

MEMORANDUM OF UNDERSTANDING

**Between the Hazardous Materials and Waste Management Division and
the Colorado Oil and Gas Conservation Commission
Regarding the Disposal of Eligible Wastes at Commercial Class II Injection Wells**

WHEREAS, the Oil and Gas Conservation Commission ("OGCC") has regulatory authority over the disposal of exploration and production wastes ("E&P wastes") from oil and gas operations, pursuant to §§ 34-60-105 and 106, C.R.S.; and

WHEREAS, pursuant to § 34-60-106(9), C.R.S., the OGCC has authority to regulate Class II injection wells for the purpose of protecting underground drinking water supplies; and

WHEREAS, the Environmental Protection Agency and the OGCC have entered into a Memorandum of Agreement that grants the OGCC primacy over Class II injection wells pursuant to 42 U.S.C. § 300h-1(b); and

WHEREAS, pursuant to the Solid Waste Disposal Sites and Facilities Act, § 30-20-100.5 et seq., the Hazardous Materials and Waste Management Division ("the Division") in the Department of Public Health and Environment has regulatory authority over disposal of solid waste; and

WHEREAS, pursuant to § 30-20-101(6)(b)(VI), C.R.S. the term "solid waste" includes E&P wastes when such wastes are deposited at a commercial solid waste facility; and

WHEREAS, the term "Class II wastes" includes those E&P wastes that have been brought to the surface in connection with natural gas storage operations or conventional oil and natural gas production, which may be commingled with waste waters from gas plants which are an integral part of production operations provided those waters are not classified as hazardous waste at the time of injection. Class II wastes shall be the only E&P wastes eligible for disposal into a Class II well; and

WHEREAS, there exist in this state commercial solid waste disposal facilities that include the use of Class II injection wells for the disposal of Class II wastes, with incidental processing or disposal of E&P wastes;

CONSEQUENTLY, the OGCC and the Division may have overlapping regulatory authority regarding the disposal of E&P wastes at commercial solid waste facilities with Class II injection wells.

NOW, THEREFORE, the OGCC and the Division agree as follows:

1. The Division will defer to OGCC regulation of disposal of E&P wastes at Class II commercial injection well disposal sites, including OGCC regulation of E&P wastes placed in surface structures appurtenant to such wells, prior to disposal of Class II wastes down the well (collectively, "downhole disposal").

2. The OGCC shall determine which E&P wastes may be eligible for disposal into a Class II injection well as a Class II waste.
3. The Division will exercise its authority under the Solid Waste Disposal Sites and Facilities Act ("Solid Waste Act") regarding disposal of E&P wastes at commercial disposal sites, other than downhole disposal. OGCC will defer to such regulation.
4. Nothing herein affects the authority of any local governing body having jurisdiction to require a Certificate of Designation ("CD") under the Solid Waste Act.
5. If a local governing body having jurisdiction requires a CD for surface facilities related to downhole disposal, the Division will be the point of contact for communications with the city or county. The Division will promptly forward a copy of the CD application to the OGCC for review. The Division and the OGCC agree to meet the time frames for review set out in § 30-20-103(2) and (3) of the Solid Waste Act, and to determine the state regulatory agency that will provide oversight for the CD application. The state regulatory agency providing oversight for the CD application shall provide the opportunity for public comment required by § 30-20-103(1). When the OGCC exercises oversight over the CD application, the Division will defer to the OGCC's evaluation of the environmental impacts of such disposal.
6. The Division does not have authority over disposal of E&P wastes at non-commercial facilities.

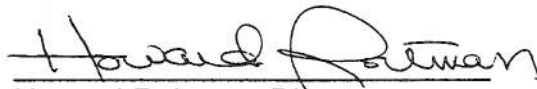
7. APPROVALS

Department of Natural Resources

Department of Public Health and Environment



Richard Griebing, Director
Oil and Gas Conservation Commission



Howard Roitman, Director
Hazardous Materials and Waste Management Division

Date: 10-06-00

Date: 10-5-00