

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

IN THE MATTER OF THE HEARING CALLED BY)
THE OIL CONSERVATION COMMISSION FOR THE)
PURPOSE OF CONSIDERING:)
) CASE NO. 13,589
APPLICATION OF DUKE ENERGY FIELD)
SERVICES, LP, FOR APPROVAL OF AN)
ACID GAS INJECTION WELL, LEA COUNTY,)
NEW MEXICO)
_____)

OFFICIAL EXHIBIT FILE
(2 OF 4: Smith, Snyder & AC Exhibits 1-23)
COMMISSION HEARING

BEFORE: MARK E. FESMIRE, CHAIRMAN
JAMI BAILEY, COMMISSIONER
WILLIAM C. OLSON, COMMISSIONER

March 13th, 2006

Santa Fe, New Mexico

This matter came on for hearing before the Oil Conservation Commission, MARK E. FESMIRE, Chairman, on March 13th, 2006, at the New Mexico Energy, Minerals and Natural Resources Department, 1220 South Saint Francis Drive, Room 102, Santa Fe, New Mexico, Steven T. Brenner, Certified Court Reporter No. 7 for the State of New Mexico.

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

OIL CONSERVATION COMMISSION

**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

Exhibits: Smith, Snyder, A. C. Ranch Partnership

19.2.100.61 NMAC SALT WATER DISPOSAL

Statute Text

Lessees are expected to comply with all lawful Rules of the New Mexico oil conservation division pertaining to prevention of waste, which includes disposal of produced salt water or brine. If state lands are needed for a salt water disposal operation, then application for a salt water disposal easement site shall be made to the "oil and gas division" or application for a business lease shall be made to the "land surface division" of the state land office, depending upon whether underground or surface disposal, respectively, is desired. Ordinarily, water produced on lease may be disposed of on lease without the commissioner's permission if the disposal operation otherwise meets the approval of the oil conservation division and is otherwise reasonable and accepted practice in the industry.

History

[19.2.100.61 NMAC - Rn, SLO Rule 1, Section 1.063, 12/13/2002]

[Applications for a salt water disposal easement or a business lease shall be made to the commercial division of the state land office]

19.2.10.17 NMAC ACCESS PERMITS

Statute text

The rights granted by the commissioner in any right of way or easement shall not include any right of access over, or right to use, trust lands not within the actual dimensions of the right of way or easement. If a right of way or easement is not large enough to permit vehicular or other access necessary for the maintenance, repair, or improvement, of the right of way or easement, or for other permitted activities within the right of way or easement, access in such cases must be obtained by applying for and receiving a temporary access permit from the commissioner using such form or forms, and subject to the payment of such fees and costs, as the commissioner deems in the best interests of the trust and promulgates from time to time. Temporary access permits may also be issued to prospective applicants for rights of way or easements to allow them to conduct pre-application assessments. Each entry upon trust lands without an access permit as required by 19.2.10.17 NMAC shall be a separate trespass under 19.2.10.9 NMAC above.

History

70-2-12. Enumeration of powers.

A. Included in the power given to the oil conservation division of the energy, minerals and natural resources department is the authority to collect data; to make investigations and inspections; to examine properties, leases, papers, books and records; to examine, check, test and gauge oil and gas wells, tanks, plants, refineries and all means and modes of transportation and equipment; to hold hearings; to provide for the keeping of records and the making of reports and for the checking of the accuracy of the records and reports; to limit and prorate production of crude petroleum oil or natural gas or both as provided in the Oil and Gas Act [70-2-1 NMSA 1978]; and to require either generally or in particular areas certificates of clearance or tenders in connection with the transportation of crude petroleum oil or natural gas or any products of either or both oil and products or both natural gas and products.

B. Apart from any authority, express or implied, elsewhere given to or existing in the oil conservation division by virtue of the Oil and Gas Act or the statutes of this state, the division is authorized to make rules, regulations and orders for the purposes and with respect to the subject matter stated in this subsection:

(1) to require dry or abandoned wells to be plugged in a way to confine the crude petroleum oil, natural gas or water in the strata in which it is found and to prevent it from escaping into other strata; the division shall require a cash or surety bond in a sum not to exceed fifty thousand dollars (\$50,000) conditioned for the performance of such regulations;

(2) to prevent crude petroleum oil, natural gas or water from escaping from strata in which it is found into other strata;

(3) to require reports showing locations of all oil or gas wells and for the filing of logs and drilling records or reports;

(4) to prevent the drowning by water of any stratum or part thereof capable of producing oil or gas or both oil and gas in paying quantities and to prevent the premature and irregular encroachment of water or any other kind of water encroachment that reduces or tends to reduce the total ultimate recovery of crude petroleum oil or gas or both oil and gas from any pool;

(5) to prevent fires;

(6) to prevent "blow-ups" and "caving" in the sense that the conditions indicated by such terms are generally understood in the oil and gas business;

(7) to require wells to be drilled, operated and produced in such manner as to prevent injury to neighboring leases or properties;

(8) to identify the ownership of oil or gas producing leases, properties, wells, tanks, refineries, pipelines, plants, structures and all transportation equipment and facilities;

(9) to require the operation of wells with efficient gas-oil ratios and to fix such ratios;

(10) to fix the spacing of wells;

(11) to determine whether a particular well or pool is a gas or oil well or a gas or oil pool, as the case may be, and from time to time to classify and reclassify wells and pools accordingly;

(12) to determine the limits of any pool producing crude petroleum oil or natural gas or both and from time to time redetermine the limits;

(13) to regulate the methods and devices employed for storage in this state of oil or natural gas or any product of either, including subsurface storage;

(14) to permit the injection of natural gas or of any other substance into any pool in this state for the purpose of repressuring, cycling, pressure maintenance, secondary or any other enhanced recovery operations;

(15) to regulate the disposition of water produced or used in connection with the drilling for or producing of oil or gas or both and to direct surface or subsurface disposal of the water, including disposition by use in drilling for or production of oil or gas, in road construction or maintenance or other construction, in the generation of electricity or in other industrial processes, in a manner that will afford reasonable protection against contamination of fresh water supplies designated by the state engineer;

(16) to determine the limits of any area containing commercial potash deposits and from time to time redetermine the limits;

(17) to regulate and, where necessary, prohibit drilling or producing operations for oil or gas within any area containing commercial deposits of potash where the operations would have the effect unduly to reduce the total quantity of the commercial deposits of potash that may reasonably be recovered in commercial quantities or where the operations would interfere unduly with the orderly commercial development of the potash deposits;

(18) to spend the oil and gas reclamation fund and do all acts necessary and proper to plug dry and abandoned oil and gas wells and to restore and remediate abandoned well sites and associated production facilities in accordance with the provisions of the Oil and Gas Act, the rules and regulations adopted under that act and the Procurement Code [13-1-28 NMSA 1978], including disposing of salvageable equipment and material removed from oil and gas wells being plugged by the state;

(19) to make well price category determinations pursuant to the provisions of the federal Natural Gas Policy Act of 1978 or any successor act and, by regulation, to adopt fees for such determinations, which fees shall not exceed twenty-five dollars (\$25.00) per filing. Such fees shall be credited to the account of the oil conservation division by the state treasurer and may be expended as authorized by the legislature;

(20) to regulate the construction and operation of oil treating plants and to require the posting of bonds for the reclamation of treating plant sites after cessation of operations;

(21) to regulate the disposition of nondomestic wastes resulting from the exploration, development, production or storage of crude oil or natural gas to protect public health and the environment; and

(22) to regulate the disposition of nondomestic wastes resulting from the oil field service industry, the transportation of crude oil or natural gas, the treatment of natural gas or the refinement of crude oil to protect public health and the environment, including administering the Water Quality Act [74-6-1 NMSA 1978] as provided in Subsection E of Section 74-6-4 NMSA 1978.

History: 1953 Comp., § 65-3-11, enacted by Laws 1978, ch. 71, § 1; 1986, ch. 76, § 1; 1987, ch. 234, § 61; 1989, ch. 289, § 1; 1996, ch. 72, § 2; 2004, ch. 87, § 2.

Cross references. — For filing rules and regulations, see 14-4-3 NMSA 1978.

For public utilities commission's lack of power to regulate sale price at wellhead, see 62-6-4 NMSA 1978.

Repeals and reenactments. — Laws 1978, ch. 71, § 1, repealed 65-3-11, 1953 Comp. (former 70-2-12 NMSA 1978), relating to enumeration of powers, and enacted a new 70-2-12 NMSA 1978.

The 1986 amendment, effective May 21, 1986, substituted "oil conservation division" for "division" in Subsection A and in the introductory paragraph of Subsection B; substituted "provided in the Oil and Gas Act" for "in this act provided" in Subsection A; substituted "the Oil and Gas Act" for "this act" in the introductory paragraph of Subsection B; substituted "cash or surety bond" for "corporate surety bond" in Subsection B(1); added Subsection B(19), and made minor stylistic changes throughout the section.

The 1987 amendment, effective July 1, 1987, in Subsection B(18), substituted "Procurement Code" for "Public Purchases Act"; added Subsection B(20); and made minor changes in language and punctuation throughout the section.

The 1989 amendment, effective June 16, 1989, added Subsections B(21) and B(22).

The 1996 amendment, inserted "of the energy, minerals and natural resources department" in the first sentence of Subsection A; and in Subsection B, substituted "that reduces" for "which reduces" in Paragraph (4), and inserted "and to restore and remediate abandoned well sites and associated production facilities" and "the rules and regulations adopted under that act" in Paragraph (18). Laws 1996, ch. 72 contains no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, is effective May 15, 1996, 90 days after adjournment of the legislature. See Volume 14 NMSA 1978 for "Adjournment Dates of Sessions of Legislature" table.

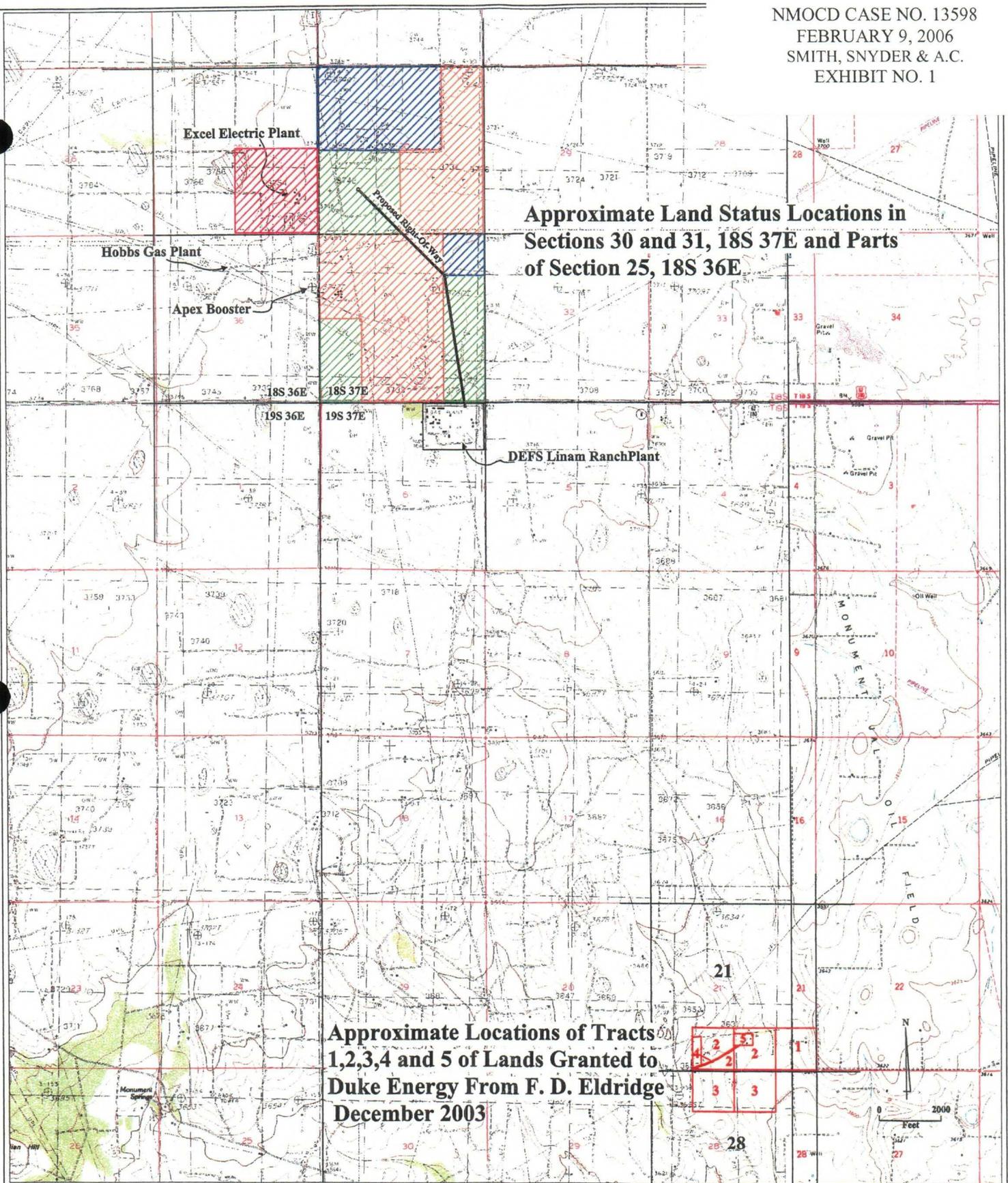
The 2004 amendment, effective May 19, 2004, amended Paragraph (15) of Subsection B to add: "including disposition by use in drilling for or production of oil or gas, in road construction or maintenance or other construction, in the generation of electricity or in other industrial processes".

Natural Gas Policy Act. — The federal Natural Gas Policy Act of 1978, referred to in Paragraph B(19), appears as 15 U.S.C. § 3301 et seq.

ANNOTATION

Powers pertaining to oil well fires. — The lawmakers intended commission not only to seek fire prevention to conserve oil, but also to conserve other property and lives of persons peculiarly subject to hazard of oil well fires. *Continental Oil Co. v. Brack*, 381 F.2d 682 (10th Cir. 1967).

The terms "spacing unit" and "proration unit" are not synonymous and commission has power



Approximate Land Status Locations in Sections 30 and 31, 18S 37E and Parts of Section 25, 18S 36E

Approximate Locations of Tracts 1, 2, 3, 4 and 5 of Lands Granted to Duke Energy From F. D. Eldridge December 2003

Reference Map Showing Approximate Locations of Lands In Sections 21, 28, 30 and 31, 18S 37E and Part of Section 25, 18S 36E

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|---|---|---|--|---|--|---|--------------------------------------|
|  | State Surface
State Minerals
Open |  | State Surface
State Minerals
HBP |  | Fee Surface
Fee Minerals
Unknown |  | Fee Surface
State Minerals
HBP |
|---|---|---|--|---|--|---|--------------------------------------|