

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

IN THE MATTER OF THE APPLICATION OF RASER POWER SYSTEM, LLC
FOR APPROVAL OF A DISCHARGE PLAN PURSUANT TO THE NEW
MEXICO WATER QUALITY ACT, HIDALGO COUNTY, NEW MEXICO

CASE NO.14246

OIL CONSERVATION DIVISION'S
PRE-HEARING STATEMENT

The Oil Conservation Division submits this entry of appearance and pre-hearing statement pursuant to OCD Rule 1211 [19.15.14.1211 NMAC].

APPEARANCES

APPLICANT

RASER POWER SYSTEM, LLC

COUNSEL/REPRESENTATIVES

MARK SHERIDAN
Holland and Hart, LLP
110 North Guadalupe
Suite 1
Santa Fe, NM 87501
(505) 988-4421
(505) 983-6043
msheridan@hollandhart.com

OTHER INTERESTED PARTIES

OIL CONSERVATION DIVISION

COUNSEL/REPRESENTATIVES

MIKAL ALTOMARE
Oil Conservation Division
Energy, Minerals and Natural
Resources Department
1220 S. St. Francis Drive
Santa Fe, NM 87505
(505) 476-3451
FAX: 476-3480
Mikal.Altomare@state.nm.us

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AMERICULTURE

DAMON E. SEAWRIGHT, PHD, VICE PRES.
25 Tilapia Trail
Animas, NM
(505) 548-2328
FAX: (505) 548-2631
damon@vtc.net, damon@americulture.com

STATEMENT OF THE CASE

Applicant Raser Power System, LLC ("Raser"), also known or referenced as "Los Lobos" or "Lightning Dock Geothermal," submitted an application for a discharge permit for the Lightning Dock Geothermal No. 1 geothermal power plant to the Oil Conservation Division ("OCD") on May 13, 2008. The discharge permit application specifically seeks approval for three, Class-V injection wells. The injection wells proposed by Raser will be used to dispose of the water produced by five proposed geothermal wells, once that water has been routed through the power generation units and cooling towers in the geothermal plant.

Raser intends to drill five geothermal production wells, from which high-temperature geothermal water will be produced and routed through a series of power-generation units. The water will then be cycled through a cooling tower, after which Raser intends to re-inject the water. Raser intends to perform the re-injection/disposal of the produced water through use of the three proposed Class-V injection wells described in its discharge permit application.

Raser has provided the OCD with some information in the application regarding well construction, operation, monitoring, testing and surface facilities, and provided a contingency plan in the event of an accidental spill or other accidental discharge into the environment in order to protect fresh water. While the application appears to adequately address many of the potential Water Quality Act concerns, the OCD has identified a few additional issues for which it will require supplemental information or clarification. These issues will be discussed in further detail at the hearing, and include additional, more specific information regarding construction, monitoring and protection of freshwater. (Based on current information, fresh water appears to be present at this location from water table to the proposed depth of injection.)

The draft discharge permit necessarily also includes specific information regarding the proposed geothermal production/development wells for purposes of ensuring that it is clear from where the water/material being discharged into the subject injection wells is coming. Inclusion, identification and description of the production wells in the discharge permit is for reference purposes only, and only to the extent that they relate to the Class-V disposal wells and the approval

of discharge into those wells. Specific regulation of those geothermal production/development wells (including the drilling, testing, operation, monitoring, well construction and production of those wells) falls under the purview of the Oil and Gas Act and the Geothermal Resource Conservation Act, and is not relevant to a determination regarding issuance of this discharge permit under the Water Quality Act.

The only formal/written public comments regarding Raser's application received by the OCD to date were those of AmeriCulture in a letter dated July 11, 2008, in which AmeriCulture raises a number of concerns. While the majority of the issues noted appear to relate primarily to water rights or mineral/geothermal resource rights, and therefore relate to matters not within the scope of this hearing, AmeriCulture does appear to raise a few concerns that relate to issues within the scope of the Water Quality Act. The Oil Conservation Division will address each of these Water Quality Act issues at the hearing, and provide the Hearing Examiner and AmeriCulture with further information regarding the process used by the OCD and the Environmental Bureau to ensure that such concerns are properly considered and addressed.

No other formal public comments have been received by the OCD regarding Raser's Application. The OCD intends to participate in the hearing for purposes of advising the Hearing Examiner, participants and attendees regarding the scope of its regulatory authority under the Water Quality Act with regard to discharge permits, clarifying the distinction between this type of regulation and the regulation performed by the OCD under the Oil and Gas Act or the Geothermal Resource Conservation Act, or by the Office of the State Engineer regarding water rights issues, advising all parties as to those portions of the Application that are acceptable to the OCD and those portions for which additional information will be needed, and to apprise itself of any additional public concerns raised in the course of the hearing relating to this proposed project.

APPLICANT'S PROPOSED EVIDENCE

<u>WITNESS:</u>	<u>ESTIMATED TIME:</u>
▪ Carl Chavez, Environmental Engineer	1 hour
▪ Wayne Price, Environmental Bureau Chief	1 hour

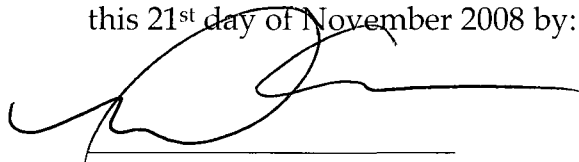
PROCEDURAL MATTERS

The Oil Conservation Division anticipates that it may be unclear to some of the attendees and participants at the scheduled hearing that the scope of the

hearing is limited only to Water Quality Act issues arising out of and relating to the Application for a Discharge Permit for the Lightning Dock Geothermal No. 1 and regarding the three Class-V injection wells proposed by the Applicant. Issues having to do with water rights or geothermal/mineral rights under either the Oil and Gas Act or the Geothermal Resources Conservation Act, and any issues relating to the five proposed production wells will require a separate hearing at a later time (if such issues and parties with standing to raise them are ultimately determined to exist). Likewise, issues relating to water rights and falling within the regulatory authority of the Office of the State Engineer must be brought before that agency for resolution, and are not proper issues to be presented at this hearing.

The Oil Conservation Division therefore anticipates that it may be necessary for the Hearing Examiner to remind and/or educate the attendees and participants of the limited scope of issues to be addressed at the hearing.

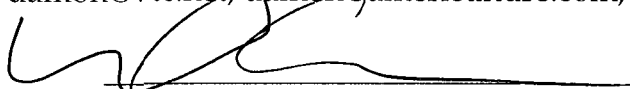
Respectfully submitted
this 21st day of November 2008 by:



MIKAL ALTOMARE
Oil Conservation Division
Energy, Minerals and Natural
Resources Department
1220 S. St. Francis Drive
Santa Fe, NM 87505
(505) 476-3480
mikal.altomare@state.nm.us

CERTIFICATE OF SERVICE

I certify that I e-mailed a copy of this Pre-Hearing Statement to Mark Sheridan, Holland & Hart PA, msheridan@hollandhart.com, counsel for Raser Power System, LLC, and Dr. Damon Seawright, PhD, Americulture, damon@vtc.net; damon@americulture.com, this 21st day of November 2008.


Mikal Altomare