

Warnell, Terry G, EMNRD

To: Ocean Munds-Dry; Brooks, David K., EMNRD
Cc: jamesbruc@aol.com
Subject: RE: Case 14719

Ocean:

Historically if anyone objects to an Administrative Application it goes to hearing. In this case San Juan feels their correlative rights are in jeopardy and they objected. Whether they have standing, if that is an issue, should be determined at a hearing. Therefore I feel OCD needs to hear Case No. 14719 on Sept. 1st or at a later date.

Regards,
Terry

From: Ocean Munds-Dry [<mailto:Omundsdry@hollandhart.com>]
Sent: Thursday, August 25, 2011 8:54 AM
To: Warnell, Terry G, EMNRD; Brooks, David K., EMNRD
Cc: jamesbruc@aol.com
Subject: Case 14719

Terry and David:

Williams filed a motion to dismiss in this case, San Juan responded and we filed a reply this week. Any chance we might get a ruling this week so we know whether this is going to hearing on Sept 1.?

Thanks,
Ocean

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Richard

My advice would be that this ~~matter~~^{application} be set to hearing.

The O&G Act (NMSA 70-2-23) ~~sets~~^{provides} that OCD may only issue order after a hearing. Our practice of issuing certain orders "administratively" can be squared w/ this requirement only on the basis that everyone who has standing to object has waived the right to hearing by not protesting after receipt of notice.

Here someone has protested. Whether they have standing, if that is an issue, should be determined at the hearing, or at a preliminary hearing on a formal motion to dismiss.

David