR. DOMENICI: But we did receive this  
13 letter, which I attached as an exhibit, what we received  
14 from the Division.

15 EXAMINER JONES: Okay. Ms. Bennett.

16 MS. BENNETT: Thank you.

17 First of all, I just want to respond to the  
18 notation that I was arguing that Solaris had waived  
19 their protest. That is not what I was arguing, in fact.

20 What I was trying to make a point of and  
21 perhaps not very articulately is that by filing an  
22 application for a hearing, we are under a new set of  
23 rules now with a new opportunity for entries of  
24 appearance, intervention, that the proper -- in my view,  
25 the proper route to have protested or contested the

1 timing of NGL's protest was while there was still an  
2 administrative application pending, not to circumvent  
3 that process, come to hearing and then essentially  
4 render my administrative protest -- NGL's administrative  
5 protest moot by opening the door for entries of  
6 appearance, entries of intervention, a whole new round  
7 of notice. So that was my overarching point, was that  
8 there's been a commingling of two different processes,  
9 which, in my view, should have been but were not kept  
10 separate. So that's my perhaps inarticulate in a  
11 response what I was trying to get through there.

12 But more importantly what I think my  
13 response was designed to bring out was the fact that, in  
14 fact, protests -- I have myself been given notices of  
15 untimely protests, and those protests have been denied  
16 on the basis of being filed after an application was  
17 deemed administratively complete. Now, I understand  
18 that that's frustrating because we don't -- as  
19 applicants, don't get notice of when our application is  
20 administratively complete, and as protestants, we don't  
21 always know when applications are deemed  
22 administratively complete. But I have myself received  
23 denials not based on the 15-day publication notice, but,  
24 rather, based on the 15 days running from when OCD  
25 determines that an application is administratively

1 complete.

2                   Now, in the reply, Solaris notes that that  
3 can't possibly be the rule because, as I just mentioned,  
4 no one gets notice of when an application is deemed  
5 administratively complete. But tiering it off a mere  
6 publication notice is equally hard -- is like a hard  
7 concept to deal with because I could submit a  
8 publication notice tomorrow that requires 15 days -- or  
9 starts the 15-day clock and not submit my application  
10 for six months from now. There is no -- there's an  
11 equally -- it's equally unworkable.

12                   And I understand from an email that  
13 Mr. Goetze sent to me -- in conjunction with an untimely  
14 protest that NGL submitted, he sent me an email that was  
15 based on a request from another lawyer requesting a  
16 formal determination of when the protest period ended.  
17 I think that's the step that Solaris should have taken  
18 here, is request a formal determination of when the  
19 protest period ended. In this email -- and I'm happy to  
20 share copies with counsel for Solaris -- Mr. Goetze  
21 writes, "The rules are quite cumbersome when is defined  
22 the end of the 15-day protest, but I would interpret  
23 19.15.26A.(c)(2) and 19.15.26A.(d) as defining the  
24 protest period as 15" -- and he's quoting here -- "as 15  
25 days following the Division's receipt of a Form C-108

1 complete with all attachments, with written objections  
2 being acceptable if filed within 15 days after receipt  
3 of a complete application."

4                   That's also in the regulations, which is  
5 19.15.26.8.D, which says, "If a written objection to an  
6 application for administrative approval of an injection  
7 well is filed within 15 days after receipt of a complete  
8 application," then the hearing process is triggered.  
9 And so Mr. Goetze's interpretation of these two rules is  
10 that, if read together -- and he acknowledges that there  
11 is some ambiguity. But read together, he believes that  
12 written objections are acceptable within -- filed within  
13 15 days after receipt of a complete application.

14                   There was no notice to Solaris or NGL that  
15 there was a complete application. Mr. Goetze -- neither  
16 Mr. Goetze nor Mr. McMillan emailed NGL in the same  
17 fashion that Mr. Goetze emailed me prior to let me know  
18 that my protest was untimely due to the receipt of an  
19 administratively complete application. So I don't see  
20 that there is any basis in the record at this point to  
21 dismiss my protest administratively.

22                   More importantly, however, having filed for  
23 hearing, Solaris has now opened the door for NGL to  
24 enter its appearance in this case, which it has done.

25                   EXAMINER JONES: Okay. That email, what

1 was the date of Mr. Goetze's email? I don't have that  
2 available.

3 MS. BENNETT: The email he sent to me was  
4 an attachment. This is an email dated May 3rd, 2018,  
5 and it was sent as an attachment to me on February 13th,  
6 2019. You can keep both of those if you'd like.

7 EXAMINER JONES: Okay. Thank you.

8 MS. BENNETT: Here's the email that I just  
9 handed Mr. Jones where Mr. Goetze denied NGL's protest  
10 as untimely.

11 EXAMINER JONES: Okay. Mr. Brooks, we are  
12 all at hearing today, and this case is the motion to  
13 dismiss.

14 MS. BENNETT: Actually, I don't mean to  
15 speak for Mr. Domenici, but --

16 MR. DOMENICI: This case is ready to  
17 proceed. The next one would be the motion.

18 EXAMINER JONES: Okay.

19 EXAMINER BROOKS: Okay. I came in in the  
20 middle because I was detained upstairs, but I thought  
21 this sounded like an argument for a motion to dismiss.

22 MR. DOMENICI: It is. There is one on this  
23 case and the next one following, but we have -- we're  
24 ready for the hearing today. It's scheduled, and we're  
25 ready to proceed if the motion is denied.

1 EXAMINER BROOKS: Okay. Are you the movant  
2 in this motion to dismiss?

3 MR. DOMENICI: Yes.

4 EXAMINER BROOKS: And you represent whom?

5 MR. DOMENICI: The Applicant. I'm moving  
6 to dismiss a protest.

7 EXAMINER BROOKS: Okay. And you're the --  
8 you represent the protester?

9 MS. BENNETT: I do.

10 EXAMINER BROOKS: Okay. Well, my attitude  
11 about a motion to dismiss is it's a lot easier to  
12 correct an error if you've heard the evidence because  
13 you don't have to -- you can ignore it if you decide it  
14 should have been dismissed. So I would recommend to the  
15 examiner that the motion to dismiss be denied without  
16 prejudice to its reassertion -- procedure and we proceed  
17 to the hear the evidence.

18 EXAMINER JONES: What was the nature of the  
19 protest?

20 MS. BENNETT: Well, we filed -- I filed an  
21 objection to the administrative application.

22 EXAMINER JONES: Okay. I guess what I'm  
23 getting at is if we proceed -- you've got an entry in  
24 this, but you did a timely entry in this case?

25 MS. BENNETT: I did.

1 EXAMINER JONES: Okay. Okay. Let's just  
2 proceed to hear the body of the case.

3 Do you have any witnesses?

4 MR. DOMENICI: Yeah. We have three  
5 witnesses.

6 EXAMINER JONES: Okay. Will the witnesses  
7 please stand and the court reporter swear the witnesses?

8 (Ms. Hovey, Mr. Ferguson and  
9 Mr. Dixon sworn.)

10 MR. DOMENICI: I would call our first  
11 witness, Ramona Hovey.

12 RAMONA HOVEY,  
13 after having been first duly sworn under oath, was  
14 questioned and testified as follows:

15 DIRECT EXAMINATION

16 BY MR. DOMENICI:

17 Q. Ms. Hovey, would you introduce yourself to the  
18 examiner?

19 A. I'm Ramona Hovey with Lonquist & Company.

20 Q. How long have you worked there?

21 A. I've worked there since August of 2017.

22 Q. What's your position?

23 A. I am a senior petroleum engineer.

24 Q. And where did you get your degree?

25 A. I got my bachelor's of science from -- in

1     petroleum engineering from Texas A & M University.

2           Q.     And how long have you been working in the  
3     petroleum field?

4           A.     For 29 years.

5           Q.     Were you responsible for coordinating the  
6     application that is at issue in this case?

7           A.     Yes.

8           Q.     And what percentage of your work involves  
9     disposal wells?

10          A.     Approximately 70 percent of the time.

11          Q.     And how many disposal applications have you  
12     prepared for New Mexico?

13          A.     34.

14                   MR. DOMENICI: I would tender Ms. Hovey as  
15     an expert in engineering and regulatory matters.

16                   EXAMINER JONES: Petroleum engineering?

17                   MR. DOMENICI: Petroleum engineering.

18                   MS. BENNETT: No objection.

19                   EXAMINER JONES: She's so qualified.

20          Q.     (BY MR. DOMENICI) Ms. Hovey, are you familiar  
21     with the type of application that is presented in this  
22     case?

23          A.     Yes.

24          Q.     I think you testified you've done over 30?

25          A.     (Indicating.)

1           **Q.    Are those the same type of applications?**

2           A.    That's correct.

3           **Q.    So let's turn to this application.  That would**  
4 **be Exhibit 1.  Can you explain what the C-108**  
5 **application in this case requests?**

6           A.    In this case we are applying on behalf of  
7 Solaris for the Captain Call Saltwater Disposal No. 1.  
8 We are requesting a max injection volume of 40,000  
9 barrels a day into the Silurian-Devonian-Fusselman  
10 Formations.

11          **Q.    Is there an average you're requesting?**

12          A.    I believe it's 30,000.  Yes, 30,000 barrels per  
13 day on average.

14          **Q.    Is there a pressure limitation requirement?**

15          A.    Yes.  We are limiting to the .2, so with a  
16 maximum injection pressure of 2,500 -- 2,502 psi.

17          **Q.    And are you familiar with the well design?**

18          A.    Yes.

19          **Q.    And is Exhibit 2 -- describe what Exhibit 2 is?**

20          A.    Exhibit 2 is a modification to the original  
21 design that was submitted.

22          **Q.    And what is modified?**

23          A.    In reviewing with Solaris in their planning,  
24 we've added an additional string to protect the Capitan  
25 Reef, and we also modified the -- where the production

1 string right above the production liner would be set to  
2 ensure adequate control of pressure.

3 Q. Is that -- is that well design protective of  
4 the intervals that the well travels through?

5 A. Yes.

6 Q. And this Exhibit 2 shows the Capitan Reef on  
7 there?

8 A. Yes, it does. We show the top at 1,331, and  
9 then the whole complex -- the Capitan Complex, we're  
10 covering all of that behind pipe.

11 Q. Were you -- so are you familiar with the  
12 remainder of the application? Did you compile the other  
13 attachments and information?

14 A. Under my supervision, yes. I am familiar.

15 Q. And other than this one diagram that has been  
16 changed, is Solaris proposing any other changes to the  
17 original C-108?

18 A. We have introduced the introduction of a  
19 geological affirmation statement, and that, I believe,  
20 is at the end -- no. I'm sorry.

21 Q. Is it under Exhibit 4?

22 A. Under Exhibit 4.

23 Q. And is Mr. Ferguson here to testify about that?

24 A. Yes.

25 Q. Did you obtain data about either production or

1     **water wells in the vicinity of the proposed well**  
2     **location?**

3           A.     Yes.   If you look in the application, there is  
4     a map of water wells.   There are no freshwater wells  
5     within one mile of the proposed location.   The nearest  
6     wells are over that.

7           **Q.     Can you tell what the nearest well actually is?**

8           A.     I should have brought my readers up.

9                     About 7,500 feet away so about a  
10    mile-and-a-half.

11          **Q.     And are there any production wells within one**  
12    **mile or a one-and-a-half-mile radius?**

13          A.     There are producing wells, none of them in the  
14    Devonian.

15          **Q.     And are there disposal wells?   What's the**  
16    **nearest disposal well?**

17          A.     The nearest disposal well is in the Devonian,  
18    is 3.8 miles away.   There is a permit that has been  
19    applied that's 2.3 miles away.

20          **Q.     Did other personnel at Lonquist assist you in**  
21    **preparing this application?**

22          A.     Yes.

23          **Q.     If you'll look on page -- it doesn't look like**  
24    **these are numbered, unfortunately.   So this is the**  
25    **wellbore information that's on page 8.**

1           A.    The C-108 supplemental?

2           Q.    Yes.

3           A.    Yes.

4           Q.    And is that -- and let me ask you to turn to  
5   the third page where it discusses the oil-and-  
6   gas-bearing zones within the area of the well.  It's a  
7   table.

8           A.    Yes.

9           Q.    What's the basis for that table?

10          A.    Those were determined from offset log  
11   interpretations.

12          Q.    Where does the injection interval start for the  
13   proposed well?

14          A.    We are starting at the top of the Devonian.

15          Q.    Which is?

16          A.    At 12,510 feet.

17          Q.    And how long is the injection interval?

18          A.    It is 1,800 feet.  We are going into the  
19   Fusselman.  We are not going into Montoya.

20          Q.    And it talks about the geological data on the  
21   next page?

22          A.    Yes.

23          Q.    Can you summarize that in your own words?

24          A.    This summarizes that the Devonian-Fusselman  
25   Formations are positive for accepting injection fluid

1 and that there is containment above and below. And I  
2 believe Mr. Ferguson will discuss that in more detail.

3 Q. There are a series of maps in the C-108 that  
4 show other information surrounding the well.

5 A. Yes.

6 Q. Did you use those to determine -- or was one of  
7 these used to determine those?

8 A. Two of the maps were -- well, three of the maps  
9 were used to determine notice. The offset operators --  
10 let me add to that. The one-mile offset operators and  
11 the one-mile offset leasees.

12 Q. And was notice provided?

13 A. Yes.

14 Q. In what manner?

15 A. We sent certified letters to each of the offset  
16 operators when there was producing acreage as determined  
17 from the New Mexico Oil Conservation Division site.  
18 Where there was not producing acreage, then we looked at  
19 the mineral leasees from the -- that we got from the  
20 Bureau of Land Management system database and the State  
21 Land Office database. And that contact information was  
22 then used to contact the affected parties.

23 Q. And has the surface owner where the well will  
24 be located approved this location?

25 A. Yes.

1           Q.    To your knowledge, other than NGL's protest,  
2   have there been any other indications of concerns?

3           A.    Not to my knowledge.

4           Q.    Both during the administrative process and now  
5   in the hearing process?

6           A.    Correct.

7           Q.    And have you seen anything indicating the  
8   substance of NGL's concerns?

9           A.    I have not.

10          Q.    Do you know roughly where NGL's closest  
11   disposal well is?

12          A.    It's approximately 20 miles away.

13          Q.    Is there any physical effect that the operation  
14   of this well as requested could possibly have on NGL's  
15   wells?

16          A.    No.

17          Q.    And if you'll turn to Exhibit 3, describe what  
18   that is, please, that exhibit.

19          A.    The first is the public notice that was  
20   originally filed as required.

21          Q.    Let me interrupt you. Describe generally what  
22   the exhibit consists of before --

23          A.    Oh, I'm sorry.

24                   The exhibit consists of the notifications  
25   sent on the Captain Call well.

1           Q.    And has there been -- if you know, has there  
2   been communication with any of the parties that received  
3   notice?

4           A.    We received the proof of notices back. We have  
5   had an email directly from the surface owner stating no  
6   objections to the location. We had one not returned,  
7   and we have since published a second notice to notice  
8   the party that we did not -- that did not -- we did not  
9   receive a green card return on.

10          Q.    So as a petroleum engineer and a regulatory  
11   expert in filing these types of applications, is it your  
12   testimony that the application meets the requirements  
13   that you've identified that OCD requires?

14          A.    Yes.

15          Q.    And it contains the information and the backup?

16          A.    Yes, it does.

17          Q.    And is it your testimony that if this  
18   application is granted, there will be no impact on fresh  
19   water or possible drinking water sources?

20          A.    That is correct.

21          Q.    And is it your testimony that if this is  
22   granted, there will be no impact on mineral -- minerals  
23   that could be developed --

24          A.    Yes.

25          Q.    -- or are being developed?

1           A.     Yes.

2                       MR. DOMENICI:   I'll pass the witness.

3                       MS. BENNETT:   I have a few questions.

4     Thank you.

5                       MR. DOMENICI:   And I would like to make an  
6     objection for the record.   I don't think that NGL  
7     qualifies as an affected party with a 20-mile well being  
8     their closest.

9                       EXAMINER BROOKS:   I recommend that  
10    objection be overruled.

11                      You may proceed.

12                      MS. BENNETT:   Thank you.

13                                       CROSS-EXAMINATION

14    BY MS. BENNETT:

15           Q.     So I wanted to ask you about the new wellbore  
16    design that you submitted, and that's behind Tab 2.

17           A.     Yes.

18           Q.     That wellbore design was submitted because --  
19    I'm assuming at the request of OCD; is that right?

20           A.     No.   We were reviewing the wells with Solaris,  
21    and just to ensure that we had an adequate design, we  
22    have been revising the design in preparation for  
23    drilling.

24           Q.     It looks to me like this wellbore design was  
25    prepared on 7/8/2019; is that right?

1           A.    This last iteration, yes.  It was presented  
2   then.

3           Q.    On July 8th?

4           A.    On July 8th.

5           Q.    So just three days ago?

6           A.    Correct.

7           Q.    Let's turn to the geologic affirmation behind  
8   Tab 4.  When was the geologic affirmation prepared?

9           A.    That was prepared yesterday.

10          Q.    And so that was prepared a day before the  
11   hearing?

12          A.    Yes.

13          Q.    And let's look at page -- the first page of the  
14   C-108 that you signed on 3/21/2019.  Do you see number  
15   12?

16          A.    Yes.

17          Q.    And does that state that "Applicants for  
18   disposal wells must make an affirmative statement that  
19   they have examined available geologic and engineering --

20          A.    Yes.

21          Q.    -- data and find no evidence of open  
22   faults...."?

23          A.    Yes.

24          Q.    And so just so I'm clear -- and I'm not trying  
25   to be snarky or anything, but your application actually

1     wasn't complete then on March 21st, 2019, was it?

2           A.     That is correct.

3           Q.     And it wasn't complete until yesterday, right?

4           A.     Yes.

5           Q.     You said that NGL's nearest well is two  
6     miles -- 20 miles away?

7           A.     As far as we can determine.

8           Q.     Did you look at pending applications?

9           A.     I looked at them, the one -- that was last sent  
10    by Phil Goetze.

11          Q.     Okay.  So you're not familiar with the Buckeye  
12    or Burton Flats application?

13          A.     No, I'm not.

14          Q.     Were you aware that Solaris filed an entry of  
15    appearance in NGL's Burton and Buckeye Flats?

16          A.     I was not aware.

17          Q.     And were you aware that they filed their entry  
18    of appearance prehearing statement and motion for  
19    continue based on the proximity of NGL's wells to these  
20    two wells?

21          A.     No.

22          Q.     Okay.  I was looking through your -- and so you  
23    don't know how close the Burton Flats and Buckeye wells  
24    are?

25          A.     No, I do not.

1           Q.    Would you be surprised that Solaris was  
2 protesting the Burton and Buckeye -- or was protesting  
3 NGL wells that were 20 miles away from the Solaris  
4 wells?

5           A.    I wouldn't have any --

6           Q.    Okay.

7           A.    -- comment on that. I don't know.

8           Q.    Okay. Just a moment ago you were walking us  
9 through the notice materials -- and, again, I likely  
10 don't have standing to ask this question because I'm  
11 not -- NGL is not a surface owner or a mineral lessee  
12 within a half mile, but did you provide notice of this  
13 hearing to the same notice parties that you sent letters  
14 to for the administrative application?

15          A.    I did not.

16          Q.    Is there anything in the materials that you've  
17 seen today that shows that notice was provided to those  
18 parties of this hearing?

19          A.    Not that I see.

20          Q.    Thank you.

21                   I have no other questions.

22                   EXAMINER JONES: Mr. Brooks?

23                   EXAMINER BROOKS: No questions.

24

25

1 CROSS-EXAMINATION

2 BY EXAMINER JONES:

3 Q. The well design is something that I better ask  
4 about. So 800 -- the first intermediate is going to  
5 cover -- can you -- the surface pipe is going to cover  
6 all the fresh water; is that correct?

7 A. That is correct.

8 Q. Down to the Rustler anhydrite, basically on top  
9 of the Salado salt?

10 A. Correct.

11 Q. And then the next -- next hole and pipe is  
12 going to go through the salt and -- just basically  
13 through the salt?

14 A. Yes.

15 Q. Okay. And down to the top of the Tansill,  
16 basically?

17 A. Correct.

18 Q. Okay. And then the second intermediate goes  
19 through the Tansill, the Yates, Capitan Reef and below  
20 the -- and then it's going to go through the -- yeah. I  
21 thought the actual -- so it's going to basically -- I  
22 think the Seven Rivers seems to be listed as below the  
23 reef, but I thought that was above the reef. And then  
24 the Queen actually -- this pipe is going to go down  
25 through the Queen, through the Grayburg. So basically

1     you're going -- the second intermediate is -- is -- what  
2     kind of mud system would you use on that? You're going  
3     through the reef, and then you're drilling through the  
4     San Andres and the Grayburg. Is that -- is the reef  
5     protectable fresh waters at that point?

6           A.     Yes.

7           Q.     So you're going to have to drill through it as  
8     fast as you can with freshwater mud?

9           A.     With fresh water.

10          Q.     And that's -- this will obviously have to go  
11     through the Eddy -- Artesia OCD permits?

12          A.     Right.

13          Q.     But you haven't talked with them yet about  
14     this?

15          A.     Right.

16          Q.     But those kind of things could be worked out if  
17     you need to?

18          A.     Yes.

19          Q.     So basically Solaris is willing to work and  
20     obtain an acceptable casing design?

21          A.     Yes, sir.

22          Q.     Now, the DV tool for the -- for the  
23     production -- what they call the production string,  
24     which is going to 9,160, there is a DV tool in the -- up  
25     above the casing shoe. So is that acceptable to --

1     because I've heard some of them say they like to have  
2     the DV tool down below that. Do you have an argument  
3     about that?

4           A.    No. Different clients have different opinions  
5     on that, and we've heard some of the same discussions  
6     about that. We work with the client to set what they  
7     recommend.

8           Q.    Okay. So basically Solaris, that's kind of  
9     what they want in this case?

10          A.    Correct.

11          Q.    Okay. And then you said you modified the liner  
12     just a little bit?

13          A.    We moved up. Originally, we had set that  
14     production string at the top of Atoka, but in order to  
15     ensure we can adequately handle pressure, we've moved it  
16     up to the Wolfcamp, top of the --

17          Q.    Somewhere in the Wolfcamp?

18          A.    Just into the top of the Wolfcamp.

19          Q.    Okay. So any Wolfcamp pressures or  
20     Pennsylvanian pressures, you're going to cover them with  
21     a liner?

22          A.    Yes, sir.

23          Q.    Okay. And the casing weight -- let's see. The  
24     packer -- okay. 7-5/8 liner, 39-pound maximum --

25          A.    Yes.

1 Q. -- on the liner?

2 A. Yes.

3 Q. Okay. So you said there is another application  
4 2.3 miles away. When -- when -- do you know the date?  
5 Was this application in before that one?

6 A. I do not know when that --

7 Q. The sequence of dates --

8 A. The sequence of dates, I do not know off the  
9 top of my head.

10 Q. Okay. Let me -- anything else that you'd like  
11 to say about this?

12 A. No. Thank you.

13 Q. Okay.

14 EXAMINER JONES: Anybody else?

15 Thank you very much.

16 MR. DOMENICI: Just one follow-up,  
17 Mr. Jones.

18 REDIRECT EXAMINATION

19 BY MR. DOMENICI:

20 Q. If you'll look on Exhibit 4, there is a map on  
21 the third page. Do you see that?

22 EXAMINER JONES: Yes.

23 MR. DOMENICI: I'm asking the witness.

24 THE WITNESS: Yes.

25 Q. (BY MR. DOMENICI) What are those three wells

1     **identified on there?**

2           A.     Those are three potential locations that  
3     Solaris is permitting or have applied for permits.

4           **Q.     One of those is --**

5           A.     Is the Captain Call.

6           **Q.     -- is scheduled to be after this?   Going to be**  
7     **continued?**

8           A.     Correct.

9           **Q.     Do you know the status of the third?**

10          A.     I believe it's still pending.

11          **Q.     Was one of those the 2.3-mile wells, or is that**  
12     **a different --**

13          A.     No.   That is different.   These are  
14     approximately two miles apart from each other.   So I did  
15     not -- when I say 2.3, that was a separate operator.  
16     The three Solaris wells are more than a mile and a half  
17     from each other.

18                         MR. DOMENICI:   That's all I have.

19                         EXAMINER JONES:   Okay.   Thank you very  
20     much.

21                         MR. DOMENICI:   I'll call Mr. Ferguson.

22                                 JERRY D. FERGUSON,  
23     after having been previously sworn under oath, was  
24     questioned and testified as follows:

25

1 DIRECT EXAMINATION

2 BY MR. DOMENICI:

3 Q. Mr. Ferguson, would you introduce yourself to  
4 the hearing examiner?

5 A. I'm Jerry Ferguson. I work for Lonquist &  
6 Company. I'm their geoscience manager.

7 Q. And what is your educational background?

8 A. I have a bachelor's and master's degrees in  
9 geology from Oklahoma State University.

10 Q. And what is your experience that's pertinent to  
11 this case?

12 A. I have worked with Lonquist for four years now,  
13 most of which I'm involved in saltwater disposal.

14 Q. As the manager of geoscience, just briefly  
15 what's underneath your umbrella?

16 A. We have a number of geologists that work for  
17 us. Two of those are assigned just to working on  
18 disposal almost exclusively in the Permian Basin, and I  
19 manage their work.

20 Q. And what was your --

21 MR. DOMENICI: Well, I tender Mr. Ferguson  
22 as an expert geologist.

23 MS. BENNETT: No objections.

24 EXAMINER JONES: He is so qualified.

25 Q. (BY MR. DOMENICI) And by the way, have you been

1     **qualified and testified here before?**

2           A.     I have.

3           **Q.     What was your participation in this**  
4     **application?**

5           A.     Yes.  I was specifically tasked with looking at  
6     the seismicity in the area and looking at the subsurface  
7     geology with context to finding faulting in relationship  
8     to the wells.

9           **Q.     And when did you look at those issues?**

10          A.     Oh, that's been during the past month.

11          **Q.     And turn to Exhibit 4, if you would, please,**  
12     **sir.**

13          A.     Uh-huh.

14          **Q.     Is that your signature?**

15          A.     Yes.

16                     (Cell phone ringing; Examiner Brooks exits  
17                     the room, 10:48 a.m.)

18          **Q.     When did you sign this?**

19          A.     Yesterday.

20                     You're referring to this (indicating)?

21          **Q.     Yes.**

22          A.     Yesterday.

23          **Q.     When did you complete your analysis of the**  
24     **hydrologic -- well, your analysis indicating --**

25          A.     Well, I've been working up to the point of this

1 meeting. So I've been looking at it over the past month  
2 until day before yesterday.

3 Q. Now, there is an attachment to the first page  
4 of the Exhibit 4. Can you describe what that is?

5 A. I don't know what that attachment is.

6 Q. Well, it's the second page of Exhibit 4, if you  
7 will.

8 A. Okay. And I have scrambled mine. Can you show  
9 me yours, please?

10 Q. Oh (indicating).

11 A. Yes. This is my discussion of the seismicity  
12 and faulting I found in the vicinity of the proposed  
13 wells.

14 Q. What analysis did you undertake?

15 A. Yes. For the seismicity, we looked at the USGS  
16 Earthquake Hazards Program Earthquake Catalog. We also  
17 examined the TexNet Earthquake Catalog. We also looked  
18 at various maps that have been published, mostly the  
19 USGS. With seismicity, we looked at the surface map to  
20 see if there had been any recent faulting in the area  
21 which might indicate seismicity and found none. On the  
22 examination of the earthquake catalogs, we found one  
23 event. It was located 22 miles west of the proposed  
24 location where a magnitude 3.0 earthquake was recorded  
25 on October 10th, 2004 at a depth of five kilometers.

1 The conclusion from the review of the U.S. earthquake  
2 hazard map indicates a very low risk of seismic  
3 activity. And as I stated also, we see no evidence of  
4 surface faulting in the area which would preclude recent  
5 tectonic activity.

6 Q. And what was the -- what is your testimony  
7 regarding the necessity for a seismic fault slip  
8 analysis?

9 A. Yes. So another thing we wanted to look at in  
10 that determination was the presence of faulting at the  
11 Devonian level in the subsurface, so we examined a  
12 number of sources to determine that. The -- we saw a  
13 USGS-published Devonian structure map in the area. We  
14 have a subscription service through Geomap regional  
15 subsurface structure maps. We looked at those maps for  
16 faults. We had subsurface maps of the Yates, the Strawn  
17 Lime and the Devonian. And the nearest fault mapped at  
18 the Devonian level was 13 miles southeast of the  
19 proposed locations. And that is -- all of these  
20 distances are shown on a map in Exhibit 4 entitled  
21 "McCrae SWD, Captain Call SWD, Clara Allen SWD Seismic  
22 Events." So we'll reference those distances.

23 You'll see the Devonian faults on that map  
24 in green, and they are southeast of the Captain Call  
25 location. The nearest fault is 11.3 miles southeast.

1 Also, the seismic event -- earthquake event that I refer  
2 to is on the west edge of that map, and it shows it to  
3 be 22.42 miles west of the Captain Call locations.

4 So because of the distance to faults and  
5 the other sources that we looked at, which included the  
6 Snee and Zoback paper, "The State of Stress in the  
7 Permian Basin in Texas and New Mexico: Implications for  
8 Introduced Seismicity," we saw no presence of no close  
9 faults on those maps also. We also saw that the  
10 probability of faulting in this part of the Delaware  
11 Basin was low, generally less than 10 percent. And then  
12 we had, from our subsurface mapping, determined a  
13 distance of over ten miles to the nearest fault, so we  
14 chose not to do an FSP analysis. We think the distance  
15 from those faults yields an extremely low probability of  
16 those faults becoming critically stressed by our  
17 injection.

18 (Examiner Brooks enters the room, 10:53  
19 a.m.)

20 **Q. Did you consider the injection pressure?**

21 A. We did. And based on our other experience with  
22 FSP analysis, which we do routinely, the distance of  
23 that fault precluded any effect.

24 **Q. Did you participate in reviewing the**  
25 **interval -- injection interval in drawing conclusions**

1     **how the injection might perform?**

2           A.     Yes.  I confirmed the well tops in the proposed  
3     well.  We gave a top at the Devonian.  We looked at the  
4     Woodford and the Barnett equivalent sections above us.  
5     We looked at the Montoya sections below us.  We saw that  
6     they would provide adequate vertical and lower  
7     confining.  And based on empirical evidence from  
8     injection in wells in this part of the basin, we thought  
9     that the Devonian and the Fusselman would provide  
10    adequate disposal.

11          **Q.     Do you have anything else you want to add about**  
12    **your participation in this application?**

13          A.     No.

14          **Q.     And did you attach the references to what --**  
15    **that you relied on?**

16          A.     The references are in the text, Exhibit 4.  
17    They're included.  This includes the pages from our  
18    earthquake search.  It includes the published Devonian  
19    maps that we looked at and some published cross  
20    sections.

21          **Q.     Is that Exhibit 5?  If you look in the**  
22    **package --**

23          A.     Okay.  Yeah.  That would be Exhibit 5.

24          **Q.     Continue.  I'm sorry.**

25          A.     Yes.  Thanks for clearing that up.

1                   But all of the pages and the references to  
2   the earthquakes and all the published maps we looked at  
3   are included there. There is also a copy of the Snee  
4   and Zoback paper, and I've also included a map in here  
5   with our locations highlighted referenced to their maps  
6   as a yellow star.

7           **Q.    And what is Exhibit 6?**

8           A.    Exhibit 6 is a -- these are published maps of  
9   the Capitan Reef. There is a structure map and an  
10   isopach map there, plus a cross section. And then on  
11   the cross section, with a red line, which did not appear  
12   in here, the -- it did not come through.

13          **Q.    Could you hold that up, that map?**

14          A.    Yeah. Sure. I'm going to hold this cross  
15   section up. On my original, it's a red line. On this  
16   one, it's a gray line right there (indicating). It  
17   shows this with relationship to the Capitan Reef.

18          **Q.    Do that one more time.**

19          A.    Okay. Sure. I have to see it myself. Right  
20   here (indicating). And we're only a mile from this  
21   cross section that was published. This is the structure  
22   of the Permian-Guadalupean-Capitan Aquifer for southeast  
23   New Mexico and west Texas by Hiss. And it shows this to  
24   be near the north edge of the Capitan Reef, which  
25   depositionally, at the time of the reef development,

1 would be near the lagoon side.

2 Q. Thank you.

3 I don't have anything else.

4 EXAMINER JONES: Okay. Ms. Bennett.

5 MS. BENNETT: Thank you. Just a couple of  
6 follow-up questions.

7 THE WITNESS: Sure.

8 CROSS-EXAMINATION

9 BY MS. BENNETT:

10 Q. Did you prepare any cross sections yourself of  
11 any logs for this well --

12 A. No, I didn't.

13 Q. -- based on other wells?

14 A. No, I didn't.

15 Q. And I think you mentioned a moment ago that  
16 you chose not to prepare an FSP for this based on the  
17 lack of seismic activity or the closeness of faults?

18 A. And distance of faults, yes.

19 Q. So there isn't a fault slip probability in your  
20 materials?

21 A. No, there isn't.

22 Q. I think you testified a moment ago or earlier  
23 that you've been working on your study for about a  
24 month?

25 A. Yes.

1           Q.    Is that after the administrative application  
2   was filed?

3           A.    I don't know.

4           Q.    Thank you.

5           A.    Uh-huh.

6                       EXAMINER BROOKS:  No questions.

7                       CROSS-EXAMINATION

8   BY EXAMINER JONES:

9           Q.    Okay.  Yeah.  I see the location of this well  
10   in relation to the reef now, and I understand your issue  
11   with the Seven Rivers and the Queen.

12          A.    Exactly.  Yeah.  There is some interbedding  
13   there.

14          Q.    Interbedding types of -- okay.

15          A.    You don't have to move too far north.  Two  
16   miles north and you're out of the reef.

17          Q.    Totally.

18          A.    Yeah.  Yeah.

19          Q.    But they will still probably require the  
20   freshwater mud through the --

21          A.    Uh-huh.  Uh-huh.

22          Q.    -- through that area, that zone.

23                       So you were basically working on this long  
24   before you signed off on this geologic affirmation?

25          A.    We were.  We were.

1           Q.    And this fault that's -- I mean this seismic  
2 event that happened in 2004 --

3           A.    Yes.

4           Q.    -- is that near Dagger Draw? Is that the  
5 Dagger Draw issue?

6           A.    You know, Dagger Draw is in that direction, but  
7 I can't give you an exact distance. It is.

8           Q.    But 2004, that was before a lot of -- and  
9 that's way over to the west.

10          A.    Right. And it was five kilometers deep, so I  
11 suspect that rather than Dagger Draw, it might be  
12 associated with just deeper tectonics, probably  
13 something down Precambrian, Ellenburger.

14          Q.    But it's a 4.0?

15          A.    Yeah. Yeah.

16          Q.    Okay. So no reason why -- you're not offering  
17 a reason why that one happened?

18          A.    No, I don't. I'm just speculating.

19          Q.    But it didn't happen on any of the faults that  
20 were closest to this well?

21          A.    No. The faults we saw on the subsurface were  
22 in the opposite directions. They were east of us 11  
23 miles, and the seismic event was west of us 20 miles.

24          Q.    Okay. Does that hold true in general, that any  
25 small seismic events from the past are mainly to the

1     **west of here?**

2           A.     If you look at the map that we have, yes, in  
3     the USGS Earthquake Catalog, and those would probably be  
4     deeper tectonic events.

5           **Q.     Okay.  What's your opinion on the induced**  
6     **seismic danger in this area?**

7           A.     Oh, well, I think it's very low.  The --  
8     probabilistically, on the Snee and Zoback maps -- for  
9     this part of the basin in general, it's below 10  
10    percent.  The -- which is opposed to some more active  
11    areas in Texas, for instance.  The -- also, there is not  
12    as much faulting in this part of the basin as you go  
13    further south in the Delaware Basin.  So it's a pretty  
14    quiet area.

15          **Q.     Okay.**

16          A.     Yeah.

17          **Q.     But that being said, as a geologist, what**  
18    **would -- what is -- what would make it higher risk?  In**  
19    **other words, would injection in the Ellenburger make it**  
20    **higher risk, in your opinion?**

21          A.     You know, usually deeper faults are centered  
22    out of the Precambrian into the Ellenburger, which is  
23    why it's generally avoided, I think.  The -- then we've  
24    got -- and the nice thing about it is we've got the  
25    Montoya below us as a sealing interval from that.  And

1    so I probably wouldn't recommend anybody trying to  
2    inject below the Fusselman in this area just on general  
3    geology. The faults die out vertically, so the deeper  
4    formations have a tendency to be more faulted than the  
5    shallower formation by quite a bit.

6           **Q.    When was the last major episode of activation**  
7    **of these faults?**

8           A.    Well, just based on the data we've presented, I  
9    would say it's -- you mean geologically?

10          **Q.    Yeah.**

11          A.    Yeah. Geologically, it would have been  
12    pre-Permian, probably Pennsylvanian. You know, some of  
13    the faults extend up into the Wolfcamp.

14          **Q.    Why did that happen at that time?**

15          A.    Yeah. Because of a general subsidence in the  
16    basin, and we were starting to see the tectonic  
17    evolution of what eventually ended up to be the  
18    Laramide -- Laramide tectonic activity. It was pre  
19    that, but it was an early phase of that. And then we  
20    had the down-warping in the Permian and the formation of  
21    the Permian Basin.

22          **Q.    In late Pennsylvanian time?**

23          A.    Late Pennsylvania time is when that started.

24          **Q.    Okay. I don't have any more questions.**

25                   MR. DOMENICI: I don't have any follow-up.

1 EXAMINER JONES: Thank you very much.

2 THE WITNESS: Sure.

3 MR. DOMENICI: Call my next witness, Drew  
4 Dixon.

5 DREW DIXON,  
6 after having been previously sworn under oath, was  
7 questioned and testified as follows:

8 DIRECT EXAMINATION

9 BY MR. DOMENICI:

10 Q. Would you introduce yourself to the hearing  
11 examiner?

12 A. Yes. My name is Drew Dixon. I'm the vice  
13 president of land, regulatory and permitting at Solaris  
14 Water Midstream.

15 Q. And can you -- first of all, can you discuss  
16 generally why there are three applications from Solaris  
17 in this several-mile radius?

18 A. Right. So we've been in discussion with a  
19 number of operators in and around that area. Now, we do  
20 have contract commitments currently existing for  
21 disposal needs in that area and the volumes that will be  
22 coming in relatively short order. As you-all are  
23 probably well aware, this area is newly developing. I  
24 mean, there's been existing but newly developing in the  
25 Bone Spring and the Wolfcamp. So we've signed up

1     some -- some near-term commitments. And Apache, which  
2     not directly related to this well but one of the area  
3     wells, has sent in a letter of support saying that there  
4     is a desperate need near term for disposal in this area.

5           **Q.     Is that Exhibit 8?**

6           A.     That is Exhibit 8, yes. And then the way -- I  
7     will say similar to the prior testimony of Permian  
8     Oilfield Partners, we're in the business of creating  
9     integrated systems via pipeline, so the approval of any  
10    one of these wells in the near term will certainly start  
11    the process of alleviating the concern of the  
12    availability of disposal capacity. And so that's why,  
13    you know, we brought this letter in here, to show that  
14    it's -- it will eventually be an integrated system, and  
15    there's an immediate need.

16           **Q.     And have you resolved the location issue**  
17    **related to the McCrae well?**

18           A.     Yes. So originally there was a protest or an  
19    objection filed by EOG in that matter. They have since  
20    withdrawn that due to our moving of that location.

21           **Q.     Does EOG support this well?**

22           A.     EOG has not filed any objections to this well,  
23    and I believe in their prior testimony, possibly, their  
24    counsel stated that they support the application to that  
25    point.

1           **Q.    Is there anything else you would like to**  
2   **testify to the hearing examiner about this application?**

3           A.    No.  I think that the biggest part and the  
4   reason that I wanted to be here is the fact that -- just  
5   to demonstrate that there is a need in the area  
6   evidenced by the McCrae.  So that's where we stand  
7   today.

8           **Q.    Thank you.  Nothing further.**

9                   MS. BENNETT:  No questions.

10                  EXAMINER JONES:  Mr. Brooks?

11                  EXAMINER BROOKS:  No questions.

12                               CROSS-EXAMINATION

13   BY EXAMINER JONES:

14           **Q.    How would you get water to this well?**

15           A.    Via pipeline.

16           **Q.    Okay.**

17           A.    So we've already been working on pipeline  
18   rights-of-way to connect the operators, particularly  
19   Apache and some others that I've mentioned.  So those  
20   are in process.  We've signed the necessary surface  
21   agreements, the leases with the Ballards, the folks that  
22   the notice was -- we mentioned there earlier.  And so  
23   it'll all -- the majority of the water at this time will  
24   be via pipeline.

25           **Q.    Okay.  And so is Linn Energy still operator**

1     **above Apache in this area, or are they another one of**  
2     **your clients?**

3           A.     Linn is -- we currently don't have a contract  
4     with Linn at this time.   No.

5           **Q.     Okay. Okay. I don't have any more questions.**

6                   MR. DOMENICI:   Thank you.

7                   EXAMINER JONES:   Thank you very much.  
8     Thanks for coming.

9                   THE WITNESS:    Okay.

10                  MR. DOMENICI:   And I would move admission  
11     of the exhibit package, which is 1 through 8.

12                  I would point out there is an affidavit  
13     that is Exhibit 7, which is from Stephen Martinez who is  
14     the vice president of drilling, and it discusses the  
15     casing design similar to what is set forth in the  
16     application itself.   But he does make a conclusion "that  
17     the well will be equipped and operated in a manner that  
18     will facilitate" the testing -- "periodic testing and  
19     assure continued mechanical integrity and that there  
20     will be no significant leaks or movement of fluid  
21     through vertical channels adjacent to the well bore."  
22     That's his paragraph ten.

23                  EXAMINER JONES:   Okay.   Any objection to  
24     Exhibits 1 through 8?

25                  MS. BENNETT:   No objections to admitting

1 Exhibits 1 through 8. I would just point out again that  
2 there is an unresolved question, I think, about whether  
3 notice of this hearing was adequately provided. I don't  
4 see that in the exhibits, but I have no objection to the  
5 exhibits.

6 EXAMINER JONES: Mr. Brooks, anything about  
7 notice?

8 EXAMINER BROOKS: There may be a question  
9 about notice, but that doesn't deal -- that doesn't  
10 affect the admissibility of the exhibits.

11 MS. BENNETT: Right. I have no objection  
12 to the admissibility of the exhibits.

13 EXAMINER JONES: Exhibits 1 through 8 are  
14 admitted.

15 (Solaris Water Midstream Exhibit Numbers 1  
16 through 8 are offered and admitted into  
17 evidence.)

18 EXAMINER JONES: Is there any other  
19 question about notice that anyone wants to bring up or  
20 talk about?

21 EXAMINER BROOKS: Well, I think that we  
22 should proceed with allowing the respondent to present  
23 their case -- the protestant to present their case, and  
24 then we should take up any objection that they have  
25 received notice as a matter of submission in the case at

1 the end.

2 MS. BENNETT: And just to be clear, I am  
3 only here to ask questions and not to, you know -- we  
4 don't have any witnesses of our own to put on.

5 EXAMINER BROOKS: You don't have any  
6 witnesses?

7 MS. BENNETT: Right. Uh-huh.

8 EXAMINER BROOKS: Okay. Well, if there is  
9 a notice issue somebody wants to argue at this time,  
10 this would be the appropriate time to do it.

11 EXAMINER JONES: Okay. Well --

12 EXAMINER BROOKS: Well, you rested so --

13 EXAMINER JONES: Well, he admitted the  
14 exhibits. He hasn't rested. He's still working hard  
15 over here.

16 (Laughter.)

17 EXAMINER BROOKS: Are you going to rest?

18 EXAMINER JONES: Ms. Hovey could testify  
19 about notice, couldn't she, if she hasn't already?

20 MR. DOMENICI: She could, or I could,  
21 frankly, because the post-administrative notice consists  
22 of the docket notice provided by OCD. Notice, I  
23 understand, went to NGL, since they were a party.

24 You (indicating) can verify that or  
25 contradict that.

1                   EXAMINER BROOKS: Well, I don't think  
2 notice to NGL is the issue because NGL has entered an  
3 appearance.

4                   MR. DOMENICI: Right. So that's the notice  
5 for the hearing.

6                   EXAMINER JONES: And EOG backed out because  
7 you moved the well. They withdrew their objection.

8                   MR. DOMENICI: There is no other objection.  
9 I don't think we moved this well. I think that's the  
10 next case. They asked us to move the well, and we're  
11 going to ask for a continuance to study that.

12                  EXAMINER BROOKS: Ms. Bennett, did you  
13 have --

14                  Well, you don't have any more testimony to  
15 present, correct?

16                  MR. DOMENICI: I don't have any more.

17                  EXAMINER BROOKS: Ms. Bennett, you were the  
18 one who mentioned that there might be an objection to  
19 notice, so what is your objection to notice?

20                  MS. BENNETT: It's more of an observation  
21 than an objection. I just didn't see anything in the  
22 exhibits that identified that notice of the hearing  
23 today was sent to affected persons under the  
24 adjudicatory regulations, and so it was an observation  
25 about the adequacy of notice. But we did get notice.

1 Well --

2 EXAMINER BROOKS: At one point I believe  
3 you asked the question of the witness about notice, and  
4 that witness did not testify to the subject, as I  
5 recall.

6 MS. BENNETT: That witness testified that  
7 she -- and that was Ms. Hovey. She testified that she  
8 had not provided notice of today's hearing to affected  
9 parties, as I recall, and I'm willing to stand corrected  
10 on that.

11 EXAMINER JONES: We have Exhibit 3 that has  
12 some details on the notice, at least on the mailers.

13 EXAMINER BROOKS: Well, if no other party  
14 has anything to submit at this time, then the record  
15 will stand as what it is. I understood Mr. Domenici  
16 just requested a continuance.

17 MR. DOMENICI: That's my next case. That's  
18 my next case.

19 EXAMINER BROOKS: Pardon me?

20 MR. DOMENICI: That is my next case. I'm  
21 not asking for a continuance.

22 EXAMINER BROOKS: Okay. So are you  
23 resting?

24 MR. DOMENICI: Yes, sir. I'm resting.

25 EXAMINER BROOKS: Okay. You have nothing

1 to present at this time?

2 MS. BENNETT: No, I don't.

3 EXAMINER BROOKS: Very well. Then both  
4 parties have closed, and the case should be taken under  
5 advisement unless there is some reason not to.

6 MR. DOMENICI: That's fine with us.

7 EXAMINER JONES: Okay. Case Number 20587  
8 is taken under advisement.

9 (Case Number 20587 concludes, 11:13 a.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 26th day of July 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