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June 24, 2011

VIA EMAIL [florene.davidson@state.nm.us](mailto:florene.davidson@state.nm.us)

Ms. Florene Davidson, Clerk  
Oil Conservation Commission  
New Mexico Department of Energy, Minerals, and Natural Resources  
1220 S. Saint Francis Dr.  
Santa Fe, NM 87505

Re: *Application of Duke Energy Field Services, LP for An Acid Gas Injection Well,  
Lea County, New Mexico, Case No. 13589*

Dear Ms. Davidson:

We are attaching herewith for filing with the Commission Randy Smith, Naomi Smith and the Smith Farm and Ranch's Response in Opposition to DCP's Motion to Amend Order No. R-12546 and Request to Continue Hearing, in the above-referenced matter. Thank you for your assistance in this regard.

Sincerely,



Thomas J. Bunting

TJB:th

Enclosure

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

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

CASE NO. 13589

**RESPONSE IN OPPOSITION TO DCP'S  
MOTION TO AMEND ORDER NO. R-12546 AND REQUEST TO  
CONTINUE HEARING**

Randy Smith, Naomi Smith, and the Smith Farm and Ranch (collectively the "Smiths") respectfully request that the Commission continue its hearing on the Motion to Amend Order No. R-12546 ("Motion") filed by DCP Midstream, LLC ("DCP"), currently set for July 14, 2011, until the Smiths are afforded time to conduct discovery needed to adequately respond to the Motion. The Smiths' primary concern is that DCP has not proven the proposed amendments will adequately protect public health and the environment. Additionally, the highly technical nature of the proposal requires more evidence than the record currently contains. The Smiths therefore request that the hearing on this motion be continued until at least September 14, 2011.

DCP filed its complete Motion June 13, 2011. The Motion requests an order from the Commission amending Order No. R-12546-D to allow DCP to remove the maximum injection rate for its Linam Ranch acid gas injection facility in Lea County, New Mexico, which is currently 4MMcfd. DCP's Motion also requests, as an alternative or in addition to removing the injection limitation, that the Commission waive Paragraph "N" of Order R-12546. Paragraph N mandates that, "[p]rior to commencing injection," DCP obtain an appropriate modification to its Linam Ranch Water Quality Act discharge permit to authorize the injection. The Commission

has stayed the conditions of Paragraph N in a series of Orders, ending with Order No. R-12546-G in which a stay of indeterminate length was entered on July 19, 2010.

DCP's justifications for its request to inject a potentially unlimited amount of acid gas are that the current limit placed on injection is "presumably" merely precautionary, and that DCP's officials are of the opinion that it "was not based on any technical reason." However, the Commission's orders have noted several concerns about increasing both pressure and volume. Condition 3 of Order R-12546-D, for example, limits the pressure to the current 4MMcfd, requiring step-rate tests "to demonstrate that these rates and pressures will not result in formation damage." Also, Paragraph K of Order R-12546 states that increases in allowable injection pressure will only be granted "upon a proper showing that such higher pressure will not result in migration of the injected gases from the permitted injection formation." That Order requires step-rate tests to prove the safety of any new pressure. Because the record does not show that even the current injection rate of 4 MMcfd can be safely contained in the formation without causing damage or gas escape, it is premature to allow DCP to increase that volume without permitting the Smiths to conduct discovery into this issue.

As for the removal of Paragraph N, DCP's Motion states that OCD's Revised Discharge Plan Permit Requirements appear to no longer require a discharge permit under the Water Quality Act for the injection well. This is an unsettled point on which the Smiths also require technical data from DCP, not in the record, regarding the nature of the injection.

DCP has not shown that its transportation and injection facilities can handle the increased volume of acid gas it seeks to inject, especially given that it has not proposed any upper volume limit. DCP's engineer Chris Root stated at the March 13, 2006 hearing on its original application that corrosion from H<sub>2</sub>S gas is "a factor in many of the leaks" the Linam Ranch Plant pipelines

experience. [Chris Root cross-examination, Tr. 3/13/2006 at 84] Mr. Root further explained that there is no system for testing the integrity of the acid gas pipeline other than waiting for it to leak and then performing spot repairs. [Id.] The Smiths experience firsthand what happens when systems fail at the Linam Ranch Plant: the injection facility frequently flares gas, and H<sub>2</sub>S alarms have at times gone off for periods of over 24 hours. Based on these failures, there is a serious question about whether DCP's system is capable of handling increased volumes of the gas. DCP should be required to produce data proving the adequacy of its system before the Commission authorizes any increase. As noted above, according to DCP, the only method of testing for system integrity is system failure. This is wholly inadequate.

The Smiths also believe that any modification to Order No. R-12546 may require corresponding modifications to DCP's hydrogen sulfide contingency plan to compensate for the fact that any unplanned release would be on a larger scale than the plan originally considered. In any event, the OCD has not mandated compliance with its revised discharge plan requirements until November 15, 2012 – almost a year and five months from now. Therefore, a small delay to allow discovery will not affect DCP's operations.

The Smiths request leave to conduct written discovery in the following general areas before the Commission hears this motion:

- Historical operating data regarding the volume and frequency of H<sub>2</sub>S released into the atmosphere at the injection facility so far, the number of upsets experienced, and the number and length of alarms;
- Results of step-rate tests proving that the current injection volumes and pressures are not harming the Wolfcamp formation or resulting in unplanned escapes of acid gas from the formation;
- Data showing the remaining volume in the formation, and when the formation is anticipated to be over pressurized; and

- Data showing to what extent an increased volume of gas will deteriorate the pipeline facilities, including mechanical integrity tests of the pipeline and compression equipment, and pipeline leak tests.

Rule 19.15.4.8(B) NMAC requires that an applicant file its application for an adjudicatory hearing at least 30 days before the hearing is scheduled. Because DCP filed its Motion to Amend on June 13, the Commission set the motion hearing on the earliest possible date of July 14. However, the Smiths cannot complete meaningful discovery in that short amount of time. Therefore they request that a hearing be set no earlier than September 14, 2011. The undersigned conferred with DCP's counsel but the parties could not agree on a stipulated continuance of the hearing date.

Respectfully submitted,

MILLER STRATVERT P.A.

By: DR  
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I HEREBY CERTIFY that a true and correct copy of the foregoing was mailed to the following counsel of record on this the 24 day of June, 2011:

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