**To:** Dermer, Michele[Dermer.Michele@epa.gov]; Albright, David[Albright.David@epa.gov]
**From:** Tiago, Joseph
**Sent:** Wed 8/6/2014 2:48:59 PM
**Subject:** RE: Letter from 1985 spares about 100 wells from shutdown

# Ex. 5 - Deliberative Process

**From:** Dermer, Michele
**Sent:** Tuesday, August 05, 2014 11:51 AM
**To:** Tiago, Joseph; Albright, David
**Subject:** RE: Letter from 1985 spares about 100 wells from shutdown

No, thanks for sending.

**From:** Tiago, Joseph
**Sent:** Tuesday, August 05, 2014 7:19 AM
**To:** Albright, David; Dermer, Michele
**Subject:** FW: Letter from 1985 spares about 100 wells from shutdown

You may have already seen this…

**From:** John Noel [mailto:jnoel@cleanwater.org]
**Sent:** Tuesday, August 05, 2014 10:06 AM
**To:** Bergman, Ronald
**Cc:** 'Lynn Thorp'; Tiago, Joseph
**Subject:** Letter from 1985 spares about 100 wells from shutdown

Hey Ron – This thrilling episode went down last night just in time for our meeting! We can fill you in on the details today.

operations

http://www.bakersfieldcalifornian.com/business/kern-gusher/x603939181/Letter-from-1985-spares-about-100-wells-from-shutdown?utm_source=widget_71&utm_medium=synapse

Monday, Aug 04 2014 08:20 PM

# Letter from 1985 spares about 100 wells from shutdown

BY JOHN COX Californian staff writer jcox@bakersfield.com

The state-ordered shutdown of a dozen local waste disposal wells has made this a troubling summer for Kern County's oil industry.

But it could have been far worse.

Print

Until several few weeks ago, California oil regulators thought they had no choice but to close more than 100 local disposal wells. Such a move would have "shut in" many more production wells and led to hundreds of layoffs.

Then, on Monday, an environmental activist group planned to issue a strongly worded critique of the state's oversight of disposal wells. Not until it received a copy of a decades-old letter late Monday did Clean Water Action decide against releasing its report.

Both actions were avoided because someone -- it's unclear whom -- located the 1985 letter in which the U.S. Environmental Protection Agency exempted aquifers, many in Kern County, from the U.S. Safe Drinking Water Act.

That letter, a copy of which was reviewed Monday by The Californian, allowed officials at the state Division of Oil, Gas and Geothermal Resources to cross about 95 wells off its list of facilities injecting wastewater into what appear to be federally protected groundwater. It allowed them to limit the shutdowns to 12 wells.

Whether the letter settles the matter once and for all remains unclear.

DOGGR is in the midst of a thorough review of California injection wells, including roughly 1,500 such facilities -- a majority of them in Kern -- that actively dispose of fluids including the saline "produced water" that comes up along with oil during production.

A senior agency official reiterated by email Monday DOGGR has made no final determination which wells were exempted by the EPA.

What's more, environmental activists monitoring the state's review say the EPA may need to re-evaluate whether some aquifers deserved to be exempted.

"In light of the extreme drought, the state should also be re-evaluating all aquifers which have been granted exemptions and determining whether or not these exemptions are appropriate for our water-starved state," Andrew Grinberg, oil and gas program manager at environmental activist nonprofit Clean Water Action, wrote in an email Monday.

Grinberg's group was the one planning to issue a report condemning DOGGR's approval of more than 140 wells not exempted in the original 1982 agreement. In that document, EPA gave DOGGR primary authority for regulating the disposal wells, known as Class II Underground Injection Control wells. Grinberg said he was unaware of the 1985 letter until Monday.

Industry spokesman Rock Zierman, president and CEO of the California Independent Petroleum Association, said people in the business were aware of the letter but had no copies of it.

Instead, people in the industry say there were maps -- hand-drawn by state and federal officials -- of oil fields and aquifers that were to be exempted from the federal protections.

Because of that, and lingering concerns that last month's well shutdowns were the result of miscommunication, the industry views the exemption issue as little more than a record-keeping mess.

"This is a paperwork problem," Zierman said.

It was for DOGGR, too. People at the agency had memories of the letter but couldn't find a copy until earlier this summer. When someone finally did, the number of aquifers exempted from protection expanded from the 21 listed in the original 1982 agreement between the state and the EPA to 32 included in the 1985 letter.

Even now there is some question as to whether the records are correct.

"Inconsistencies in the paper record at both the DOGGR and U.S. EPA level of which aquifers were exempt and which were not resulted in permits being issued that may not have been appropriate," Jason Marshall, chief deputy director of DOGGR's parent agency, the Department of Conservation, wrote in a recent email.

"We are currently looking to see if other wells have been approved into aquifers whose exempt status may be in question and will take appropriate steps going forward."

Meanwhile, DOGGR has allowed two of the wells shut down last month to reopen. The other 10 have been ordered to run tests and provided information showing their injection work is appropriate for the operation.

Or, perhaps, they can simply find a decades-old letter indicating their well has been exempted from the Safe Drinking Water Act.

The U.S. EPA could not be reached for comment Monday.

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John Noël

National Oil and Gas Campaigns Coordinator

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