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December 14, 2012

## VIA U.S. MAIL

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Re: Application of Duke Energy Field Services, LP for an Acid Gas Injection Well, Lea  
County, NM, Case No. 13589

Dear Commissioners, Ms. Davidson, and Counsel:

Enclosed is the Smiths' Pre-Hearing Statement and Exhibits 1 through 3. Please contact  
me if you have any questions. We look forward to seeing you all on December 20<sup>th</sup>.

Sincerely,



Richard L. Alvidrez  
Thomas J. Bunting

TJB/dcg

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

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APPLICATION OF DCP MIDSTREAM, LP  
TO RE-OPEN CASE NO. 13589 TO AMEND  
RULE NO. R-12546.

CASE NO. 13589

**THE SMITHS' PRE-HEARING STATEMENT**

Randy Smith, Naomi Smith, and the Smith Farm and Ranch (collectively the "Smiths") hereby present the Commission with their pre-hearing statement for the hearing on the Motion to Re-Open Case No. 13589 ("Motion") filed by DCP Midstream, LP ("DCP"). The Smiths oppose DCP's Motion because DCP has not proven it can safely and reliably operate its proposed Linam Ranch acid gas injection well ("AGI") No. 2 and, indeed, its existing AGI No. 1 has had numerous operational problems that have threatened the health and safety of neighboring landowners. Furthermore the Smiths contend that, contrary to DCP's assertions otherwise, the Lower Bone Springs formation does not fully contain the injected acid gas and such gas has made its way into the water table underneath the Smiths' property.

**Appearances**

1. Randy Smith, individually and on behalf of the Smith Farm and Ranch
2. Naomi Smith, individually and on behalf of the Smith Farm and Ranch
3. Richard L. Alvidrez and Thomas J. Bunting, counsel  
Miller Stratvert PA  
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### **Statement of the Case**

DCP filed its C-108 Application for Authority to Inject on October 29, 2012. The Application requests the Commission to re-open Case No. 13589 for the purpose of amending Order No. R-12546-D, so that DCP may install what it terms a "redundant" AGI. DCP's Application states that the Lower Bone Springs formation has completely contained the acid gas injected through AGI No. 1, and will completely contain the acid gas proposed to be injected through AGI No. 2. The Application also states that the AGI No. 2 will be functionally reliable. Finally, the Application states that there is no hydrologic connection between the proposed injection zone and any known sources of drinking water.

The Commission granted the Smiths' Motion to Continue the hearing in this matter and re-set the hearing for a special meeting of the Commission on December 20, 2012.

### **Reasons for Opposition**

The Smiths oppose the Application for two main reasons: First of all, DCP has not presented evidence that the proposed AGI No. 2 can be safely constructed and operated. The operational history of AGI No. 1 suggests that this second well will be plagued with problems of equipment failure, corrosion of the well casing, and excess and unintended emissions of H<sub>2</sub>S into the air.

Second, DCP has not refuted or even addressed the Smiths' contention that at least one residential water well on the Smiths' property has become contaminated with H<sub>2</sub>S from the AGI No. 1 injection zone. Mr. Smith brought up this concern during the July 14, 2011 hearing on DCP's Motion to Amend Rule No. R-12546. Further testing of the wells on the Smiths' property, conducted by both the Oil Conservation Division and an independent laboratory, has

revealed the presence of H<sub>2</sub>S in the water. Tests have also confirmed that the H<sub>2</sub>S present in the Smiths' water is not from a biologic source.

### **Witnesses**

Either Randy or Naomi Smith will testify at the hearing. Either Mr. or Mrs. Smith plan to share their personal experiences with the spotty operational record of AGI No. 1. They will also testify regarding the incidence of H<sub>2</sub>S in the well(s) on their property. Estimated time: 30 minutes.

Geoffrey Leking will testify under subpoena at the hearing. Mr. Leking, who is a compliance officer for the Division, will testify regarding his testing and observations of the water wells on the Smiths' property. Estimated time: 20 minutes.

Celey Keene may testify at the hearing. Ms. Keene, who is the Laboratory Director and Quality Manager of Cardinal Laboratories in Hobbs, New Mexico, may testify regarding Cardinal Laboratories' testing of samples from water wells on the Smiths' property and regarding the characteristics of the H<sub>2</sub>S present in the samples. Estimated time: 20 minutes. The Smiths will notify the Commission and the parties as soon as they confirm Ms. Keene's attendance at the hearing.

W. Scott Brake may testify at the hearing. Mr. Brake, who is employed at the Xcel Energy Maddox power plant in Hobbs, New Mexico, may testify regarding the operational record of AGI No. 1 and regarding results of testing conducted on the Smiths' water wells. Estimated time: 20 minutes. The Smiths will notify the Commission and the parties as soon as they confirm Mr. Brake's attendance at the hearing.

**Exhibits**

- Exhibit 1: Oil Conservation Division filings and e-mail communications regarding the safety and operational characteristics of AGI No. 1.
- Exhibit 2: New Mexico Environment Department, Air Quality Bureau, Notice of Violation Penalty Payment Tracking Coversheet.
- Exhibit 3: Testing results from Cardinal Laboratories.
- Any exhibits necessary for rebuttal.

Respectfully submitted,

MILLER STRATVERT P.A.

By: /s/Thomas J. Bunting

RICHARD L. ALVIDREZ

THOMAS J. BUNTING

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and the Smith Farm and Ranch

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I HEREBY CERTIFY that a true and correct copy of the foregoing was served via email to the following counsel of record on this the 13<sup>th</sup> day of December, 2012 and, also, paper copies will be mailed via U.S. Mail to counsel of record and to the Commissioners on December 14<sup>th</sup>, 2012:

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/s/Thomas J. Bunting  
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