

**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:**

**APPLICATION OF AGAVE ENERGY COMPANY
FOR AUTHORITY TO INJECT, LEA COUNTY,
NEW MEXICO**

**Reopened
Case No. 14720
Order No. R-13507-E**

ORDER OF THE COMMISSION

THIS MATTER comes before the New Mexico Oil Conservation Commission (“Commission”) on Agave Energy Company’s (“Agave’s”) Amended Third Motion to Amend Order No. R-13507. The Commission, having conducted a hearing on November 19, 2014 in Santa Fe, New Mexico, and having considered the testimony and the record in this case, enters the following findings, conclusions and order.

THE COMMISSION FINDS THAT:

1. Due public notice has been given, and the Commission has jurisdiction over this case and its subject matter.
2. On January 23, 2012, the Commission issued Order No. R-13507 authorizing Agave to drill and operate an acid gas injection (“AGI”) well called the Red Hills AGI #1, which will be located 1600 feet from the South line and 150 feet from the East line of Section 13, Township 14 South, Range 33 East, NMPM, in Lea County.
3. Order No. R-13507 authorizes Agave to utilize the Red Hills AGI #1 well to dispose of treated acid gas (“TAG”) containing carbon dioxide (“CO₂”) and hydrogen sulfide (“H₂S”) from Agave’s Red Hills Gas Processing Plant into the Cherry Canyon Formation at an open hole depth interval between 6,200 and 6,530 feet below the surface.
4. In Order No. R-13507, the Commission required Agave to (i) reenter the plugged and abandoned Sims #001 (API 30-025-2695), Government L Com #001 (API 30-025-25604), and Smith Federal #001 (API 30-025027491) wells, perforate and squeeze cement across the injection zone in each well, and replug the wells in accordance with current Oil Conservation Division (“Division”) requirements, (ii) reenter the plugged and abandoned Government L Com #002 (API 30-025-26369) well, place a balanced cement plug across the injection zone, and replug the well in accordance with

current Division requirements; and (iii) commence injection within three years after the Commission's issuance of the order.

5. On May 14, 2012, Agave filed a Motion to Amend Order No. R-13507, which requested the Commission to eliminate the requirement that Agave reenter and replug the Smith Federal #001 well.

6. On July 18, 2012, the Commission issued Order No. R-13507-A granting Agave's motion and amending Order No. R-13507 to remove the Smith Federal #001 well from the list of wells that the Commission required to be reentered and replugged.

7. On August 13, 2012, Agave filed its Amended Second Motion to Amend Order No. R-13507 requesting the Commission to (i) eliminate the requirement that Agave place a balanced plug across the injection zone in the Government L Com #002 well, and (ii) eliminate the requirement that Agave reenter the Government L Com #001 well, perforate and squeeze cement across the injection zone, and replug the well.

8. On December 6, 2012, the Commission entered Order No. R-13507-D, which (i) removed the requirement that Agave place a balanced cement plug in the Government Com #2 across the injection zone and authorized Agave's alternative plugging program for the well, and (ii) delayed the requirement that Agave reenter and replug the Government L Com #001 well until five years from the day Agave begins injecting TAG into the Red Hills AGI #1 well.

9. On October 29, 2014, Agave filed its Amended Third Motion to Amend Order No. R-13507 requesting the Commission to grant a two-year extension of the January 23, 2015 deadline for commencing the injection of TAG into the Red Hills AGI #1 disposal well. The motion further requests that the Commission (i) approve Agave's proposal to cap the unfinished Red Hills AGI #1 well for purposes of obtaining temporary abandonment status for the well, and (ii) allow for the Oil Conservation Division ("Division") to administratively approve any future requests by Agave for an extension of the deadline for commencing the injection of TAG.

10. Agave produced two witnesses at hearing on its motion, Ivan Villa and Alberto Gutierrez. Mr. Villa is Agave's engineering manager. Mr. Gutierrez, a professional petroleum geologist and hydrogeologist, is the President of Geolex, Inc. ("Geolex"). No other parties appeared at the hearing.

11. Mr. Villa testified that Agave planned to build the Red Hills Gas Processing Plant in anticipation of gas production from the Avalon Shale, including sour gas containing H₂S. He further testified that the Avalon Shale gas play has not proceeded at the pace that Agave anticipated when it made plans to construct the plant and request Commission authorization to drill and operate the Red Hills AGI #1 disposal well.

12. Mr. Villa also testified that Agave is not yet receiving any sour gas with H₂S at the Red Hills Gas Processing Plant, and that his current estimate is that it will be another two to five years before Agave begins receiving sour gas for processing.

13. Mr. Villa addressed the offset well remedial work and the Red Hills AGI #1 development Geolex has performed on behalf of Agave. As reflected in Agave's Exhibit No. 1, Mr. Villa testified that to date, Agave has spent \$2,077,223 for remedial work and \$4,120,527 for the development of the Red Hills AGI #1 well.

14. Mr. Villa further testified that Agave recently made a business decision to postpone the completion of the Red Hills AGI #1 well, and that Agave remains committed to completing and operating the well when the need to process sour gas arises.

15. Mr. Gutierrez testified regarding the work that Geolex has performed on behalf of Agave. He testified that the Red Hills AGI #1 well has been drilled, but the casing has not yet been performed.

16. Mr. Gutierrez concurred with Agave's decision to hold the completion of the Red Hills AGI #1 well in abeyance. He testified that completing the well before Agave has a need to inject TAG would present technical problems that could prove detrimental to the wellbore, including scaling of the perforations.

17. Mr. Gutierrez recommended that, in lieu of completing the well, Geolex should run the CBL, cap the well with a secure cap that allows for pressure measurement, and delay perforating the well until it becomes necessary for Agave to begin injecting TAG into the well. He testified that, if the well is capped, Agave will request the Oil Conservation Division and the Bureau of Land Management ("BLM") to grant temporary abandonment status for the well.

18. Kaiser-Francis Oil Company, which opposed Agave's initial application, does not oppose Agave's motion.

THE COMMISSION CONCLUDES THAT:

1. The Commission is empowered to regulate the disposition of nondomestic waste resulting from the treatment of natural gas or the refinement of crude oil to protect public health and the environment. NMSA § 70-2-12(B)(22) (1978). The Commission has a statutory duty to prevent waste and protect correlative rights. NMSA § 70-2-11(A) (1978).

2. Order No. R-13507 provides that Agave must seek Commission approval of an extension of the January 23, 2015 deadline for commencing the injection of TAG into the Red Hills AGI #1 disposal well.

3. Agave has provided substantial evidence that it was necessary and appropriate to postpone the completion of the Red Hills AGI #1 disposal well until Agave begins receiving sour gas at its Red Hills Gas Processing Plant.

IT IS THEREFORE ORDERED THAT:

1. The Amended Third Motion to Amend Order No. R-13507 is granted. Order No. R-13507 is amended to (i) extend the deadline for Agave to commence injection until January 23, 2017, (ii) authorize Agave to cap the Red Hills AGI #1 well for purposes of seeking approved temporary abandonment status for the well from the Division and the BLM, and (iii) allow the Division Director, upon written application and good cause shown, to administratively approve any further extension of the deadline for commencing injection

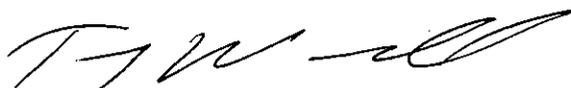
2. All other terms and conditions of Order Nos. R-13507 and R-13507-D remain in force and effect.

3. The Commission retains jurisdiction over this case for the entry of further orders as may be necessary for the prevention of waste and/or protection of correlative rights or upon Agave's operation of the Red Hills AGI #1 well in a manner that (i) fails to protect fresh water or (ii) is inconsistent with the requirements of this order, whereupon the Commission may, after notice and hearing, terminate Agave's injection authority.

DONE at Santa Fe, New Mexico on the 19th of November 2014.

**STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION**


ROBERT BALCH, Member


TERRY WARNELL, Member


JAMI BAILEY, Chair

SEAL