DOYLE HARTMAN

Oil Operator 500 NORTH MAIN P.O. BOX 10426 MIDLAND, TEXAS 79702

(915) 684-4011 (915) 682-7616 FAX

Certified Mail, Return Receipt Requested and Hand-Delivery

February 8, 2001

Duke Energy Field Services, L.L.C. 3300 N. A St., Bldg. 7 (79705-5421) P.O. Box 50020 Midland, TX 79710-0020

Attn: Lewis C. (Chip) Short, Agent Ken Lilley, Manager Gas Supply Mike Fitzgibbons, Commercial Director Ron Barcroft, Commercial VP Larry Nash, Right-of-Way Manager



Re: Duke's Improper Attempt to Permanently Deny Equal Access to Essential Gathering/Processing Facilities at a Time of <u>Tight</u> Natural Gas Supplies Doyle Hartman-Operated State "BV" No. 1 Well S/2 Section 25, T-17-S, R-28-E Empire South Morrow Pool Eddy County, New Mexico [State of New Mexico Lease No. XO647-394 (Formerly Lease No. 647)]

Gentlemen:

Reference is made to Duke Energy Field Services, L.L.C's (Duke's) certified letter, to Doyle Hartman, Oil Operator, dated January 24, 2001 (received February 5, 2001), corresponding to the Doyle Hartman-operated State "BV" No. 1 well located 1800' FSL and 1980' FEL, Section 25, T-17-S, R-28-E, Empire South Morrow Gas Pool, Eddy County, New Mexico [State of New Mexico Lease No. XO647-394 (formerly Lease No. 647)].

In Duke's <u>brief</u> one-paragraph letter, of January 24, 2001 (copy enclosed), and without ceremony, Duke gave written notice that it will <u>disconnect</u> (remove) its gas sales meter (effective March 1, 2001), from our State "BV" No. 1 well, due to an <u>alleged</u> (but

unsubstantiated) high oxygen content, in the State "BV" No. 1 gas stream. Duke's January 24, 2001 letter was Duke's first <u>written</u> notice regarding an alleged <u>on-going</u> oxygen problem, although Duke, and its predecessors-in-interest, have <u>continually</u> (and without prior objection) gathered and purchased gas from this same well and producing zone, for the past 15 years (under Gas Purchase Contract LEE 0644-00*, dated August 25, 1986).

This letter is to advise Duke that it must <u>not</u> take such action. Notwithstanding the fact that Duke no longer desires to purchase Doyle Hartman's State "BV" No. 1 Morrow gas production, but in accordance with the non-discrimination provisions of New Mexico's <u>Common Purchaser Statute</u> (Section 70-2-19, NMSA 1978), Duke <u>must</u> nonetheless <u>continue</u> to provide <u>essential</u> gathering (transportation/compression) facilities and processing services, so that (1) the State "BV" No. 1 well and 320-acre South Empire Morrow (Gas) spacing unit continues to be provided equal market access, and (2) production revenues can continue to be derived (without interruption) from State of New Mexico Lease No. XO647-394, by the sale of liquids and residue gas production to downstream third-parties.

As justification for its announced meter disconnection (removal) action, Duke's January 24, 2001 letter <u>incorrectly</u> stated that Duke's Artesia plant <u>cannot</u> meet "residue gas quality specification", <u>because of</u> "increased oxygen content" in Doyle Hartman's State "BV" No. 1 gas stream. In support of its allegation, Duke provided absolutely <u>no</u> evidence of the <u>current</u> oxygen level of the State "BV" No. 1 gas stream, nor any evidence of the current oxygen content in either the inlet gas stream into Duke's Artesia plant, or the gas stream that exits the plant.

Also, in regard to Duke's alleged <u>current</u> high-oxygen-content problem, please be advised that Doyle Hartman, in December, 2000, utilized a high-pressure high-volume air drilling and cleanout unit, to clean frac proppant, from the State "BV" No. 1 well, after the State "BV" No. 1 well was successfully fracture stimulated, by Halliburton Energy Services, on December 22, 2000. Consequently, because of the use of an air unit, to clean frac proppant from the State "BV" No. 1 wellbore, and recognizing that air is 20% oxygen, in retrospect, it now appears that the State "BV" No. 1 oxygen content, at year-end 2000, was at a temporarily-elevated level, as a result of <u>air</u> leak-off into the <u>near-wellbore region</u> of the State "BV" No. 1 producing zone, during the cleanout process.

The probable occurrence, of limited air leak-off during the cleanout process, is documented by the fact that the State "BV" No. 1 well was <u>temporarily</u> denied access (on January 1, 2001) to Duke's Artesia gas gathering system, because of an elevated oxygen level of 34,000

ppm (.034 gas fraction). Subsequently, on January 16, 2001, Duke personnel retested the State "BV" No. 1 wellstream, for oxygen content, and obtained a <u>substantially</u> reduced oxygen reading of 900 ppm (.0009 gas fraction), at which time, Duke <u>unlocked</u> its State "BV" No. 1 meter run block valve and <u>again</u> allowed the State "BV" No. 1 well access to its Artesia gathering system.

Given the fact that (1) Duke's own January 16, 2001 oxygen reading, of 900 ppm, was well <u>below</u> the <u>permissible</u> oxygen limit, of 2000 ppm, as specified in Gas Purchase Contract LEE 0644-00* and (2) Duke (on January 17, 2001) <u>again</u> allowed the State "BV" No. 1 well access to its Artesia gathering system, it strongly appears that Duke's <u>subsequent</u> unsubstantiated and misleading January 24, 2001 allegation, that the Doyle Hartmanoperated State "BV" No. 1 well is <u>responsible</u> for Duke's <u>current</u> high-oxygen-content problem, is a deliberate attempt, by Duke (through the use of fraudulent or misleading statements), to improperly and <u>permanently</u> deny <u>market</u> access to our newly-reworked State "BV" No. 1 well, at a time of tight gas supplies, and strong demand.

As our offer of proof, that our State "BV" No. 1 well is <u>not</u> the source of Duke's alleged high-oxygen-content problem, we are enclosing herewith an oxygen-content report, that was issued yesterday, by Mobile Analytical Laboratories, of Odessa, Texas, corresponding to our State "BV" No. 1 wellstream. As can be ascertained from a review of the herein enclosed report, on <u>February 6, 2001</u>, the oxygen content of the State "BV" No. 1 wellstream was a <u>minuscule</u> 10 ppm (0.00001 gas fraction, or a daily oxygen rate of 0.005 MCFPD), which <u>substantiates</u> that our State "BV" No. 1 well <u>cannot</u> be the source of Duke's <u>alleged</u> high-oxygen-content problem, at the tailgate of its Artesia plant.

However, notwithstanding the fact that our State "BV" No. 1 well is <u>not</u> the source of Duke's alleged high-oxygen-content problem, and, in total <u>disregard</u> of the rights of Doyle Hartman, and the <u>beneficiaries</u> of State of New Mexico Lease No. XO647-394 (57.93% University of New Mexico, 42.07% Common Schools), Duke has heretofore made no attempt to rescind its <u>incorrect</u> assertion that our State "BV" No. 1 well is the cause of its alleged <u>current</u> high-oxygen-content problem, nor has Duke withdrawn its <u>dire</u> strong-armed threat to disconnect our State "BV" No. 1 well from <u>essential</u> gathering and processing facilities, effective March 1, 2001.

Therefore, in recognition of the foregoing, including the fact that the Doyle Hartmanoperated State "BV" No. 1 well <u>cannot</u> be the cause of Duke's <u>alleged</u> high-oxygen-content problem, we hereby request that Duke <u>immediately</u> withdraw its improper threat to

disconnect the State "BV" No. 1 well, so that we can proceed, without interruption, to pay out our recent substantial \$825,000 workover investment, and fully recover, on behalf of ourselves and the State of New Mexico royalty beneficiaries, the remaining gas reserves that underlie our State "BV" No. 1 well and spacing unit.

Very truly yours,

DQYLE HARTMAN, Oil Operator

Doyle Hartman

rcs wp7\corresp.dh\duke-state-bv.hi-oxygen

cc: Richard B. Priory, Chairman of the Board, President and CEO Duke Energy Corporation
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DOYLE HARTMAN, Oil Operator (Midland) Linda Land, Controller Don Mashburn, Engineer Steve Hartman, Engineer ł



Duke Energy Field Services, L.L.C. 3300 North "A" Street, Building 7 Midland, Texas 79705-5421 P.O. Box 50020 Midland, Texas 79710-0020

January 24, 2001

VIA CERTIFIED MAIL; RETURN RECEIPT

Doyle Hartman Oil Operator 3811 Turtle Creek Blvd., Suite 200 Dallas, Texas 75219

RE: State "BV" No. 1 S/2 Section 25 T-17S-R-28E Eddy County, New Mexico Gas Purchase Contract: LEE 0644-00* (dated August 25, 1986) DEFS Meter No. 0681-076019-00

Gentlemen:

Duke Energy Field Services, LP ("DEFS") has been purchasing gas from the subject lease on a month to month basis, subsequent to your June 11, 1997 notice of termination of the subject contract. We have recently experienced problems meeting our residue gas quality specifications out of our Artesia Plant due to oxygen content, and have traced the high oxygen content in our gathering system to your lease. Due to increased oxygen content in the gas received by DEFS at this meter, DEFS can no longer accept deliveries of gas from this delivery point. Please accept this as our notification that, effective March 1, 2001, DEFS will disconnect the subject meter station and discontinue receipt of gas from this delivery point.

Yours truly,

euros C. Short

Lewis C. Short, Agent (915) 620-4056

LCS:ydg



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Mobile Analytical Laboratories

LABORATORIES IN ODESSA. GIDDINGS & STACY DAM February 7, 2001 WEST UNIVERSITY AND WESTOVER STREET P.O. BOX 69210 ODESSA. TEXAS 79769-0210 Mr. Doyle Hartman Hartman Oil Hartman Oil

Mr. Doyle Hartman Hartman Oil 500 North Main Street Midland, Texas 79701

Sample ID: Trip No. 140 State BV #1 System 0681 Meter Run 76019-00 Sampled 02/06/01

> Oxygen ppm

> > 10

Method - Oxygen by Teledyne

We appreciate the opportunity to work with you on these tests. If you have any questions or require any further information, please feel free to contact me at any time.

Sincerely, Herd se.

Stephen Reid SR/jl



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NEW MEXICO STATE LAND OFFICE

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Our Vision

Welcome to the New Mexico State Land Office web site. Our vision at the State Land Office is to be the nation's model for state trust land management, providing for current and future productivity of the state trust lands for the next generation of beneficiaries.

Our mission is to support the beneficiaries of the trust which include: universities, public schools, special schools and hospitals that serve children with physical, visual, and auditory disabilities, prisons, and public buildings at the Capital complex.

In the past 20 years, state trust lands and the permanent funds have contributed more than \$4 billion to education in New Mexico while generating revenues resulting in the \$8 billion Land Grant Permanent Fund. The State Land Office is responsible for administering the 9 million acres of surface land and 13 million acres of subsurface rights for the beneficiaries. Each section of land is designated for a specific beneficiary, with public schools as the designee of the majority of the acreage.

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The State Land Office is responsible for administering 9 million acres of surface and 13 million acres of subsurface land for the beneficiaries of the trust. Each acre of land is designated to a specific beneficiary, with public schools receiving more than 90 percent of the acreage. State trust land is located in 32 of New Mexico's 33 counties. The goals of the trust are to optimize revenues while protecting the health of the land for future generations.

Trust lands were granted to New Mexico by Congress under the Fergusson Act of 1898 and the Enabling Act of 1910. The latter act allowed New Mexico's admission to the United States upon voter approval of the state constitution.

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In general terms, the state was granted four square miles -- or sections 2, 16, 32, and 36 -- in each 36section township for the benefit of the public schools. Today, this amounts to 8.6 million surface acres of land.

Where sections were sold or allocated to Indian Pueblos, tribal reservations, or pre-existing land grants, the state was allowed to pick lands instead of the

four designated sections elsewhere.

Also, the state was allowed to choose "quantity grants" from the federal government, in specific amounts, to benefit the specified schools, institutions, and other purposes.

Those land grants were chosen by a commission, comprised of the governor, attorney general, and the commissioner of public lands. The grants totaled about 5 million acres.

Revenue generated from the extraction of oil and gas, from other mining, the sale of land, and any other activity that depletes the resource is placed in the permanent fund, which is invested for the beneficiaries.

Revenue from activities, like grazing and commercial activities that do not permanently deplete the resource are distributed through the maintenance fund to the designated beneficiaries after the Land Office covers its own expenses -- an amount which typically is equal to less than 6 percent of the revenue generated.

In fiscal year 1999, the trust lands generated \$154 million, including \$129 million from nonrenewable sources and \$28.7 million from renewable sources, bonuses, and fees.

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Beneficiaries

Santa Fe, and Belen. This beneficiary received more than **\$4.3 million** in income from state trust land revenues in 1999.

◆ University of New Mexico – The University of New Mexico is the

state's largest university with an enrollment of more than 30,000 students. The university is one of New Mexico's largest employers with a capital budget of about \$971 million. The main campus is located in

Albuquerque, New Mexico, which includes the Health Sciences Center. There are also branch campuses located in Taos, Gallup, Los Alamos,

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NEW MEXICO STATE LAND OFFICE

• Public (common) schools - There are a total of 89 public school

districts in the State of New Mexico with a total enrollment of 331,815 students. There are a total of 725 public schools within those statewide districts, which include 135 high schools, 139 junior high/middle

schools, and 451 elementary schools. About one third of the budgets for these schools are supported by income generated from state trust

This beneficiary received more than \$209.4 million in income from

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lands.

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state trust land, plus permanent fund, revenues in 1999.

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		and an a star		
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III. DESIGNATION OF TRANSPORTE	R OF OIL AND NATURA	L GAS	ID WAICH ASSIGNES COD	of this form is to be sensif
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is the production to commingled with that in NOTE. Complete Parts IV and V on re	· · · · · · · · · · · · · · · · · · ·	Eine committente ord		3-12-89
VI. CERTIFICATE OF COMPLIANCE		. OIL 0	CONSERVATION (DIVISION LT: NRC.
Thereby cends that the rules and regulations of th	e Oil Conservation Division have	APPROVED	MAR 1 3 '	
been complied with and that the information given i my knewledge and belief.			Outsingt Sign	ad By
· · · · · · · · · · · · · · · · · · ·		TITLE	Mike Willi	ams
511			o be filed in complia	nce with AULE 1186.
M /l.h.		If this is a rea	quest for allowable fo	a acwly defiled or deepened a tabulation of the deviation
Production Analys	<u>t</u>	tests taken on the	well La accordance	with AULE 111. Lind out completely for allow
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(2010)		well name of numbe	r, or transporter, or at	nd VI for changes of owner, her such change of condition
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District IV 2040 South Pt		Sania Fe, NM 87				•					AMEND	ED RI		
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bmit 5 Copies propriate District Office STRICT 1	•		inerals a	and Natur	al Resources	Departu	τ.		Revised 1-1- See Instruct at Bottom o	ions
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I. DESIGNATION OF TRA lame of Authorized Transporter of Oil		or Conden	rale	$\overline{\mathbf{X}}$	Address (Give	address to »	hich approved	t copy of this for	rm is to be sent))
Pride Petroleum fame of Authonized Transporter of Cas	inchead Car							TX 79604 d copy of this fo	em is to be sent	<u></u>
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INSTRUCTIONS: This form is to be filed in compliance with Rule 1104 1) Request for allowable for newly drilled or deepened well must be accompanied by tabulation of deviation tests takens in accordance with Rule 111. with Rule 111.

2) All sections of this form must be filled out for allowable on new and recompleted wells.
3) Fill out only Sections I, II, III, and VI for changes of operator, well name or number, transporter, or other such changes.
4) Scoarate Form C-104 must be filed for each pool in multiply completed wells.

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