

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

RECEIVED OCD

2017 JAN 30 A 8:04  
CASE NO. 15617

APPLICATION OF CK DISPOSAL, LLC  
FOR A PERMIT TO OPERATE A COMMERCIAL  
SURFACE WASTE MANAGEMENT FACILITY,  
LEA COUNTY, NEW MEXICO

**APPLICANT'S MOTION TO LIMIT THE SCOPE OF HEARING ISSUES**

COMES NOW, CK Disposal, LLC ("Applicant"), and files this Motion to Limit the Scope of Hearing Issues to those disputed by Protestant URENCO ("PROTESTANT" or "URENCO" or "LES"), relating to the hearing on the merits that is set to commence on February 8, 2017 in Santa Fe. Applicant has conferred with counsel for Protestant URENCO on this Motion over the past week, and has been unable to reach agreement on the scope of issues to which the hearing should be limited. Counsel for OCD has indicated that it will not oppose an agreed limitation to the scope of issues at the hearing. As a conservative measure, Applicant files this Motion so that the issue may be resolved in the upcoming telephonic prehearing conference on Monday, January 30, 2017.

**I. BACKGROUND: PROTESTANT URENCO IS THE ONLY HEARING REQUESTOR, URENCO'S STATED CONCERNS TARGET A LIMITED NUMBER OF SPECIFIC ISSUES, AND EXPERT STAFF REVIEW OF THE APPLICATION HAS RESULTED IN ISSUANCE OF A DRAFT PERMIT AND TENTATIVE DECISION APPROVING THE APPLICATION.**

On November 6, 2015, the Application for the proposed disposal facility was submitted to the Oil Conservation Division ("OCD"). After completion of technical review by the OCD, on October 13, 2016, the OCD issued its tentative decision approving the Application with conditions and issued a draft permit with general and specific conditions. Following the tentative decision, notice of the OCD's tentative decision was published in the Albuquerque

Journal and the Hobbs News-Sun, and subsequently, URENCO filed a hearing request and comments stating concerns relating to the Application by letter dated November 22, 2016. On January 9, 2017, the hearing on the Application commenced in Eunice, and public comment was taken on the Application. The evidentiary portion of the hearing is set to commence on February 8, 2017 in Santa Fe. Protestant URENCO is the only hearing requestor and the only participating Protestant in the hearing on this Application.

**II. IN THE INTEREST OF EFFICIENCY, THE HEARING ISSUES SHOULD BE LIMITED TO THOSE ISSUES THAT ARE CONTESTED BY THE PARTIES.**

Protestant URENCO has raised certain specific issues to challenge the subject Application. These issues were raised in URENCO's June 2, 2016 comments, June 22, 2016 comments, and its November 22, 2016 comments and hearing request.<sup>1</sup> The issues URENCO raised in its letter dated November 22, 2016, June 2, 2016, and June 22, 2016 comment letters contain four (4) general areas of concern. These areas of concern are broadly summarized as: (1) concerns related to hydrogen sulfide; (2) concerns regarding air emissions for VOC's and whether permitting could be required from the New Mexico Environment Department; (3) concerns relating to traffic safety; (4) concerns relating to groundwater, specifically relating to the adequacy of Applicant's geological data and description and whether its test borings are too shallow.

Worthy of note, URENCO has raised arguments relating to the existence of another oil & gas waste disposal facility bordering the URENCO property (the "Sundance" facility). URENCO has alleged that the Sundance facility does not present unnecessary new risks to URENCO, and that the Sundance facility has applied for a new facility permit for which URENCO knows of no new and unnecessary risks to the detriment of public health and safety.

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<sup>1</sup> See Letter from URENCO dated November 22, 2016.

While these statements may attempt to explain URENCO's failure to protest or oppose the Sundance facility operations that border URENCO, these statements are not issues that are relevant to this permitting matter. In fact, these statements have no bearing on whether the regulatory requirements for permit issuance have been met by CK Disposal. Any issues related to these statements are unnecessary, irrelevant, and a waste of limited hearing time. Accordingly, these issues should be excluded.

In the interest of efficiency, the hearing on the merits should be limited to the issues numbered (1)–(4) above, which are those issues contested by Protestant URENCO. Each of the other technical issues relating to this Application has been adequately reviewed, a draft permit and tentative decision issued, and no contest to such issues by a hearing requestor was received. Therefore, Applicant requests that the hearing be limited to the contested issues.

### **III. CONCLUSION**

WHEREFORE PREMISES CONSIDERED, Applicant respectfully requests that the hearing on the merits for the referenced Application be limited to the issues identified above, and that the Commissioners adopt the tentative decision's finding that all remaining requirements were satisfactorily met by Applicant.

Respectfully submitted,

**HANCE SCARBOROUGH, LLP**

/s/ Michael L. Woodward

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**CERTIFICATE OF SERVICE**

I hereby certify that the above pleading was served on the following parties by electronic mail on January 27, 2017.

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