



New Mexico Energy, Minerals and Natural Resources Department

Bill Richardson
Governor

Jon Goldstein
Cabinet Secretary

Jim Noel
Deputy Cabinet Secretary

Mark Fesmire
Division Director
Oil Conservation Division



March 25, 2010

Agave Energy Company
Attn: Jennifer Knowlton
105 South Fourth Street
Artesia, NM 88210

Email: jknowlton@yatespetroleum.com

CERTIFIED MAIL: 7008 3230 0000 2319 2608

FORMAL NOTICE OF LOSS OF INJECTION AUTHORITY
OPERATOR REQUIRED TO CEASE AND DESIST INJECTION

Re: Agave Energy Company OGRID 147831
Metropolis Disposal #001, 30-015-31905
SWD-936

Dear Operator:

You are hereby notified that your authority to inject into the Metropolis Disposal #001 has terminated. **You must not inject into the Metropolis Disposal #001.**

Oil Conservation Division (OCD) Rule 19.15.26.12(C)(1) NMAC provides:

Whenever there is a continuous one year period of non-injection into all wells in an injection or storage project or into a salt water disposal well or special purpose injection well, the division shall consider the project or well abandoned, and the authority for injection shall automatically terminate ipso facto.



OCD Rule 19.15.26.12(C)(2) NMAC provides:

For good cause shown, the director may grant an administrative extension or extensions of injection authority as an exception to Paragraph (1) of Subsection C of 19.15.26.12 NMAC, provided that any such extension may be granted only prior to the end of one year or [sic] continuous non-injection, or during the term of a previously granted extension.

When your employee Ivan Villa called OCD District II Compliance Officer Richard Inge on September 11, 2009 to tell him that the well was undergoing a mechanical integrity test that morning because it was being returned to injection, Mr. Inge reviewed the injection reports for the well and determined that there had been no injection into the well since July 1, 2007. Mr. Inge informed Mr. Villa that the injection authority for the well had terminated and that Agave Energy Company (Agave) would have to re-apply for injection authority.

According to the Annual Report of Daily Injection Rates and Pressures that you filed for the well there was "0" injection last year.

The OCD has not found any administrative extensions of the injection authority for this well.

By operation of OCD Rule 19.15.26.12(C)(1) NMAC, this acid gas and produced water disposal well authorized under Administrative Order #SWD-936 has been abandoned, and the authority for injection into the well has automatically terminated. No extension can be granted now. If you wish to re-inject into this well you will need to apply for a new permit under OCD Rule 19.15.26.8 NMAC. (Mr. Inge explained this to Mr. Villa on September 15, 2009, when Mr. Villa called Mr. Inge to ask what his options were for getting the injection authority reinstated.)

Agave does not have the authority to inject into the Metropolis Disposal #001 and must not inject into the well.

Artesia District Office inspectors will be checking the well to determine if it is injecting.

If Agave injects into the Metropolis Disposal #001 without authority, the OCD intends to take further enforcement action. The OCD may seek an administrative order requiring Agave to plug the well under NMSA 1978, Section 70-2-14(B), and authorization for the OCD to forfeit the bond and plug the well in the event of Agave's non-compliance with the Order. The OCD and/or the state Attorney General may seek an order from District Court pursuant to NMSA 1978, Section 70-2-28 enjoining Agave from injecting into the Metropolis Disposal #001 and assessing penalties under NMSA 1978, Section 70-2-31(A) for Agave's knowing and willful violation of OCD Rule 19.15.26.12 (C)(1).

If you disagree with the OCD's conclusion that the Metropolis Disposal #001 has been abandoned and that the authority to inject has been terminated, please provide documentary proof that there has not been a one year period of non-injection, or that you are operating under an administrative extension of injection authority.

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Sincerely,

A handwritten signature in black ink, appearing to read 'Dan Sanchez', with a long horizontal flourish extending to the right.

Daniel Sanchez
Underground Injection Control Director for the State of New Mexico

CC: Randy Dade, Supervisor, Artesia District Office
Richard Inge, Compliance Officer, Artesia District Office,