UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

May 17, 2016

Ken Harris
State Oil and Gas Supervisor
Division of Oil, Gas and Geothermal Resources
801 K Street, MS-18-05
Sacramento, CA 95814-3530

Jonathan Bishop
Chief Deputy Director
California State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-100

Dear Messrs. Harris and Bishop,

I am writing to follow up on our discussions during the most recent Class II Underground Injection Control program update meetings between our agencies. We agreed it was appropriate at this juncture to acknowledge the progress being made and outstanding work still to be accomplished by DOGGR to restore the CA Class II UIC Program to compliance, with the assistance and commitment of the State Water Board. Below is a description of the key areas of focus for these efforts.

UIC Regulations

DOGGR has made good progress toward reforming its UIC regulations. After engaging in several workshops around the state, DOGGR released a discussion draft of revised and updated UIC regulations for public comment on January 21, 2016. EPA provided our comments by letter on March 4, 2016. Continuation of this initial rulemaking effort to completion will mark an important milestone in the path to Class II program compliance, and we are encouraged by the state's efforts to date.

In addition to developing draft UIC regulatory revisions, DOGGR also promulgated final regulations for aquifer exemption compliance deadlines. These regulations, which the state had adopted last year on an emergency basis, establish a number of key regulatory deadlines. Most significantly, the regulations codify the requirement for Class II injection wells injecting into sub-10,000 ppm TDS aquifers to shut-in by February 2017 unless EPA has approved an aquifer exemption for the target formation.

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Aquifer Exemptions

Based on the information shared with EPA regarding potential aquifer exemption (AE) requests, there could be dozens of AE submittals from the state for EPA consideration in the next three to four months. To date, the state has submitted one proposed aquifer exemption package for EPA consideration.

Based on our recent discussions, it is our understanding that the state expects to submit AE requests that would address a significant proportion of the operating injection wells subject to the February 2017 shut-in deadline contained in DOGGR's regulations. In its April 8, 2016 Notice to Operators, DOGGR provided clear direction that the state needs aquifer exemption requests, with complete supporting data, by August 15, 2016 or it will be unlikely for EPA to approve the AE request before February 15, 2017. We support your efforts to inform affected operators of the urgent need for them to submit AE requests. Moreover, EPA is committed to doing our part to review the state's AE proposals submitted by the October 15, 2016 deadline and make final determinations as expeditiously as possible. We also support your efforts to work closely with operators who are not seeking exemptions, or who will not meet the state's deadlines, to ensure an orderly process of shutting in affected Class II wells.

Risk-Based Water Supply Well and Drinking Water Evaluations

The Water Board's October 21, 2015 letter provided a comprehensive summary of the status of its risk-based water supply well review at that point in time. On March 22, 2016 the Water Board provided an updated summary of progress with this effort. This recent submittal provided an overview of the UIC well review including screening for shut in, further action, or issuance of information orders/notices of violation. Going forward, EPA expects the State to complete its review of the Category 1 and 2 wells[1]. We will include a status update on this activity on our monthly meeting agenda, and request that the state submit a final report for these wells to EPA within the next few months (by mid-September 2016).

It is our understanding that the identification and evaluation of any water supply wells in the vicinity of Category 3 wells[2] will occur as DOGGR proceeds with its "Project-by-Project Review." This effort, described initially in the state's October 2015 "Renewal Plan for Oil and Gas Regulation," is a comprehensive, statewide review of all approved injection projects, and revision of projects as needed to ensure compliance with UIC requirements and protection of groundwater sources. EPA considers this a reasonable approach for the Category 3 well evaluations, and requests notification of any injection wells that are determined to be of potential concern for water supply wells.

[1] As described in EPA's March 9, 2015 letter to the state, Category 1 wells are Class II disposal wells injecting into non-exempt, non-hydrocarbon-bearing aquifers and the 11 aquifers historically treated as exempt, and Category 2 wells are Class II EOR wells injecting into non-exempt, hydrocarbon-bearing aquifers.

[2] Category 3 wells are Class II disposal or EOR wells that are inside the surface boundaries of exempted aquifers, but that may be injecting into a zone not exempted by EPA.

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DOGGR's Project by Project (PbP) Reviews

As noted above, the Division's Renewal Plan included a PbP review program that was to commence immediately, and be fully completed with all projects reviewed and Project Approval Letters (PALs) revised as needed within a 3-year timeframe. The first phase, which is currently underway, consists of data collection of existing permitted wells and projects and is on track to be completed by February 15, 2017. The second phase of the PbP review activity, to be completed by March 1, 2018, involves the review and analysis of each UIC project (over 900 projects) for compliance with all DOGGR regulations. Completion of this phase of review may result in issuance of new or revised project approval letters (PALs). As we discussed at our recent meetings, EPA will continue to work with the state to incorporate a risk-based prioritization of project review milestones and their outcome into the state's overall UIC Program Compliance Plan. As we agreed, our team will continue to explore this effort in the coming months with a target of establishing a prioritization approach and integrating that approach into the existing program. In addition to the priorities that the state has tentatively identified – active gas storage and water/gas disposal projects – EPA expects that projects within fields where the state is proposing a new or expanded aquifer exemption will also be given priority consideration, such that critical information, for example, area of review evaluations/data, is available for these projects before EPA makes final AE determinations.

Searchable Database

We appreciate receiving an overview of the status of the WellSTAR database during our March 2016 meeting and a copy of the monthly WellSTAR Project Newsletter. The goal of a searchable database has moved closer to becoming a reality with the progress made on this project, and it will enable Phase I of the PbP reviews to proceed in an organized fashion. We commend DOGGR on these efforts, and look forward to seeing its vision of being a fully digital organization implemented.

Please don't hesitate to contact me with any questions or concerns.

Sincerely,

Michael Montgomery
Assistant Director, Water Division

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