

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

**APPLICATION OF DUKE ENERGY FIELD
SERVICES, LP FOR AN ACID GAS INJECTION
WELL, LEA COUNTY, NEW MEXICO.**

CASE NO. 13589

DCP'S RESPONSE TO RENEWED MOTION TO CONTINUE HEARING

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DCP Midstream, LP ("DCP") responds to the Smiths' Renewed Motion to Continue

Hearing and states as follows:

1. The Smiths renew their request for a continuance because they received DCP's Pre-Hearing Statement in the mail on July 12th and they do not have enough time to engage experts to review exhibits or prepare testimony.
2. Pre-hearing Statements were to be filed last Thursday, July 7th by 5:00 p.m. DCP filed its Pre-Hearing Statement on Thursday and both mailed (a notebook) and e-mailed a copy to Smiths' counsel in compliance with Commission rules. Unfortunately, it appears that counsel for the Smiths did not receive the e-mail. The Smiths could have also contacted the Commission to determine whether a Pre-hearing Statement had been filed but apparently did not.
3. DCP is offering some technical testimony and evidence mostly by Mr. Gutierrez to confirm the ability of DCP to inject greater volumes of acid gas into the AGI well as well as to explain the composition of the gas received by DCP. Mr. Gutierrez is also responding to an allegation asserted by the Smiths regarding DCP's approved H₂S contingency plan. DCP would not have prepared the additional H₂S information but for assertions made by the Smiths.
4. In other words, none of DCP's testimony should be a surprise to the Smiths since DCP's planned presentation involves a discussion regarding acid gas volumes in line with DCP's

request in its Motion or issues that the Smiths have inserted.

5. Although the Smiths have asserted many claims – which DCP takes seriously and is prepared to respond to if necessary -- they chose not to present a technical expert according to their late-filed Pre-Hearing Statement. Mr. Smith also did not present any technical witnesses at the original 2006 hearing when he had his first opportunity to express concerns about the AGI well.

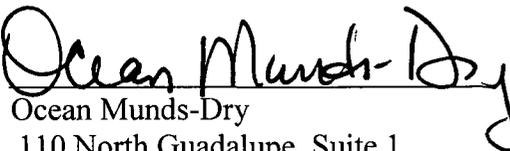
6. DCP submits that there is no prejudice when pre-hearing statements are typically filed simultaneously and when it is the Smiths who have injected issues beyond the scope of DCP's motion in the first instance that have forced a more technical discussion than would have been required.

7. Finally, DCP objects to a continuance as its witnesses are traveling to Santa Fe today.

WHEREFORE, DCP respectfully requests the Commission deny the Smiths renewed motion for a continuance.

Respectfully submitted,

HOLLAND & HART, LLP

By: 
Ocean Munds-Dry
110 North Guadalupe, Suite 1
Post Office Box 2208 (87504-2208)
Santa Fe, New Mexico 87501
(505) 988-4421
(505) 983-6043 facsimile

ATTORNEYS FOR DCP MIDSTREAM, LP

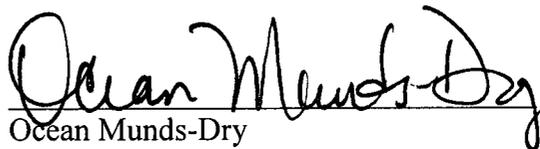
CERTIFICATE OF SERVICE

I certify that on July 13, 2011 I served a copy of DCP's response to the following by:

Thomas Bunting (via Facsimile)
Rick Alviderez
Miller Stratvert PA
PO Box 25687
Albuquerque, NM 87125-0687
(505) 243-4408 FAX

Sonny Swazo, Esq. (via Hand-Delivery)
Gabrielle Gerholt, Esq.
New Mexico Oil Conservation Division
1220 S. St. Francis Drive
Santa Fe, New Mexico 87504

Cheryl Bada, Esq. (via Hand-Delivery)
New Mexico Oil Conservation Commission
1220 S. St. Francis Drive
Santa Fe, New Mexico 87504


Ocean Munds-Dry