

MEMORANDUM OF AGREEMENT BETWEEN ARKANSAS OIL AND GAS COMMISSION AND ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY CONCERNING WELL DRILLING PITS AND COMPLETION PITS

The Arkansas Oil and Gas Commission (“AOGC”) and Arkansas Department of Environmental Quality (“ADEQ”), jointly referred to as the “Agencies,” have joint enforcement authority over the regulation of well drilling pits and completion pits, which includes the handling and disposal of oil and gas drilling fluids. The AOGC regulates well drilling and completion pits pursuant to AOGC General Rule B-17 (the “Rule”), and the ADEQ regulates well drilling pits and completion pits pursuant to Arkansas Pollution Control and Ecology (APC&EC) Regulation 34 (the “Regulation”), which incorporates the text of the Rule.

In order to provide clarity for the regulated community and the Agencies in the enforcement of the Rule and the Regulation, the Agencies mutually agree to the following:

1. Except as specified in Paragraph No. 5 and 6, AOGC shall exercise primary enforcement related to requirements “on-site.” For purposes of this MOA, “on-site” shall mean the land surface area utilized by the operator for placement of the well drilling, completion, or workover rig and associated drilling, completion, and workover equipment, including the drilling pits, which is commonly referred to as the “Drilling Pad.”
2. ADEQ shall exercise primary enforcement “off-site,” which is any area other than the Drilling Pad, or when activities cause pollution of any of the waters of this state, as defined in A.C.A. § 8-4-102, or where any sewage, industrial waste, or other wastes are placed, or are caused to be placed, in a location where it is likely to cause pollution of any waters of this state, as defined in A.C.A. § 8-4-102.
3. This agreed-upon bifurcation of primary enforcement “onsite” or “offsite” does not prohibit or preclude either AOGC or ADEQ from exercising the Agencies’ respective authorities, as necessary or appropriate, to enforce the provisions of the AOGC General Rule B-17 or APC&EC Regulation 34.
4. Each agency shall enforce the provisions of AOGC General Rule B-17 and APC&EC Regulation 34, respectively, utilizing its own enforcement procedures and authorities.
5. ADEQ shall have exclusive jurisdiction and primary enforcement authority regarding the storage and handling of RCRA regulated materials or spills of non-exempt RCRA wastes both “on-site” and “off-site.”
6. In accordance with the Memorandum of Agreement between the ADEQ and the Arkansas Game and Fish Commission, ADEQ shall exercise primary enforcement

Exhibit F

- related to requirements “onsite: and “off-site” for all drilling sites located on property owned or managed by the Arkansas Game and Fish Commission.
7. Upon completion of any inspection of a site subject to the Rule/Regulation which alleges a violation of the Rule/Regulation, each agency will notify and provide a copy of the inspection report upon completion to the other agency.
 8. This MOA only refers to actions authorized under AOGC General Rule B-17 and APC&EC Regulation 34.

TERMS AND DURATION

This MOA becomes effective when signed by all parties. It may be terminated or modified by agreement of the parties and may be terminated by any party by giving sixty (60) days of notice in writing to the others.

This MOA will remain in force until such time as it is terminated and may be modified only in writing and upon the agreement of all parties.

IN WITNESS WHEREOF, the parties hereto have executed this memorandum as of the last date written below.

Teresa Marks
Director
Arkansas Department of Environmental Quality

Date

Lawrence Bengal
Director
Arkansas Oil and Gas Commission

Date