

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

RECEIVED OCD
2015 SEP -8 A 10:39

APPLICATION OF LIGHTNING DOCK GEOTHERMAL HI-01 LLC (FORMS G-112) FOR APPROVAL TO INJECT INTO A GEOTHERMAL AQUIFER THROUGH THREE PROPOSED GEOTHERMAL INJECTION WELLS AT THE SITE OF THE LIGHTNING DOCK GEOTHERMAL POWER PLANT, HIDALGO COUNTY, NEW MEXICO.

CASE NO. 15357

APPLICATION OF LIGHTNING DOCK GEOTHERMAL HI-01, LLC TO PLACE WELL NO. 63A-7 ON INJECTION-GEOTHERMAL RESOURCES AREA, HIDALGO COUNTY, NEW MEXICO

CASE NO. 15365
Order No. R-14021-B

REPLY ON EXPEDITED MOTION TO VACATE HEARING

The Protestant AmeriCulture, for its Reply to Lightning Dock's Response to AmeriCulture's Motion to Vacate Hearing, states:

Good cause exists to vacate and reset the hearing. As set forth in AmeriCulture's Motion, AmeriCulture does not presently possess the information needed to properly present its case in opposition of LDG's injection well applications and this information has been intentionally withheld from the public despite the stated public policy to provide disclosure.

In response to AmeriCulture's IPRA request, the e-mail exchange attached as Exhibit A was produced. This e-mail from November 2012 clearly put Lightning Dock on notice of the policy that OCD required LDG to follow concerning establishing the foundation for confidential documents. This policy has not been followed by LDG. Rather, LDG apparently has continued to designate information as confidential in order to prevent any interested party from finding out the facts pertaining to the geology, hydrogeology and water quality and levels in the geothermal

formation. Such an approach is contrary to all stated public policy and is prejudicial to AmeriCulture.

In addition to the examples set forth in AmeriCulture's motion, a G-103 form was submitted by LDG in 2013 concerning wells 45-7 and 47-7. (Exhibit B). While OCD and public policy require the attachments to be public, the attachments were excluded as confidential. The notes from the February 1, 2013 referenced in LDG's Response (Exhibit C) indicate the "UTSA" (Uniform Trade Secrets Act, NMSA § 57-3A-1) was discussed. Under that Act (§ 57-3A-2(D)), a trade secret is defined as: "information, including a formula, pattern, compilation, program, device, method, technique or process, that: (1) derives independent economic value, actual or potential, from not being generally known to and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; and (2) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy."

More than ten (10) months after the February 1, 2013 meeting, the OCD informed LDG that OCD intended to treat all water quality information associated with the geothermal resource as not confidential and intended to make all this information available online. (Exhibit D). For some reason, this information is not available online, has yet to be disclosed to anyone. Further, this information was not produced in response to AmeriCulture's IPRA request despite an express request for this information. (IPRA Request, ¶12)

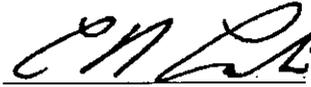
The underground geologic structure of the geothermal formation, monitoring well data, and the existing water quality and impact on water levels from LDG's activities cannot be considered as information that derives independent economic value from not being available for use in the Commission's decision making process. Rather, this information is highly relevant to the Commission in order to fully evaluate this matter. The Commission has the authority under NMSA Section 71-2-8 to utilize the confidential information at hearing and provides protection

for LDG from full disclosure to the public. (“the department may close that part of any meeting where confidential information covered by this section is discussed.”).

The protection of the environment – in particular the underground drinking water source that Lightning Dock intends to inject spent geothermal fluids into – should be given highest priority.

Wherefore, AmeriCulture requests the Commission vacate the September 10, 2015 hearing and reset hearing in this matter no less than 30 days after Lightning Dock has provided all documents responsive to a request for production of documents from AmeriCulture.

Respectfully submitted,
LAKINS LAW FIRM, P.C.



Charles N. Lakins, Esq.
P.O. Box 91357
Albuquerque, NM 87109
Office: (505) 404-9377

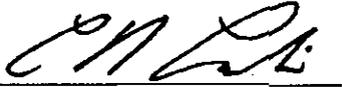
CERTIFICATE OF SERVICE

I, Charles N. Lakins, do hereby certify that on September 8, 2015 I served a true and correct copy of this Reply on Motion to Vacate and Reset to:

Allison R. Marks, Esq.
Office of the General Counsel
New Mexico Oil Conservation Division
1220 S. St. Francis Dr.
Santa Fe, NM 87505

Michelle Henrie, Esq.
M Henrie Land and Water Law
PO Box 7035
Albuquerque, NM 87194-7035
Counsel for Applicant

Pete Domenici, Jr.
Domenici Law Firm
320 Gold Ave SW, Ste 1000
Albuquerque, NM 87103
Counsel for Intervenor Hidalgo.
Soil and Conservation District



Charles N. Lakins, Esq.

VonGonten, Glenn, EMNRD

From: Brooks, David K., EMNRD
Sent: Friday, November 09, 2012 4:19 PM
To: Michelle Henrie (michelle@mhenrie.com)
Cc: Brancard, Bill, EMNRD; Chavez, Carl J, EMNRD; VonGonten, Glenn, EMNRD
Subject: Confidential Filings

Dear Ms. Henrie

The Oil Conservation Division has become increasingly concerned about the volume of material that Los Lobos Renewable Power, LLC ("Los Lobos") has filed that are marked "Confidential."

NMSA Section 71-2-8 requires this agency to preserve the confidentiality of confidential information in possession of the agency. However, it does not define, nor provide any parameters for determining, what constitutes confidential information for which such protection is required. NMSA 14-2-1 establishes a general public policy to the effect that all information regarding agency activities should be open for public inspection unless otherwise required by law.

Although we have not received any request for inspection of any documents or information filed by Los Lobos so far, we have concluded that it is our responsibility to clarify the terms under which we have received and hold various materials in our files.

We do not interpret Section 71-2-8 as establishing a right of confidentiality, but merely as a procedural statute requiring protection for information for which a right of confidentiality otherwise exists by statute, agency rule, court rule, or some common law principle (e.g., trade secrets). Since the Geothermal Resources Conservation Act and the Geothermal Rules do not provide for confidential submission of any of the required permitting or informational forms which those laws and rules require to be filed with us, we do not believe that an operator has a right to designate any of those forms or required attachments to those forms as confidential under Section 71-2-8. Establishing any such material as confidential would require, in our judgment, that the operator furnish factual proof that particular material was entitled to an statutory, evidentiary of common law privilege.

Accordingly, the Oil Conservation Division will not, after December 31, 2012, continue to hold as confidential G-forms filed by Los Lobos, or required attachments to those forms, even though designated "confidential," unless Los Lobos furnishes a factual basis for "trade secret" or other applicable privilege for specific documents. If such a factual basis is provided, we will evaluate it and make a decision. When informed of our decision, Los Lobos will have the opportunity to request review of our decision through the administrative hearing process, and confidentiality will be preserved until that process is completed.

We are furnishing this notification so that there will be no misunderstanding as to how we will interpret our responsibilities under NMSA Section 71-2-8 and/or Section 14-2-1. We will be happy to have an informal conference with Los Lobos representatives concerning this issue if requested.

Sincerely

David K. Brooks
Assistant General Counsel



RECEIVED OCD

April 22, 2013

Mr. Carl Chavez, CHMM
New Mexico Oil Conservation Division
1220 South Saint Francis Drive
Artesia, NM 87505
505-476-3490
CarlJ.Chavez@state.nm.us

2013 APR 23 A 11:11

RE: Revised Form G-103 for Flow Testing Geothermal Well LDG 45-7 and for a Cement Bond Log on Well LDG 47-7 for Los Lobos Renewable Power, LLC, Hidalgo County, New Mexico

Dear Mr. Chavez:

On behalf of Los Lobos Renewable Power, LLC, and pursuant to your email request dated April 19, 2013, AMEC Environment & Infrastructure, Inc. hereby submits the revised attached Form G-103 for a temporary 30 day flow test of LDG 45-7 and a G-103 to conduct a cement bond log on well 47-7.

Thank you for supplying the specific monthly pan evaporation rates from the Desert Research Institute's website at <http://www.wrcc.dri.edu/htmlfiles/westevap.final.html>. Based on this web-based publication, AMEC has revised its evaporation rate and used the highest rate in the table for Animas of 14.2 inches for the month of June and not the 15 inches we originally estimated. The losses due to evaporation are negligible compared to the losses due to flashing. The losses due to evaporation are $1.83 \text{ ft} \times 16,000 \text{ ft} = 18,933 \text{ cubic ft} \times 7.48 \text{ gallons per cubic foot} = 141,640.26 \text{ gallons}/325,900 \text{ gallons per acre-foot} = 0.435 \text{ acre-feet}$.

The 2000 American Society of Testing and Materials Steam Table was used as the source for the 10 percent steam loss fractionation calculations. In additional 1 percent loss was added for loss associated with splash and drift out of the baker tanks. The calculations are indicated below.

Reservoir Temperature = $308^{\circ}\text{F} = 278.0 \text{ Btu/Lb}$

Flashed Temperature (atmospheric pressure) = $212^{\circ}\text{F} = 180.2 \text{ Btu/Lb}$ for the liquid & 1,150.3 Btu/Lb for the Steam

Steam Fraction = $(\text{Reservoir Liquid Enthalpy} - \text{Flashed Liquid Enthalpy}) / (\text{Flashed Steam Enthalpy} - \text{Flashed Liquid Enthalpy}) = (278.0 - 180.2) / (1150.3 / 180.2) = 10.08\%$

So 10.08% of the liquid produced to the surface would boil (partition) to the steam phase. And we are conservatively estimating that all of this would be lost to evaporation. Actually a great deal of this would be condensed while being sprayed into the dispersion header capture tanks.

This flow test is an integral part of the development of the Lightning Dock Geothermal Project in Hidalgo County, New Mexico. As you know we need to be producing commercial power by January 1, 2014, therefore, your expeditious processing of this form is greatly appreciated. Mr. Dade in your Artesia office will receive two copies of each of this document.

Thank you very much for your assistance in the development of this important energy project. Should you have questions regarding this form, please do not hesitate to contact me by email at David.Janney@amec.com or by phone at (505) 821-1801. We ask that you keep all of this information confidential.

Respectfully submitted,



David W. Janney, PG
Agent for Los Lobos Renewable Power, LLC

Cc: Randy Dade, - NMOCD
Charles Jackson, NMOSE
Nick Goodman – Los Lobos Renewable Power, LLC/Cyrq Energy
Chuck Smiley - Los Lobos Renewable Power, LLC/Cyrq Energy
Michelle Henrie – Attorney for Los Lobos Renewable Power, LLC

Attachments

One (1) Revised Form G-103 for a 30 day flow test of LDG 45-7
One (1) Form G-103 for cement bond log on LDG 47-7

NO. OF COPIES RECEIVED	
DISTRIBUTION	
File	
N. M. B. M.	
U. S. G. S.	
Operator	
Land Office	

SUNDRY NOTICES AND REPORTS
ON
GEOTHERMAL RESOURCES WELLS

5. Indicate Type of Lease
State Fee
5.a State Lease No.
Federal NM34790

Do Not Use This Form for Proposals to Drill or to Deepen or Plug Back to a Different Reservoir. Use "Application For Permit -" (Form G-101) for Such Proposals.

1. Type of well Geothermal Producer <input checked="" type="checkbox"/> Low-Temp Thermal <input type="checkbox"/> Temp. Observation <input type="checkbox"/> Injection/Disposal <input type="checkbox"/>	7. Unit Agreement Name
2. Name of Operator Los Lobos Renewable Power, LLC	8. Farm or Lease Name
3. Address of Operator 136 South Main Street, Ste. 600, Salt Lake City, Utah 84101	9. Well No. LDG 45-7
4. Location of Well Unit Letter <u>K</u> <u>2360</u> Feet From The <u>South</u> Line and <u>2278</u> Feet From The <u>West</u> Line, Section <u>7</u> Township <u>25S</u> Range <u>19W</u> NMPM.	10. Field and Pool, or Wildcat Lightning Dock Geothermal
15. Elevation (Show whether DF, RT, GR, etc.) 4198 GR	12. County Hidalgo

16. Check Appropriate Box To Indicate Nature of Notice, Report or Other Data

<p>NOTICE OF INTENTION TO:</p> <p>PERFORM REMEDIAL WORK <input type="checkbox"/> PLUG AND ABANDON <input type="checkbox"/></p> <p>TEMPORARILY ABANDON <input type="checkbox"/></p> <p>PULL OR ALTER CASING <input type="checkbox"/> CHANGE PLANS <input type="checkbox"/></p> <p>OTHER <u>Temporary Flow Test of LDG 45-7</u> <input checked="" type="checkbox"/></p>	<p>SUBSEQUENT REPORT OF:</p> <p>REMEDIAL WORK <input type="checkbox"/> ALTERING CASING <input type="checkbox"/></p> <p>COMMENCE DRILLING OPNS. <input type="checkbox"/> PLUG & ABANDONMENT <input type="checkbox"/></p> <p>CASING TEST AND CEMENT JOB <input type="checkbox"/></p> <p>OTHER _____</p>
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17. Describe Proposed or completed Operations (Clearly state all pertinent details, and give pertinent dates, including estimated date of starting any proposed work) SEE RULE 203.

Temporarily produce LDG 45-7 for a period of up to 30 days.

Move on hole and rig-up.

Set refurbished line-shaft turbine pump at a depth of between 1,000 feet and 1,020 feet.

If pump is not ready, install 900 feet - 1,000 feet of airlift tubing.

Temporarily flow well into the relined LDG 45-7 reserve pit or frac tank.

Reconfigure pipeline and flow from LDG 45-7 to the centralized pond through a totalizing flow meter.

Pump from the centralized pond through a totalizing flow meter into master valve on LDG 55-7 wellhead.

Pump water from LDG 45-7 at an estimated rate of 1,450 gpm for up to 30 days for an estimated total of 62,640,000 gallons.

Complete test, close master valve, rig down remove piping and move off location.

Water losses due to flashing during this 30 day test are estimated at up to 6,890,400 gallons (21.14 acre-feet) using the ASTM Steam Table value of 10% plus an additional 1% loss for splash for a total of 11%.

Water losses from evaporation in the pond during this 30 day test are estimated at 141,640 gallons (0.435 acre-feet) for the month of June using 14.2 inches for the 16,000 square feet of pond surface area.

Los Lobos has leased 150 acre-feet of water for testing in 2013 and the Office of the State Engineer has already approved the temporary use of this water.

18. I hereby certify that the information above is true and complete to the best of my knowledge and belief.

SIGNED David W. Finney, P.E. TITLE Agent for Los Lobos Renewable Power, LLC DATE April 15, 2013

APPROVED BY _____ TITLE _____ DATE _____

CONDITIONS OF APPROVAL, IF ANY:

02/01/2013

10:00 AM

G FORMS

GT Res. Law. Act

Nov 2012

LOS LOTOS CONFIDENTIALITY ISSUES

CHUCK SMILEY, DAVID J., MICHELLE H., DIANE ALDENT, CC, SO

DB: CONF. vs IPRA

↳ NOTICE TO LOS LOTOS IF IPRA

↳ MINIMIZE CONF. INFO.

◇ G FORMS & ATTACHED INFO

MICHELLE: OVERUSED STAMP

↳ DIANE & TRADE SECRETS / UNIFORM TRADE SECRETS

• G FORM NOT CONF.

↳ UTSA

• ATTACHED INFO IS CONF.

DIANE: PhD - METALLURGY ENGR + LAWYER

PATENTS ATTN., TRADE SECRETS, SPECIAL MASTER

"MIS-APPROPRIATION", 2 YEARS

UTSA

ANTI-PATENT / REVERSE-PATENT

↳ DEF: TRADE SECRET - ECONOMIC VALUE, DB

↳ CANNOT PROTECT COMP.

↳ N PATENT EXCLUDES OTHERS

↳ LA DATA HAS ECONOMIC VALUE

Exhibit

C

State of New Mexico
Energy, Minerals and Natural Resources Department

Susana Martinez
Governor

David Martin
Cabinet Secretary Designate

Brett F. Woods, Ph.D.
Deputy Cabinet Secretary.

Jami Bailey
Division Director
Oil Conservation Division



DECEMBER 6, 2013

Mr. David Janney, PG
Lightning Dock Geothermal HI-01, LLC Designated Agent
8519 Jefferson, NE
Albuquerque, NM 87113

RE: Lightning Dock Geothermal Project (GTHT-001) Information Request

Dear Mr. Janney:

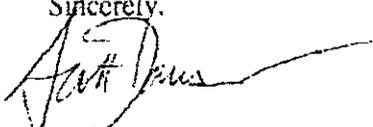
The Oil Conservation Division (OCD) is in receipt of a letter (letter) dated November 20, 2013 from Mr. Walt Anderson, Chairman of the Hidalgo County Soil & Water Conservation District (HCSWCD).

The HCSWCD requests (request) in the letter (see attachment) copies of project related reports submitted to OCD by Lightning Dock Geothermal HI-01, LLC. OCD has determined that the nature of the request in the letter is a public information request. Therefore, OCD is bringing the request to Lightning Dock Geothermal HI-01, LLC's (LDG) attention.

Lightning Dock Geothermal HI-01, LLC (LDG) has asserted to OCD that information stamped "Confidential" by LDG is to be handled as confidential and subject to 71-2-8 NMSA. OCD assumes under the Water Quality Act and Oil and Gas Act that reports containing water quality information associated with OCD regulated facilities, i.e., geothermal power projects (project), are not "Confidential". Therefore, OCD intends to treat any water quality information associated with the project and/or within the Known Geothermal Resource Area (KGRA) as NOT CONFIDENTIAL, and plans to post all historical water quality information within the KGRA and the project going forward on its OCD Online "GTHT-001" Web based Administrative Records accessible by the General Public.

If LDG contends that this information is confidential, trade secret, or has any questions or concerns, please contact Mr. Carl J. Chávez of my staff at (505) 476-3490, mail at the address below, or email at CarlJ.Chavez@state.nm.us. Thank you.

Sincerely,


Scott Dawson
Deputy Director

December 6, 2013

Page 2

Attachment: Hidalgo County Soil & Water Conservation District Letter dated November 20, 2013

SD/cjc

cc: Mr. Walt Anderson, HCSWCD Chairman
Mr. Daniel Sanchez, OCD Santa Fe
Mr. Bill Brancard, OCD Santa Fe
Mr. Glenn von Gonten, OCD Santa Fe
OCD Artesia District Office