

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

**CASE NO. 14948**

**APPLICATION 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 SIDE OF THE  
PROPOSED LIGHTNING DOCK GEOTHERMAL POWER  
PLANT, HIDALGO COUNTY, NEW MEXICO.**

**AMERICULTURE'S RESPONSE TO PROPOSED  
CHANGES TO OCD'S PROPOSED CONDITIONS OF APPROVAL**

The Protestant AmeriCulture, Inc., ("AmeriCulture"), for its Response to Los Lobos' Proposed Changes to the OCD's Proposed Conditions of Approval in the above-captioned matter, states as follow:

In general, all changes proposed by Los Lobos are self-serving alterations that primarily gut all necessary oversight of the Oil Conservation Division. AmeriCulture objects to nearly all proposed changes suggested by Los Lobos. For its responses to specific sections, AmeriCulture provides the following:

In response to Sections 3, 4, and 5: The Applicant Los Lobos now proposes to create an allowance to grandfather production wells not included in the G-Form application process or contemplated during the hearing process under a the prospective permit conditions. Protestant maintains that the use of a production well other than well 45-7 represents a considerable modification that is subject to an additional technical review and hearing process. The specificity in the application should match the corresponding permit. Therefore, the proposed change should be denied.

In response to Section 6: Applicant proposes to introduce additional ambiguity into the already poorly defined standard for efficiency. The nature of “efficient geothermal engineering power generation design, etc.” is independent of the financial condition of, or economic factors facing, Applicant. Conversely, the modification “commercially reasonable” is not independent of said financial and economic factors. For example, Applicant testified that they intend to employ air cooling, although the use of wet cooling towers is more efficient. We may therefore assume that air cooling is presently “commercially reasonable.” In the event of a decrease in resource temperature, or perhaps a need for increased profit margin, Applicant may contend that air cooling may no longer be “commercially reasonable”. In order to avoid entering the semantic quagmire that could result if the suggested change is included, the change should be denied.

In response to Section 7, AmeriCulture does not oppose the suggested change.

In response to Section 8, Paragraph 1: Applicant proposes to remove the annual testing requirement, thereby leaving the referenced testing frequency to Applicant’s discretion. Protestant believes that such self-policing would inevitably lead to an inadequate and self-serving testing regimen. Applicant’s request to eliminate annual testing should be denied. Furthermore, Applicant’s request that the word “may” in line 5 be changed to “shall” provides unfettered discretion for Applicant and alters the intent of the sentence.

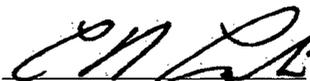
In response to Section 8, Paragraph 2: Protestant maintains that pond/pit information should be reported to the OCD while pond/pits are in use. Daily reporting of pond/pit information during periods of disuse would be unnecessarily burdensome to Applicant. Protestant suggests corresponding adjustment to COA language.

In response to Section 8, Paragraph 3: In the event that resource temperature under production conditions drops below 250°F, Applicant must cease production because Applicant

does not have water rights for well 45-7. To ensure conformance with NMSA 1978, §71-5-2.1 B(2), production temperature should be regularly monitored and reported. Applicant's changes, in total, should be denied. Furthermore, Protestant suggests that the phrase "temperature under production" be substituted for "bottom hole temperature" to prevent Applicant from skirting the intent of NMSA 1978, §71-5-2.1 B(2) by simply closing in production wells to allow bottom hole temperatures to rise above normal production temperature.

In response to Section 11: Protestant agrees with OCD counsel Mr. Brooks' argument that the suggested deletion could result in the division not receiving the information needed to fulfill its statutory obligations. Protestant maintains that the language should remain unchanged from the original draft form presented by the Oil Conservation Division to ensure that Applicant actually complies with the statutory requirement and the State Engineer can provide an opinion as contemplated by NMSA 1978, §71-5-2.1.

Respectfully submitted,  
Lakins Law Firm, P.C.

  
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#### **CERTIFICATE OF SERVICE**

I, Charles N. Lakins, do hereby certify that on the 11th day of April 2013, a true and correct copy of this Response to COA Comments was e-mailed to all counsel of record in this matter.

  
Charles N. Lakins, Esq.