M. Zeleznik

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, Ca. 94105
Mail Code: W-6-2

JUN 25 1991

Richard Thomas
Geothermal Officer
Division of Oil and Gas
1416-9th Street, Room 1310
Sacramento, CA 95814

Re: Draft Memorandum of Agreement

Dear ~~Mr. Thomas:~~ Dick

We have enclosed for your review a revised draft of the California Division of Oil and Gas / USEPA Region IX Memorandum of Agreement (MOA) on administering a UIC program for geothermal energy injection wells. To the best of our knowledge, this is the first MOA in the nation related to delegating a subclass of Class V injection well.

Some of the major changes from the earlier draft are related to stronger emphasis on the intent of the MOA, reorganization of program items under Procedures, and the addition of EPA responsibility to inform the Division of any changes in national policy and resource distribution for Class V wells.

We hope you find this draft of the MOA acceptable and ready for final signatures. If you have no comments or questions, we will forward you the document with the first signature to allow for the Division to finalize this significant agreement.

Sincerely,

Lester Kaufman

Lester Kaufman, Chief
Underground Injection Control Section

enclosure

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Memorandum of Agreement
Between
United States Environmental Protection Agency
and
California Division of Oil and Gas

Purpose

This Memorandum of Agreement (MOA) establishes the responsibilities of and the procedures to be used by the United States Environmental Protection Agency (EPA) and the California Division of Oil and Gas (Division) in the administration of an Underground Injection Control (UIC) program for geothermal energy Class V wells. These procedures will ensure that the construction and operation of the geothermal energy injection wells in the State of California is in accordance with federal UIC program requirements and will not cause the degradation of underground sources of drinking water (USDWs).

The intent of this MOA is that EPA Region IX will delegate to the Division the responsibility for administering the geothermal energy injection well program until procedures for formal program delegation of subclasses of Class V injection wells are developed or when the State of California receives primary enforcement authority for all classes of injection wells. This MOA is limited to the geothermal energy injection wells under the jurisdiction of the Division and does not include wells drilled and operated on Federally owned lands or Indian lands.

Responsibilities of the Agencies

The EPA has statutory responsibility under the federal Safe Drinking Water Act (SDWA) to protect all USDWs from contamination from injection activity. Under Part C of the SDWA, Congress directed the EPA to develop regulations for a nationwide UIC program that would control the permitting and operation of injection wells to protect USDWs. Furthermore, in Section 1421 (b)(3)(B)(i) of the SDWA, the EPA is directed to avoid requirements which would unnecessarily disrupt State underground injection control programs which are being implemented in a substantial number of states.

The Division has the statutory responsibility under the California Public Resources Code, Section 3714, to prevent damage to underground and surface waters suitable for irrigation and domestic purposes resulting from the drilling, operation, maintenance, or abandonment of geothermal wells. The responsibilities of the Division covered in the MOA include but are not limited to the permits, compliance activities, and enforcement actions for geothermal energy injection wells in the State of California.

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Scope of Agreement

The following procedures are formulated and adopted by the Division and EPA to: (1) simplify the regulatory process associated with the operation of geothermal injection wells; (2) eliminate duplication of effort among State and Federal agencies; and (3) to assure the implementation of an effective UIC program for the regulation of geothermal wells by the Division.

Procedures

A. Injection Well Inventory

1. Division

The Division will maintain an accurate, updated inventory of all the geothermal energy injection wells under the State jurisdiction. Upon request, the Division will report a summary of the inventory to the EPA.

2. EPA

In the event of any changes to the federal UIC resource allocation distribution model, which is currently based upon population, geography, and classes of injection wells, EPA will inform the Division of such changes which could result in a substantial increase of resources for geothermal energy injection wells.

B. Geothermal Injection Permit

1. Division

The Division will issue permits for the construction and operation of Class V geothermal energy injection wells. Permits are issued to assure that the injection practices do not result in endangerment of USDWs. The administrative process of permit issuance will allow for the opportunity for public comment. A representative copy of the proposed permit will be available for review. The Division will hold a public hearing if significant comments on a proposed geothermal energy injection well permit are received. Upon request, the Division will provide the EPA with any copies of permits.

In the event that an operator requests project approval for the injection of any fluids not associated with geothermal operations, the Division will require that the operator obtain Waste Discharge Requirements (WDRs) from the appropriate State Regional Water Resources Control Board. The Division will notify the EPA if the fluids proposed to be injected contain industrial or municipal waste.

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2. EPA

The EPA will forward to the Division any copies of permit applications received from geothermal energy operators under State jurisdiction to the Division. At the request of the Division, the EPA will participate at any scheduled public hearing related to a proposed permit action. Such requests will be made at least ten (10) days prior to the hearing.

The EPA will review any proposals for the injection of industrial or municipal waste fluids to determine the need for a federal UIC permit.

C. Compliance Activities

1. Division

The Division will maintain an effective compliance program that includes periodic field inspections and operator record reviews. The compliance program will be established to ensure timely and appropriate response for all instances of noncompliance. Any significant non-compliance problems are to be reported immediately to the EPA.

2. EPA

The EPA will inform the Division of any reported cases of noncompliance that are related to geothermal energy injection well operations. In the event that EPA plans any inspections of geothermal energy injection wells, they are to notify the Division two weeks in advance.

D. Enforcement

1. Division

The Division will issue timely and appropriate enforcement actions in response to instances of noncompliance. The enforcement actions will include penalties when appropriate. The Division will notify the EPA on the possibility of joint enforcement actions of unusual or severe instances of significant noncompliance.

2. EPA

The EPA will notify the Division of any proposed enforcement actions against operators of geothermal energy injection wells. The EPA will respond to Division requests for joint enforcement in a timely manner.

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E. Information Sharing

1. Division

The Division agrees that all information and records obtained or used in the administration of the geothermal UIC program, including all permit files, will be available for inspection by the EPA. Any information obtained from the Division by EPA that is subject to a claim of confidentiality will be treated in accordance with EPA regulations governing confidentiality.

2. EPA

EPA will notify the Division of any changes in Regional or national policy on Class V wells that may have an impact on the Division's implementation of the UIC geothermal program. During the development of any major national program directives for Class V wells that may effect the UIC geothermal program, the EPA will maintain a high level of coordination to ensure Division comments are provided.

Copies of any written comments about the Division's program administration received by EPA from well owners or operators; the public; or Federal, State, or local agencies will be provided to the Supervisor within thirty (30) days of receipt.

F. Program Review and Evaluation

1. Division

Upon request, the Division will provide the EPA with a copy of the Division's quarterly report of activities regarding recent operations of the UIC geothermal program.

2. EPA

The EPA may conduct mid-year evaluations of the Division's geothermal program. At least thirty (30) days prior to the evaluation, EPA will notify the Division of the location of the review and the information, material, and program areas that will be covered. This may include selected permit files and public notification and complaint files. The results of the mid-year evaluations will be consolidated with the Class II end-of-year program evaluation.

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Modification of this Agreement

This MOA will be effective upon signature by the designated parties. The MOA may be modified upon the initiative of either party for the purpose of ensuring consistency with State or Federal statutes or regulations. Any such modification or supplements must be in writing and must be signed by the State Oil and Gas Supervisor and EPA Water Management Division Director.

Nothing in the MOA shall be construed to alter any requirements of the SDWA or to restrict EPA's authority to fulfill its oversight and enforcement responsibilities or to restrict the Division's authority to fulfill its responsibilities under State statutes.

_____ _____

M.G. Mefferd, Supervisor
California Division of Oil and Gas
California Department of Natural Resources

Date

_____ _____

Harry Seraydarian, Director
Water Management Division
U.S. EPA, Region IX

Date