

## Davidson, Florene, EMNRD

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**From:** Brooks, David K, EMNRD  
**Sent:** Thursday, October 19, 2017 10:11 AM  
**To:** Gary Larson; Michael Feldewert; Goetze, Phillip, EMNRD; Davidson, Florene, EMNRD  
**Cc:** Adam Rankin; Jordan L. Kessler  
**Subject:** RE: Continuance of Case No. 15855: Delaware Energy Application to Revoke Injection Authority under SWD-1682

Ladies and Gentlemen

Inasmuch as we have received an ok from counsel for Alpha and no objection from counsel for the applicant, the Motion for continuance from the October 26 docket is granted, and I hereby direct that Case No. 15855 re-set for a special docket to commence on Tuesday, November 7 at 9:00 a.m.

Sincerely

David K. Brooks  
Attorney for Phillip Goetze, Examiner

**From:** Gary Larson [mailto:glarson@hinklelawfirm.com]  
**Sent:** Friday, October 13, 2017 3:35 PM  
**To:** Brooks, David K, EMNRD <DavidK.Brooks@state.nm.us>; Michael Feldewert <MFeldewert@hollandhart.com>  
**Cc:** Adam Rankin <AGRRankin@hollandhart.com>; Jordan L. Kessler <JLKessler@hollandhart.com>  
**Subject:** RE: Continuance of Case No. 15855: Delaware Energy Application to Revoke Injection Authority under SWD-1682

Would a special hearing on Tuesday November 7 work for everybody?

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**From:** Brooks, David K, EMNRD [mailto:DavidK.Brooks@state.nm.us]  
**Sent:** Friday, October 13, 2017 1:59 PM  
**To:** Michael Feldewert; Gary Larson  
**Cc:** Adam Rankin; Jordan L. Kessler  
**Subject:** RE: Continuance of Case No. 15855: Delaware Energy Application to Revoke Injection Authority under SWD-1682

Gentlemen

I am not sure we can do that. Phillip and I may have to attend the Commission part of the 9<sup>th</sup>,

David Brooks

**From:** Michael Feldewert [mailto:MFeldewert@hollandhart.com]  
**Sent:** Friday, October 13, 2017 1:34 PM  
**To:** Gary Larson <glarson@hinklelawfirm.com>; Brooks, David K, EMNRD <DavidK.Brooks@state.nm.us>  
**Cc:** Adam Rankin <AGRRankin@hollandhart.com>; Jordan L. Kessler <JLKessler@hollandhart.com>  
**Subject:** Continuance of Case No. 15855: Delaware Energy Application to Revoke Injection Authority under SWD-1682

I suggest we schedule the matter for the afternoon on Wednesday, November 8th (Division's regular hearing date) with the option to carry over into Thursday, November 9th (perhaps in the Secretary's conference room) if needed.

*Michael H. Feldewert*  
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**From:** Gary Larson [<mailto:glarson@hinklelawfirm.com>]  
**Sent:** Friday, October 13, 2017 12:48 PM  
**To:** Brooks, David K, EMNRD <[DavidK.Brooks@state.nm.us](mailto:DavidK.Brooks@state.nm.us)>  
**Cc:** Michael Feldewert <[MFeldewert@hollandhart.com](mailto:MFeldewert@hollandhart.com)>  
**Subject:** RE: Continuance of Case No. 15855: Delaware Energy Application to Revoke Injection Authority under SWD-1682

David,

Yes, I received your response email. Alpha SWD Operating can do a hearing any day during the week of November 6.

Gary

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**From:** Brooks, David K, EMNRD [<mailto:DavidK.Brooks@state.nm.us>]  
**Sent:** Thursday, October 12, 2017 3:58 PM  
**To:** Gary Larson  
**Cc:** Goetze, Phillip, EMNRD; Catanach, David, EMNRD; Michael Feldewert  
**Subject:** RE: Continuance of Case No. 15855: Delaware Energy Application to Revoke Injection Authority under SWD-1682

**From:** Gary Larson [<mailto:glarson@hinklelawfirm.com>]  
**Sent:** Thursday, October 12, 2017 3:38 PM  
**To:** Brooks, David K, EMNRD <[DavidK.Brooks@state.nm.us](mailto:DavidK.Brooks@state.nm.us)>  
**Cc:** Goetze, Phillip, EMNRD <[Phillip.Goetze@state.nm.us](mailto:Phillip.Goetze@state.nm.us)>; Catanach, David, EMNRD <[David.Catanach@state.nm.us](mailto:David.Catanach@state.nm.us)>; Michael Feldewert <[MFeldewert@hollandhart.com](mailto:MFeldewert@hollandhart.com)>  
**Subject:** RE: Continuance of Case No. 15855: Delaware Energy Application to Revoke Injection Authority under SWD-1682

David,

Thanks for your email. I have two questions for clarification purposes.

First, with regard to your and Phillip's availability, do you mean you're both available any day next week or the week of November 6? Any day that week

Second, are you contemplating an evidentiary hearing on Delaware's motion to stay to be held on the currently scheduled hearing date of October 26? No. I assume it would require the unavailable witnesses. But that is Mike's call.

Gary

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**From:** Brooks, David K, EMNRD [<mailto:DavidK.Brooks@state.nm.us>]  
**Sent:** Thursday, October 12, 2017 3:17 PM  
**To:** Gary Larson; Michael Feldewert  
**Cc:** Goetze, Phillip, EMNRD; Catanach, David, EMNRD  
**Subject:** RE: Continuance of Case No. 15855: Delaware Energy Application to Revoke Injection Authority under SWD-1682

Gentlemen:

Thanks, Gary, for your statement of availability. Both Phillip and I are also available any day next week.

Please consult and advise us of your pleasure in the matter.

I cannot advise the Director to extend the emergency stay because, (1) in my view the rule on stays, to the extent it can be construed to authorize a stay of a final order in the absence of agreed facts or an evidentiary record, is limited to orders subject to appeal, and (2) in any event, a rule must be construed so as not to conflict with the statutory mandate for a hearing.

The question of a stay can be reconsidered at the hearing because a stay order after an evidentiary hearing and covering the time from then to issuance of a final order, would be an order issued after hearing, and thus would not be limited to 15 days.

**From:** Gary Larson [<mailto:glarson@hinklelawfirm.com>]  
**Sent:** Thursday, October 12, 2017 2:00 PM  
**To:** Michael Feldewert <[MFeldewert@hollandhart.com](mailto:MFeldewert@hollandhart.com)>; Brooks, David K, EMNRD <[DavidK.Brooks@state.nm.us](mailto:DavidK.Brooks@state.nm.us)>; Goetze, Phillip, EMNRD <[Phillip.Goetze@state.nm.us](mailto:Phillip.Goetze@state.nm.us)>  
**Cc:** Adam Rankin <[AGRankin@hollandhart.com](mailto:AGRankin@hollandhart.com)>  
**Subject:** RE: Continuance of Case No. 15855: Delaware Energy Application to Revoke Injection Authority under SWD-1682

Gentlemen,

As I stated on the record at the hearing this morning, Alpha SWD Operating does not oppose Delaware Energy's second request for a continuance in Case No. 15855.

With regard to rescheduling the hearing, Alpha's witnesses and I are available for a hearing any day during the week of November 6.

Gary

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**From:** Michael Feldewert [<mailto:MFeldewert@hollandhart.com>]  
**Sent:** Wednesday, October 11, 2017 11:35 AM  
**To:** Gary Larson; Brooks, David K, EMNRD; Goetze, Phillip, EMNRD  
**Cc:** Adam Rankin  
**Subject:** Continuance of Case No. 15855: Delaware Energy Application to Revoke Injection Authority under SWD-1682

Gentlemen: I have been informed today that due to the scheduled drilling and completion of a well, the necessary witnesses Energy cannot be available for hearing on May 26th or the week of May 29th. However, they can be available for a special he

anytime the week of November 6th. I suggest that we set a firm hearing date that week so that it may be reflected in the Divi order.

*Michael H. Feldewert*  
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# HOLLAND & HART



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