

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

2006 MAY 18 PM 4 32

**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

NOTICE OF INTERVENTION

Madison M. Hinkle, Randolph M. Richardson, Morris Schertz, Rolla R. Hinkle, III, Oscura Resources, Inc., and R.R. Hinkle Company, Inc., through their counsel, Miller Stratvert, P. A., (J. Scott Hall), provide notice of their intervention in this proceeding pursuant to Rule 19.15.14.1209 NMAC.

These Intervenors are the owners of the mineral interests underlying the W/2 NE/4, NW/4 of Section 30, T18S, R37E, NMPM, immediately adjoining the SW/4 of Section 30 on which the Applicant Duke Energy Field Services, L.P. holds a State of New Mexico oil and gas lease. Applicant proposes to utilize its State lease in order to drill a well for the proposed injection and disposal of hydrogen sulfide and carbon dioxide acid gas. Applicant's vertical well will be drilled at surface and bottomhole locations 1980 feet from the south and west lines of Section 30. The proposed acid gas injection well will be located 660' from the Intervenors' mineral lands.

Intervenors were prevented from complying with the time requirements for filing their Notice of Intervention under the provisions of Division Rule 1209-A for the reason that the Applicant failed to provide them with notice of application as required by the Division's rules. Applicant also failed to comply with the Division's UIC Director's September 16, 2005 letter

requiring Duke Energy to notify the mineral interest owners in all tracts within a one mile radius of the proposed well.

The Intervenors are “persons who may be affected” by the application within the meaning of Rule 1207-A(6). Applicant was further required to conduct a good faith diligent effort to locate those persons who may be affected by the Application by Rule 1210-C. It failed to do so. As a consequence of the Applicant’s failure to notify these mineral interest owners, they were unaware of the Application and were deprived of the opportunity to appear at the Commission’s March 13, 2006 hearing and otherwise take steps necessary to protect their interests.

Intervenors oppose the Application to the fullest extent. Intervenors intend to present testimony and evidence establishing that recoverable hydrocarbon resources owned by them will be destroyed if Duke Energy’s Application is approved and injection is allowed to proceed. Intervenors will also prove that the injection of hydrogen sulfide will result in the creation of a new corrosive zone where none existed before which may require operators planning to penetrate the zone to implement special casing and cementing programs at significantly higher drilling and completion costs. Intervenors will also establish that there is currently no regulatory mechanism in place that would notify operators that they would encounter the hydrogen sulfide laden zone and that an H²S contingency plan may be required.

Because of the threat of injury to their mineral interests posed by the planned injection operations, Intervenors have the requisite standing. Intervention in this case by Messrs. Hinkle, Richardson, Schertz, Hinkle, Oscura Resources, Inc., and R.R. Hinkle Company, Inc., is necessary in order to demonstrate to the Commission that the denial of the application is necessary for the prevention of waste and the protection of correlative rights. Intervention is

further necessary so that the Commission may fulfill its statutory duties to act to prevent waste and protect correlative rights under, *inter alia*, NMSA 1978 § 70-2-11, as well as to protect public health and the environment pursuant to NMSA 1978 § 70-2-12 B (22).

MILLER STRATVERT P.A.

By: J. Scott Hall

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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 17 day of May, 2006 as follows:

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