

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

**IN THE MATTER OF THE APPLICATION
OF DUKE ENERGY FIELD SERVICES, LP FOR
APPROVAL OF AN ACID GAS INJECTION WELL
LEA COUNTY, NEW MEXICO**

CASE NO. 13589

AMENDED PRE-HEARING STATEMENT

This Pre-Hearing Statement is submitted by Miller Stratvert P.A. (J. Scott Hall) on behalf of Randall Smith, Dean "Beach" Snyder and A.C. Ranch Partnership, as required by the Oil Conservation Commission.

APPEARANCES

ATTORNEYS

William F. Carr, Esq.
Holland & Hart LLP
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(505) 983-6043/Facsimile

OPPONENT'S ATTORNEY

J. Scott Hall, Esq.
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Post Office Box 1986
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APPLICANT

Duke Energy Field Services, LP

OPPONENTS

Randall Smith, Dean "Beach" Snyder and
A.C. Ranch Partnership

STATEMENT OF THE CASE

OPPONENTS' STATEMENT

Randall Smith is a landowner whose farm and home is located immediately north of the proposed location of Duke Energy's pipeline and injection facility. Beach Snyder and S. G. Cobb through their A. C. Ranch Partnership own the ranch unit and surrounding acreage upon which the pipeline and injection facility are proposed to be located. Smith, Snyder and A. C. Ranch Partnership oppose the Application and the relief requested therein. None of the opponents of the pipeline and injection facility were notified of the Application. Applicant's proposal for the transportation, compression and injection of carbon dioxide and hydrogen sulfide acid-gas involves the handling of defined hazardous and ultra-hazardous chemicals and substances. The Application and the State's regulatory review process do not seem adequately designed to assure the protection of public health and the environment per NMSA 1978 §§70-2-12(A)(21) and (22). Finally, Duke Energy Field Services does not have the ownership right, by lease, permit or otherwise, to utilize the lands for the purposes proposed in its Application. For this reason alone, the Application should be dismissed.

PROPOSED EVIDENCE

OPPONENTS'

WITNESSES

ESTIMATED TIME

EXHIBITS

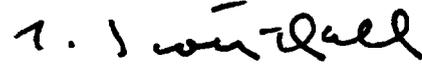
Randall Smith	1 hour	20
Mr. Smith will testify, on among other things, his concerns about the risks to the environment and to human health and safety posed by the proposed project and other similar projects.		
S. G. Cobb (Landowner)	20 minutes	3
Mr. Cobb will testify on, among other matters, his concerns about the risks to the environment and to human health and safety posed by the proposed project. Mr. Cobb will also testify regarding the detrimental effects on land and property values.		

PROCEDURAL MATTERS

1. Opponents' Motion to Dismiss remains pending before the Commission.

MILLER STRATVERT P.A.

By:



J. Scott Hall
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Snyder & A.C. Ranch Partnership
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Certificate of Service

I hereby certify that a true and correct copy of the foregoing was faxed to counsel of record on the 9th day of March 2006, as follows:

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J. Scott Hall

AC RANCH
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HOBBS, NEW MEXICO 88240

Mr. Mark Fesmire, Director
New Mexico Oil Conservation Division
1220 South St. Francis Drive
Santa Fe, New Mexico 87505
VIA FACSIMILE 505-476-3462 & FEDERAL EXPRESS

Re: Proposed Acid Gas Pipeline and Injection Well,
Section 30, T18S, R30E, Lea County, New Mexico

Dear Mr. Fesmire:

I am writing to you to express my concerns regarding the application of Duke Energy Field Services, L. P. seeking the Oil Conservation Division's approval to construct a pipeline and injection well facility for the transportation and disposition of hydrogen sulfide and carbon dioxide at the above-referenced location.

Although it is proposed that the facilities will handle extremely hazardous substances, it is my understanding that the application was made under the ambit of the agency's rules for processing applications for comparatively simple, non-hazardous salt water disposal wells, based on past practice for one or two previously approved acid gas disposal facilities. However, I understand that none of the orders approving the facilities in those earlier cases made findings with respect to the protection of public health and the environment as the Oil and Gas Act would seem to require. I also understand that the agency's rules do not set forth clearly established procedures and protocols for the review of underground hazardous substance disposal facilities on a reliable and consistent basis. It does not seem appropriate that under the current rules, such facilities can be approved administratively without the notice to the affected public or without a hearing.

Given the close proximity of the proposed facility to the city of Hobbs and the obvious concerns for human health and the environment, you are requested to defer further action on the currently pending application until such time as the agency has had the opportunity to consider revisions to its current rules or the adoption of new rules designed to clarify the procedures and criteria for the underground disposal of hazardous substances.

Thank you for your consideration of this request. I will be attending the hearing in Santa Fe on March 13, 2006.

Sincerely,


S.G. Cobb - Partner

Dean A. Snyder - Partner on behalf of the Snyder Children's Educational Trust

C: Senator Carroll Leavell, Senator Gay Kernan, Representative Don Bratton
Via Facsimile

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