



P.O. Box 53127 Oklahoma City, Oklahoma 73152-3127

900 N.E. 23rd Street Oklahoma City, Oklahoma 73105

Phone: 405.525.3556 Fax: 405.525.3592 Web: [www.iogcc.state.ok.us](http://www.iogcc.state.ok.us)

Alabama

October 16, 2015

Alaska

Arizona

The Honorable Nikki R. Haley

Arkansas

Governor of South Carolina

California

1205 Pendleton Street

Columbia, South Carolina 29201

Colorado

Dear Governor Haley,

Florida

Illinois

As the executive director of the Interstate Oil and Gas Compact Commission (IOGCC), I am forwarding a resolution approved by the IOGCC member states at our 2015 Annual Conference in Oklahoma City, Oklahoma. This resolution clarifies issues related to the transitioning of a Class II carbon dioxide enhanced oil or gas recovery project to a Class VI geologic storage project.

Indiana

Kansas

Kentucky

Louisiana

The IOGCC is a multi-state government agency that for 80 years has represented the governors of more than 30 oil and gas producing states. Our mission is to conserve and maximize domestic oil and natural gas resources while protecting health, safety and the environment. The states want to work with you to be a part of the energy solution and, in addition, we hope for expanded dialogue on this energy issue and others.

Maryland

Michigan

Mississippi

Montana

I welcome any opportunity to work with and assist you on matters related to our nation's energy resources. Please contact me if I can provide you or your staff with more background on this or any other energy policy matters. You can reach me at 405.525.3556 or email Hannah Barton at [hannah.barton@iogcc.state.ok.us](mailto:hannah.barton@iogcc.state.ok.us).

Nebraska

Nevada

New Mexico

Sincerely,

New York

North Dakota

Ohio

Oklahoma

Carl Michael Smith

Pennsylvania

Executive Director

South Dakota

Interstate Oil and Gas Compact Commission

Texas

CMS/hb

Utah

Enclosure: IOGCC Resolution 15.091

Virginia

West Virginia

Wyoming

COLLECTIVELY REPRESENTING THE STATES



## RESOLUTION 15.091

### **Clarifying Issues Related To The Transitioning Of Class II Carbon Dioxide Enhanced Oil Or Gas Recovery Project To A Class VI Geologic Storage Project**

**WHEREAS**, the business of carbon capture, utilization and storage (CCUS) has been slow to advance, the United States Environmental Protection Agency (USEPA) is to be commended for addressing one of the key obstacles, in their April 23, 2015 clarification Memorandum to Regional Water Division Directors, "Key Principles in EPA's Underground Injection Control Program Class VI Rules Related to Transition of Class II Enhanced Oil or Gas Recovery Wells to Class VI" (the Memorandum); and

**WHEREAS**, the transition discussed in the Memorandum provides some clarification, and proposes "the best implementation approach is for states to administer both the Class II and the Class VI UIC program" and further "encourages states to apply for primacy for all well classes, including Class VI"; at the same time USEPA has failed to act in a timely manner to approve the Underground Injection Control (UIC) Class VI Primacy Application from the Great State of North Dakota, submitted on June 21, 2013; and

**WHEREAS**, the states contend that the regulatory tools of the Class II UIC program do in fact properly manage the risk throughout the life of an enhanced oil or gas recovery (EOR) project, and the states agree with USEPA that the Class II program director (in most cases a state official) will have the relevant data regarding storage, risk, commerciality, and project life; and

**WHEREAS**, the states desire to remove the regulatory uncertainty created by the potential of a forced transition from Class II UIC to Class VI UIC and any other regulatory barriers, and to replace these barriers with incentives to encourage both the carbon dioxide (CO<sub>2</sub>) capture and the CO<sub>2</sub> EOR industries to work together to advance carbon capture technology; and

**WHEREAS**, CO<sub>2</sub> is a valuable commodity when utilized to enhance recovery of oil, gas, and other mineral resources; and current research indicates that great volumes of CO<sub>2</sub> can be sequestered at the same time it is being used for EOR purposes; and in many states CO<sub>2</sub> is currently being injected in large quantities for purposes of EOR; and

**WHEREAS**, the injection of CO<sub>2</sub> for EOR generates significant revenue which can be utilized to facilitate capture of CO<sub>2</sub>; and

**WHEREAS**, USEPA has not acknowledged that a transition in UIC regulatory authority and administration creates legal and regulatory uncertainty as to impacts on existing state mineral law, including but not limited to, states rights, pore space ownership, private property rights, mineral rights, existing and future unitization agreements.





**NOW, THEREFORE, BE IT RESOLVED**, that the Interstate Oil and Gas Compact Commission requests the USEPA to ensure and confirm that states have the right to administer injection of CO<sub>2</sub> for EOR under Class II UIC; and that the states and owner/operators have the right to regulatory certainty that injection of CO<sub>2</sub> for EOR is managed as Class II UIC throughout the commercial life of each project; and that the Class II UIC program director has the right to determine if and when transition from Class II UIC to Class VI UIC is required to address risk.

**BE IT FURTHER RESOLVED**, that the USEPA acknowledge that such regulatory certainty offers great promise in advancing CCUS; by avoiding legal uncertainty regarding treatment of CO<sub>2</sub> as a commodity for EOR as opposed to a waste for geologic storage.