

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

APPLICATION OF DELAWARE ENERGY LLC TO REVOKE THE INJECTION  
AUTHORITY GRANTED UNDER SWD-1680 FOR THE ALPHA SWD NO. 1 WELL  
OPERATED BY ALPHA SWD OPERATING LLC, EDDY COUNTY, NEW MEXICO.

Case No. 15855

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**MOTION TO STAY ADMINISTRATIVE ORDER SWD-1680**

Delaware Energy LLC (“Delaware Energy”) moves the Oil Conservation Division to stay the effectiveness of Administrative Order SWD-1680 in the above-captioned matter, pending the Division’s ruling on Delaware Energy’s application to revoke Alpha SWD Operating LLC’s injection authority. In support, Delaware Energy states as follows:

1. Alpha SWD Operating LLC (“Alpha”) (OGRID 372180) filed a C-108 application for authorization to inject for a proposed salt water disposal well on June 12, 2017. See Exhibit B to Delaware Energy’s Application, filed contemporaneously herewith. The proposed well, the Alpha SWD No. 1, is to be located 1,457 feet from the south line and 2,093 feet from the east line of Section 10, Township 24 South, Range 28 East, Eddy County, New Mexico. The location of the proposed Alpha SWD No. 1 well is approximately 800 feet from the proposed location of Delaware Energy’s earlier-filed C-108 application. As with Delaware Energy’s proposed injection well, Alpha’s proposed injection interval targets the Devonian from a depth of 14,000 feet to 15,200 feet.

2. On information and belief, Alpha knew, as of the date it filed its June application, that Delaware Energy had pending C-108 application before the Division for an injection well in the same area and same injection formation. Notwithstanding this knowledge, Alpha failed to provide notice of its C-108 application to Delaware Energy.

3. Upon receipt of Alpha's C-108 application, the Division determined on June 12, 2017, that it was administratively incomplete and "will not be placed into the administrative review process." See Exhibit B, at 25, to Delaware Energy's Application. As filed, Alpha's application was missing information that is required before it could be considered "complete with all attachments[.]" See 19.15.26.8.C(2) NMAC. Alpha submitted the additional requested information to the Division on June 19, 2017. See Exhibit B, at 26-29, to Delaware Energy's Application. Again, no notice of this additional filing was provided to Delaware Energy despite the fact that it had a previously filed administrative application pending before the Division.

4. On June 28, 2017, only nine days after receiving the additional necessary information, and less than the fifteen days required by Division regulations, the Division approved Alpha's C-108 application and issued Administrative Order SWD-1680. See 19.15.26.8.C(2) NMAC; *see also* Exhibit D, to Delaware Energy's Application.

5. The failure to provide notice to Delaware Energy of Alpha's competing C-108 application, and the Division's approval of SWD-1680 sooner than the fifteen days mandated by 19.15.26.8.C(2) NMAC, deprived Delaware Energy of the opportunity to protest Alpha's application. Administrative Order SWD-1680 states that "no protest was received within the required suspense period," but SWD-1680 was approved before the required fifteen days had run. See Exhibit C, to Delaware Energy's Application.

6. The Division's approval of SWD-1680 on June 28, 2017, violated Delaware's due process rights and the provisions of 19.15.26.8.C(2) NMAC.

7. Prior to considering Alpha's competing C-108 application, the Division should have required Alpha to provide notice to Delaware Energy or notified Delaware Energy itself of Alpha's pending application. The Division should not have approved Administrative Order

SWD-1680 without first affording Delaware Energy an opportunity to protest Alpha's later-filed C-108 application. The purpose and intent of the Division's notice requirements is to give notice of a proposed injection well to affected persons with a known interest in the half-mile area of review. *See* 19.15.26.7.A NMAC and 19.15.26.8.B(2) NMAC.

8. Delaware Energy will be significantly prejudiced if Alpha is permitted to drill and complete its proposed salt water disposal well and commence operations before the Division has an opportunity to hear Delaware Energy's application to revoke Alpha's injection authority under SWD-1680, and before the Division can consider Delaware Energy's earlier-filed C-108 application, which is currently under protest by Alpha.

9. Based on the foregoing, the effectiveness of Administrative Order SWD-1680 should be stayed so the status quo can be maintained until the Division enters a ruling on Delaware Energy's application to revoke Alpha's injection authority under SWD-1680.

WHEREFORE, Delaware Energy respectfully requests that the Division stay the effectiveness of Administrative Order SWD-1680, pending the Division's ruling on Delaware Energy's application to revoke SWD-1680.

Respectfully submitted,

HOLLAND & HART LLP

By: 

Michael H. Feldewert

Adam G. Rankin

Jordan L. Kessler

Post Office Box 2208

Santa Fe, New Mexico 87504-2208

(505) 988-4421

(505) 983-6043 Facsimile

Email: [mfeldewert@hollandhart.com](mailto:mfeldewert@hollandhart.com)

Email: [agrankin@hollandhart.com](mailto:agrankin@hollandhart.com)

Email: [jlkessler@hollandhart.com](mailto:jlkessler@hollandhart.com)

**ATTORNEYS FOR DELAWARE ENERGY LLC**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Motion was filed on the 12th day of September 2017 and that a copy was served via electronic mail on the following parties.

Alpha SWD Operating LLC  
c/o Christopher B. Weyand  
Consulting Engineer  
Lonquist and Company LLC  
3345 Bee Cave Road, Suite 201  
Austin, Tx 78746  
Phone: 512.600.1764  
E-mail: [chris@lonquist.com](mailto:chris@lonquist.com)

/s/   
Adam G. Rankin

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