

BEFORE THE NEW MEXICO OIL CONSERVATION COMMISSION

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**APPLICATION OF LOS LOBOS RENEWABLE
POWER, LLC TO PLACE GEOTHERMAL WELLS
LDG-55-7 AND LDG 53-7 ON INJECTION IN
SECTION 7, TOWNSHIP 25 SOUTH, RANGE 19
WEST, NMPM, HIDALGO COUNTY, NEW MEXICO**

Case No. 14948

APPLICATION

Los Lobos Renewable Power, LLC (“Los Lobos”) respectfully requests that the Oil Conservation Commission (“Commission”) approve Los Lobos’ pending form G-112s. These form G-112s request permission to use existing geothermal wells, LDG-55-7 and LDG 53-7, as injection wells in connection with Los Lobos’ geothermal power plant project in Section 7, Township 25 South, Range 19 West, Hidalgo County, New Mexico. For reasons stated below, Los Lobos believes that the Oil Conservation Division Director (“Director”) can and should approve the pending form G-112s without incurring the time and expense of holding a hearing. Notwithstanding, Los Lobos hereby applies to the Commission for a hearing pursuant to 19.14.93.8 NMAC in the event that that no action is taken prior to the March 19, 2013 Commission hearing. If the Director approves the pending form G-112s, Los Lobos will withdraw this Application.

The form G-112s (excluding any submittals that are trade secret and stamped “confidential”) are included at Exhibit A.

AmeriCulture, Inc. (“AmeriCulture”), protested this action via letter dated December 26, 2012. Exhibit B. AmeriCulture did not timely submit any application for a hearing pursuant to 19.14.93.8 and 19.14.112.8 NMAC.

The Oil Conservation Division ("Division") does not oppose Los Lobos' application to use geothermal wells LDG-55-7 and LDG 53-7 as injection wells. Exhibit C, ¶7. The Division has not (to Los Lobos' knowledge) moved for a hearing pursuant to 19.14.112.8 NMAC.

APPLICABLE LAW

19.14.93.8 METHOD OF MAKING APPLICATION [TO PLACE A WELL ON INJECTION]:

A. Application for authority to inject fluids into a geothermal reservoir or to dispose of geothermal waters into a zone or formation not classified as a geothermal reservoir shall be made in duplicate on division form G-112, application to place well on injection-geothermal resources area, and shall be accompanied by one copy of each of the following:

(1) A plat showing the location of the proposed injection/disposal well and the location of all other wells within a radius of one mile from said well, and indicating the perforated or open-hole interval in each of said wells. The plat shall also indicate the ownership of all geothermal leases within said one-mile radius;

(2) The log of the proposed injection well, if available;

(3) A diagrammatic sketch of the proposed injection well showing casing strings, including diameters and setting depths, quantities used and tops of cement, perforated or open-hole interval, tubing strings, including diameters and setting depths, and the type and location of packers, if any.

B. Copies of the form G-112 (without the above attachments) shall be sent to all other geothermal lease owners, if any there be, within a one-half mile radius of the proposed injection/disposal well.

C. If no objection is received within 20 days from the date of receipt of the application, and the division director is satisfied that all of the above requirements have been complied with, that the proposal is in the interest of conservation and will prevent waste and protect correlative rights, and that the well is cased, cemented, and equipped in such a manner that there will be no danger to any natural resource, including geothermal resources, useable underground water supplies, and surface resources, form G-112 will be approved. In the event the form is not approved because of objection from an affected geothermal lease owner or for other reason, the application will be set for public hearing, if the applicant so requests.

D. The division director may dispense with the 20-day waiting period if waivers of objection are received from all geothermal lease owners within a one-half mile radius of the proposed injection/disposal well.

19.14.112.8 METHOD OF INITIATING A HEARING:

A. The division upon its own motion, the attorney general on behalf of the state, and any operator or producer, or any other person having a property interest may institute proceedings for a hearing. If the hearing is sought by the division it shall be on motion of the division and if by any other person it shall be by application. The application shall be in triplicate and shall state:

- (1) the name of the applicant;
 - (2) the name or general description of the common source or sources of supply or the area affected by the order sought;
 - (3) briefly the general nature of the order, rule or regulation sought;
- and
- (4) any other matter required by a particular rule or rules, or order of the division.

B. The application shall be signed by the person seeking the hearing or by his attorney.

C. When conditions are such as to require verbal application to place a matter for hearing on a given docket, the division will accept such verbal application in order to meet publishing deadlines. However, if written application, filed in accordance with the procedures outlined above, has not been received by the division's Santa Fe office at least ten days before the date of the hearing, the case will be dismissed.

STATEMENT OF THE CASE

1. Los Lobos is developing a utility-scale binary (two closed loops) geothermal power facility to provide base-load renewable electricity to Public Service Company of New Mexico (PNM). Los Lobos' address is:

Los Lobos Renewable Power, LLC
136 S. Main Street, Ste. 600
Salt Lake City, UT 84101
Phone: 801-875-4200

2. On or about December 13, 2012, Los Lobos submitted to the Division Form G-112 packages seeking approval to inject native geothermal water into the geothermal reservoir via two existing wells: LDG 55-7 and LDG 53-7. Los Lobos seeks to place two geothermal wells (wells LDG 55-7 and LDG 53-7) on injection for well testing and potential future injection of geothermal fluids.

3. Well LDG 55-7, a well that has been in existence since 1985, is located in Unit J, 2390 FSL and 2412 FEL, Section 7, Township 25 South, Range 19 West, Hidalgo County, New Mexico.

4. Well LDG 53-7, completed in November 2011, is located in Unit G, 1525 feet FNL and 2228 feet FEL Section 7, Township 25 South, Range 19 West, Hidalgo County, New Mexico.

5. AmeriCulture's protest asserts that its State Well No. 1 is in direct hydraulic connection with the production interval in well LDG-55-7 and references an October 2000 pump test and observation data from well LDG-55-7. Los Lobos has not seen this data, which (but for an executive summary) is not available via OCD Online. Regardless, even if these wells are in direct hydraulic connection, Los Lobos' request is to inject into well LDG-55-7 which will result in augmenting, not depleting, the water table.

6. With regard to well LDG 53-7, AmeriCulture's protest speculates regarding "migration" of disposed geothermal power plant "fluids". AmeriCulture's email of January 10, 2013, clarifies that the "fluids" are alleged to include "copious quantities of cooling tower chemicals." Even if Los Lobos were to build a water-cooled cooling tower (which it no longer plans to do, see Exhibit D), the issue of cooling tower "chemicals" was already addressed at the

December 2008 hearing on this project and the resulting Discharge Permit expressly addresses monitoring and mitigation measures.

7. Although AmeriCulture submitted a protest, it did not timely submit an application for a hearing pursuant to 19.14.93.8 and 19.14.112.8 NMAC. AmeriCulture's protest is not an application for a hearing nor does it meet the regulatory requirements at 19.14.112.8 NMAC. Having failed to properly request a hearing, and because the matters complained of are either non-issues (adding native geothermal water via an injection well into a geothermal reservoir) or already heard and addressed by the Division (i.e., cooling tower blow down), it is hard to justify the time and expense involved in holding a hearing.

8. Even if AmeriCulture had submitted a timely and proper application for a hearing, 19.14.93.8 NMAC nowhere grants anyone except Los Lobos the right to request a hearing—not the affected geothermal lease owner and not the Division. The regulations nowhere state that a hearing must be held if a protest is received. To the contrary, 19.14.93.8 NMAC expressly says that the application “will be set for public hearing, if the applicant so requests” after a form G-112 is not approved. In other words, the right to a hearing triggers only after the Division has taken action on form G-112 (i.e., it's a post-deprivation hearing, not a hearing on the merits). Los Lobos' legal analysis is included at Exhibit E.

9. Because the Division does not oppose Los Lobos' application to use geothermal wells LDG-55-7 and LDG 53-7 as injection wells, Exhibit B, it appears that the Director has all the information she needs to approve the form G-112s.

10. Los Lobos should be allowed to place wells LDG 55-7 and LDG 53-7 on injection because all water produced for geothermal power plant operations will be reinjected into the

same geothermal reservoir from which it was produced, thus conserving the geothermal reservoir and preventing waste.

11. Los Lobos should be allowed to place wells LDG 55-7 and LDG 53-7 on injection because doing so preserves and protects correlative rights. Los Lobos' federal geothermal lease is for over 2,500 acres. AmeriCulture's state geothermal lease is for 10 acres. Moreover, in an agreement between AmeriCulture and Los Lobos' predecessor—an agreement which has been assigned to Los Lobos—AmeriCulture agreed that “If LDG's drilling activities result in a depletion of AmeriCulture's heat source for non-power purposes, then upon the commencement of geothermal production by LDG, LDG shall provide AmeriCulture with effluent heat in an amount equivalent to that by which AmeriCulture's resource is depleted.” See Exhibit F, p.6 ¶B(3). During testing, Los Lobos is prepared to pre-position generators or similar equipment to ensure AmeriCulture's heat source is not somehow suddenly depleted.

12. Los Lobos should be allowed to place wells LDG 55-7 and LDG 53-7 on injection because well completion logs and well testing have established that these wells are cased, cemented, and equipped in such a manner that there will be no danger to any natural resource, including geothermal resources, useable underground water supplies, and surface resources.

13. Los Lobos should be allowed to place wells LDG 55-7 and LDG 53-7 on injection because Los Lobos has provided OCD with geothermal fluid analytical results that indicate consistent concentrations of analytes from the geothermal fluid flow intervals in LDG 45-7, LDG 53-7, and LDG 55-7 and that these concentrations are substantially the same as those in the shallow alluvial wells within the geothermal fluid up-flow area.

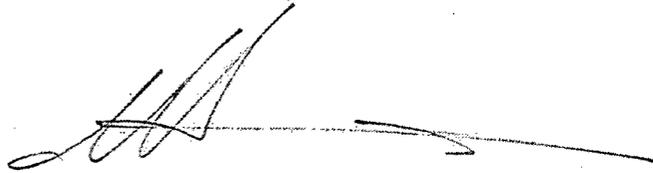
14. Los Lobos should be allowed to place wells LDG 55-7 and LDG 53-7 on injection because Los Lobos has provided geological information that indicates the geothermal fluid

production zones in LDG 53-7 and LDG 55-7 are the same. The producing geothermal fluid flow interval in LDG 53-7 ranges from approximately 2,400 to 3,000 feet bgs and is comprised of the lower portion of the Tertiary volcanoclastic rocks and the upper portion of the Horquilla Formation. The producing geothermal fluid flow interval in LDG 55-7 ranges from approximately 1,200 to 2,200 feet bgs and is also comprised of the lower portion of the Tertiary volcanoclastic rocks and the upper portion of the Horquilla Formation. Regardless of the depths below surface, these geothermal fluid flow intervals occur in the same geological formations.

14. A proposed form of notice is included with this Application.

Respectfully Submitted,

MICHELLE HENRIE, LLC

A handwritten signature in black ink, appearing to read 'MH', with a long horizontal line extending to the right.

Michelle Henrie
P.O. Box 7035
Albuquerque, NM 87194
Attorney for Lightning Dock Geothermal HI-01, LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Application was e-mailed to the following on February 19th, 2013:

Charles N. Lakins
Lakins Law Firm
P.O. Box 91357
Albuquerque, NM 87199
charles@lakinslawfirm.com

David Brooks
EMNRD
1220 South St. Francis Dr
Santa Fe, NM 87505
david.brooks@state.nm.us

Dated this 19th day of February, 2013.

A handwritten signature in black ink, appearing to read "Michelle Henrie", with a long horizontal flourish extending to the right.

Michelle Henrie

Proposed Form of Notice

CASE 14948: Applications of Los Lobos Renewable Power, LLC [Forms G-112] for approval to inject into a geothermal aquifer through two proposed geothermal injection wells at the site of the proposed Lightning Dock Geothermal Power Project, Hidalgo County, New Mexico.

Los Lobos Renewable Power, LLC, whose address is 136 S. Main Street, Ste. 600, Salt Lake City, UT 84101 (Applicant), filed administrative applications (Forms G-112) pursuant to 19.14.93.8 NMAC to place two proposed geothermal injection wells (Wells Nos. 53-7 and 55-7) on injection for well testing and potential future re-injection of geothermal waters, at the Lightning Dock Geothermal Power Facility. These applications have been protested by Damon E. Seawright on behalf of AmeriCulture, Inc. (Protestant). This hearing is being conducted pursuant to the Geothermal Resources Conservation Act, NMSA 1978 Sections 71-5-1 through 71-5-24, as amended, and Rules set forth in 19.14 NMAC, especially 19.14.93.8 NMAC, concerning permitting of geothermal injection and disposal wells. The hearing will be conducted by the Oil Conservation Commission. The issues to be addressed concern whether the proposed injection will contaminate any underground source of drinking water or otherwise cause waters of the State of New Mexico to exceed applicable water quality standards, and whether such injection will cause waste of geothermal resources or impair correlative rights of geothermal users, as defined in 19.14.1.7.C NMAC.

The Lightning Dock geothermal power project is generally located in the NW/4, SW/4 of Section 7, Township 25 South, Range 19 West, NMPM, Hidalgo County, New Mexico. The project area is located within the Animas River Valley approximately 10 miles south of I-10 on CR 338 (east side of Geothermal Road). Production and injection wells are generally located within Sections 7 and 18. The division will accept comments and statements of interest regarding the applications. Persons interested in requesting further information, and submitting comments may contact Glenn von Gonten, Team Leader of the Oil Conservation Division, at 1220 S. St. Francis Drive, Santa Fe, NM 87505, (505) 476-3488. The applications may be viewed at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday. The applications are also posted on the division's web site. Any person who wishes to present technical evidence at the hearing must, at least four business days before the hearing, but in no event after 5:00 p.m. Mountain Time on the Thursday before the scheduled hearing, file with the OCD and serve on each opposing party, a Pre-Hearing Statement containing the information set forth in 19.15.4.13.B NMAC. The filing may be mailed to the division at the above address, or faxed to the division at (505) 476-3462, attention Florene Davidson. A person who does not file a Pre-Hearing Statement may present a general non-technical statement in support of or in opposition to the applications. Portions of the hearing may be closed to the public for presentation of confidential evidence pursuant to NMSA 1978 Section 71-2-8.