

Appendix B

JOINT POWERS AGREEMENT BETWEEN THE
ENVIRONMENTAL IMPROVEMENT DIVISION,
THE OIL CONSERVATION DIVISION
AND THE MINING AND MINERALS DIVISION

JOINT POWERS AGREEMENT
BETWEEN THE
ENVIRONMENTAL IMPROVEMENT DIVISION
the
OIL CONSERVATION DIVISION
and the
MINING AND MINERALS DIVISION

Concerning the New Mexico Underground Injection Control Program

This Agreement is entered into by and between the Oil Conservation Division of the Energy and Minerals Department, hereinafter referred to as the "OCD", the Environmental Improvement Division of the Health and Environment Department, hereinafter referred to as the "EID", and the Mining and Minerals Division of the Energy and Minerals Department hereafter referred to as "MMD", all parties being executive divisions of the State of New Mexico.

WHEREAS, pursuant to Section 70-2-12B NMSA 1978, the OCD is empowered to regulate the disposition of water produced or used in connection with drilling for or production of oil or gas, and to identify the ownership of oil or gas producing properties, facilities and transportation equipment, and, pursuant to Section 71-5-8 NMSA 1978, to regulate the disposition of geothermal resources and the residue thereof so as to reasonably protect water against harmful contamination; and

WHEREAS, pursuant to Section 74-1-7A NMSA 1978 and Section 74-6-9.E and F NMSA 1978, the EID is empowered to administer regulations and standards adopted by the Water Quality Control Commission ("WQCC") to prevent and abate water pollution as provided in the Water Quality Act, (Sections 74-6-1 through 74-6-18 NMSA 1978), including groundwater; and

WHEREAS, pursuant to Section 69-25A-8 NMSA, the Mining and Minerals Division is authorized to administer regulations adopted by the New Mexico Coal Surface Mining Commission which include regulations pertaining to in situ coal mining (although at present there are no such wells in existence in New Mexico); and

WHEREAS, the Federal Safe Drinking Water Act, PL 93-523, Sections 1421 and 1422, provide for the development and implementation of state programs for the control of underground injection practices which may endanger underground drinking water sources; and

WHEREAS, in pursuit of the objectives of PL 93-523 the OCD has received a grant from the U.S. Environmental Protection Agency, No. G-006223 for the purposes of implementing the state underground injection control (UIC) program; and

WHEREAS, the OCD desires to cooperate with the EID and the MMD to delineate coordination procedures, understanding of, and separate responsibilities for the UIC program in New Mexico consistent with the laws above cited, and in conformance with the New Mexico Joint Powers Agreement Act, Sections 11-1-1 through 11-1-7 NMSA 1978;

NOW THEREFORE, the OCD, the EID, and the MMD do mutually establish policies, procedures and responsibilities pertaining to the New Mexico UIC program as follows:

A. Lead agency for the New Mexico UIC program.

OCD is the lead agency for the New Mexico UIC program as designated by letter from the Governor to the Environmental Protection Agency (EPA). OCD shall be responsible for coordinating the New Mexico UIC program and shall be the main contact for coordination with EPA.

B. Grant monies for the New Mexico UIC program (as authorized by Section 1443(b) of the Safe Drinking Water Act and 40 CFR Part 35).

EPA shall award the UIC grant to the OCD. EID and OCD will negotiate the amount of grant money EID shall receive. The UIC grant application shall be submitted by the OCD to EPA in sufficient time for EPA review prior to grant award.

C. Authority for types of injection covered by the New Mexico UIC program.

1. The OCD, under the New Mexico Oil and Gas Act (70-2-1 through 70-2-38 NMSA 1978) has authority over all injection wells associated with oil and natural gas production, including salt water disposal wells, enhanced recovery wells, wells associated with the storage of liquid or gaseous hydrocarbons, and wells associated with the production of carbon dioxide for further use in oil or natural gas production.
2. The OCD under the Geothermal Resources Conservation Act (71-5-1 through 71-5-24 NMSA 1978) has authority over injection wells at geothermal installations.
3. The MMD under the New Mexico Surface Mining Act (69-25A-1 through 69-25-A35 NMSA 1978) has authority over injection wells associated with coal mining.
4. The New Mexico Water Quality Control Commission, under the New Mexico Water Quality Act, regulates industrial, mining, milling, and municipal effluent disposal wells, wells injecting for extraction of minerals or energy (except coal mining, oil, natural gas, CO₂ gas and geothermal) and all other injection wells discharging to the subsurface. By delegation, the OCD administers all Commission regulations pertaining to ground water at geothermal installations, oil and gas refineries, and natural gas transmission lines. (Commission Minutes 5/12/81). The EID administers the Commission regulations in all other instances.

D. State/EPA Agreement (SEA)

The UIC grant and the SEA will be consistent with the Memorandums of Agreement contained in the New Mexico UIC primacy applications, but may not override them.

E. EID and OCD Coordination

EID and OCD shall hold regular meetings, at least semi-annually, scheduled by the OCD. Reports may be prepared separately, but shall be submitted as one by the OCD.

If at any time there is confusion as to which agency regulates a particular well or type of well, EID and OCD shall coordinate efforts to determine the regulatory agency through the auspices of the WQCC, pursuant to Section 74-6-4.E NMSA 1978.

Date

11/10/82

by

Paul F. Rhodes
Director

Environmental Improvement Division
New Mexico Health and Environment
Department

Date

11/10/82

by

John D. Stoney
Director

Oil Conservation Division
New Mexico Energy and Minerals
Department

Date

11/12/82

by

Ed Kelley
Director

Mining and Minerals Division
New Mexico Energy and Minerals
Department