

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

**APPLICATION OF CK DISPOSAL, LLC
FOR A PERMIT TO OPERATE A COMMERCIAL
SURFACE WASTE MANAGEMENT FACILITY,
LEA COUNTY, NEW MEXICO**

**CASE NO 15617
ORDER NO R-14254 C**

ORDER OF THE COMMISSION ON MOTION TO STAY

This matter having come before the Oil Conservation Commission (Commission) on Louisiana Energy Services LLC's (LES) Motion to Stay (Motion) and on the opposition to the Motion filed by CK Disposal LLC and the Oil Conservation Division the Chair having considered the filings enters the following findings and Order

1 The Commission entered Order No R-14254 B on April 4 2017

2 The Commission in Order No R 14254 B directed the Oil Conservation Division to issue a final permit to CK Disposal LLC to operate a commercial surface waste management facility with certain conditions

3 LES requests that the Commission stay Order No R 14254-B until (a) all appeals related to Order No R-14254-B are final or withdrawn (b) CK Disposal LLC obtains all permits required by Order No R 14254 B (c) the Commission approves a revised hydrogen sulfide monitoring plan and (d) there is a final unappealed declaratory judgment or unappealed determination by the Commissioner of Public Lands that CK Disposal LLC has a legal right to access the land upon which the commercial surface waste facility is proposed to be built

4 The Commission's rules provide that it may grant a stay if the stay is necessary to prevent waste protect correlative rights protect public health or the environment or prevent gross negative consequences to an affected party 19 5 4 23(B) NMAC

5 LES argues that a stay of Order No R 14254-B is necessary to protect public health and the environment and to prevent gross negative consequences to LES

6 In Order No R 14254 B, the Commission found that

The proposed facility can be constructed and operated without endangering public health safety or the environment with the conditions provided in the Division's October 13 2016 tentative decision and the Commission's additional conditions Order Paragraph 6 at 7

7 LES does not show in its Motion that a stay is necessary to protect public health or the environment

8 In its argument that a stay is necessary to prevent gross negative consequences LES states that a stay is necessary to prevent trespass on LES's leasehold LES fails to show how the issuance of the permit authorizes CK Disposal LLC to cross property if it lacks the right of access to the property The Commission has determined in prior cases that it lacks jurisdiction to determine title to any interest in real property or construe contracts concerning title and that it does not undertake to rule on such matters in approving a permit *Application of TMBR/Sharp Drilling Inc* Order No R-11700-B issued in Case No 12731 on March 26 2002

9 LES has not shown that it will suffer gross negative consequences if the Commission does not stay Order No R 14254-B

10 The Commission finds that the Motion has not provided a showing that a stay will protect public health or the environment or prevent gross negative consequences to an affected party

THEREFORE the Motion to stay Order No R 14254 B is hereby denied

DONE at Santa Fe New Mexico on this 2nd day of May 2017



SEAL

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION

DAVID R. CATANACH CHAIRMAN