

**BEFORE THE ARKANSAS COMMISSION ON  
POLLUTION CONTROL AND ECOLOGY**

**IN THE MATTER OF:**

**C & H Hog Farms**

**DOCKET NO. 18-004-P  
Permit No. 5264-W**

**MOTION TO RECONSIDER ORDER NO. 2**

Comes the appellant, C & H Hog Farms, Inc. ("C & H"), and for its Motion to Reconsider Order No. 2, states:

On December 31, 2018 the Administrative Law Judge entered Order No. 2 denying C&H's Motion for Continuance, stating that he was "prohibited" from granting that relief. Order No. 1, entered on December 19, 2018, states as follows:

C. Motion For Continuance. The dates and times scheduled by the ALJ shall not be changed for any party except upon a showing of "good cause." A party shall file a motion, or in the alternative send an email to the attention of the Commission Secretary, stating the reasons that good cause exists. The request for a continuance should be filed or emailed at least ten (10) days before the date scheduled for the preliminary hearing and served on all other parties in the docket.

The preliminary hearing is scheduled for January 4, 2018 and C&H filed its motion before the date scheduled for the preliminary hearing, stating and documenting the good cause that exists for continuance. While the motion was not filed ten (10) days before the date scheduled for the preliminary hearing, Order No. 1 suggested, but did not mandate, that schedule. The undersigned was out of town for the Christmas holidays, and was unable to file the motion until his return on December 28, 2018. Furthermore, the ALJ has continued a Preliminary Hearing in other matters when circumstances justify such an action.<sup>1</sup> For example, in *In the Matter of Delta Natural Kraft, LLC*, APC&EC Docket No. 11-012-P, the ALJ initiated the Preliminary Hearing on October 11, 2011, but continued the Preliminary Hearing until July

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<sup>1</sup> In the *Delta Kraft* matter the circumstances were ongoing settlement discussions.

11, 2012 (ten months) through Order No. 7, which stated that “the hearing officer will not issue another scheduling order.”

C & H has also filed today an expedited motion for an order expressly expanding the Newton County Circuit Court’s stay order to Docket No. 18-001-P. This Motion for Reconsideration is filed subject to the circuit court motion, but the circuit court motion constitutes further cause for the relief requested herein.

WHEREFORE, C & H Hog Farms, Inc. requests, for good cause shown through the Motion for Continuance filed herein on December 28, 2018, that on January 4, 2019 the ALJ not issue a scheduling order, and continue and reschedule the Preliminary Hearing for such time as the Reg. 5 Judicial Appeal and the Reg. 6 Judicial Appeal are resolved and the Interim Order and Stay is dissolved; and for all other proper relief to which it may be entitled.

Respectfully Submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that I have served a copy of the foregoing pleading upon the following by electronic mail on this 2<sup>nd</sup> day of January, 2019:

Michael McAlister  
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/s/ Charles R. Nestrud  
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