

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO

Clerk's Minutes  
Before the Honorable James O. Browning

**CASE NO.** CIV 21-0284 JB/JFR **DATE:** 1/20/2022

**TITLE:** *Balderas v. United States Nuclear Regulatory Commission, et al.*

**COURTROOM CLERK:** L. Rotonda **COURT REPORTER:** J. Bean

**COURT IN SESSION:** 8:35 AM **TOTAL TIME:** 1:38

**TYPE OF PROCEEDING:** MOTION HEARING

**COURT RULING/DISPOSITION:**

1. MOTION OF HOLTEC INTERNATIONAL FOR LEAVE TO INTERVENE (DOC. 4) – INCLINED TO GRANT;
2. FEDERAL DEFENDANTS’ MOTION TO DISMISS FIRST AMENDED COMPLAINT; BRIEF IN SUPPORT (DOC. 12) – TAKEN UNDER ADVISEMENT.

**ATTORNEYS PRESENT FOR PLAINTIFF(S):** **ATTORNEYS PRESENT FOR DEFENDANT(S):**

Zachary Ogaz (all appearing via Zoom)  
William Grantham  
Marculs Rael  
Allan Kanner  
Annemieke Tennis

Andrew Smith (appearing in person)  
Jennifer Najjar (appearing in person)  
Andrew Averbach (appearing via Zoom)  
Hugh Ray (appearing in person)  
Jay Silberg (appearing via Zoom)

**PROCEEDINGS:**

**COURT IN SESSION:** 8:35 AM

**COURT:** CALLS CASE, COUNSEL ENTER APPEARANCES. COUNSEL NOTES THAT CASE WAS TRANSFERRED AT SOME POINT TO JUDGE BROWNING. ADDRESSES FILING OF APPEAL. QUERIES COUNSEL REGARDING IMPACT OF FILING OF APPEAL.

**8:39 AM MS. NAJJAR:** ADDRESSES COURT REGARDING SAME.

**COURT:** QUERIES MS. NAJJAR AS TO WHAT SHE WOULD LIKE COURT TO DO TODAY.

**8:40 AM MS. NAJJAR:** RESPONDS TO COURT’S QUERIES, INDICATES BELIEF THAT COURT HAS JURISDICTION TO DECIDE ISSUE RELATED TO JURISDICTION, WOULD LIKE COURT TO PROCEED IN

HEARING MOTIONS.

**8:42 AM COURT:** QUERIES PARTIES REGARDING SAME. COUNSEL INDICATE AGREEMENT AS TO COURT'S JURISDICTION. WILL FIRST TAKE UP MOTION OF HOLTEC INTERNATIONAL FOR LEAVE TO INTERVENE (DOC. 4). COURT IS INCLINED TO GRANT THE MOTION; SUGGESTS THAT CASE PROCEED IN THIS MANNER, IF COURT RECONSIDERS, WILL REVISIT ISSUE.

**8:46 AM MR. SILBERG:** ARGUES IN SUPPORT OF MOTION.

**8:47 AM MR. OGAZ:** ARGUES IN OPPOSITION TO MOTION.

**8:48 AM COURT:** QUERIES COUNSEL REGARDING ATTORNEY GENERAL'S POSITION AS TO ISSUE.

**MR. OGAZ:** RESPONDS TO COURT'S QUERY.

**8:50 AM COURT:** INCLINED TO GRANT MOTION, WILL GET ORDER OUT AS QUICKLY AS POSSIBLE. WILL TAKE UP NEXT MOTION.

**8:51 AM Ms. NAJJAR:** ARGUES IN SUPPORT OF FEDERAL DEFENDANTS' MOTION TO DISMISS FIRST AMENDED COMPLAINT; BRIEF IN SUPPORT (DOC. 12).

**8:53 AM COURT:** QUERIES Ms. NAJJAR.

**Ms. NAJJAR:** RESPONDS TO COURT'S QUERIES, RESUMES ARGUING IN SUPPORT OF MOTION.

**9:19 AM MR. KANNER:** ARGUES IN OPPOSITION TO MOTION.

**9:25 AM COURT:** QUERIES MR. KANNER.

**MR. KANNER:** RESPONDS TO COURT'S QUERIES, RESUMES ARGUING IN OPPOSITION TO MOTION.

**9:48 AM MR. SILBERG:** ARGUES IN SUPPORT OF MOTION.

**9:56 AM MR. KANNER:** ARGUES IN REBUTTAL AS TO SAME.

**COURT IN RECESS: 10:01 AM**

**COURT IN SESSION: 10:16 AM**

**COURT:** QUERIES MR. KANNER.

**10:17 AM MR. KANNER:** RESPONDS TO COURT'S QUERIES.

**10:25 AM MR. SILBERG:** RESPONDS AS TO SAME.

**10:29 AM Ms. NAJJAR:** ARGUES IN REBUTTAL AS TO SAME.

**COURT:** QUERIES MS. NAJJAR.

**Ms. NAJJAR:** RESPONDS TO COURT'S QUERIES, RESUMES ARGUMENT.

**10:37 AM MR. AVERBACH:** RESPONDS AS TO SAME.

**10:40 AM COURT:** WILL TAKE MATTER UNDER ADVISEMENT, GET OPINIONS OUT AS SOON AS POSSIBLE.

**10:41 AM MR. KANNER:** ADDRESSES COURT REGARDING POINT RAISED EARLIER, QUERIES COURT REGARDING SCHEDULING CONFERENCE.

**COURT:** NOTES THAT PARTIES HAD MOVED TO STAY DISCOVERY UNTIL TWO WEEKS AFTER PENDING MOTIONS DECIDED, WILL RESET ISC AT THAT POINT.

**COURT IN RECESS: 10:42 AM**