

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

**APPLICATION OF AGAVE ENERGY
COMPANY FOR AUTHORITY TO INJECT,
LEA COUNTY, NEW MEXICO**

**Reopened
CASE NO. 14720
ORDER NO. R-13507-A**

ORDER OF THE COMMISSION

THIS MATTER comes before the New Mexico Oil Conservation Commission ("Commission") on the motion of Agave Energy Company ("Agave") to amend Order No. R-13507. The Commission having conducted a hearing on June 28, 2012 in Santa Fe, New Mexico, and having considered the testimony and record in this Case, enters the following findings, conclusions and order.

THE COMMISSION FINDS THAT:

1. Due public notice has been given, and the Commission has jurisdiction of this case and its subject matter.
2. On January 23, 2012, the Commission entered Order No. R-13507, which authorizes Agave to drill and operate Red Hills AGI #1 well in Lea County, New Mexico, to dispose of treated acid gas containing carbon dioxide and hydrogen sulfide into the Cherry Canyon Formation at an open hole depth interval from 6,200 feet to 6,530 feet below the surface.
3. In Order No. R-13507, the Commission required Agave, inter alia, to reenter the plugged and abandoned Simms #001, Government L Com #001 and Smith Federal #001 wells, and perforate and squeeze cement across the injection zone in each well and replug the wells in accordance with current Oil Conservation Division requirements. The Order also required Agave to reenter the plugged and abandoned Government L Com #002 well, and place a balanced cement plug across the injection zone, and replug the well in accordance with current Oil Conservation Division requirements.
4. In the Order, the Commission also provided that "Agave may request relief from the Commission in the event that it encounters problems upon reentering the plugged and abandoned wells or has new data to present to the Commission regarding the wells".

5. On May 14, 2012, Agave filed a Motion to Amend Order No. R-13507. At the direction of the Commission, the Motion was set for hearing before the Commission pursuant to the provisions of the Commission's Rules.

6. This case was heard on June 28, 2012. The only testimony was presented by Agave.

7. Agave produced three witnesses at this hearing, Ivan Villa, Jennifer Knowlton, and Alberto A. Gutierrez, CPG. Mr. Villa and Ms. Knowlton testified that Agave is proceeding with the development of the Red Hills plant and with the requirements to reenter and plug the wells listed in the Order.

8. Mr. Gutierrez, a professional petroleum geologist and hydrogeologist who is the President of Geolex, Inc., testified that Geolex conducted additional analysis of each well that the Commission ordered to be reentered and plugged in the Order. As a result of the analysis, Geolex determined that the Smith Federal #1 well is adequately protected in its current condition and recommended that the Commission not require that this well be reentered and replugged. Mr. Gutierrez's recommendation is based on the following, which is set forth in Mr. Gutierrez' testimony and in his Power Point presentation, submitted as Agave Exhibit No. 1:

a. The Smith Federal #1 well is located 0.75 miles from the proposed Agave AGI well, which is further than the other wells subject to the order.

b. The Smith Federal #1 well is located well beyond the projected impact zone of the AGI well after thirty years of injection (0.39 miles). With a safety factor of three times, the radius of injection would expand to 0.68 miles, which still does not reach the Smith Federal #1 well.

c. The Smith Federal #1 well is located south and southeast of the AGI well, which is downdip of the AGI well and therefore less subject to any migration of gases within the injection zone.

d. Based on an analysis of data in Oil Conservation Division files, the Smith Federal #1 well has several plugs above and below the Cherry Canyon zone where injection will occur. There was also heavy brine mud injected above and below the casing.

9. Kaiser-Francis Oil Company, which opposed Agave's initial application, does not oppose this Motion. No other parties presented written or oral testimony or arguments in this matter.

THE COMMISSION CONCLUDES THAT:

1. The Commission is empowered to regulate the disposition of nondomestic waste resulting from the treatment of natural gas or the refinement of crude oil to protect

public health and the environment. NMSA § 70-2-12(B)22 (1978). The Commission has a statutory duty to prevent waste and protect correlative rights. NMSA 70-2-11(A).

2. The Order provided that Agave may request relief from the Commission if it has new data regarding the plugged and abandoned wells.

3. Agave has provided substantial evidence that the current condition of the Smith Federal #1 well does not present a significant hazard to public health, the environment or correlative rights if the proposed AGI well is operated in accordance with the Order.

IT IS THEREFORE ORDERED THAT:

1. The Motion to Amend Order No. R-13507 is granted. The Order is amended to remove the Smith Federal #1 well from the list of wells that the Commission required to be reentered and replugged.

2. All other terms and conditions of the Order remain in full force and effect.

3. Jurisdiction is retained by the Commission for the entry of further orders as may be necessary for the prevention of waste and/or protection of correlative rights or upon failure of the Operator to conduct operations (i) to protect fresh water or (ii) consistent with the requirements in this order, whereupon the Commission may, after notice and hearing, terminate the injection authority granted herein.

DONE at Santa Fe, New Mexico, on the 18th day of July, 2012.

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION



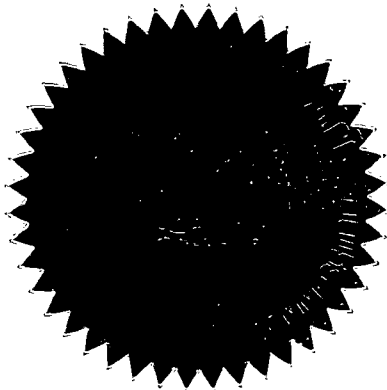
ROBERT BALCH, Member



SCOTT DAWSON, Member



JAMI BAILEY, Chair



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