

**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**

**Motion To Dismiss**

Randall Smith, Beach Snyder and A. C. Ranches, (“Opponents”), through their undersigned counsel, move the Commission enter its order dismissing the Application filed on behalf of Duke Energy Field Services, LP, (“Applicant”, “Duke Energy” or “DEFS”), for two separate but equally compelling grounds: (1) Applicant has no lease, permit or other authority to utilize State of New Mexico trust lands for the proposed facility; and (2) Notice of the Application is inadequate.

**DEFS Has No Authority to Utilize the Subject Lands**

Duke Energy presently has no right by permit, lease or otherwise to utilize either the surface or subsurface of the State of New Mexico trust lands upon which it proposes to locate its pipeline, compression facility and injection well.

Duke Energy, through its agent, Geolex, Inc., acquired a state oil and gas lease covering the SW/4 of Section 30, T18S, R37E (the “Subject Lands”). However, utilization of the surface and subsurface of the Subject Lands for the transportation and injection of acid-gas is beyond the scope of activities authorized by an oil and gas lease. The State Land Office’s statutory form of oil and gas lease authorizes the use of state lands “... *for the sole and only purpose of exploration, development and production of oil or gas (including carbon dioxide and helium), or both thereon and therefrom...*”. (Exhibit A, attached). The use of state lands for acid gas injection and disposal is inconsistent with the uses authorized under the oil and gas lease.

It is acknowledged that DEFS has submitted an application for a pipeline right-of-way permit which is currently under review at the State Land Office.<sup>1</sup> It is not clear whether the application pending before the State Land Office also includes the compression facility and injection well within its scope. The terms and conditions that the State Land Office may place on any such permit it may issue to Duke Energy are apparently not finalized. As of today, it is not known when, or if, such permits will be issued to DEFS by the SLO. The design and configuration of the facility has undergone several iterations and is not yet complete.

As a consequence, the DEFS Application is premature. Until such time as the Applicant secures the right to utilize lands, state-owned or otherwise, and is able to inform the Division or

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<sup>1</sup> It is our understanding that DEFS must also obtain a right-of-way from the State Highway Department.

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Commission of the location and configuration of its proposed facilities with some finality, the Application should be dismissed.

### Notice

To date, Duke Energy's application has been processed under the Division's rules that are normally applicable to Class II salt water disposal wells. The Division's C-108 form for such applications instructs that only minimal notice be provided to lease operators within one-half mile of the proposed facility.

On September 13, 2005 the Division received Duke Energy Field Services, LP's administrative Application for Authorization to Inject for its proposed acid gas injection well on the Division's standard form C-108 (DEFS C-108, Exhibit B). Notice appears to have been sent to all well operators within a one-half mile radius of the proposed injection well in apparent compliance with Division Rule 701C. (Exhibit C.) A sample copy of the September 12, 2005 notice letter is attached as Exhibit D. Presumably, a copy of the DEFS C-108 form was enclosed with the application to these off-set operators. In addition, legal notice of the DEFS Application was published in the *Hobbs Sun* newspaper on September 13, 2005 (Exhibit E). The legal advertisement does not reference that any hazardous substances are to be handled by the proposed facility. Subsequently, on October 18, 2005, "courtesy notices" of the DEFS application were sent to the Hobbs City Manager and to XCEL Energy (Exhibits F and G). XCEL Energy is the operator of the Maddox Station Power Plant located approximately one-half mile to the west of the proposed injection site.

In this case, Division staff exercised a modicum of discretion and prescribed additional notice to all operators within an additional one-half mile, the surface owner, the surface lessee and the City of Hobbs. By correspondence dated September 16, 2005, the Division's UIC Director (William V. Jones) outlined to Duke Energy's agent the scope of notice that would be required in connection with the DEFS application: (September 16, 2005 letter from William V. Jones, P.E., Exhibit H):

*(3) "Division rules allow the examiner or the director to require additional notice of any application as needed. In this instance, I will recommend the following notice to be provided to affected parties within a one mile radius of the well bore. This includes all tracts that are wholly or partially contained within this one mile radius. For each of these tracts, the Division designated operator of record for all depths from the intended injection interval to the surface should be notified. Division records indicate there are only two active wells within a one mile radius. These are operated respectively by XTO Energy and by Southwest Royalties. If a tract does not have an operator, then the lessees must be notified. If no lessees, then the mineral interests owners must be notified. The surface owner of the well site, the facility site and the flow line to the well must be notified. The surface owner in our State records data base for this location is the New Mexico State Land Office. The surface lessee should also be notified. Proof of notice should also be provided to the City of Hobbs, in addition to a normal newspaper notice."*

On December 15, 2005, Alberto A. Gutierrez, agent for Duke Energy Field Services, LP sent notice to Chevron USA, ConocoPhillips Company, Marathon Oil Company, Southwest Royalties, Inc., and Amerada Hess Corporation. (Exhibit I.)

Randall Smith and A. C. Ranch are unquestionably "interested parties" in this proceeding. Smith whose farm and house is located north of the proposed injection facility was provided with no notice of the Application. (Affidavit of Randall Smith, Exhibit J, attached.)

Although it was directed to do so in the Division's September 16, 2005 letter, we have been unable to confirm that DEFS sent a notice letter to the surface lessee, A. C. Ranch. A form of notice of Duke Energy's right-of-way application was issued to A. C. Ranch on October 6, 2005 by the State Land Office. (Exhibit K, attached). However, the SLO's letter does not adequately inform the grazing lessee of the specific nature of the facility applied for. Any mention of the transportation, compression and injection of hydrogen sulfide or carbon dioxide are absent. It cannot be said, then, that the Applicant's notice to the surface lessee, through the State Land Office or otherwise, was sufficient to satisfy the Division's requirements.

The notice prescribed for this case is inadequate. In the context of a proposed facility that will receive, transport, compress and inject hazardous substances, prudence and common sense demands that broader, more comprehensive notice be provided so that the Division may be satisfied (1) all those "interested parties" potentially affected are notified, and (2) the agency is fully discharging its statutory and regulatory duties to protect public health and the environment. (See *NMSA 1978 §§70-2-12 B(21) and (22), 19.15.14.1209 C NMAC*).

It is not disputed that hydrogen sulfide is a RCRA-exempt waste. Yet, at the same time, it should also be beyond dispute that regardless of the classification as an exempt waste, hydrogen sulfide remains a hazardous substance which demands close scrutiny in its handling and disposition. Broader notice than that usually accorded a SWD well application should be required. While the Division's notification rules do not specifically address facilities proposing to handle acid-gas or hydrogen sulfide, by analogy, the Environment Department's hazardous waste rules are instructive.

Under its rules, NMAC §20.4.1.600, pertaining to Hazardous Waste Management, NMED specifically adopts by incorporation the federal requirements under 40 C.F.R. 265, et seq.: "Interim Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities". These incorporated regulations also refer to the more rigorous notice requirements under, *inter alia*, 40 C.F.R. 124.32.

40 C.F.R. 124.32 sets out public notice requirements at the application stage for those applicants seeking permits for hazardous waste management units over which the EPA (or the State) has permit issuance authority. When an application is submitted, the Director must provide public notice by mailing a copy of the notice to those persons on a mailing list that was developed by:

- (A) Including those who request in writing to be on the list;
- (B) Soliciting persons for "area lists" from participants in past permit proceedings in that area; and
- (C) Notifying the public of the opportunity to be put on the mailing list through periodic publication in the public press and in such publications as Regional and State funded newsletters, environmental bulletins, or State law journals. (The Director may update the mailing list from time to time by requesting written indication of continued interest from those listed. The Director may delete from the list the name of any person who fails to respond to such a request.)

40 C.F.R. 124.10(c)(1)(ix).

The notice must then be published and must include:

- (i) The name and telephone number of the applicant's contact person;
- (ii) The name and telephone number of the permitting agency's contact office, and a mailing address to which information, opinions, and inquiries may be directed throughout the permit review process;
- (iii) An address to which people can write in order to be put on the facility mailing list;
- (iv) The location where copies of the permit application and any supporting documents can be viewed and copied;
- (v) A brief description of the facility and proposed operations, including the address or a map (e.g., a sketched or copied street map) of the facility location on the front page of the notice; and
- (vi) The date that the application was submitted.

40 C.F.R. 124.32(b)(2).

The New Mexico Supreme Court has instructed that the Commission and the Division must provide for "reasonable notice" in accordance with NMSA §70-2-23. See, *Johnson, et al. v. New Mexico Oil Conservation Commission*, 1999 NMSC-021, 127 N. M. 120, 125 978 P. 2d 327 (1999), ("This "reasonable notice" mandate should circumscribe whatever Division rules are promulgated for the purpose of notifying interested persons.") The notice issued here does not meet the "reasonableness" criterion.

The notice provided of the Application in this case falls far short of what is required by law and what should be required by common sense. This is particularly true where a matter is set directly for hearing before the Commission where there will likely be only one opportunity for agency action and for the creation of a record. It is doubly true where activities such as are proposed by the Application in this case may be approved administratively.

### Conclusion

For the foregoing reasons, Duke Energy's Application should accordingly be dismissed.

MILLER STRATVERT P.A.

By:

J. Scott Hall  
J. Scott Hall  
Attorneys for Randall Smith, Dean "Beach"  
Snyder & A.C. Ranch Partnership  
Post Office Box 1986  
Santa Fe, New Mexico 87504-1986  
(505) 989-9614

**Certificate of Service**

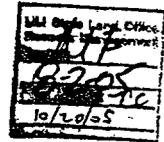
I hereby certify that a true and correct copy of the foregoing was hand-delivered to  
counsel of record on the 8 day of February 2006, as follows:

William F. Carr, Esq.  
Holland & Hart LLP  
110 North Guadalupe St., No. 1  
Santa Fe, New Mexico 87501

David Brooks, Esq.  
New Mexico Oil Conservation Commission  
1220 South St. Francis Drive  
Santa Fe, New Mexico 87504

Cheryl O'Connor, Esq.  
New Mexico Oil Conservation Division  
1220 South St. Francis Drive  
Santa Fe, New Mexico 87504

J. Scott Hall  
J. Scott Hall



**OIL AND GAS LEASE  
(Discovery Form)**

THIS AGREEMENT, dated **August 01, 2005**, between the state of New Mexico, acting by and through its commissioner of public lands, hereinafter called the "lessor", and

**GEOLEX, INC.**  
**500 MARQUETTE AVENUE, N.W.**  
**SUITE 1350**  
**ALBUQUERQUE, NM 87102**  
 hereinafter called the "lessee",

**WITNESSETH:**

WHEREAS, the lessee has filed in the office of the commissioner of public lands an application for an oil and gas lease covering the lands hereinafter described and has tendered therewith the required first payment; and

WHEREAS, all of the requirements of law relative to the application and tender have been duly complied with;

THEREFORE, in consideration of the premises as well as the sum of **TWELVE THOUSAND and 00/100 dollars (\$12,000.00)**, the same being the amount of the tender above mentioned, and the further sum of \$30.00 filing fee, and of the covenants and agreements hereinafter contained, the lessor does hereby grant, demise, lease and let unto the said lessee, exclusively, for the sole and only purpose of exploration, development and production of oil or gas (including carbon dioxide and helium), or both thereon and therefrom with the right to own all oil and gas so produced and saved therefrom and not reserved as royalty by the lessor under the terms of this lease, together with rights-of-way, easements and servitudes for pipelines, telephone lines, tanks, power houses, stations, gasoline plants and fixtures for producing, treating and caring for such products, and housing and boarding employees, and any and all rights and privileges necessary, incident to or convenient for the economical operation of said land, for oil and gas, with right for such purposes to the free use of oil, gas, casing-head gas or water from said lands, but not from lessor's water wells, and with the rights of removing either during or after the term hereof, all and any improvements placed or erected on the premises by the lessee, including the right to pull all casing, subject, however, to the covenants and conditions hereinafter set out, the following described land situated in the count(y)(ies) of **Lea**, state of New Mexico, and more particularly described as follows:



Subdivisions	Section	Twp	Rge	Acres	Institution
LOT(S) 3(39.87), 4(39.85), E2SW4	30	18S	37E	159.72	SDSV

AWARDED TO # 1

Said lands having been awarded to lessee and designated as Tract No. **V0-O-0032** at public sale held by the commissioner of public lands on **July 19, 2005**.

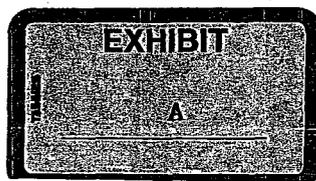
To have and to hold said land, and all the rights and privileges granted hereunder, to and unto the lessee for a primary term of five years from the date hereof, and as long thereafter as oil and gas, or either of them, is produced in paying quantities from said land by lessee, subject to all of the terms and conditions as hereinafter set forth.

In consideration of the premises the parties covenant and agree as follows:

1. Subject to the free use without royalty, as hereinbefore provided, the lessee shall pay the lessor as royalty one-sixth part of the oil produced and saved from the leased premises or the cash value thereof, at the option of the lessor, such value to be the price prevailing the day oil is run into a pipeline, if the oil be run into a pipeline, or into storage tanks, if the oil is stored.

2. Subject to the free use without royalty, as hereinbefore provided, at the option of the lessor at any time and from time to time, the lessee shall pay the lessor as royalty one-sixth part of the gas produced and saved from the leased premises, including casing-head gas. Unless said option is exercised by lessor, the lessee shall pay the lessor as royalty one-sixth of the cash value of the gas, including casing-head gas, produced and saved from the leased premises and marketed or utilized, such value to be equal to the net proceeds derived from the sale of such gas in the field; provided, however, the cash value for royalty purposes of carbon dioxide gas and of hydrocarbon gas delivered to a gasoline plant for extraction of liquid hydrocarbons shall be equal to the net proceeds derived from the sale of such gas, including any liquid hydrocarbons recovered therefrom.

Notwithstanding the foregoing provisions, the lessor may require the payment of royalty for all or any part of the gas produced and saved under this lease and marketed or utilized at a price per m.c.f. equal to the maximum price being paid for gas of like kind and quality and under like conditions in the same field or area or may reduce the royalty value of any such gas (to any amount not less than the net proceeds of sale thereof, in the field) if the commissioner of public lands shall



determine such action to be necessary to the successful operation of the lands for oil or gas purposes or to encouragement of the greatest ultimate recovery of oil or gas or to the promotion of conservation of oil or gas or in the public interest.

This lease shall not expire at the end of the primary term hereof if there is a well capable of producing gas in paying quantities located upon some part of the lands embraced herein, or upon lands pooled or communitized herewith, where such well is shut-in due to the inability of the lessee to obtain a pipeline connection or to market the gas therefrom and if the lessee timely pays an annual royalty on or before the annual rental paying date next ensuing after the expiration of ninety days from the date said well was shut-in and on or before said rental date thereafter. The payment of said annual royalty shall be considered for all purposes the same as if gas were being produced in paying quantities and upon the commencement of marketing of gas from said well or wells the royalty paid for the lease year in which the gas is first marketed shall be credited upon the royalty payable hereunder to the lessor for such year. The provisions of this section shall also apply where gas is being marketed from said leasehold premises and through no fault of the lessee, the pipeline connection or market is lost or ceases, in which case this lease shall not expire so long as said annual royalty is paid as herein provided. The amount of any annual royalty payable under this section shall equal twice the annual rental due to the lessee under the terms of this lease but not less than three hundred twenty dollars (\$320) per well per year, provided, however, that any such annual royalty for any year beginning on or after ten years from the date hereof shall equal four times the annual rental due by the lessee under the terms of this lease but not less than two thousand dollars (\$2,000) per well per year, provided further that no annual royalty shall be payable under this section if equivalent amounts are timely paid pursuant to another lease issued by lessor and if such other lease includes lands communitized with lands granted hereunder for the purpose of prorationally sharing in the shut-in well. Notwithstanding the provisions of this section to the contrary, this lease shall not be continued after five years from the date hereof for any period of more than ten years by the payment of said annual royalty unless, for good cause shown, the commissioner of public lands, in his discretion, grants such a continuance.

3. Lessee agrees to make full settlement on the twentieth day of each month for all royalties due to the lessor for the preceding month, under this lease, and to permit the lessor or its agents, at all reasonable hours to examine lessee's books relating to the production and disposition of oil and gas produced. Lessee further agrees to submit to lessor annually upon forms furnished by lessor, verified reports showing lessee's operations for the preceding year.

4. An annual rental at the rate of \$1.00 per acre shall become due and payable to the lessor by the lessee upon each acre of the land above described and then claimed by such lessee, and the same shall be due and payable in advance to the lessor on successive anniversary dates of this lease, but the annual rental on any assignment shall in no event be less than forty dollars (\$40.00).

In the event the lessee shall elect to surrender any or all of said acreage, he shall deliver to the lessor a duly executed release thereof and in event said lease has been recorded then he shall upon request furnish and deliver to the lessor a certified copy of a duly recorded release.

5. The lessee may at any time by paying to the lessor all amounts then due as provided herein and the further sum of forty dollars (\$40.00), surrender and cancel this lease insofar as the same covers all or any portion of the lands herein leased and be relieved from further obligations or liability hereunder, in the manner as hereinbefore provided. Provided, this surrender clause and the option herein reserved to the lessee shall cease and become absolutely inoperative immediately and concurrently with the institution of any suit in any court of law or equity by the lessee, lessor or any assignee, to enforce this lease, or any of its terms expressed or implied.

6. All payments due hereunder shall be made on or before the day such payment is due, at the office of the commissioner of public lands in Santa Fe, New Mexico.

7. The lessee with the consent of the lessor shall have the rights to assign this lease in whole or in part. Provided, however, that no assignment of an undivided interest in the lease or in any part thereof nor any assignment of less than a legal subdivision shall be recognized or approved by the lessor. Upon approval in writing by the lessor of an assignment, the assignor shall stand relieved from all obligations to the lessor with respect to the lands embraced in the assignment and the lessor shall likewise be relieved from all obligations to the assignor as to such tracts, and the assignee shall succeed to all of the rights and privileges of the assignor with respect to such tracts and shall be held to have assumed all of the duties and obligations of the assignor to the lessor as to such tracts.

8. In the event a well or wells producing oil or gas in paying quantities should be brought in on adjacent land which is draining the leased premises, lessee shall drill such offset well or wells as a reasonably prudent operator would drill under the same or similar circumstances, provided that no such offset well shall be required if compensatory royalties are paid pursuant to an agreement between the lessor and the lessee.

9. The lessee agrees to notify the lessor of the location of each well before commencing drilling thereon, to keep a complete and accurate log of each well drilled and to furnish a copy thereof, verified by some person having actual knowledge of the facts, to the lessor upon the completion of any well, and to furnish the log of any unfinished well at any time when requested to do so by the lessor.

If any lands embraced in this lease shall be included in any deed or contract of purchase outstanding and subsisting issued pursuant to any sale made of the surface of such lands prior to the date of this lease, it is agreed and understood that no drilling operation shall be commenced on any such lands so sold unless and until the lessee shall have filed a good and sufficient bond with the lessor as required by law, to secure the payment for such damage to the livestock, range, water, crops or tangible improvements on such lands as may be suffered by the purchaser holding such deed or contract of purchase, or his successors, by reason of the developments, use and occupation of such lands by such lessee. Provided, however, that no such bond shall be required if such purchaser shall waive the right to require such bond to be given in the manner provided by law.

10. In drilling wells all water-bearing strata shall be noted in the log, and the lessor reserves the right to require that all or any part of the casing shall be left in any nonproductive well when lessor deems it to be in the interest of the beneficiaries of the lands granted hereunder to maintain said well or wells for water. For such casing so left in wells the lessor shall pay to the lessee the reasonable value thereof.

11. Lessee shall be liable and agree to pay of all damages to the range, livestock, growing crops or improvements caused by lessee's operations on said lands. When requested by the lessor the lessee shall bury pipelines below plow depth.

12. The lessee shall not remove any machinery or fixtures placed on said premises, nor draw the casing from any well unless and until all payments and obligations due the lessor under the terms of this agreement shall have been paid or satisfied. The lessee's right to remove the casing is subject to the provision of Paragraph 10 above.

13. Upon failure or default of the lessee to comply with any of the provisions or covenants hereof, the lessor is hereby authorized to cancel this lease and such cancellation shall extend to and include all rights hereunder as to the whole of the tract so claimed, or possessed by the lessee, but shall not extend to, nor affect the rights of any other lessee or assignee claiming any portion of the lands upon which no default has been made; provided, however, that before any such cancellation shall be made, the lessor shall mail to the lessee so defaulting, by registered or certified mail, addressed to the post-office address of such lessee as shown by the records of the state land office, a notice of intention of cancellation specifying the default for which cancellation is to be made, and if within thirty days from the date of mailing said notice the said lessee shall remedy the default specified in said notice, cancellation shall not be made.

14. If this lease shall have been maintained in accordance with the provisions hereof and if at the expiration of the primary term provided for herein oil or gas is not being produced on said land but lessee is then engaged in bona fide drilling or reworking operations thereon, this lease shall remain in full force and effect so long as such operations are diligently prosecuted and, if they result in the production of oil or gas, so long thereafter as oil and gas in paying quantities, or either of them, is produced from said land; provided, however, such operations extending beyond the primary term shall be approved by the lessor upon written application filed with the lessor on or before the expiration of said term, and a report of the status of all such operations shall be made by the lessee to the lessor every thirty days and a cessation of such operations for more than twenty consecutive days shall be considered as an abandonment of such operations and this lease shall thereupon terminate.

If during the drilling or reworking of any well under this section, lessee loses or junks the hole or well and after diligent efforts in good faith is unable to complete said operations, then within twenty days after the abandonment of said operations, lessee may commence another well within three hundred thirty feet of the lost or junked hole or well and drill the same with due diligence.

Operations commenced and continued as herein provided shall extend this lease as to all lands as to which the same is in full force and effect as of the time said drilling operations are commenced; provided, however, this lease shall be subject to cancellation in accordance with Paragraph 13 hereof for failure to pay rentals or file reports which may become due while operations are being conducted hereunder.

15. Should production of oil and gas or either of them in paying quantities be obtained while this lease is in force and effect and should thereafter cease from any cause after the expiration of five years from the date hereof this lease shall not terminate if lessee commences additional drilling or reworking operations within sixty days after the cessation of such production and shall remain in full force and effect so long as such operations are prosecuted in good faith with no cessation of more than twenty consecutive days, and if such operations result in the production of oil or gas in paying quantities, so long thereafter as oil or gas in paying quantities is produced from said land; provided, however, written notice of intention to commence such operations shall be filed with the lessor within thirty days after the cessation of such production, and a report of the status of such operations shall be made by the lessee to the lessor every thirty days, and the cessation of such operations for more than twenty consecutive days shall be considered as an abandonment of such operations and this lease shall thereupon terminate.

16. Lessee, including their heirs, assigns, agents and contractors shall at their own expense fully comply with all laws, regulations, rules, ordinances and requirements of the city, county, state, federal authorities and agencies, in all matters and things affecting the premises and operations thereon which may be enacted or promulgated under the governmental police powers pertaining to public health and welfare, including but not limited to conservation, sanitation, aesthetics, pollution, cultural properties, fire and ecology. Such agencies are not to be deemed third party beneficiaries hereunder, however, this clause is enforceable by the lessor in any manner provided in this lease or by law.

17. Should lessor desire to exercise its rights to take in-kind its royalty share of oil, gas or associated substances or purchase all or any part of the oil, gas or associated substances produced from the lands covered by this lease, the lessee hereby irrevocably consents to the lessor exercising its right. Such consent is a consent to the termination of any supplier/purchaser relationship between the lessor and the lessee deemed to exist under federal regulations. Lessee further agrees that it will require any purchaser of oil, gas or associated substance to likewise waive any such rights.

18. Lessor reserves a continuing option to purchase at any time and from time to time, at the market price prevailing in the area on the date of purchase, all or any part of the minerals (oil and gas) that will be produced from the lands covered by this lease.

19. Lessor reserves the right to execute leases for geothermal resource development and operation thereon; the right to sell or dispose of the geothermal resources of such lands; and the right to grant rights-of-way and easements for these purposes.

20. All terms of this agreement shall extend to and bind the heirs, executors, administrator, successors and assigns of the parties hereto.

In witness whereof, the party of the first part has hereunto signed and caused its name to be signed by its commissioner of public lands thereunto duly authorized, with the seal of his office affixed, and the lessee has signed this agreement the day and year first above written.

STATE OF NEW MEXICO

By: Patricia H. Lopez  
Commissioner of Public Lands, Lessor

[Signature]  
Lessee

(PERSONAL ACKNOWLEDGMENT)

STATE OF \_\_\_\_\_ SS.  
COUNTY OF \_\_\_\_\_ SS.

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by

My commission expires: \_\_\_\_\_  
Notary Public

(ACKNOWLEDGMENT BY ATTORNEY-IN-FACT)

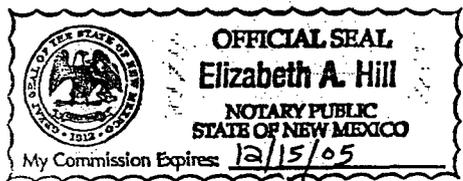
STATE OF \_\_\_\_\_ SS.  
COUNTY OF \_\_\_\_\_ SS.

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ as attorney-in-fact in behalf of \_\_\_\_\_

My commission expires: \_\_\_\_\_  
Notary Public

(ACKNOWLEDGMENT BY CORPORATION)

STATE OF New Mexico SS.  
COUNTY OF Bernalillo SS.



The foregoing instrument was acknowledged before me this 21<sup>st</sup> day of July, 2005, by Alberto A. Gutierrez, President of Gealex, Inc.  
(Name) (Title) (Corporation)  
a New Mexico corporation, on behalf of said corporation.

My commission expires: 12/15/05  
[Signature]  
Notary Public

**NEW MEXICO STATE LAND OFFICE**  
**ASSIGNMENT OF OIL AND GAS LEASE RECEIVED**  
*ONLINE Version*

From Lease Number  
**V0-7530-0**  


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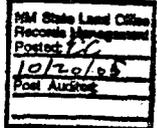
To Lease Number  
**V0-7530-1**

2005 AUG 29 AM 7 39

FOR VALUE RECEIVED, GEOLEX, INC. STATE LAND OFFICE, OGRID No. 235647  
Assignor Name (include name of spouse, if any; or type of business entity) SANTE FE, N.M.

("Assignor" whether one or more), assigns and conveys to: DUKE ENERGY FIELD SERVICES, LP, OGRID No. 36785 ✓  
 Assignee

("Assignee" whether one or more), whose mailing address is 370 17<sup>TH</sup> STREET, SUITE 2500; DENVER COLORADO ZIP 80202



the entire interest and title in and to Oil and Gas Lease No. V-7530 0000 ("the Lease") initially made by the New Mexico State Land Office to:

GEOLEX, INC. Dated AUGUST 1, 2005, insofar as the Lease covers the following land in LEA County, New Mexico:

ORIGINAL LESSEE

Township	Range	Section	Description:	ACRES
<u>18S</u>	<u>37E</u>	<u>30</u>	<u>LOT(S) 3 (39.87), 4 (39.85), E2 SW4</u>	<u>159.72 ACRES</u>

together with the rights incident thereto, and improvements thereon, if any.

Assignee assumes and agrees to perform all duties and obligations to the Commissioner of Public Lands including payment of rentals and royalties, and to do such other acts as are required by the Lease, to the same extent and in the same manner as if the provisions of the Lease were fully set out herein.

Assignor warrants the leasehold estate herein assigned, except as to any valid overriding royalty, production payment, operating agreement or sub-lease, if any, now of legal record, and covenants to the Assignee and the Commissioner of Public Lands that the leasehold estate assigned is valid, and that all rentals and royalties due under the Lease have been paid in full, and that all other Lease obligations presently due have been fully performed.

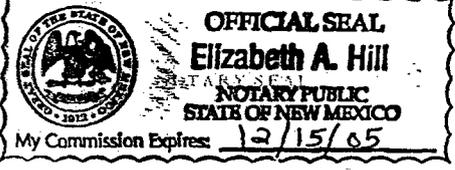
EXECUTED this 15TH day of AUGUST, 2005.

By: [Signature] Assignor  
PRESIDENT, GEOLEX, INC.  
 Spouse, if any, OR Title, if signing in representative capacity

ACKNOWLEDGMENT

STATE OF New Mexico )  
 COUNTY OF Bernalillo ) ss

This Assignment was acknowledged before me this 15<sup>th</sup> day of August, 2005  
 by Alberto A. Gutierrez, President, Geolex, Inc.  
Title, if signing in representative capacity

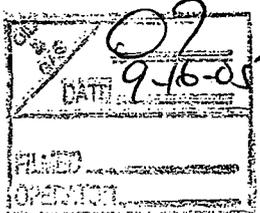


[Signature] Notary Public  
 My commission expires 12/15/05

ASSIGNEE'S ACCEPTANCE

The undersigned Assignee named above hereby agrees to be bound by all of the terms, covenants, and conditions of the Lease and this Assignment and shall succeed to the rights and benefits under the Lease.

EXECUTED this 22<sup>nd</sup> day of August, 2005.



By: [Signature] Assignee  
Managing Director of Operations  
Title, if signing in representative capacity

APPLICATION FOR AUTHORIZATION TO INJECT

I. PURPOSE: Disposal

Application qualifies for administrative approval:

II. OPERATOR: Duke Energy Field Services, LP

ADDRESS: 370 17<sup>th</sup> Street, #2500, Denver CO 80202

CONTACT PARTY: Joshua Epel, Esq PHONE: 303-605-2160

III. WELL DATA: Complete the data required on the reverse side of this form for each well proposed for injection.  
Additional sheets may be attached if necessary.

IV. Is this an expansion of an existing project? No  
If yes, give the Division order number authorizing the project: NA

V. Attach a map that identifies all wells and leases within two miles of any proposed injection well with a one-half mile radius circle drawn around each proposed injection well. This circle identifies the well's area of review.

The locations of all wells within the 2-mile and ½-mile radii of the proposed injection well are provided in the attached *Supplement Map 1 for C-108 Section V*. Locations of adjacent leases are provided in the attached *supplement Map 2 for C-108 Section V*.

VI. Attach a tabulation of data on all wells of public record within the area of review which penetrate the proposed injection zone. Such data shall include a description of each well's type, construction, date drilled, location, depth, record of completion, and a schematic of any plugged well illustrating all plugging detail.

The tabulation of the available public data on wells within the 2-mile and ½ mile radii are presented in the attached *Supplemental Tabular Information for Section VI*. This tabulation includes the description of all wells within the 2-mile radius and the requested data on the wells within the ½-mile radius (highlighted in yellow). The requested plugging records for the wells in the ½-mile radius are included as Attachments A through K.

VII. Attach data on the proposed operation, including:

1. Proposed average and maximum daily rate and volume of fluids to be injected;
2. Whether the system is open or closed;
3. Proposed average and maximum injection pressure;
4. Sources and an appropriate analysis of injection fluid and compatibility with the receiving formation if other than reinjected produced water; and,
5. If injection is for disposal purposes into a zone not productive of oil or gas at or within one mile of the proposed well, attach a chemical analysis of the disposal zone formation water (may be measured or inferred from existing literature, studies, nearby wells, etc.).

1. The proposed average of injection will be 2200 barrels per day, with a maximum rate of 2500 barrels per day.
2. At the Lower Bone Springs Formation (primary horizon) and the Brushy Canyon Formation (secondary horizon) the systems are closed. Faults and/or up dip stratigraphical changes (limiting porosity and permeability) effectively confine the injection zones. Additional geological data for the area of the proposed injection well is included as the attached *Supplemental Information for Section VII - Geology*.
3. The proposed average injection pressure is 2700 psi, and the maximum is 2800 psi. The acid gas will have a specific gravity of 0.78 or less. At a depth of 9000 feet, this will reduce the hydraulic head by 1000 psi relative to the 1.04 specific gravity of water. Thus, the differential fracture gradient of 0.2 psi will result in a maximum injection pressure of 2700 psi at 8700 feet, and 2800 psi at 9000 feet.
4. The injection fluid (acid gases) differ slightly in the dry, wet, and discharge streams. These design compositions range from Carbon Dioxide levels of 65.5% (wet) to 74.6% (dry), and Hydrogen Sulfide levels of 21.9.0% (wet) to 25.0% (dry). Water ranges from 12.2% (wet) to 0% (dry), and there are traces of hydrocarbons with an average of less than 1%. Detailed analyses are included as *Supplemental Information for Section VII - Injection Fluid Analyses*.
5. Formation water in the proposed zone (Lower Bone Springs/Wolfcamp) was researched from available data on wells in the adjacent Texas counties of Gaines and Yoakum. These analyses show that the formation waters have Total Dissolved Solids ranging from 69,000 to 200,000 parts per million (ppm), and Chloride levels from 40,000 to 114,000 ppm. The data are included as *Supplemental Information for Section VII - Formation Fluid Analyses*.

EXHIBIT

B

\*VIII. Attach appropriate geologic data on the injection zone including appropriate lithologic detail, geologic name, thickness, and depth. Give the geologic name, and depth to bottom of all underground sources of drinking water (aquifers containing waters with total dissolved solids concentrations of 10,000 mg/l or less) overlying the proposed injection zone as well as any such sources known to be immediately underlying the injection interval.

Geological Names:	Lower Bone Springs	Brushy Canyon
Lithologies:	Limestone	Sandstone
Thicknesses:	100' to 150'	100' to 120'
Depths:	8700' to 9000'	5000' to 5300'

The only significant drinking water aquifer is in the surficial, alluvial deposits of the Ogallala Formation. This unit is locally 100 to 200 feet thick, and the unconfined aquifer in this formation is encountered at 40 to 60 feet below the surface. The groundwater has an average Total Dissolved Solids of 250 to 500 ppm.

IX. Describe the proposed stimulation program, if any.

Stimulation programs, if necessary, will be evaluated following drilling, logging and testing.

\*X. Attach appropriate logging and test data on the well. (If well logs have been filed with the Division, they need not be resubmitted).

The well has not been drilled at this time.

\*XI. Attach a chemical analysis of fresh water from two or more fresh water wells (if available and producing) within one mile of any injection or disposal well showing location of wells and dates samples were taken.

According to the data received from the State Engineer, there are 4 active water wells in Section 30, 18S, 37E. Three wells are permitted under L 06854 (Section 30, Quarter 1,1,1) L 06854S (Section 30, Quarter 1,3,3), and L 06854S2 (Section 30, Quarter 2), and are listed as irrigation wells; depths are not included but depth to water is 42 feet. The other well is listed under permit L 09046 (Section 30, Quarter 4). This well is identified as a stock well, and has a reported depth of 122 feet and a depth to water of 42 feet. The location information is not adequate to accurately show the wells on a topographic map.

We have not been able to obtain analyses from any drinking water wells within 2 miles of the proposed injection well. However, we have obtained analyses for 4 wells located in Section 21, 19S, 37E, approximately 5 miles south-southeast from the proposed injection well. The data is provided in the attached *Supplemental Data for Section XI*, and locations are to be founded in the *Supplemental Map for Section XI*.

XII. Applicants for disposal wells must make an affirmative statement that they have examined available geologic and engineering data and find no evidence of open faults or any other hydrologic connection between the disposal zone and any underground sources of drinking water.

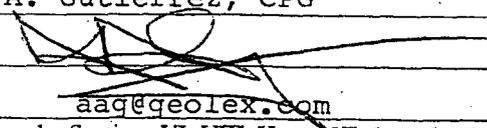
We have analyzed the available geological and engineering data and affirm that there are no open faults or other hydrogeological connections between the proposed injection zone(s) and the known sources of drinking water.

XIII. Applicants must complete the "Proof of Notice" section on the reverse side of this form.

Notices are being prepared for adjacent operators, and a public notice for interested parties will be published in Lea County, New Mexico. Copies of all certified notices and affidavits of publication will be provided.

XIV. Certification: I hereby certify that the information submitted with this application is true and correct to the best of my knowledge and belief.

NAME: Alberto A. Gutierrez, CPG TITLE: President, Geolex, Inc.

SIGNATURE:  DATE: September 12, 2005

E-MAIL ADDRESS: aaq@geolex.com

If the information required under Sections VI, VIII, X, and XI above has been previously submitted, it need not be resubmitted. Please show the date and circumstances of the earlier submittal: \_\_\_\_\_

DISTRIBUTION: Original and one copy to Santa Fe with one copy to the appropriate District Office

### III. WELL DATA

A. The following well data must be submitted for each injection well covered by this application. The data must be both in tabular and schematic form and shall include:

- (1) Lease name; Well No.; Location by Section, Township and Range; and footage location within the section.
- (2) Each casing string used with its size, setting depth, sacks of cement used, hole size, top of cement, and how such top was determined.
- (3) A description of the tubing to be used including its size, lining material, and setting depth.
- (4) The name, model, and setting depth of the packer used or a description of any other seal system or assembly used.

Division District Offices have supplies of Well Data Sheets which may be used or which may be used as models for this purpose. Applicants for several identical wells may submit a "typical data sheet" rather than submitting the data for each well.

B. The following must be submitted for each injection well covered by this application. All items must be addressed for the initial well. Responses for additional wells need be shown only when different. Information shown on schematics need not be repeated.

- (1) The name of the injection formation and, if applicable, the field or pool name.
- (2) The injection interval and whether it is perforated or open-hole.
- (3) State if the well was drilled for injection or, if not, the original purpose of the well.
- (4) Give the depths of any other perforated intervals and detail on the sacks of cement or bridge plugs used to seal off such perforations.
- (5) Give the depth to and the name of the next higher and next lower oil or gas zone in the area of the well, if any.

### XIV. PROOF OF NOTICE

All applicants must furnish proof that a copy of the application has been furnished, by certified or registered mail, to the owner of the surface of the land on which the well is to be located and to each leasehold operator within one-half mile of the well location. \*

Where an application is subject to administrative approval, a proof of publication must be submitted. Such proof shall consist of a copy of the legal advertisement which was published in the county in which the well is located. The contents of such advertisement must include:

- (1) The name, address, phone number, and contact party for the applicant;
- (2) The intended purpose of the injection well; with the exact location of single wells or the Section, Township, and Range location of multiple wells;
- (3) The formation name and depth with expected maximum injection rates and pressures; and,
- (4) A notation that interested parties must file objections or requests for hearing with the Oil Conservation Division, 1220 South St. Francis Dr., Santa Fe, New Mexico 87505, within 15 days.

**NO ACTION WILL BE TAKEN ON THE APPLICATION UNTIL PROPER PROOF OF NOTICE HAS BEEN SUBMITTED.**

**NOTICE:** Surface owners or offset operators must file any objections or requests for hearing of administrative applications within 15 days from the date this application was mailed to them.

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

IN THE MATTER OF THE APPLICATION OF DUKE  
ENERGY FIELD SERVICES, LP, FOR AUTHORIZATION  
TO INJECT, LEA COUNTY, NEW MEXICO

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AFFIDAVIT

---

STATE OF NEW MEXICO                    )  
  ) ss.  
COUNTY OF BERNALILLO                )

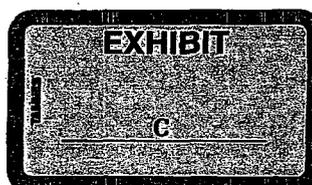
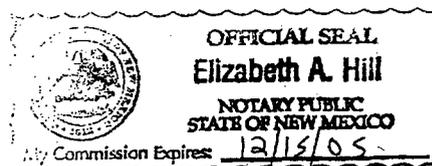
Alberto A. Gutiérrez, C.P.G., attorney in fact and authorized representative of Duke Energy Field Services, L.P., the applicant herein, being first duly sworn, upon oath, states that notice has been given to all interested parties entitled to receive notice of this application under Oil Conservation Division rules, and that notice has been given at the addresses shown on the letters attached hereto.

  
Alberto A. Gutiérrez, C.P.G.

SUBSCRIBED AND SWORN to before this 12<sup>th</sup> day of September, 2005, by  
Alberto A. Gutiérrez, C.P.G.

  
Notary Public

My Commission Expires: 12/15/05



7002 1000 0005 2953 0150

U.S. Postal Service  
**CERTIFIED MAIL RECEIPT**  
(Domestic Mail Only, No Insurance Coverage Provided)

HOUSTON, TX 77210

Postage	4.90	UNIT ID: 0129
Certified Fee	2.30	
Return Receipt Fee (Endorsement Required)	1.75	
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	8.95	

Postmark Here

Clerk: KN2F45

09/12/05

Sent To Chevron USA

Street, Apt. No., or PO Box No. PO Box 4791

City, State, ZIP+4 Houston TX 77210

7002 1000 0005 2953 0181

U.S. Postal Service  
**CERTIFIED MAIL RECEIPT**  
(Domestic Mail Only, No Insurance Coverage Provided)

HOUSTON, TX 77252

Postage	4.90	UNIT ID: 0129
Certified Fee	2.30	
Return Receipt Fee (Endorsement Required)	1.75	
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	8.95	

Postmark Here

Clerk: KN2F45

09/12/05

Sent To Conoco Phillips Co.

Street, Apt. No., or PO Box No. PO Box 2197

City, State, ZIP+4 Houston TX 77252

7002 1000 0005 2953 019A

U.S. Postal Service  
**CERTIFIED MAIL RECEIPT**  
(Domestic Mail Only, No Insurance Coverage Provided)

HOUSTON, TX 77252

Postage	4.90	UNIT ID: 0129
Certified Fee	2.30	
Return Receipt Fee (Endorsement Required)	1.75	
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	8.95	

Postmark Here

Clerk: KN2F45

09/12/05

Sent To Marathon Oil

Street, Apt. No., or PO Box No. PO Box 2069

City, State, ZIP+4 Houston TX 77252

7002 1000 0005 2953 0211

U.S. Postal Service  
**CERTIFIED MAIL RECEIPT**  
(Domestic Mail Only, No Insurance Coverage Provided)

MIDLAND, TX 79705

Postage	4.55	UNIT ID: 0129
Certified Fee	2.30	
Return Receipt Fee (Endorsement Required)	1.75	
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	8.60	

Postmark Here

Clerk: KN2F45

09/12/05

Sent To Southwest Royalties Inc.

Street, Apt. No., or PO Box No. 6 Deste Drive #2100

City, State, ZIP+4 Midland TX 79705

7002 1000 0005 2953 020A

U.S. Postal Service  
**CERTIFIED MAIL RECEIPT**  
(Domestic Mail Only, No Insurance Coverage Provided)

HOUSTON, TX 77252

Postage	4.90	UNIT ID: 0129
Certified Fee	2.30	
Return Receipt Fee (Endorsement Required)	1.75	
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	8.95	

Postmark Here

Clerk: KN2F45

09/12/05

Sent To Amerada Hess Corp.

Street, Apt. No., or PO Box No. PO Box 2040

City, State, ZIP+4 Houston TX 77252

September 10, 2005

Southwest Royalties, Inc.  
6 Desta Drive #2100  
Midland TX 79705

VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

RE: ADMINISTRATIVE APPLICATION OF DUKE ENERGY FIELD  
SERVICES, LP FOR AUTHORIZATION TO INJECT,  
LEA COUNTY, NEW MEXICO

To Whom It May Concern:

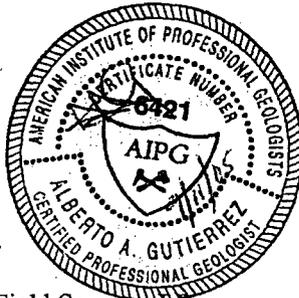
This letter is to advise you that Duke Energy Field Services, LP, (Duke) has filed the enclosed application with the New Mexico Oil Conservation Division (NMOCD) seeking administrative authorization to inject up to 2300 barrels per day of acid gas at a maximum pressure of 2800 psi into the Lower Bone Spring Formation between approximately 8700 and 9100 feet through Duke's proposed Linam AGI Well #1, to be drilled approximately 1980 feet from the south line and 1980 feet from the west line of Section 30 Township 18S Range 37E, NMPM, Lea County, New Mexico. In addition, Duke will test the Brushy Canyon Member of the Delaware Group at approximately 5000' for consideration as a potential secondary injection target. The proposed well will be located approximately 4½ miles west of Hobbs, New Mexico.

Pursuant to NMOCD requirements, any objections or request for hearing must be filed with NMOCD, 1220 South St. Francis Drive; Santa Fe, New Mexico 87505 within fifteen (15) days of the date of this letter.

Sincerely,  
Geolex, Inc.



Alberto A. Gutiérrez, C.P.G.  
President  
Consultant to Duke Energy Field Service, LP

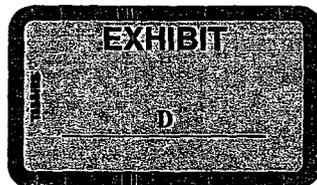


AAG/lh

Enclosures

cc (w/o enclosures): Joshua B. Epel, Assistant General Counsel – DEFS

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AFFIDAVIT OF PUBLICATION

State of New Mexico,  
County of Lea.

I. KATHI BEARDEN

Publisher

of the Hobbs News-Sun, a newspaper published at Hobbs, New Mexico, do solemnly swear that the clipping attached hereto was published once a week in the regular and entire issue of said paper, and not a supplement thereof for a period.

of 1 weeks.

Beginning with the issue dated

September 13 2005

and ending with the issue dated

September 13 2005

Kathi Bearden

Publisher

Sworn and subscribed to before

me this 13th day of

September 2005

Dora Montz  
Notary Public.

My Commission expires  
February 07, 2009  
(Seal)



OFFICIAL SEAL  
DORA MONTZ  
NOTARY PUBLIC  
STATE OF NEW MEXICO

My Commission Expires: \_\_\_\_\_

**LEGAL NOTICE**  
September 13, 2005

Application of Duke Energy Field Services, LP for Authorization to Inject, Lea County, New Mexico. Duke Energy Field Services, LP has filed an Administrative Application for Authorization to up to 2300 barrels per day of acid gas at a maximum pressure of 2800 psi into the Lower Bone Spring Formation between approximately 8700 and 9100 feet through Duke's proposed Linam AGI Well #1, to be drilled approximately 1980 feet from the south line and 1980 feet from the west line of Section 30, Township 18S, Range 37E, NMPM, Lea County, New Mexico. In addition, Duke Energy Field Service, LP will test the Brushy Canyon Member of the Delaware Group at approximately 5000' for consideration as a potential secondary injection target. The proposed well will be located approximately 4 miles west of Hobbs, in Lea County, New Mexico. Duke Energy Field Services, LP may be contacted through its representative, Mr. Alberto Gutierrez, 500 Marquette Avenue NW, Suite 1350, Albuquerque, New Mexico 87102 (505) 842-8000. Interested parties must file objections or requests for hearing with the New Mexico Oil Conservation Division, 1220 South St. Francis Drive; Santa Fe, New Mexico 87505 within fifteen (15) days.  
#21799

This newspaper is duly qualified to publish legal notices or advertisements within the meaning of Section 3, Chapter 167, Laws of 1937, and payment of fees for said publication has been made.

67101169000      67533247  
GEOLEX, INC.  
500 MARQUETTE AVE. NW SUITE 1350  
ALBUQUERQUE, NM 87102



October 18, 2005

Dan Dible,  
City Manager  
City Hall  
300 N. Turner  
Hobbs, NM 88240

VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

RE: COURTESY NOTICE OF HEARING ON C-108 APPLICATION (INJECTION  
AUTHORIZATION) - LINAM RANCH PLANT LEA COUNTY, NEW MEXICO

Dear Mr. Dible:

Duke Energy Field Services, LP, (DEFS) is providing the City of Hobbs with the enclosed courtesy copy of our C-108 application. The application was filed in September, 2005 with the New Mexico Oil Conservation Division (NMOCD). At the suggestion of the NMOCD, DEFS is providing the City of Hobbs and certain landowners a copy of the application. This matter is set for a hearing before the Oil Conservation Commission (OCC) on November 10, 2005 in Santa Fe. However, based on the OCC docket, it is most likely that the hearing will be postponed.

The enclosed application seeks administrative authorization to inject up to 2300 barrels per day of acid gas at a maximum pressure of 2800 psi into the Lower Bone Spring Formation between approximately 8700 and 9100 feet through DEFS's proposed Linam AGI Well #1, to be drilled approximately 1980 feet from the south line and 1980 feet from the west line of Section 30 Township 18S Range 37E, NMPM, Lea County, New Mexico. In addition, DEFS will test the Brushy Canyon Member of the Delaware Group at approximately 5000' for consideration as a potential secondary injection target. The proposed well will be located approximately 4 1/2 miles west of Hobbs, New Mexico.

Sincerely,  
Geolex, Inc

  
Alberto A. Gutiérrez, C.P.G.  
President  
Consultant to Duke Energy Field Service, LP

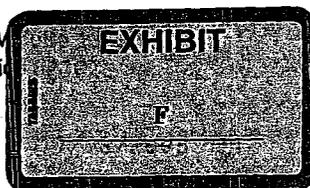
AAG/ih  
Enclosures

cc (w/o enclosures): Joshua B. Epel, Assistant General Counsel - DEFS  
William Carr, Esq., Holland and Hart

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phone: 505-842-8000  
fax: 505-842-7380

500 Marquette Avenue NW  
Albuquerque, New Mexico



BEFORE THE OIL CONSERVATION COMMISSION  
Santa Fe, New Mexico  
Case No. 13589 Exhibit No. 7  
Submitted by:  
DUKE ENERGY FIELD SERVICES, LP  
Hearing Date: February 9, 2006

October 19, 2005

Mr. Ron Dutton  
Xcel Energy  
Suite 2510  
PO Box 1261  
Amarillo TX 79105

VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

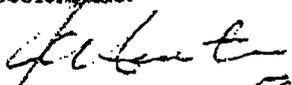
RE: COURTESY NOTICE OF HEARING ON C-108 APPLICATION (INJECTION  
AUTHORIZATION) – LINAM RANCH PLANT LEA COUNTY, NEW MEXICO

Dear Mr. Dutton:

Duke Energy Field Services, LP, (DEFS) is providing the Excel Energy with the enclosed courtesy copy of our C-108 application. The application was filed in September, 2005 with the New Mexico Oil Conservation Division (NMOCD). At the suggestion of the NMOCD, DEFS is providing you with a copy of the application. This matter is set for a hearing before the Oil Conservation Commission (OCC) on November 10, 2005 in Santa Fe. However, based on the OCC docket, it is most likely that the hearing will be postponed.

The enclosed application seeks administrative authorization to inject up to 2300 barrels per day of acid gas at a maximum pressure of 2800 psi into the Lower Bone Spring Formation between approximately 8700 and 9100 feet through DEFS's proposed Linam AGI Well #1, to be drilled approximately 1980 feet from the south line and 1980 feet from the west line of Section 30 Township 18S Range 37E, NMPM, Lea County, New Mexico. In addition, DEFS will test the Brushy Canyon Member of the Delaware Group at approximately 5000' for consideration as a potential secondary injection target. The proposed well will be located approximately 4½ miles west of Hobbs, New Mexico.

Sincerely,  
Geolex, Inc.

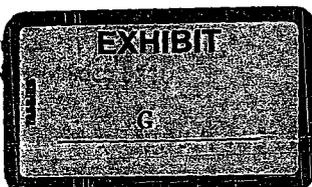
  
FOR AAG  
Alberto A. Gutiérrez, C.P.G.  
President  
Consultant to Duke Energy Field Service, LP

AAG/lh

Enclosures

cc (w/o enclosures): Joshua B. Epel, Assistant General Counsel – DEFS  
William Carr, Esq., Holland and Hart

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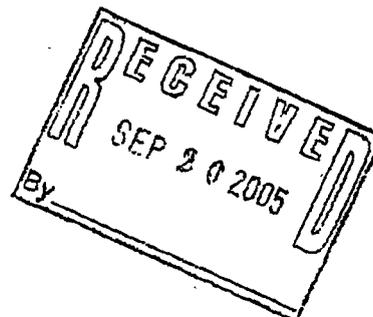
# NEW MEXICO ENERGY, MINERALS and NATURAL RESOURCES DEPARTMENT

BEFORE THE OIL CONSERVATION COMMISSION  
Santa Fe, New Mexico  
Case No. 13589 Exhibit No. 2  
Submitted by:  
DUKE ENERGY FIELD SERVICES, LP  
Hearing Date: February 9, 2006

**BILL RICHARDSON**  
Governor  
**Joanna Prukop**  
Cabinet Secretary

**Mark E. Fesmire, P.E.**  
Director  
Oil Conservation Division

September 16, 2005



Alberto Gutierrez, C.P.G. 505-842-8000 Fax 505-842-7380  
Agent on behalf of DEFS  
500 Marquette Ave NW  
Suite 1350  
Albuquerque, NM 87102

**RE: Acid Gas injection Well Application for the:**  
Proposed Linam AGI Well No. 1 API No. 30-025-NA  
Unit K, Section 30, Township 18 South, Range 37 East, NMPM, Lea County, NM  
Injection into the Lower Bone Springs from 8,700 to 8,900

Dear Mr. Gutierrez:

The Division received this application on September 13, 2005.

The Division Director has decided this must be approved in an **Oil Conservation Commission (not Division) hearing**. Please plan on contacting your attorney and have the case presented before the Commission.

I have looked over your application and reviewed the other three New Mexico Acid Gas injection wells' permitting process and recommend you consider the following:

1) We use a gradient above the top injection perforation of 0.2 psi/ft. Therefore, the maximum allowed surface injection pressure will be 1740 psi at this depth. Please let the DEFS reservoir engineers know this – so they can predict if this reservoir will have adequate permeability to accept enough fluid with this pressure restriction. The operator can apply for an increased pressure limit after demonstrating that injected fluid will not fracture the formation and will remain in the intended injection interval. This is normally done with a Step Rate Test, but can include other methods.

2) Only this Lower Bone Springs (8,700 – 8,900) will likely be considered in this permit application. If other intervals are needed, an amendment can be requested – although this consists essentially of a new application with a new Area of Review evaluation and notice. The Brushy Canyon could be evaluated for injection while drilling or after drilling by various means, prior to the Division granting a permit. Division records indicate that the Lower San Andres and deeper intervals have been used for injection in this area in the past (see SWD-68 and SWD-182).

3) Division rules allow the examiner or the Director to require additional notice of any application as needed. In this instance, I will recommend the following notice be provided to affected parties within a 1 mile radius of this wellbore. This includes all tracts that are wholly or partially contained within this 1 mile radius. For each of these tracts, the Division designated operator of record for all depths from the intended injection interval to the surface should be notified. Division records indicate there are only two active wells within a 1 mile radius. These are operated respectively by XTO Energy and by Southwest Royalties. If a tract does not have an operator, then the lessees must be notified. If no lessees, then the mineral interest owners must be notified. The surface owner of the well site, the facility site, and the

Oil Conservation Division \* 1220 South St. Francis Drive \* Santa Fe, New Mexico 87505  
Phone: (505) 476-3440 \* Fax (505) 476-3462 \* <http://www.nmrd.state.nm.us>



SEP 15:00 [TX/RX NO 8897] 002

flowline to the well must be notified. The surface owner in our State records database for this location is the New Mexico State Land Office. The surface lessees should also be notified. Proof of notice should also be provided to the City of Hobbs in addition to a normal Newspaper notice.

- 4) Please advise the Division in your application of the presence of an H2S contingency plan for accidental releases of H2S from your flowline or wellhead.
- 5) Please send an expected fluid composition of the fluid to be injected. Are all wastes to be disposed of exempt from regulation as hazardous wastes by Subtitle C of RCRA?
- 6) Is water to be injected along with H2S and CO2 and other gases? If so, what is the composition and source of the water to be injected? Is this the reason, you are proposing plastic coated tubing?
- 7) If this is to be dry gas, please state the pressure and temperature that this will remain dry and possibly in a non-corrosive state. What is the quality control and where is the dehydrators?
- 8) Assuming this is to be dry gas: Please let the Division know why DEFS has decided against using non-plastic coated L-80 tubing and with Diesel loaded in the annulus - as requested by DEFS in the previous Acid Gas injection well (SWD-838-B) located in Section 7, Township 18 South, Range 28 East, NMPM, Eddy County, New Mexico. For that injection well, Mr. Russell Bentley with Duke Energy in Houston was the project engineer. Duke maintained that plastic coated tubing will be permeated and destroyed by acid gas. Duke also believed that a diesel filled annulus - in lieu of water filled - would prevent any tubing leaks from contacting water and creating carbonic acid and causing casing corrosion.
- 9) Be advised that continuous or at least daily recordings of tubing pressure, annulus pressure, and injection rate will probably be required. The operator will be required to provide a plot of these recordings on a regular basis to the Division. If this data is available, frequent MIT tests will probably not be required, especially since MIT tests on Acid Gas wells are potentially dangerous.
- 10) There appears to be a shallow plugged wellbore 30-025-05519 at the exact location you are proposing to drill a new well. Your application does not say this is a re-entry of an old wellbore.
- 11) Your application does not have a wellbore diagram of the proposed injection well - please provide one with the formation depths marked on it. Please plan on circulating cement on all casing strings within this proposed well and covering the Ogallala with surface casing and cement.
- 12) Your application does not have wellbore diagrams of the Plugged and Abandoned wells in the Area of Review that penetrated, or almost penetrated, the depth of proposed injection. We believe there are only three wells close to the depth you are proposing for injection within 1 mile of your proposed well. Please provide wellbore diagrams for wells with the following API numbers: 30-025-05512, 30-025-03976, and 30-025-21832.

Sincerely,

  
William V. Jones PE  
Engineer for the Division

cc: Hobbs District office of the Division  
Joshua Epel DEFS 370 17<sup>th</sup> St. #2500, Denver, CO 80202

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:  
 Marathon Oil Co.  
 PO Box 2069  
 Houston TX 77252

Article Number (Transfer from service label) 7002 1000 0005 2953 0198

11, August 2001 Domestic Return Receipt 102595-02-M-1540

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  Agent  Addressee  
 X

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1?  Yes  No  
 If YES, enter delivery address below:

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:  
 Chevron USA  
 PO Box 4791  
 Houston TX 77210

2. Article Number (Transfer from service label) 7002 1000 0005 2953 0150

PS Form 3811, August 2001 Domestic Return Receipt 102595-02-M-1540

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  Agent  Addressee  
 \* [Signature]

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1?  Yes  No  
 If YES, enter delivery address below:

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:  
 Conoco Phillips Co.  
 PO Box 2197  
 Houston TX 77252

2. Article Number (Transfer from service label) 7002 1000 0005 2953 0181

PS Form 3811, August 2001 Domestic Return Receipt 102595-02-M-1540

**COMPLETE THIS SECTION ON DELIVERY**

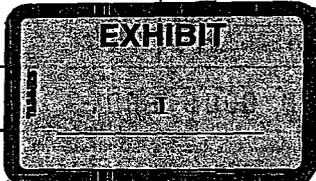
A. Signature  Agent  Addressee  
 X [Signature]

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1?  Yes  No  
 If YES, enter delivery address below:

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes



**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Amerado Hess Corp.  
 PO Box 2040  
 Houston TX 77252

2. Article Number

(Transfer from service label)

7002 1000 0005 2953 0204

PS Form 3811, August 2001

Domestic Return Receipt

102595-02-M-1540

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X

 Agent Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1?  Yes

If YES, enter delivery address below:

 No

3. Service Type

 Certified Mail Express Mail Registered Return Receipt for Merchandise Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee)

 Yes**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Westwest Royalties, Inc.  
 Desto Drive #2100  
 Midland TX 79705

2. Article Number

(Transfer from service label)

7002 1000 0005 2953 0211

PS Form 3811, August 2001

Domestic Return Receipt

102595-02-M-1540

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X

 Agent Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1?  Yes

If YES, enter delivery address below:

 No

3. Service Type

 Certified Mail Express Mail Registered Return Receipt for Merchandise Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee)

 Yes





PATRICK H. LYONS  
COMMISSIONER

State of New Mexico  
Commissioner of Public Lands

310 OLD SANTA FE TRAIL  
P.O. BOX 1148  
SANTA FE, NEW MEXICO 87504-1148

COMMISSIONER'S OFFICE

Phone (505) 827-5760  
Fax (505) 827-5766  
www.nmstatelands.org

October 6, 2005

AC Ranch  
817 N. Grims  
Hobbs, NM 88240

Re: Agricultural Lease No. GS-1547  
(Right of Way Application No. RW-29657)

To Whom It May Concern:

This letter is to inform you of Duke Energy Field Services, LP of 370 17<sup>th</sup> Street, Suite 2500, Denver, Colorado 80202 have submitted in an application to construct/use of a 3 X-42 steel buried line, one 4" acid gas liquid line, one 10" and one 4" fuel gas line on or across State Land in the following area:

Please see attached

If you have any concerns regarding the issuance of this right-of-way, please respond within twenty (20) days from the date of this letter to (505) 827-5729.

Sincerely,

Melissa Armijo, R/W Section  
Surface Resources Division



NATURE OF WORK  
SURVEY A 4" FBE STEEL PIPELINE TO THE

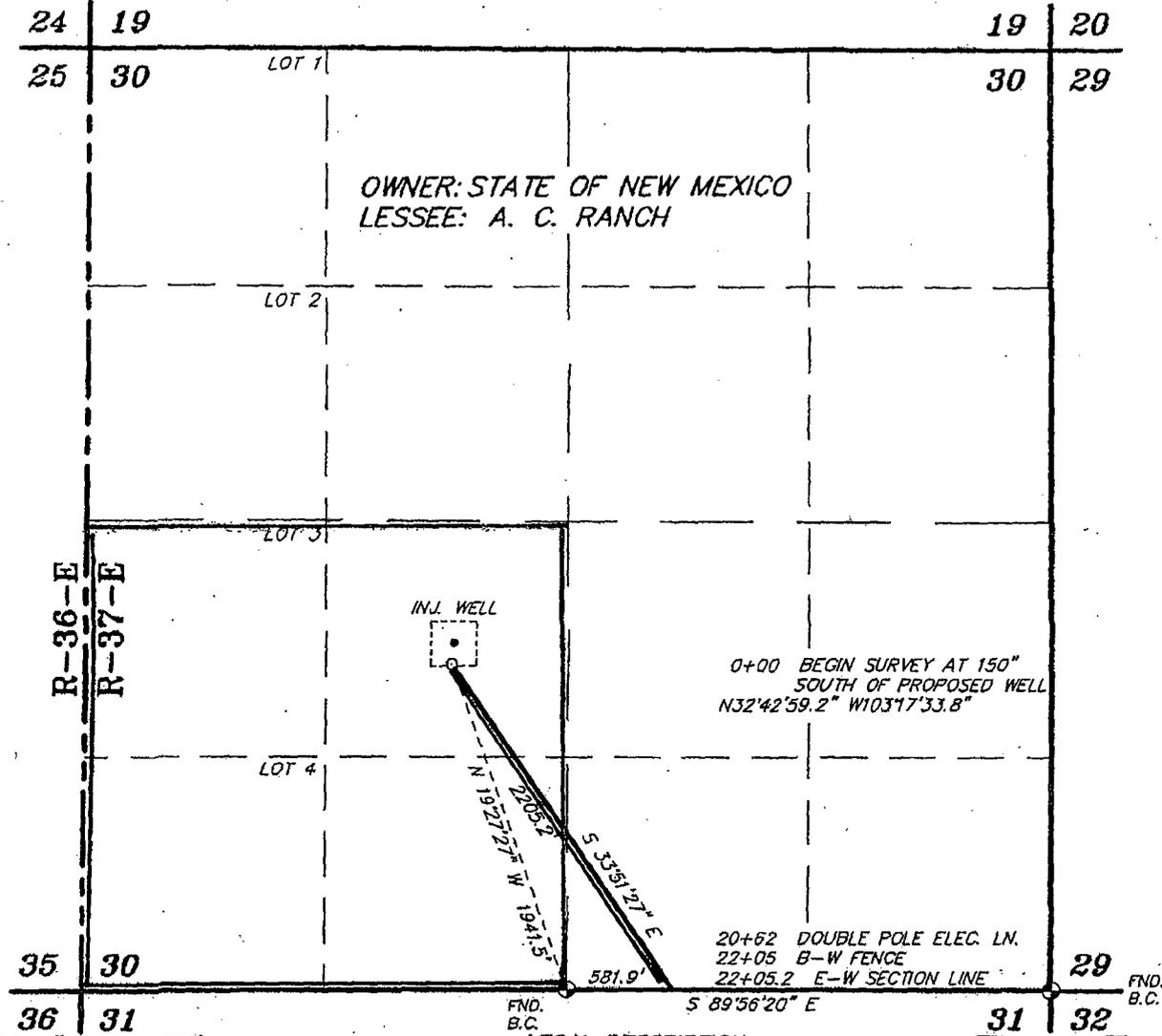
DUKE LINAM PLANT

LINE No.

DISTRICT: WEST PERMIAN PLANT OR STATION LINAM JOB OR AFE No.

SECTION 30 TOWNSHIP 18-S RANGE 37-E SURVEY N.M.P.M. COUNTY LEA STATE N.M.

STUDY No.



SCALE: 1" = 1000'

**LEGAL DESCRIPTION**

STAKING  RESURVEY

A STRIP OF LAND 30.0 FEET WIDE, LOCATED IN SECTION 30, TOWNSHIP 18 SOUTH, RANGE 37 EAST, N.M.P.M., LEA COUNTY, NEW MEXICO AND BEING 15.0 FEET LEFT AND RIGHT OF THE FOLLOWING DESCRIBED CENTERLINE SURVEY.

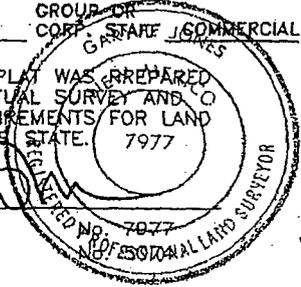
BEGINNING AT A POINT WHICH LIES N.19°27'27"W, 1941.5 FEET FROM THE SOUTH QUARTER CORNER OF SAID SECTION 30; THENCE S.33°51'27"E., 2205.2 FEET TO A POINT ON THE SOUTH SECTION LINE WHICH LIES S.89°56'20"E., 581.9 FEET FROM THE SOUTH QUARTER CORNER OF SAID SECTION 30. SAID STRIP OF LAND BEING 2205.2 FEET OR 133.65 RODS IN LENGTH AND CONTAINING 1.52 ACRES, MORE OR LESS, AND BEING ALLOCATED BY FORTIES AS FOLLOWS.

NE/4 SW/4 37.80 RODS OR 0.43 ACRES SE/4 SW/4 31.93 RODS OR 0.36 ACRES SW/4 SE/4 63.92 RODS OR 0.73 ACRES  
TOTAL 2205.2 FEET = 133.65 RODS = 1.52 ACRES

SIGNED

GROUP OR  
CORP. STAFF (COMMERCIAL)  
GARY L. JONES

I HEREBY CERTIFY THAT THIS PLAT WAS PREPARED FROM FIELD NOTES OF AN ACTUAL SURVEY AND MEETS OR EXCEEDS ALL REQUIREMENTS FOR LAND SURVEYS AS SPECIFIED BY THIS STATE.



GARY L. JONES N.M. P.S.  
TEXAS P.L.S.

PTRE&C No.: LEA

**BASIN SURVEYS**

P.O. BOX 1786 - HOBBS, NEW MEXICO  
W.D. Number: 5793 JLP #1- DUK5793

NATURE OF WORK

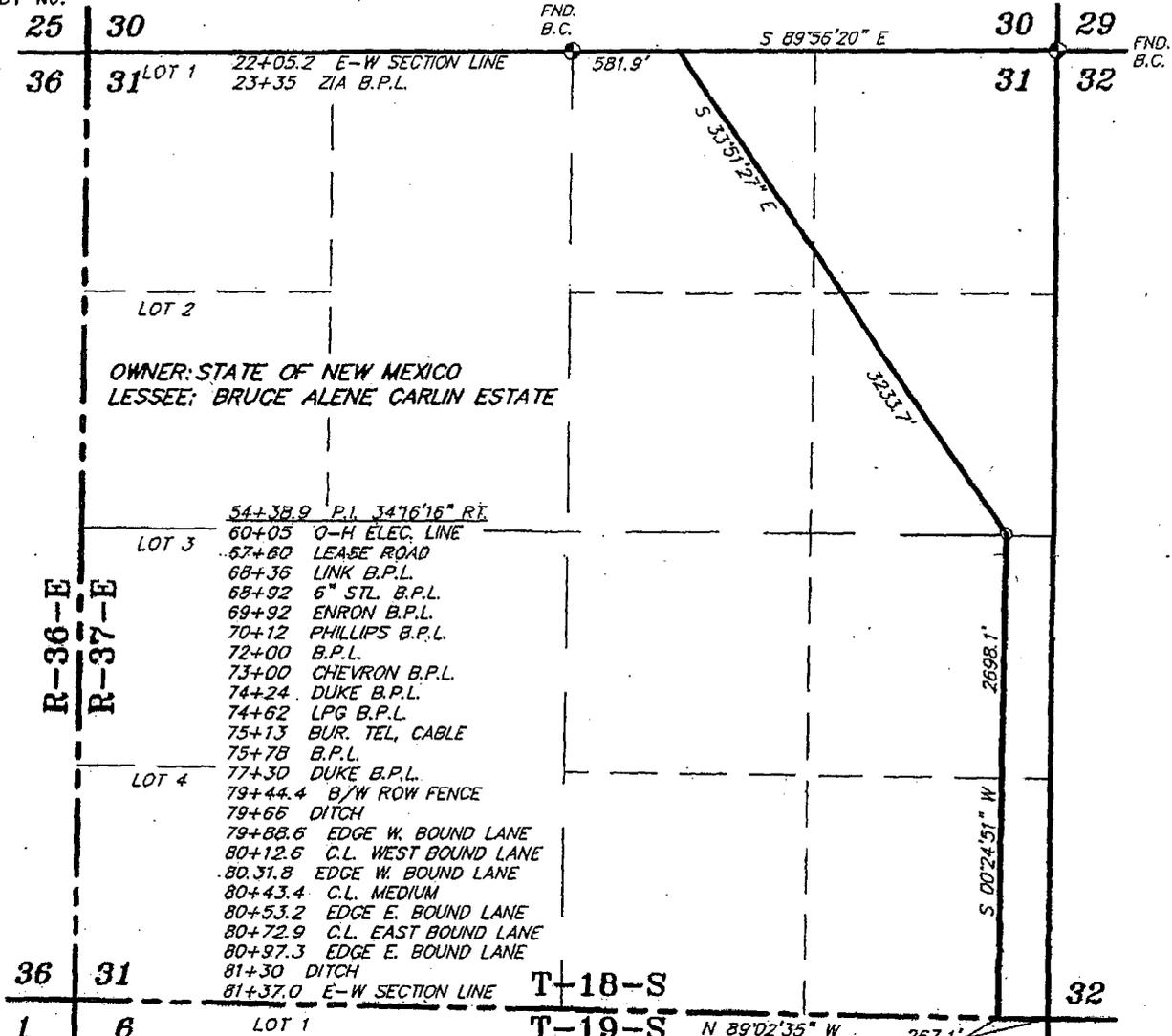
SURVEY A 4" FBE STEEL PIPELINE TO THE

DUKE LINAM PLANT

LINE No.

DISTRICT WEST PERMIAN PLANT OR STATION LINAM JOB OR AFE No. SECTION 31 TOWNSHIP 18-S RANGE 37-E SURVEY N.M.P.M. COUNTY LEA STATE N.M.

STUDY No.



SCALE: 1" = 1000'

LEGAL DESCRIPTION

STAKING RESURVEY

A STRIP OF LAND 30.0 FEET WIDE, LOCATED IN SECTION 31, TOWNSHIP 18 SOUTH, RANGE 37 EAST, N.M.P.M., LEA COUNTY, NEW MEXICO AND BEING 15.0 FEET LEFT AND RIGHT OF THE FOLLOWING DESCRIBED CENTERLINE SURVEY.

BEGINNING AT A POINT ON THE NORTH SECTION LINE WHICH LIES S.89°56'20"E., 581.9 FEET FROM THE NORTH QUARTER CORNER OF SAID SECTION 31; THENCE S.33°51'27"E., 3233.7 FEET; THENCE S.00°24'51"W., 2698.1 FEET TO A POINT ON THE SOUTH SECTION LINE WHICH LIES N.89°02'35"W., 267.1 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION 31. SAID STRIP OF LAND BEING 5931.8 FEET OR 359.50 RODS IN LENGTH AND CONTAINING 4.09 ACRES, MORE OR LESS, AND BEING ALLOCATED BY FORTIES AS FOLLOWS.

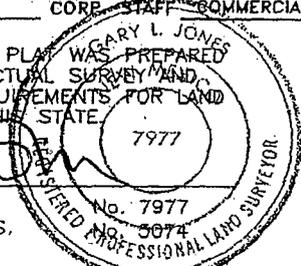
NW/4 NE/4 80.15 RODS OR 0.91 ACRES SE/4 NE/4 98.31 RODS OR 1.12 ACRES SE/4 SE/4 81.53 RODS OR 0.93 ACRES NE/4 NE/4 17.98 RODS OR 0.20 ACRES NE/4 SE/4 81.53 RODS OR 0.93 ACRES

TOTAL 5931.8 FEET = 359.50 RODS = 4.09 ACRES

SIGNED

GROUP OR CORE STAFF COMMERCIAL

I HEREBY CERTIFY THAT THIS PLAN WAS PREPARED FROM FIELD NOTES OF AN ACTUAL SURVEY AND MEETS OR EXCEEDS ALL REQUIREMENTS FOR LAND SURVEYS AS SPECIFIED BY THE STATE.



PTRE&C No.: LEA

GARY L. JONES N.M. P.S. TEXAS P.L.S.

BASIN SURVEYS

P.O. BOX 1786 - HOBBS, NEW MEXICO W.O. Number: 5793 JLP #1- DUK5793