

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

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APPLICATION OF LIGHTNING DOCK GEOTHERMAL HI-01 LLC (FORMS G-112) FOR APPROVAL TO INJECT INTO A GEOTHERMAL AQUIFER THROUGH THREE PROPOSED GEOTHERMAL INJECTION WELLS AT THE SITE OF THE LIGHTNING DOCK GEOTHERMAL POWER PLANT, 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
Order No. R-14021-B

EXPEDITED MOTION TO VACATE HEARING

The Protestant AmeriCulture respectfully requests the Oil Conservation Commission vacate the hearing set for September 10, 2015 and reset the matter after discovery on relevant and critical information is conducted by AmeriCulture. In support of this request, AmeriCulture states as follows:

The issue of the complex geology and hydrogeologic interconnectivity of the geothermal source was addressed before the Oil Conservation Commission at hearing in March 2013. Facts pertaining to the geology, hydrogeologic interconnectivity, water quality and hydrology are not only relevant – but essential – for AmeriCulture to adequately evaluate the impact of the proposed injection wells on its water rights, geothermal rights and correlative rights, as well as the protection of the underground drinking water source. To obtain all relevant information, AmeriCulture submitted an Inspection of Public Records Act request to the Oil Conservation Division on August 10, 2015. (Exhibit A attached). The IPRA request was submitted because AmeriCulture suspected that there existed a large body of data, pertinent information and

communications unavailable online through the OCD's online portal. In response to this request, on September 3, 2015, AmeriCulture was provided certain documents and a letter from the OCD. (Exhibit B attached). The letter cites to NMSA 71-2-8 as authority for not providing certain information, which necessarily indicates that Lightning Dock has designated as confidential certain information concerning the relevant geology, water quality and levels, as well as the construction of its wells.

It is now apparent that AmeriCulture does not presently possess the information needed to properly present its case in opposition of LDG's injection well applications. From a very cursory review of the more than 5,000 pages of documents provided, it is readily apparent the Applicant has designated voluminous documents as confidential in order to prevent any member of the public from being fully informed of the facts.

For example, the IPRA request for "Any well logs, including but not limited to, wire line geophysical logs, geologist prepared lithology logs, drillers lithology logs, depth-to-water and fluid chemistry analyses for all production, injection, monitoring, intermediate depth or other wells drilled by, used by, or monitored by LDG" yielded no documents. The IPRA response yielded a December 6, 2013 letter to LDG that stated, "OCD intends to treat any water quality information associated with the project...as NOT CONFIDENTIAL." OCD has stated it, "is not in a position to make a determination regarding assertions of trade secret knowledge" (Jami Bailey to Nick Goodman August 27, 2013). Nonetheless it is apparent that a substantial body of water quality and depth data exists that was not provided in the IPRA response and is not available through the OCD's web portal. Similarly, the request for "Any documents and communications pertaining to LDG's Groundwater Background and Compliance Report, specifically including all data relating to water chemistry and water table depth before and after the commencement of power generation by LDG" yielded three letters, three emails, and no data.

It was clear upon review that attachments to OCD G-forms have in many instances been removed from the copies we received and are not available online.

In a July 21, 2015 e-mail provided in response to the IPRA request, Applicant's attorney Michelle Henrie maintained that, "LDG's logs, well files and all data are confidential." Thus, LDG only has itself to blame for any corresponding delays relating to our request for continuance. Our expert Jim Witcher has expressed that without access to the considerable body of evidence, the OCC cannot make a proper determination. AmeriCulture operates within the outflow plume of the resource, so LDG's position that AmeriCulture is a competitor, thus justifying its labeling of well and chemistry data as trade secrets, is illogical.

This information, while designated as confidential, should be made available to AmeriCulture (and Intervenor if desired) in order to provide AmeriCulture and its experts the opportunity to further ascertain the potential impacts of the proposed injection wells based upon information that has been developed since the March 2013 hearing and is known only to Lightning Dock.

Given that AmeriCulture has already been impacted by LDG's injection activities resulting from the migration of injected water from one strata to another, and LDG is presently in violation of their permit, as set forth in our Pre-Hearing Statement, it is imperative that we gain access to all of the information needed to properly testify in opposition of the injection well applications. Without access to the considerable body of data requested in the IPRA, AmeriCulture cannot fully characterize the geothermal system at Lightning Dock, nor gain full understanding of the impacts of present and proposed injection on correlative rights, ground water and geothermal waste.

NMSA Section 71-2-8 contemplates the use of confidential information at public hearings before the Commission and provides protection for the Applicant from full disclosure

("the department may close that part of any meeting where confidential information covered by this section is discussed."'). Prior to the March 2013 hearing, AmeriCulture and Lightning Dock executed a confidentiality agreement under which Lightning Dock provided certain information for AmeriCulture's review. No issues arose from the prior similar arrangement.

Applicant would not be prejudiced by use of relevant information concerning the geology and hydrogeology of the geothermal formation it has developed since the March 2013 hearing, as well as information pertaining to its existing wells – which must meet state and federal regulatory requirements. However, without having benefit of all information that has been developed, Protestant is substantially hampered in presenting its case. AmeriCulture is also prejudiced in presenting its case because the responsive IPRA documents were not received until after the Pre-Hearing Statement and Exhibit filing deadline, and as such AmeriCulture is procedurally prevented from producing additional exhibits from the IPRA response.

Due to the timing of receipt of the IPRA information, the date of the currently set OCC hearing, and the necessity of witnesses to meet (and/or change) travel arrangements, AmeriCulture requests an expedited consideration of this Motion.

Wherefore, AmeriCulture requests the Commission vacate the September 10, 2015 hearing and reset hearing in this matter no less than 30 days after Lightning Dock has provided all documents responsive to a request for production of documents from AmeriCulture.

Respectfully submitted,
LAKINS LAW FIRM, P.C.



Charles N. Lakins, Esq.
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Albuquerque, NM 87109
Office: (505) 404-9377

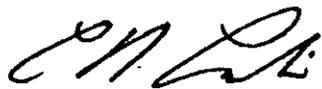
CERTIFICATE OF SERVICE

I, Charles N. Lakins, do hereby certify that on September 4, 2015 I served a true and correct copy of this Request for Hearing to:

Allison R. Marks, Esq.
Office of the General Counsel
New Mexico Oil Conservation Division
1220 S. St. Francis Dr.
Santa Fe, NM 87505

Michelle Henrie, Esq.
M Henrie Land and Water Law
PO Box 7035
Albuquerque, NM 87194-7035
Counsel for Applicant

Pete Domenici, Jr.
Domenici Law Firm
320 Gold Ave SW, Ste 1000
Albuquerque, NM 87103
Counsel for Intervenor Hidalgo
Soil and Conservation District



Charles N. Lakins, Esq.

LAKINS LAW FIRM, P.C.

Charles N. Lakins, Esq.

P.O. Box 91357, Albuquerque, NM 87199 (505) 404-9377

August 10, 2015

VIA facsimile to: 505-476-3462 and email to: florene.davidson@state.nm.us

New Mexico Energy, Minerals & Natural Resources Department

Attn: Florene Davidson

Oil Conservation Division, Environmental Bureau

1220 South St. Francis Drive, Santa Fe, New Mexico 87505

Re: Inspection of Public Records Act (1978 NMSA §14-2-1 to 14-2-12) Request

Dear Florene or other Public Records Custodian:

This letter is a request under the New Mexico Inspection of Public Records Act to inspect the following public records of Lightning Dock Geothermal HI-01, LLC, Los Lobos Renewable Power, LLC, and Cyrq Energy, Inc. ("LDG"):

1. All Oil Conservation Division ("OCD") G-form filings together with all attachments to said G-form filings, filed by LDG or their agents.
2. All minutes, attendance records and meeting materials of all meetings, between LDG (or their agents) and the OCD and/or the Energy, Minerals and Natural Resources Department ("ENMRD").
3. All minutes, attendance records and meeting materials of all meetings pertaining to LDG, between the OCD and/or ENMRD and the Office of the State Engineer.
4. All minutes, attendance records and meeting materials of all meetings pertaining to LDG, between the OCD and/or ENMRD and the Oil Conservation Commission.
5. All minutes, attendance records and meeting materials of all meetings pertaining to LDG, between the OCD and/or ENMRD and the Office of the Governor (including the Office of the Cabinet Secretary for the New Mexico Energy, Minerals & Natural Resources Department).
6. Any communications between LDG (or their agents) and the OCD and/or ENMRD not included online under OCD imaging under Order Number GTHT-1-0.
7. Any communications pertaining to LDG between the OCD and/or ENMRD and the Office of the State Engineer not included online under OCD imaging under Order Number GTHT-1-0.
8. Any communications pertaining to LDG between the OCD and/or ENMRD and the Oil Conservation Commission not included online under OCD imaging under Order Number GTHT-1-0.
9. Any communications pertaining to LDG between the OCD and/or ENMRD and the Office of the Governor (including the Office of the Cabinet Secretary for the New Mexico Energy, Minerals & Natural Resources Department) not included online under OCD imaging under Order Number GTHT-1-0.

Exhibit
A

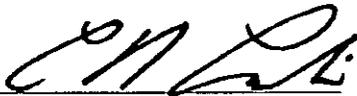
10. Any well logs, including but not limited to, wire line geophysical logs, geologist prepared lithology logs, drillers lithology logs, depth-to-water and fluid chemistry analyses for all production, injection, monitoring, intermediate depth or other wells drilled by, used by, or monitored by LDG.
11. Any documents and communications pertaining to LDG's proposed water replacement plan.
12. Any documents and communications pertaining to LDG's Groundwater Background and Compliance Report, specifically including all data relating to water chemistry and water table depth before and after the commencement of power generation by LDG.

Please let me know the cost of any copies, if the cost of copies exceed \$1,000.00 USD, before making any such copies so that appropriate arrangements may be made for copying or for inspection. I understand that I may be asked to pay the copy fee in advance.

I look forward to hearing back from you soon. You may reach me at the above address and phone number, or via e-mail directly at Charles@LakinsLawFirm.com.

Thank you for your prompt attention to this matter.

Sincerely,



Charles N. Lakins, Esq.

cc: client

State of New Mexico
Energy, Minerals and Natural Resources Department

Susana Martinez
Governor

David Martin
Cabinet Secretary

Brett F. Woods, Ph.D.
Deputy Cabinet Secretary

David Catanach, Division Director
Oil Conservation Division



September 3, 2015

Mr. Charles Lakins, Esq.
Charles@LakinsLawFirm.com

Mr. Damon Seawright
dseawright@gmail.com

Re: New Mexico Inspection of Public Records Act Request regarding Lightning Dock
Geothermal HI-01, LLC, Los Lobos Renewable Power, LLC, and Cyrq Energy, Inc.

Mr. Lakins and Mr. Seawright,

The Department has located documents that are responsive to your request. The documents will be taken to Fed Ex Office on 730 St. Michaels Drive for copying. The Department has made a disc of some records and they will be taken to Fed Ex Office so that they can be picked up with the documents. I understand that Mr. Seawright has made arrangements for payment and pick up of the copies.

The Department has withheld or redacted documents that are subject to attorney-client privilege. See NMRA, Rule 11-503.

The Department has also withheld the following documents pursuant to NMSA 1978, § 71-2-8.

Cyrq Energy, Inc. (f/k/a Raser Technologies, Inc.) Certification of Restated Certificate from Delaware Secretary of State

Amended and Restated Certificate of Incorporation of Raser Technologies

Limited Liability Company Agreement of Raser Power Systems, LLC

Amended and Restated Limited Liability Company Agreement of Los Lobos Renewable Power, LLC

Schedule A Amended and Restated Limited Liability Company Agreement of Los Lobos Renewable Power, LLC

Second Amended and Restated Limited Liability Company Agreement of Lightning Dock Geothermal HI-01, LLC

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Schedule A Amended and restated Limited Liability Company Agreement of Lightning Dock Geothermal HI-01, LLC

Los Lobos Renewable Energy HI-01, LLC Background Concentrations for the LDG 45-7 and LDG 55-7 Testing

Cyrq Lightning Dock Geothermal LDG 63A-7 Drilling Handbook

Typical Shallow Injection Well Dock Site Layout

Wells Within a One Mile Radius of LDG 63 A-7

Figure 1 Proposed Action Area

Cyrq Lightning Dock Geothermal Lightning Dock Geothermal HI-01, LLC LDG 15-8 Drilling Handbook

Wells Within a One Mile Radius of LDG 15-8

Figure 1 Proposed Action Area

Cyrq Lightning Dock Geothermal HI-01, LLC LDG 13-7 Drilling Handbook

Wells Within a One Mile Radius of LDG 13-7

Figure 1 Proposed Action Area

Cyrq Lightning Dock Geothermal HI-01, LLC LDG 76-7 Drilling Handbook

Wells Within One Mile Radius of LDG 76-7

Cyrq Lightning Dock Geothermal HI-01, LLC LDG 17-7 Drilling Handbook

Figure 1 Proposed Action Area

Wells Within One Mile Radius of LDG 17-7

Cyrq LDG 17-7 Cement Evaluation

Cyrq Lightning Dock Geothermal LDG 47-7 Airlift Injection Procedure

LDG 53-7 Table 1

LDG 63-7 Table 1

Halliburton Special Density Dual Spaced Neutron Array Compensated True Resistivity LD 53-7

Well Diagram LDG 53-7 and 53-7ST

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Thermochem Report of Analysis LD 53-7

Dual Spaced Neutron Special Density Array Compensated True Resistivity LD 45-7

Thermochem Report of Analysis LD 45-7

Natural Gamma Ray Tool Calibration

Borehole Compensated Array Sonic Field Copy

Segmented Bond Log Gamma Ray 55-7

Thermochem quality Control Data

Project Area Wells

Wells Within a One Mile Radius of LDG 55-7

Well Diagram LDG 55-7

XRMI Image and Interpretation in Volcaniclastic Formation 1,744 – 2,390 Feet

8/17/12 Letter to BLM Second Response to BLM Request dated 8/9/12 for information to clarify sundry notices submitted for testing wells LDG 45-7 and 55-7

Pressure Temperature Spinner Survey LDG 45-7

Thermochem Reconstructed Brine Analysis LD 45-7

Water Quality Summary for TFD 55-7

LDG 54-12 Drilling Handbook

Proposed Well Diagram LDG 54-12

Wells Within One Mile Radium of LDG 54-12

Project Area Wells

Cement Bond Log LDG 63-7

Summary Log Well 63-7

Figure 3: Well Log 45-7 Construction, Lithology and Log Data

Well Location Map

LDG 42-18 Drilling Handbook

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Directional Plan Report LDG 63-7

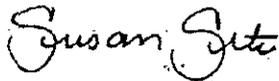
OCD Form 101 Application for Permit to Drill, Deepen, or Plug Back Geothermal Resources Well LDG 54-12

OCD Form G-102 Geothermal Resources Well Location and Acreage Dedication Plat LDG 42-18

Attachments to OCD Form G-105 for LDG 47-7 including a log by Halliburton that includes Dual Spaced Neutron, Spectral Density Array Compensated True Resistivity, Calliper, Temperature and Gamma API, a log by Halliburton that includes Borehole Compensated Array Sonic, Calliper and API Gamma and a survey by West Coast Directional, LLC that includes the azimuth of the borehole

There are no copy charges from the Department.

Sincerely,

A handwritten signature in cursive script that reads "Susan Sita".

Susan Sita
IPRA Contact