



STATE OF NEW MEXICO  
ENERGY AND MINERALS DEPARTMENT  
OFFICE OF THE SECRETARY

BRUCE KING  
GOVERNOR  
LARRY KEHOE  
SECRETARY

September 3, 1981

POST OFFICE BOX 2770  
113 WASHINGTON AVENUE  
SANTA FE, NEW MEXICO 87501  
(505) 827-2471

Ms. Frances Phillips  
Acting Regional Administrator (6A)  
United States Environmental Protection Agency  
Region VI  
1201 Elm Street  
Dallas, Texas 75270

Dear Ms. Phillips:

Enclosed herein is the State of New Mexico's Application for State Primacy Status over Class II Underground Injection Wells as provided by Part C, Section 1425 of the Safe Drinking Water Act, Public Law 93-523 as amended.

This application constitutes a complete State submission under Section 1425 and includes all the following elements:

- a. Letter from the Governor
- b. Program Description
- c. Statement of Legal Authority *(with new pages 6+7)*
- d. Copies of Pertinent Statutes and Regulations
- e. Copies of Pertinent State Forms
- f. A signed copy of a Memorandum of Agreement *(with addendum #1)*  
*#2-11/13/82*

The Oil Conservation Division of this Department will continue to regulate injection activities associated with oil and gas production after primacy status has been granted. We look forward to continued association with the EPA in carrying out the critical task of protecting New Mexico's fresh underground water from pollution.

Thank you for your consideration of this application.

Sincerely,

  
LARRY KEHOE  
Secretary

LK/pc



# STATE OF NEW MEXICO

OFFICE OF THE GOVERNOR

SANTA FE

87503

BRUCE KING  
GOVERNOR

September 3, 1981

Ms. Frances Phillips  
Acting Regional Administrator (6A)  
United States Environmental Protection Agency  
Region VI  
1201 Elm Street  
Dallas, Texas 75270

Dear Ms. Phillips:

Herewith is transmitted the State of New Mexico's official request for approval of its primacy application for the operation of a Class II Underground Injection Control Program as authorized by Part C, Section 1425 of the Safe Drinking Water Act, Public Law 93-523 as amended.

This application contains all those elements required by the United States Environmental Protection Agency and the Act and hereby affirms the State of New Mexico's willingness to carry out the program described herein through the Oil Conservation Division of the New Mexico Energy and Minerals Department which by this letter is so designated as the jurisdictional agency to implement such program of regulation.

The Oil Conservation Division (OCD) has the statutory authority, available expert personnel and the fiscal capabilities necessary to carry out such a program of regulation of those wells in New Mexico which inject fluids for the purposes of enhanced recovery of oil or gas, the storage of hydrocarbons and the disposal of fluids brought to the surface in connection with the production of oil and gas.

A similar program has been carried out by the OCD under State law for many years. During the three years since the beginning of the federal UIC Program, the State program has been enhanced to the degree that we feel completely confident in the OCD's ability to effectively protect the State's vital fresh ground water from pollution by oil and gas related fluid injection processes.

Page 2  
Letter to Ms. Frances Phillips  
September 3, 1981

I do hereby request that the State of New Mexico be granted primacy over the Class II Underground Injection Control Program provided for in Section 1425 of the Safe Drinking Water Act.

I confidently await a favorable decision allowing New Mexico this primary enforcement authority status.

Sincerely,

A handwritten signature in cursive script that reads "Bruce King".

BRUCE KING  
Governor

BK/1k



STATE OF NEW MEXICO  
ENERGY AND MINERALS DEPARTMENT  
OIL CONSERVATION DIVISION

BRUCE KING  
GOVERNOR

LARRY KEHOE  
SECRETARY

POST OFFICE BOX 2088  
STATE LAND OFFICE BUILDING  
SANTA FE, NEW MEXICO 87501  
(505) 827-2434

November 6, 1981

Dick Whittington, Regional Administrator  
USEPA Region VI  
1201 Elm Street  
Dallas, Texas 75270

Dear Mr. Whittington:

Based upon Headquarters Comments dated November 3, 1981, on New Mexico's Primacy Application, the Division hereby submits the following clarification, point by point.

Issues

- (1) *(inserted)* The legal certificate has been revised to satisfy the expressed concerns and is attached hereto. Please insert pages numbers 6 and 7 in place of those originally submitted September 15, 1981. Page 8 should now be deleted.
- (2) The Division is not requesting primary enforcement authority over Indian lands in New Mexico. The Division is agreeable to discussing an MOA with EPA Region VI concerning Indian lands.
- (3) The Division aquifer exemption program as agreed to in the MOA with Region VI meets the requirements of the Section 1425 guidance and 40 CFR Part 146.04. This issue evidently arises concerning the aquifer exemption discussion in the program description. I reiterate here that aquifer exemptions subsequent to program approval will be sent to EPA. Forty-five days will be provided for disapproval by the Administrator of any such exemption. Any such disapproval shall include the reasons therefor.
- (4) That the words higher quality as used in Rule 701 D 3 anticipate injection of naturally occurring produced brines which have TDS and major constituent levels less than the native fluids with no additives in the injected stream.
- (5) The word "variances" used as in the heading at "10" on page 26 of the application was used erroneously and should have stated "exemptions." The word(s) Variance(s), wherever found throughout the primacy application should be amended to read exemption(s).

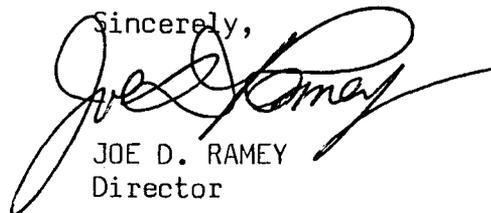
Page 2  
Letter to Dick Whittington  
November 6, 1981

The end result of the exception process will be to permit non-standard activities, equipment, or processes which recognize unusual or unique conditions without endangering underground sources of drinking water.

The Division will accept the clarification in the two foregoing paragraphs in a revised MOA.

- (6) The primacy application fully discusses the manner in which the Division and the Geological Survey cooperate in UIC permitting and subsequent activities. In deferral, the requirements, actions, or policies which prevail are those which may be considered more rigorous, or equivalent but different, and which in a given situation will result in accomplishment of the common goal of protection of USDWS to an equal or greater degree.
- (7) For purposes of preventing endangerment to underground sources of drinking water under this program, the term "fresh water" and the term "USDW", as previously defined in the MOA, are equivalent.

Sincerely,



JOE D. RAMEY  
Director

As to legal content:



W. PERRY PEARCE  
Assistant Attorney General