

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

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2012 NOV 19 P 4: 33

**APPLICATION OF DCP MIDSTREAM, LP  
TO RE-OPEN CASE NO. 13589 TO AMEND  
ORDER NO. R-12546 FOR THE LIMITED  
PURPOSE OF AUTHORIZING A SECOND  
ACID GAS INJECTION WELL, LEA  
COUNTY, NEW MEXICO.**

**CASE NO. 13589  
ORDER NO. R-12546-I**

**DCP MIDSTREAM, LP'S RESPONSE TO THE SMITHS'  
MOTION TO CONTINUE HEARING**

DCP Midstream, LP ("DCP") responds in opposition to Randy and Naomi Smith and the Smith Farm and Ranch's (collectively "the Smiths") Motion to Continue Hearing. DCP's hearing in the above-captioned matter should not be continued unless Mr. Smith can demonstrate that his planned testimony is within the scope of DCP's specific and narrow Application and notice. If the Smith's so demonstrate and the Commission is inclined to continue the hearing, then DCP requests that the December 6 hearing be re-scheduled for a special hearing on December 10, 11, 14, any day during the week of December 17, or any day during January 2-4, 2013. In support of its opposition, DCP states as follows:

1. On November 6, 2012, DCP filed an Application to re-open Case No. 13589 to amend Order No. R-12546 for the limited purpose of approving a second injection well, the proposed Linam Ranch AGI No. 2 well.
2. Order No. R-12546, as amended, already authorizes DCP to inject treated acid gas generated by its Linam Ranch Gas Plant into the Linam Ranch AGI No. 1 well for disposal into the Lower Bone Spring formation.

3. In its Application, DCP does not seek modification of the injection volumes, rates, or pressures approved by the Commission and in effect under Order No. R-12546. Rather, DCP requests that the proposed AGI No. 2 well be approved to inject treated acid gas under existing limits and conditions imposed by Order No. R-12546. The intent of the petition is to authorize the proposed AGI No. 2 well to serve as a secondary injection well available and to be used in the event the AGI No. 1 well requires temporary cessation of injection for repairs, maintenance or upgrades, or in the event other unforeseen operational issues arise.

4. Mr. Smith should not be permitted to give testimony on an issue, or issues, outside the scope of DCP's narrow Application, as such testimony would be beyond the scope of the Application and notice. *See* Rule 19.15.4.9(A)(5)-(6) NMAC (stating that notice must provide a "brief description of the hearing's purpose" and "a reasonable identification of the adjudication's subject matter that alerts persons who may be affected" if the application is granted).

5. Thus, unless the Smiths can demonstrate that the testimony Mr. Smith intends to present at the hearing clearly falls within the narrow scope of DCP's Application, the request for a continuance should be denied. Otherwise, a continuance to allow Mr. Smith to offer testimony that may be outside the scope of the Application and notice will prejudice DCP for at least the following three reasons:

6. *First*, DCP's primary witness will not be available for the anticipated regular Commission hearing in January.<sup>1</sup> The soonest DCP can have its Application heard at a regularly scheduled Commission hearing after December 6, therefore, will be at the still unscheduled

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<sup>1</sup> No 2013 Commission hearing dates have been set yet. The Oil Conservation Division, however, is scheduled to hold hearings on January 10 and 24, which means the first regularly scheduled Commission hearing probably will be on January 17, when DCP's primary witness will be out of the country.

February Commission hearing, unless the Commission agrees to hear DCP's Application at a later date in December during a special hearing.

7. *Second*, the Oil Conservation Division is preparing to present a rulemaking hearing before the Commission in early 2013 that likely will be given preference over other matters on the docket, which would result in further delay hearing DCP's Application if it is not heard before the Division's rulemaking.

8. *Third*, aside from the significant work necessary to gain appropriate regulatory approvals, the internal planning and preparation necessary for constructing an acid gas injection well, including budgeting and internal company resource allocation, is substantial. Delaying the hearing from December to February or later would be very disruptive to DCP's internal planning resource allocation and could affect its ability to timely commit necessary capital and resources to the project upon Commission approval.


9. Accordingly, the Smiths should be required to demonstrate that Mr. Smith's planned testimony will clearly fall within the narrow scope of DCP's Application and notice. Otherwise, DCP will be prejudiced by a continuance to allow testimony that may be beyond the scope of the Application and notice. *See* Rule 19.15.4.9(A)(5)-(6) NMAC.

### **CONCLUSION**

For the foregoing reasons, the Smiths' Motion for Continuance should be denied or, in the alternative, DCP requests that the December 6 hearing be re-scheduled for a special hearing on December 10, 11, 14, any day during the week of December 17, or any day during January 2-4, 2013, so as to limit as much as possible the delay and prejudice to DCP.

Respectfully submitted,

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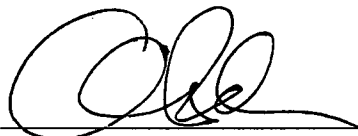
ATTORNEYS FOR DCP MIDSTREAM, LP

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 19th day of November 2012, I served a copy of the foregoing document by electronic mail to the following counsel:

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