

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

FILED
2017 JUL 12

**IN THE MATTER OF THE APPLICATION
OF OWL SWD OPERATING, LLC FOR
AUTHORIZATION TO INJECT, LEA COUNTY,
NEW MEXICO**

CASE NO 15723

**MOTION TO VACATE HEARING BEFORE THE DIVISION
AND FOR HEARING BEFORE COMMISSION**

OWL SWD Operating, LLC ("OWL"), by and through its undersigned attorneys, hereby moves, pursuant to 19 15 4 20 NMAC, that the Director of the Oil Conservation Division set this case for a hearing before the Oil Conservation Commission at the Commission's next meeting on July 13, 2017, and to vacate the hearing on this matter currently set before the Hearing Examiner. In support thereof, OWL submits the following:

1 OWL submitted an application for an order authorizing the injection of water for disposal into the Yates-Seven Rivers formation in Lea County, New Mexico (hereinafter "Application") on May 9, 2017.

2 A hearing on the Application was set for June 8, 2017, before the Division.

3 On May 25, 2017, the New Mexico State Land Office (hereinafter "SLO") filed a Prehearing Statement. Subsequently, on June 2, 2017, the SLO filed a Motion to Intervene in opposition to OWL's Application. At a Prehearing Conference held on June 6, 2017, the Hearing Examiner granted SLO's Motion to Intervene, subject to future consideration on the scope of SLO's intervention in accordance with OWL's response to the SLO's Motion to Intervene.

4 At the June 6, 2017 Prehearing Conference, OWL learned of the Oil Conservation Division's intention to appear as a party in this matter in opposition to OWL's Application. The Division's counsel provided OWL with an unsigned copy of a Notice of Appearance and

Prehearing Statement purportedly filed on behalf of the Division, although OWL has not been served with such pleadings and has not verified their filing

5 Also at the June 6, 2017 Prehearing Conference, OWL was provided for the first time with a copy of a letter submitted to the Division on behalf of the City of Jal requesting a hearing To date, OWL has not been served with and is unaware of any Notice of Appearance or Motion to Intervene filed on behalf of Jal and does not believe that Jal is a party to this case

6 The SLO moved for a continuance of the June 8, 2017, hearing setting for this matter, which was considered and granted at the Prehearing Conference

7 There appear to be three parties to this matter OWL, the Division and the SLO

8 Based upon these three parties Prehearing Statements, OWL intends to call one company witness and two technical witnesses, and listed an estimated examination time of two hours OWL filed a technical exhibit with its Prehearing Statement and may have additional exhibits The SLO has listed one technical witness, and informed the parties at the Prehearing Conference that exhibits would be distributed Monday, June 12, 2017, which have been received by OWL The SLO listed an examination time of thirty (30) minutes The OCD intends to call two witnesses, according to their Prehearing Statement and Entry of Appearance, and estimates two hours of examination time

9 Due to the anticipated length of the hearing on this matter, the Hearing Examiner recommended and OWL, the Division and the SLO concurred that it would be prudent to conduct a Special Hearing on OWL's Application Based upon the Prehearing Statements filed by OWL, the SLO and (subject to verification) the Division, this matter could take close to a full day to hear The matter currently is on the Hearing Examiner's June 22, 2017 docket for further consideration pending scheduling of a Special Hearing

10 Given the breadth of the issues raised by the Division and SLO, the anticipated length of the examination by the parties and the examiner, and the considerable volume of technical evidence and consideration needed to resolve those issues, the hearing of this matter will consume substantial resources of the parties and their expert witnesses

11 Given the issues raised to date and the discussion, as well as the participation of both the Division and the SLO as parties to this case, OWL believes that it is very likely that one or more of the parties will seek a *de novo* hearing of this case before the Commission


12 Therefore, in an effort to conserve both OWL's and the agencies' resources, accommodate multiple witnesses, and avoid duplicative efforts for all parties, OWL believes that it would be most appropriate to set the hearing of this matter before the Commission, in the first instance, and to vacate the hearing currently set before the Hearing Examiner

WHEREFORE, OWL respectfully moves that the Director set this matter for a hearing before the Commission as is authorized by 19 15 4 20 (B) NMAC, and to vacate the hearing currently scheduled before the Hearing Examiner

Respectfully submitted,

GALLAGHER & KENNEDY, P A

By


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ATTORNEYS FOR OWL SWD Operating, LLC

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading, was served electronically and by regular mail upon the following counsel on this 12th day of June, 2017

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