



July 12, 2006

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VIA HAND DELIVERY

Mark E. Fesmire, P. E.
Director
Oil Conservation Division
New Mexico Department of Energy,
Minerals and Natural Resources
1220 South Saint Francis Drive
Santa Fe, New Mexico 87505

Re: Oil Conservation Division Case 13589: Application of Duke Energy Field Services, LP for Approval of an Acid Gas Injection Well, Lea County, New Mexico. (Order Nos. R-12546 and R-12546-A)

Dear Mr. Fesmire:

Order No. R-12546, issued on May 5, 2006, granted Duke Energy Field Services's application for an acid gas injection well in Lea County, New Mexico. J. Scott Hall, on behalf of certain parties in this case ("Opponents"), applied for a rehearing on May 25, 2006. The Commission denied the Application for Rehearing on June 5, 2006 and issued corrective Order No. R-12546-A. The Opponents did not exhaust their administrative remedies or exercise their statutory rights to appeal either Commission order. These orders are now final.

By letter dated July 6, 2006, Mr. Hall asked the Division Director to modify the Commission's orders and require notice to all interested and affected parties when Duke seeks Division approval for the Linam Gas Plant of (1) a Hydrogen Sulfide Gas (H₂S) Contingency Plan, (2) a modification to its discharge permit, and (3) an administrative order acknowledging compliance with the conditions of Commission Order No. R-12546, as amended. The Opponents request that this notice be provided to "all interested and affected persons with the opportunity to participate in the review and approval process." This notice and opportunity for hearing is not authorized by rule, order or statute.

The Opponents could have raised notice issues by appropriate appeal of these Orders - but did not do so. The Commission Orders in this case have become final and the administrative proceedings in this matter came to an end when the Opponents failed to pursue their administrative remedies. It would be improper for the Division Director to



attempt to amend these Commission orders or to read into the Orders requirements not imposed by the Commission.

Very truly yours,

William F. Carr

cc: Joshua Epel, Esq,
J. Scott Hall, Esq.
Cheryl O'Conner, Esq.
David K. Brooks, Esq.
James Bruce, Esq.
Lauren Buhler, Esq.