

Goetze, Phillip, EMNRD

From: Adam Rankin <AGRankin@hollandhart.com>
Sent: Thursday, May 3, 2018 7:34 PM
To: Goetze, Phillip, EMNRD
Cc: Jones, William V, EMNRD; McMillan, Michael, EMNRD; Brooks, David K, EMNRD; Dawson, Scott, EMNRD; Lowe, Leonard, EMNRD
Subject: Re: C-108 Applications for the Malaga SWD No. 4 and No. 5: Determination of the Protest Filing Date

Thank you, Phil.

Adam G. Rankin
Holland & Hart LLP

Case
16130

On May 3, 2018, at 3:52 PM, Goetze, Phillip, EMNRD <Phillip.Goetze@state.nm.us> wrote:

RE: C-108 Applications for the Malaga SWD No. 4 (30-015-44514) and the Malaga SWD No. 5 (30-015-44571)

Adam:

You requested a formal determination on the end of the protest period for the two Malaga wells. First the Division's rules on the subject:

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 15 OIL AND GAS
PART 26 INJECTION

19.15.26.8 INJECTION OF FLUIDS INTO RESERVOIRS:

B. Method of making application.

(1) The operator shall apply for authority to inject gas, liquefied petroleum gas, air, water or other medium into a formation for any reason, including the establishment of or the expansion of water flood projects, enhanced recovery projects, pressure maintenance projects or salt water disposal, by submitting form C-108 complete with all attachments to the division.

(2) The applicant shall furnish, by certified or registered mail, a copy of the application to each owner of the land surface on which each injection or disposal well is to be located and to each leasehold operator or other affected person within any tract wholly or partially contained within one-half mile of the well.

C. Administrative approval.

(1) If the application is for administrative approval rather than for a hearing, it shall be accompanied by a copy of a legal notice the applicant published in a newspaper of general circulation in the county in which the proposed injection well is located. The legal notice shall include:

(a) the applicant's name, address, phone number and contact party;
(b) the injection well's intended purpose, with the exact location of single wells or the section, township and range location of multiple wells;

(c) the formation name and depth with expected maximum injection rates and pressures; and

(d) a notation that interested parties shall file objections or requests for hearing with the division within 15 days.

(2) The division shall not approve an application for administrative approval until 15 days following the division's receipt of form C-108 complete with all attachments including evidence of mailing as required under Paragraph (2) of Subsection B of 19.15.26.8 NMAC and proof of publication as required by Paragraph (1) of Subsection C of 19.15.26.8 NMAC.

(3) If the division does not receive an objection within the 15-day period, and a hearing is not otherwise required, the division may approve the application administratively.

D. Hearings. If a written objection to an application for administrative approval of an injection well is filed within 15 days after receipt of a complete application, if 19.15.26.8 NMAC requires a hearing or if the director deems a hearing advisable, the division shall set the application for hearing and give notice of the hearing.

The Division did make the request to expand the notice based on recent evidence of other Devonian wells proposed for injection in excess of 25,000 BWPd. The rules are quite cumbersome when it defines the end of the 15-day protest, but I would interpret 19.15.26.8(C)(2) NMAC and 19.15.26.8(D) NMAC as defining the protest period as "15 days following the division's receipt of form C-108 complete with all attachments" with written objects being acceptable if "filed within 15 days after receipt of a complete application". The determination of Division's receipt of form C-108 complete with all attachments would be based on the submittal record provided in the e-mails with attachments for the respective applications based on the following observations:

- Last submittal for the Malaga SWD No. 4 (30-015-44514): Holland & Hart e-mail dated 4/20/2018; 1:41 PM (Supplemental AOR review) Last day of 15-day period: May 5, 2018
- Last submittal for the Malaga SWD No. 5 (30-015-44571): Holland & Hart e-mail dated 4/23/2018; 3:11 PM (Update narrative for Sections V & VI review) Last day of 15-day period: May 8, 2018

Based on this interpretation, then the three protests qualify for having been submitted prior to the end of the 15-day period. This assessment did not include any input from Mr. Brooks. However, I would that Black River out to discuss the situation with Trove. The presentation and the expertise provided by Matador in support of the Malaga wells was very substantial and may resolve any of Trove's concerns about a common Devonian reservoir. I am available Monday to discuss any content of this communication. PRG

Phillip Goetze, PG
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