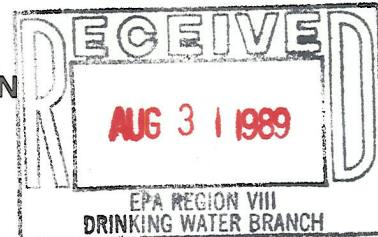


STATE OF COLORADO  
**OIL AND GAS CONSERVATION COMMISSION**

DEPARTMENT OF NATURAL RESOURCES  
SUITE 380 LOGAN TOWER BUILDING  
1580 LOGAN STREET  
**DENVER, COLORADO 80203**

(303) 894-2100



ROY ROMER  
Governor

WILLIAM R. SMITH  
Director  
DENNIS R. BICKNELL  
Deputy Director

August 30, 1989

Mr. Max H. Dodson, Director  
Water Management Division  
US-EPA Region VIII  
999 18th Street - Suite 500  
Denver, Colorado 80202-2405

Dear Max:

Enclosed is an approved copy of the modified Memorandum of Agreement between the Colorado Oil and Gas Conservation Commission and U.S. EPA, Region VIII fully executed. I have retained our copy.

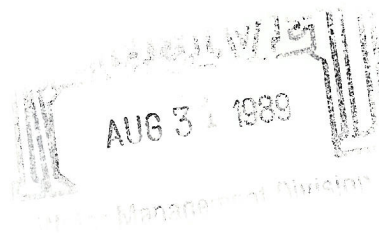
We look forward to working with your staff during the coming years and appreciate the fine cooperation to date.

Yours very truly,

A handwritten signature in cursive that reads "Bill Smith".

William R. Smith, P.E.  
Director

WRS/clk  
6802C



STATE OF COLORADO  
**OIL AND GAS CONSERVATION COMMISSION**

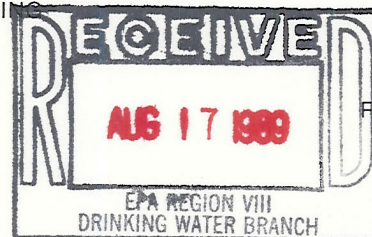
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Underground Injection Control Program

Memorandum of Agreement

For Program Delegation

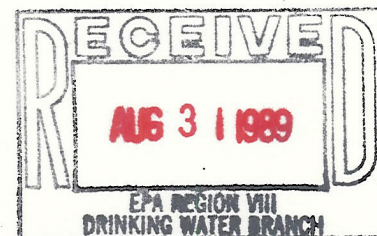
Between

The Colorado Oil and Gas Conservation Commission

And

The United States  
Environmental Protection Agency  
Region VIII

August 15, 1989



Memorandum of Agreement

I. INTRODUCTION

This amended Memorandum of Agreement ("Agreement") is entered into by the Oil and Gas Conservation Commission of the State of Colorado and the United States Environmental Protection Agency ("EPA"), and updates the previous agreement entered on March 8, 1984, in connection with the Commission's application to obtain approval of its Underground Injection Control Program for Class II wells ("Class II well program"), pursuant to Section 1425 of the Federal Safe Drinking Water Act, 42 U.S.C. Section 300h-4 (Supp. 1981). The Commission and the EPA agree as follows:

II. Policies and Agreements

A. Administration of Program

The Commission shall carry out the Class II well program described in the program description submitted at the time of program approval. The number of employees necessary to administer the Class II well program will be consistent with funding and will be agreed upon by both parties in annual workplans.

B. Disclosure of Information

The Commission shall make available to EPA, within a reasonable period of time, any material in the Commission's files related to the Class II well program.

C. Inspection Authority

EPA may conduct independent inspections of the wells subject to the Class II well program as appropriate, but not without prior notice to the Director of the Commission. Commission representatives may be present on these inspections, as appropriate.

D. Enforcement

1. The Commission recognizes EPA's authority to take enforcement action under Section 1423 of the Federal Safe Drinking Water Act, 41 U.S.C. Section 300h-2 (Supp. 1981), in cases where the Commission fails to take timely and appropriate enforcement action.



2. C.R.S. 34-60-121 states that any person who violates any provision of the Oil and Gas Conservation Act (Act), or any rule, regulation, or order of the Commission shall be subject to a penalty of not more than one thousand dollars for each act of violation and for each day that such violation continues unless the penalty for such violation is otherwise specifically provided for and made exclusive by the Act. Penalties can only be levied by the Commission after public hearing. Attached is the current Commission policy concerning recommended fine amounts.
3. A member of the Attorney General's staff is appointed legal advisor to the Commission. In hearings relating to UIC enforcement matters, the Attorney General's representative advises the Commission on points of law including, but not limited to, notice, personal service, rules and regulations of the Commission and procedures required by the Administrative Procedures Act of the State of Colorado.
4. Facilities on Federal or State owned properties will be treated in the same manner as private facilities. This fact was established and approved in the application for primacy.
5. The 1986 Amendments to the Safe Drinking Water Act (U.S.C. 300h-2) make Federal enforcement in delegated States mandatory where a state fails to take appropriate enforcement action within thirty days after notice. In addition to the mandatory requirements of the Safe drinking water Act of 1986, EPA will consider taking direct enforcement action in the following cases:
  - a. The Commission requests EPA action
  - b. National precedent (legal or program)
  - c. Violation of an EPA order or consent decree.
6. The Commission will address instances of significant non-compliance (SNC) in a timely and appropriate fashion. Significant non-compliance means the final language established in a memorandum signed by Michael B. Cook, Director,

Office of Drinking Water on December 4, 1986. Within ninety days of the time an instance of SNC is identified the Commission will take one of the following actions:

- a. bring the owner/operator back into actual (physical) compliance through formal or informal enforcement action; or
  - b. place the owner/operator on an enforceable compliance schedule to achieve future compliance; or
  - c. initiate formal administrative or judicial enforcement action.
7. Section 1423(a)(1) of the SDWA requires advance notification of the Commission in the case of direct Federal enforcement action. In addition, the EPA Regional Administrator will notify the Commission at least seven (7) working days before any independent EPA inspection of Commission regulated injection facilities.

The EPA Region agrees to the following protocol when notifying the Commission of an intended inspection or enforcement action:

The Water Management Division Director, or his designee, will call the Director of the Commission or UIC project director, when a case is being considered.

E. Reporting

Reporting shall be made using the proper EPA forms. The forms may be augmented by written narrative, if necessary and shall be submitted no later than 45 days after the end of the quarter.

1. Annual Reports. The Commission shall annually submit a report to EPA on the operation of the Class II well program. This report shall include the data for the final quarter of the year. The fourth quarter (or "Annual Report") will consist of the routine quarterly report information as detailed in item 2 supplemented with the following:



- (a) an updated inventory of Class II wells;
  - (b) a summary of Grant Utilization (EPA Form 7520-5); and
  - (c) a narrative description of the Commissions implementation of the program. The annual narrative should be brief and cover any major UIC Program highlights, including statutory, regulatory, or organizational changes.
2. Quarterly Reports. Quarterly reports shall be submitted to EPA. The reports shall include:
- (a) tabulation of permit review and issuance;
  - (b) tabulation of compliance evaluation;
  - (c) tabulation of compliance evaluation of all instances of significant noncompliance;
  - (d) tabulation of inspections and mechanical integrity testing.

F. Aquifer Exemptions

The criteria and procedures employed in the designation of exempted aquifers pursuant to Rule 324 B, of the Commission regulations titles " Rules, Regulations, and Rules of Practice and Procedure, as promulgated under C.R.S. 34-60-101 et seq., shall be consistent with the criteria and procedures employed in the designation of exempted aquifers in the State of Colorado by EPA in its administration of an Underground Injection Control Program for Class I, III, IV, and V wells.

When in receipt of a request for an aquifer exemption, the Commission agrees to provide to EPA, the Commission Notice of Aquifer Exemption, an aquifer exemption justification statement supplied by the applicant, and a plat showing the area to be exempted. This information is to be provided to EPA at least 30 days prior to the Colorado Oil and Gas Conservation Commission taking action on the proposed exemption. EPA agrees to review the information and provide the Commission an interim opinion in writing prior to the close of the public comment period. EPA agrees to attend all public hearings on exemption applications, and to comment on proposals.

Should the EPA object to a proposed exemption, EPA agrees to submit a final opinion in writing, with the reasons for the objection to the Commission within at least five (5) working days prior to the date of any public hearing.

Objections raised by EPA will be resolved before any aquifer exemption is issued by the Commission. The Commission will limit aquifer exemptions to Class II operations and will consider aquifer exemptions only in the context of a permit application.

G. Alternate Mechanical Integrity Tests

Should the Director of the Commission wish to approve a mechanical integrity test pursuant to Rule 327 (b) (3) or Rule 327 (c) (5) of the Commission regulations titled, "Rules, Regulations and Rules of Practice and Procedure," 2 C.C.R. 404-1, the Director shall apply for and receive approval from EPA for any new methods or tests to show mechanical integrity prior to Commission approval. The Commission shall have the authority to approve and use alternate mechanical integrity tests previously approved by EPA. EPA agrees to review and either approve or deny an alternate mechanical integrity test proposal submitted by the Commission in a reasonable period of time.

H. Mechanical Integrity Testing

The Commission personnel shall be present to witness at least twenty-five percent (25%) of the mechanical integrity pressure tests performed pursuant to the Class II well program.

I. Disclosure of Mechanical Integrity Test Results

The Commission shall retain and make available to EPA all results from mechanical integrity tests performed pursuant to the Class II well program.

J. Notification of Rule or Regulation Changes

Any regulatory or statutory changes that would impact the operation of the currently approved UIC program shall be provided to either EPA or the Commission in draft form. Either agency would be given the opportunity for review and comment prior to those changes being made final. EPA reserves the right to review and/or approve or protest any State rule that would affect the ability of the Commission to implement the Class II well program as currently delegated.



Memorandum of Agreement  
Page Six  
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III. Effective Date

This agreement shall become effective upon signature of both agencies. The agreement may be modified, from time to time, upon the mutual consent of the signatories or their successors.

OIL AND GAS CONSERVATION COMMISSION  
OF THE STATE OF COLORADO

William R. Smith  
William R. Smith  
Director

August 30, 1989  
Date

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY

James Scherer  
James Scherer  
Regional Administrator, Region VIII

8-29-89  
Date

moa/ed



Penalty Policy

Monetary penalties can only be levied through Commission hearing and are limited in amount by statute. When recommending penalties, the Commission staff takes into consideration the following factors:

1. The penalty recommended should be reasonable and appropriate with regards to the nature and seriousness of the violation.
2. The penalty should be large enough to deter future noncompliance
3. Penalty assessment should be consistent in an effort to provide fair and equitable treatment of the regulated community.

The following are Commission guidelines for recommending penalties. The guidelines presented here provide a base on which to begin penalty determination and are not meant to cover all possible situations handled by the Commission.

\$250.00 recommended fine

Operator just did not respond to a request for information. Problem is minor such as a delinquent report and operator clears up all matters before the hearing.

\$500.00 recommended fine

Important information is needed such as status of casing, completion report, injection information, well not capable of production or at least not producing. This is not considered a matter of serious consequence. The operator has submitted all information requested before the hearings or has made a good faith effort to do so.

\$1,000.00 recommended fine

- (1) Multiple minor violations, first offense and reasonable response as to why compliance was lacking.
- (2) Violation of Commission Order, no other adverse effects.

\$2,500.00 recommended fine

- (1) Second offense of any of the above.

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Attachment

(2) Obvious disregard of notices and no attempts to clear with staff before hearing.

(3) Pollution in complete disregard of potential danger but with reasonable response and immediate elimination of pollution when contacted by staff. In addition to fine, surface restoration required if there is a spill or mechanical integrity test if appropriate.

\$5,000.00 recommended fine

(1) Several previous situations indicating complete disregard for the Rules and Regulations of the Commission.

(2) Serious pollution situation, such as the endangerment of a USDW.

Besides the above, there will be certain circumstances where the Director may request a well be shut-in. Inability to obtain a bond or continued non-compliance are examples of two such situations.