

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

2011 JUN 30 P 4: 33

**APPLICATION OF DUKE ENERGY FIELD
SERVICES, LP FOR AN ACID GAS INJECTION
WELL, LEA COUNTY, NEW MEXICO.**

CASE NO. 13589

**DCP'S REPLY TO THE SMITHS' RESPONSE TO MOTION TO
AMEND ORDER NO. R-12546**

DCP Midstream, LP ("DCP") replies to Randy Smith, Naomi Smith and the Smith Farm and Ranch ("the "Smiths")¹ Response in Opposition to DCP's Motion to Amend Order No. R-12546 and Request to Continue Hearing and states as follows:

1. It is critical that the hearing before the Oil Conservation Commission go forward as scheduled on July 14th. As noted in its Motion, DCP is struggling each and every day with either exceeding the temporary volume limit imposed in Order R-12546-D or shutting in gas producers. There was no volume limit placed in the original order and therefore DCP is seeking immediate relief to be allowed to proceed under the terms of its original order.

2. In fact, it now appears DCP has met all conditions in the original order. On June 22, 2011, the Environmental Bureau of the Oil Conservation Division notified DCP that the discharge permit for the Linam Plant has been rescinded and is no longer required. Therefore, DCP renews its request that the Commission amend Order No. R-12546 to delete the requirement to obtain a modification of its discharge permit.

3. The Smiths response to DCP's Motion is an attempt to get another bite at the apple. Randy Smith appeared through counsel and gave testimony at the original hearing in

¹ DCP notes that Naomi Smith and the Smith Farm and Ranch did not appear before the Commission in the original proceedings in 2006. Randy Smith appears to be the only proper party to respond to DCP's motion and DCP objects to any attempt to intervene by Naomi Smith or Smith Farm and Ranch at this late date.

2006. Mr. Smith was able to conduct discovery and express any and all concerns at that time. If Mr. Smith was unsatisfied with the Commission's order he could have availed himself of his appeal rights provided in applicable statutes and regulations. However, the Order has long been final. DCP asserts that discovery is unnecessary and even if the Smiths choose to request discovery under the proper procedures, it does not warrant any additional delay in the hearing.

4. The Smiths mischaracterize the Commission's "concerns" about increasing the volume. The Commission has required certain showings and tests for any increase in pressure not volume. DCP is not asking for an increase in pressure. Additionally, DCP has complied with all terms of the Order and is operating the AGI well in compliance with all Division rules.

5. The Smiths also suggest that DCP needs to modify its hydrogen sulfide contingency plan. This is beyond the scope of DCP's Motion. Further, it does not appear that DCP needs to modify its approved hydrogen sulfide contingency plan but if it does, it is a matter handled administratively by the Division and need not take up the Commission's time.

6. Any further delay in hearing DCP's motion will cause waste of oil and gas.

Therefore, DCP requests that the Commission deny the Smiths' motion to delay a hearing for three months.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on June 30, 2011 I served a copy of DCP's Motion to the following counsel of record,

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