

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

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 (de novo)  
Order No. R-14484-A

**MOTION FOR JUDGMENT BASED ON THE DIVISION RECORD**

Delaware Energy LLC (“Delaware Energy”) requests the Oil Conservation Commission (“Commission”) enter judgment in this matter based on the Division record and without the necessity of a hearing. In support of this motion, Delaware Energy states:

1. Alpha SWD Operating LLC (“Alpha”) has appealed Division Order R-14484-A, which rescinds the injection authority granted by Administrative Order SWD-1680 for a commercial disposal well in the Devonian and Silurian formation.

2. Order R-14484-A rescinds the administrative approval of Alpha’s proposed disposal well solely on the legal basis that it was issued prior to the expiration of the 15-day waiting period required by NMAC 19.15.26.8(C). *See* Order R-14484-A at p. 3, ¶¶ (11)-(17).

3. Order R-14484-A was issued at the request of Delaware Energy, who has a prior-filed application pending before the Division for a disposal well in the same area and in the same disposal zone.

4. Under its application filed with the Division, Delaware Energy established that the Division’s records indisputably reflect Alpha’s application was approved administratively:

- a. without notice to Delaware Energy;
- b. without consideration of Delaware Energy’s prior-filed application for a disposal well; and

c. prior to the 15-day waiting period required by NMAC 19.15.26.8(C).

5. Order R-14484-A rests solely on the Division's failure to wait the mandatory 15-day period. It further reflects that prior to issuance of its order the Division reviewed the administrative record associated with Administrative Order SWD-1680 to conclude it was issued prematurely and must be rescinded. *Id* at p. 3, ¶¶ (11)-(17).

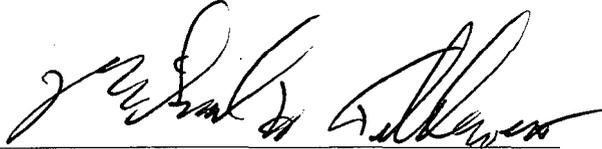
6. A Commission hearing is not required to address this legal conclusion. The timeline associated with the issuance of the administrative order is not disputed and clearly evident from the Division's records. The resulting application of that timeline to the 15-day waiting period required by NMAC 19.15.26.8(C) is a legal conclusion that likewise does not require a Commission hearing.

7. Counsel for Alpha has been contacted and opposes this motion,

WHEREFORE Delaware Energy request that this matter be decided as expeditiously as possible without an evidentiary hearing.

Respectfully Submitted,

HOLLAND & HART LLP



Michael H. Feldewert  
Adam G. Rankin  
Post Office Box 2208  
Santa Fe, NM 87504  
505-998-4421  
505-983-6043 Facsimile  
[mfeldewert@hollandhart.com](mailto:mfeldewert@hollandhart.com)  
[agrarkin@hollandhart.com](mailto:agrarkin@hollandhart.com)

**ATTORNEYS FOR DELAWARE ENERGY LLC**

**CERTIFICATE OF SERVICE**

I hereby certify that on April 10, 2018, I served a copy of the foregoing document to the following counsel of record via Electronic Mail to:

Gary Larson  
Hinkle Shanor LLP  
PO Box 2068  
Santa Fe NM 87504-2068  
[glarson@hinklelawfirm.com](mailto:glarson@hinklelawfirm.com)

*Attorney for Alpha SWD Operating LLC*



---

Michael H. Feldewert