

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

REPORTER'S TRANSCRIPT OF PROCEEDINGS

EXAMINER HEARING

July 25, 2019

Santa Fe, New Mexico

BEFORE: WILLIAM V. JONES, CHIEF EXAMINER
KATHLEEN MURPHY, TECHNICAL EXAMINER
PHILLIP GOETZE, TECHNICAL EXAMINER
DAVID K. BROOKS, LEGAL EXAMINER

This matter came on for hearing before the New Mexico Oil Conservation Division, William V. Jones, Chief Examiner; Kathleen Murphy and Phillip Goetze, Technical Examiners, and David K. Brooks, Legal Examiner, on Thursday, July 25, 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.

REPORTED BY: Mary C. Hankins, CCR, RPR
New Mexico CCR #20
Paul Baca Professional Court Reporters
500 4th Street, Northwest, Suite 105
Albuquerque, New Mexico 87102
(505) 843-9241

1 (8:21 a.m.)

2 EXAMINER JONES: This is Docket Number
3 27-19, examiner hearing for Thursday, July the 25th,
4 2019.

5 We've got Marlene Salvidrez over on my
6 right. And Phil Goetze, he's going to be hearing the
7 saltwater disposal cases today, and Kathleen Murphy to
8 my immediate right, and the Honorable Mr. Brooks is on
9 my left.

10 EXAMINER BROOKS: Formerly honorable.

11 EXAMINER JONES: I'm William V. Jones.

12 There are a couple of things I need to make
13 sure that everyone is aware of. There is a new posting
14 on the website this morning about the 48-hour
15 continuance, interpretation of that 4.13.C rule. And
16 anyway, that's out on the website. Apparently it's at
17 IPANM, and it was sent to NMOGA also.

18 If -- if we ask for a clarification this
19 morning on this and if we do hear a case that is -- if
20 we hear a case and it has to be continued because they
21 discovered during the hearing that somebody is -- hasn't
22 been noticed, well, that's -- that's going to be a
23 continuance that -- we'll go ahead and grant that, but
24 it's going to be -- you know, you'll go back and file a
25 fee when you get back to your office. So we've got

1 basically a period between the 48 hours and 4:00 p.m.
2 the night before. So for those -- for those that come
3 up during that time period, we'll have -- we'll have
4 actually a motion for those on the morning of the
5 hearing and we'll have it on the record, the motion to
6 continue. And Gabe says he expects those to be rare,
7 but it's going to be the discretion of the examiner to
8 grant those, that come up between 48 hours and 4:00 p.m.
9 the night before. And then after 4:00 p.m. the night
10 before is the big issue. Those will be dismissed
11 without prejudice and they'll be refiled.

12 And there is another thing I wanted to
13 bring up, the whole -- the hearing people here at OCD
14 are all in favor of. But I haven't approached
15 management about it yet, and I wanted to make sure I
16 talked to everybody. Because of the request for special
17 hearings and contested cases, it's sort of apparent that
18 sometimes we don't -- two days is not necessarily -- we
19 don't have enough confidence that we can schedule those
20 in the two days, on Thursday and Friday. So if we move
21 the hearings up, just to begin on Wednesdays, it would
22 affect this 48-hour business. But there are probably
23 other effects that you folks would have to adjust to.
24 What do you think? Anybody in favor of that or oppose
25 it?

1 MR. BRUCE: I did Wednesday hearings for
2 20-plus years. So --

3 EXAMINER BROOKS: I was going to say -- I
4 was going to say I heard they used to be on Wednesday.

5 MR. BRUCE: The only reason it was ever
6 moved was when we had a lot of witnesses coming in, a
7 lot of witnesses wanted to stay for the weekend.

8 EXAMINER JONES: Oh.

9 MR. BRUCE: So it was easier, two days off
10 rather than three days off. Now it's not a big deal
11 anymore.

12 WILLIAM V. JONES: Okay. Well, you might
13 think about it. I still haven't even mentioned it to
14 the bosses yet, so -- but if anybody has any issues --

15 MR. FELDEWERT: Would that just be for the
16 continuances?

17 EXAMINER JONES: No, no. This would be
18 setting the biweekly docket starting on Wednesday, and
19 so we would have three days. So we wouldn't have to
20 jostle settings of when we would do special dockets. We
21 would just schedule them on that docket. And, of
22 course, you know, today we'll probably get done about,
23 what, 2:00 or 3:00 this afternoon maybe? So we would
24 have time to keep right on rolling on a contested
25 matter, and the witnesses could all be here, and you

1 wouldn't have to -- everybody could agree on a date for
2 witnesses.

3 MR. FELDEWERT: I think the current rule
4 references a Thursday.

5 EXAMINER JONES: It does. That would
6 affect that.

7 MR. FELDEWERT: It may cause some
8 confusion.

9 EXAMINER JONES: We would have to look at
10 that and see. About the prehearing statements and
11 entries of appearance?

12 MR. FELDEWERT: Yeah.

13 MR. HALL: And applications would have to
14 be filed on Monday instead of Tuesday.

15 EXAMINER JONES: Yeah. That would move up
16 the 30 days on the applications. Yeah. So it would
17 make -- well, you're already working all weekend anyway,
18 right?

19 (Laughter.)

20 MS. BENNETT: In terms of the continuance
21 docket -- or the contested hearings, I would be
22 generally in favor of that because as we talked about
23 last night and as Mr. Bruce and I discovered last night,
24 you know, we've had hearings set for special hearing
25 dates, and then they've had to be moved because of

1 conflicts with OCD. And so now, for example, we just
2 asked that those cases be continued to August 22nd, but
3 we're going to have to continue them again to get to a
4 special hearing date. And so having an actual three-day
5 docket would help us and help you-all in terms of not
6 having to process continuances that are really only
7 ministerial and really only pro forma because everyone
8 knows that we're trying to go to a special hearing and
9 that those cases happen to appear on this docket as a
10 placeholder. So if we were able to actually hear the
11 cases on the docket that they're set for, I think it
12 would help in terms of that continuance motion practice
13 that we're all going to be engaging in now on our side
14 and your side.

15 EXAMINER JONES: Okay. And this
16 wouldn't -- it wouldn't address the issue of having only
17 new cases on the first docket of the month. That's
18 another topic that -- anyway, we'd have to think about
19 that, how that would fit in also.

20 MS. BENNETT: But the new docket would also
21 be on Wednesday, right, is what you're saying, even
22 though we might not get the benefit of it?

23 EXAMINER JONES: Is it true that a lot of
24 those cases go, right, on the first-of-the-month docket?
25 But you have to scramble to get ready for those, I know.

1 MS. MURPHY: But we set so many special
2 hearings and then they get -- nobody shows. They get
3 moved.

4 EXAMINER JONES: Well, sometimes they
5 settle them.

6 MS. MURPHY: Right. So we set them, we
7 still do the work, and they don't go. But they'll still
8 have to do the work.

9 EXAMINER JONES: Right. So Wednesday would
10 be kind of -- would kind of roll it all into Wednesday.

11 MS. MURPHY: Or you could have the special
12 cases -- one side gets one hour and the other side gets
13 another hour and then the final hour, instead of people
14 talking until 3:00 and the other lawyer has to object so
15 that he can say something, and it doesn't go until 5:00
16 or 6:00.

17 (Laughter.)

18 EXAMINER JONES: She's looking at you, Jim.

19 MR. BRUCE: Who would do that?

20 (Laughter.)

21 EXAMINER BROOKS: Well, I think that --
22 when I was on the bench, I learned something that I
23 think could have applications for hearing examiners,
24 only there's been no disposition to do it at the OCD.
25 If we -- if the examiner limited the total time for the

1 case and divided time between the attorneys that are
2 presenting in the case and counted cross-examination
3 against the cross-examining attorney rather than against
4 the attorney who called the witness, then that would
5 seem to me to be fair to everybody, and it would prevent
6 situations like what happened to Jim in the saltwater
7 disposal case where he got about an hour and a half to
8 present his case at the end of a Friday afternoon after
9 everybody else had taken just as long as they wanted to.
10 And there is really no other way that I have discovered
11 that a judge can prevent that from happening. But I'm
12 leaving, so I'm not going to push anything.

13 MR. FELDEWERT: I've actually done that in
14 cases. I know we did that in our Pius [sic; phonetic]
15 case.

16 EXAMINER BROOKS: Yes. I've done it in one
17 or two cases and influenced somebody else to do it maybe
18 once or twice, but there's been very little use of time.

19 MR. FELDEWERT: And I know Jamie Bailey
20 used to do it for the Commission cases.

21 EXAMINER BROOKS: Pardon me?

22 MR. FELDEWERT: Jamie Bailey used to do it
23 for some of the Commission cases.

24 EXAMINER BROOKS: Well, you know, Jamie was
25 into efficiency.

1 MR. FELDEWERT: That's right.

2 EXAMINER JONES: Okay. Just something to
3 think about.

4 So as far as the docket this morning,
5 you've all had a chance to look at the latest -- latest
6 version of it, I'm sure. Before I call any continuances
7 or dismissals, are there any changes that anybody knows
8 about based on the docket that was put out 3:54, in the
9 lower right-hand corner?

10 MR. HOUGH: Mr. Jones, on behalf of
11 Chevron, I think there was a request for continuance
12 submitted yesterday evening in Cases 20414 -- I guess
13 that would be 414, 415, 20385 and 20386. I noted it
14 wasn't reflected as a continuance. I think it was
15 submitted yesterday evening, and I believe the request
16 was out until the September docket.

17 MS. MURPHY: What numbers were those?

18 MR. HOUGH: That's 20414, 20415, 20385 and
19 20386.

20 EXAMINER JONES: Thank you.

21 Any others?

22 MR. BRUCE: Mr. Examiner, on page 5 of the
23 docket sheet, case number 106 on the docket. It is tied
24 in with the Mewbourne/Marathon.

25 MR. PADILLA: Right.

1 MR. BRUCE: Yeah. And that should be
2 continued.

3 EXAMINER JONES: Okay. We continued all
4 those to the 22nd of August, I believe. That's just as
5 a placeholder.

6 MR. BRUCE: Okay. I just didn't see it on
7 here.

8 And then I forgot this morning one other
9 case. Nope. I didn't.

10 MR. FELDEWERT: Has the Ridge Runner case
11 been continued?

12 MR. PADILLA: Yes.

13 MS. BENNETT: Just to clarify, the Marathon
14 cases that are on page 2 of 6 -- I'm sorry -- on page 3
15 of 6 that are part of what Jim Bruce was just talking
16 about and Mr. Padilla, those have all been continued,
17 even though they don't show continued.

18 EXAMINER JONES: 54 through 57?

19 MS. BENNETT: That's right, and 48. And I
20 filed motions to continue those last night.

21 MS. SALVIDREZ: Yeah. We got 33 of them,
22 so they're not going to be here because I didn't process
23 them because we're here. So I'll look to make sure
24 they're all in the fee portals.

25 MS. MURPHY: We went from 117 to 48 at

1 3:00, to 23 at 4:00. And it's a tad out of control,
2 quite frankly.

3 EXAMINER JONES: Yeah. But what we'll do
4 is we'll try to -- after the 48-hour deadline, we'll try
5 to get something out immediately and the people with
6 contested cases can --

7 MS. SHAHEEN: Mr. Examiner, on page 5 of 6,
8 Case 16467, I had filed a motion for continuance
9 yesterday evening. This is related to those other two
10 Old Chub cases where I had previously filed a motion for
11 continuance.

12 EXAMINER JONES: Yeah, those all went to
13 August 22nd.

14 MS. SHAHEEN: Yes. That would also include
15 16467. Those are a package.

16 EXAMINER JONES: Yeah. That makes sense.

17 MS. SHAHEEN: And the other one I
18 noticed -- I don't think Ms. Hollingsworth or
19 Mr. Domenici are here. But I believe on page 1 -- this
20 is Case Number 20473, number 12 on the docket, the
21 Solaris Jesse Spano. I believe she filed a motion
22 withdrawing that application, so I have entered an
23 appearance.

24 EXAMINER GOETZE: When was it filed? It's
25 not in our records.

1 MS. SHAHEEN: I believe it was last
2 Thursday.

3 EXAMINER GOETZE: Last Thursday?

4 MS. SHAHEEN: Uh-huh. I have an email that
5 I can forward to you.

6 EXAMINER JONES: No, no. If we can't find
7 it, we'll have to dismiss it probably. That's what they
8 want anyway, right?

9 MS. SHAHEEN: Right. I was a little bit
10 confused between withdrawing and dismissing, but that's
11 what they filed, was a motion to withdraw and vacate.

12 EXAMINER JONES: And they're not here
13 anyway, so --

14 MS. SHAHEEN: But I had entered an
15 appearance and just wanted to note that.

16 EXAMINER JONES: I bet Phil will be glad to
17 hear that.

18 Anything else?

19 Okay. It looks like I've got number 12,
20 which is 20473 -- as far as dismissals, I've got number
21 12, which is 20473. Numbers 78 through 81, which is
22 20328, 20329, 20298 and 20493, are dismissed.

23 Looks like we're going to hear case number
24 three, which is 16504; number five, which is 20140;
25 number 11, which is 20475.

1 And on page 2, number 24, 20560; numbers 32
2 and 33, 20337 and 20527; and number 45, which is 20491;
3 and numbers 82 and 83, which is 20495 and 20496; and
4 numbers 113 and 114, 20400, 20401.

5 All the rest are continued.

6 Okay. Any changes to that?

7 MS. SHAHEEN: I was just going to point out
8 a couple of other dismissals. That's numbers 16 and 17.

9 EXAMINER JONES: Okay. I missed those.
10 Those are dismissed. Those are 20456 and 20457.

11 Any other changes?

12 Okay. I'm going to turn it over to
13 Mr. Goetze for the first saltwater disposal cases.

14 EXAMINER GOETZE: Well, we're also going to
15 have a clarification. Case Number 20570, application of
16 NGL Water Solution Permian, LLC for approval of a
17 saltwater disposal well in Lea County, New Mexico.

18 Ms. Bennett --

19 MS. BENNETT: Yes.

20 EXAMINER GOETZE: -- we're going to dismiss
21 that, and we're going to ask you to refile. Your
22 application, item two, says, "NGL seeks authority to
23 inject salt water into the Siluro-Devonian Formation at
24 a depth of 5,460 to 6,800." It's not correct.

25 MS. BENNETT: Yes. I realize that.

1 EXAMINER GOETZE: So go ahead and refile
2 and renotice and make it correct.

3 MS. BENNETT: I will check my records, but
4 I believe I noticed properly. My notice letters were
5 proper notice.

6 EXAMINER GOETZE: It's not the right
7 formation, period.

8 MS. BENNETT: I understand that, in the
9 application, but in the notice letters, I corrected it.
10 But I'm happy to refile.

11 EXAMINER GOETZE: Let's refile.

12 MS. BENNETT: Thank you.

13 EXAMINER GOETZE: And that was the decision
14 of Legal.

15 MS. BENNETT: And do I need to renotice
16 even -- had the correct legal description of the
17 formation in the notice letter?

18 EXAMINER GOETZE: Please.

19 MS. BENNETT: Okay. Will it be assigned a
20 new case number?

21 EXAMINER GOETZE: Yes.

22 MS. BENNETT: Okay. Thank you.

23 EXAMINER GOETZE: And off into a continued
24 case, 16354, 16355, which are Rover's cases, I believe
25 Montgomery & Andrews is representing those folks.

1 MS. SHAHEEN: Yes.

2 EXAMINER GOETZE: I would give certain
3 notice to your operator, to your Applicant. They have
4 38 outstanding bonds which have not been paid. If they
5 come to hearing, they'll be dismissed based upon the
6 fact that they do not have proper financial assurance.
7 So if you wish to come forward with the application,
8 they need to clean up their FA, their standing bonds.

9 MS. SHAHEEN: Yeah. My understanding was
10 that they were communicating with someone in the
11 Division to resolve that. So if that's not the case, I
12 guess I should follow up.

13 EXAMINER GOETZE: I'm just giving you a
14 heads-up so you don't go through the effort and come
15 here and all of a sudden we say no.

16 MS. SHAHEEN: I appreciate that.

17 EXAMINER GOETZE: Thank you.

18 MR. FELDEWERT: Is that case on this
19 docket?

20 EXAMINER GOETZE: No, it's not on this
21 docket. It's being continued. But as you well know,
22 the last thing you want to do is show up and have us
23 say, "Here's the door."

24 MR. FELDEWERT: I'm with you on that.

25 (The proceedings conclude, 8:41 a.m.)

1 (10:40 a.m.)

2 MR. HOUGH: Mr. Examiner, one last thing
3 for the record. I just want to make sure the
4 continuance is on there, Case Number 20560. And we
5 discussed that between you and Marlene. That's the
6 Cimarex Parkway 16 17 case.

7 EXAMINER JONES: Yeah. That's number 24.
8 Case 20560 was continued to September 19th.

9 MR. HOUGH: Thank you.

10 (The proceedings conclude, 10:40 a.m.)

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 2nd day of August 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