

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

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APPLICATION OF LIGHTNING DOCK
GEOTHERMAL HI-01, LLC FOR APPROVAL
TO INJECT INTO A GEOTHERMAL AQUIFER
THROUGH THREE PROPOSED GEOTHERMAL
INJECTION WELLS AT THE SITE OF THE
PROPOSED LIGHTNING DOCK GEOTHERMAL
POWER PROJECT, 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

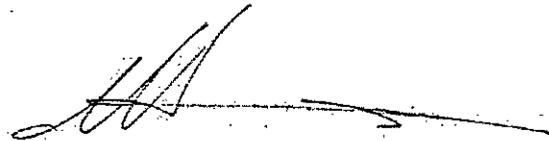
CASE NO. 15365

PROPOSED ORDER

Comes now, Michelle Henrie of Michelle Henrie, LLC and proposes the attached Order for consideration by the Oil Conservation Commission on behalf of Lightning Dock Geothermal HI-01, LLC ("Lightning Dock").

Respectfully Submitted,

MICHELLE HENRIE, LLC



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

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OIL CONSERVATION COMMISSION**

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CASE NO. 15365

Order No. R-14021-_____

ORDER OF THE COMMISSION

These cases came on to the Oil Conservation Commission's docket under circumstances stated below, and the Commission, having considered its regulations and the matter of record;

FINDS THAT:

1. Lightning Dock Geothermal HI-01, LLC ("Lightning Dock") submitted to the Oil Conservation Division ("Division") four G-112 applications to drill injection wells. The first two applications, for wells for 15-8 and 76-7, were filed on June 1, 2015. The third application, for well 13-7, was filed on June 15, 2015. The fourth application, for well 63A-7, was filed on July 1, 2015.
2. AmeriCulture, Inc. ("AmeriCulture") objected to all four G-112 applications. It objected to the applications for wells 15-8, 76-7 and 13-7, on June 20, 2015. It objected to the application for well 63A-7, on July 15, 2015.

3. The geothermal regulation governing injection well applications are 19.14.93.8(C)

NMAC. These regulations state as follows:

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.

The geothermal regulations do not require a hearing if an objection is received. In contrast, the oil and gas regulations do require a hearing if an objection is received. See 19.15.26.8(D) NMAC. Since it was originally promulgated in 1982, the applicable oil and gas regulation has consistently stated that “If a written objection to an application for administrative approval of an injection well is filed ... the Division shall set the application for hearing.” When the geothermal regulations were written a year later in 1983, the mandatory hearing provision was omitted.

4. Lightning Dock’s four G-112 applications to drill injection wells are governed by the geothermal regulations, not the oil and gas regulations. Thus, an objection to the G-112 applications does not require the Commission or the Division to set a hearing. To the contrary, they have discretion whether to set a hearing.

5. The reason AmeriCulture stated to support its objection is: “Owing partially to the potential for endangerment of the regional geothermal resource, underground water supplies, and businesses that rely upon the regional geothermal resource, we believe that [the] applications should be denied.”

6. In 2013, the Commission heard these objections by AmeriCulture in Case No. 14948. The Commission was not convinced. Order No. R-136775_B concluded that Lightning Dock's (f/k/a Los Lobos') proposed injection wells complied with 19.14.93.8 NMAC, were in the interest of conservation, will prevent waste, will protect correlative rights, and will be cased, cemented and equipped in such a manner that there will be no danger to any natural resource including geothermal resources, usable underground water supplies, or surface resources. AmeriCulture's 2015 objection fails to state any new reason, any new evidence, or any new consideration for the Commission.

7. On August 12, 2015, AmeriCulture, through its attorney, filed an application for a hearing of these cases. The application cites that it is submitted in accordance with 19.14.112.8(A) NMAC. This regulation allows an application to file an application for a hearing. The regulation does not require the Commission or the Division to grant the application. To the contrary, they have discretion whether to set a hearing.

8. AmeriCulture's application for a hearing nowhere states any reason why the Commission should grant the application and hold a hearing.

9. It would be prejudicial to Lightning Dock to hold a hearing when no reason has been given for doing so. It would be further prejudicial to Lightning Dock to force it into a hearing process in which Lightning Dock does not even know what it has to defend against because AmeriCulture has refused to articulate the reasons it applied for a hearing.

10. It is not an efficient use of agency resources to hold hearings without good cause.

11. The geothermal regulations do not require the Commission or the Division to hold a hearing just because an application for a hearing has been filed.

The Commission concludes that:

12. 19.14.93.8 NMAC does not require the Commission or the Division to hold a hearing when an objection to an injection well is received.

13. 19.14.112.8 NMAC does not require the Commission or the Division to hold a hearing when an application for a hearing is received.

14. No reason supports the Commission proceeding to hear Case No. 15357 and Case No. 15365.

15. It would be prejudicial to Lightning Dock for the Commission to hear Case No. 15357 and Case No. 15365.

IT IS THEREFORE ORDERED THAT:

1. Case No. 15357 and Case No. 15365 be and hereby are dismissed.

2. Hereafter, the Division Director shall exercise discretion about whether good cause exists to hear an objection to an injection well.

3. Hereafter, the Division Director shall exercise discretion about whether good cause exists to grant an application for a hearing.

DONE at Santa Fe New Mexico on the ___ day of _____, 2015.

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION

PATRICK PADILLA, Member

ROBERT BALCH, Member

DAVID CATANACH, Chair

SEAL

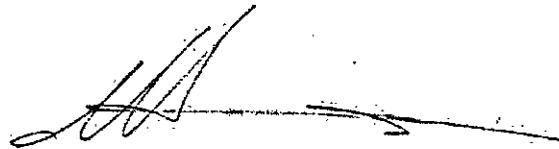
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing pleading was e-mailed to the following counsel and also faxed to Mr. Lakins on August 31, 2015:

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