

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE
DEPARTMENT OF HEALTH
AND THE
DEPARTMENT OF LAND AND NATURAL RESOURCES
REGARDING THE
REGULATORY OVERSIGHT OF
GEOTHERMAL WELL DRILLING**

The purpose of this Memorandum of Understanding (MOU) is to clarify and to facilitate the coordination of regulatory responsibilities between the DEPARTMENT OF HEALTH (DOH) and the DEPARTMENT OF LAND AND NATURAL RESOURCES (DLNR) for the cooperative regulatory oversight of geothermal well drilling. The implementation of the purposes of the MOU will assure that all geothermal drilling activities are appropriately monitored by the State to minimize the potential for adverse impacts on health and safety of personnel involved in the project and residents of nearby communities.

BACKGROUND:

The Geothermal Management Plan, prepared by the State of Hawaii and County of Hawaii, Geothermal Task Force on October 1991 recommended that DOH and DLNR enter into an MOU to assign oversight and regulation of geothermal drilling activities of both production and injection wells to one agency. In lieu of this recommendation, this MOU establishes a clearer and more effective coordination of the departments and oversee activities to ensure proper and safe drilling.

The following Hawaii Administrative Rules (HAR) pertain to the content of this MOU. Jurisdiction for the operation of injection wells, for the purpose of protecting underground sources of drinking water from contamination from injection activity, is under DOH, and jurisdiction for the regulation of drilling, constructing, testing, operating, modifying, or abandoning geothermal wells is under DLNR.

- HAR, Title 11, Department of Health, Chapter 23, Underground Injection Control.
- HAR, Title 13, Department of Land and Natural Resources, Subtitle 7, Chapter 183, Rules on Leasing and Drilling of Geothermal Resources.
- HAR, Title 13, Department of Land and Natural Resources, Subtitle 7, Chapter 184, Designation and Regulation of Geothermal Resource Subzones.

UNDERSTANDING:

DOH and DLNR agree to the following:


1. DLNR will oversee and regulate, in accordance with Chapters 13-183 and 13-184, HAR, the permitting, drilling, construction, testing, modification, production and abandonment of all exploration, monitoring and production geothermal wells, as well as geothermal injection wells where applicable. DLNR's Geothermal Well Drilling regulations will ensure the use of prudent engineering practices, protection of natural resources, prevention of waste and efficient utilization of the resource and the protection of public health and safety.
2. DOH will oversee and regulate, in accordance with Chapter 11-23, HAR, the permitting, testing and operation of designated geothermal injection wells, as they are related to the protection of underground sources of drinking water from contamination.
3. In accordance with Chapter 11-23, HAR, DOH regulations or permits may prescribe provisions that refer to the construction, testing, proper operation or maintenance of designated geothermal injection wells as they relate to underground sources of drinking water. Notwithstanding such provisions, DLNR, under Chapter 13-183, HAR, may in accordance with the requirements of Hawaii Revised Statutes Chapter 91, impose more stringent requirements related to well-related activities in item No. 1 to ensure safety and proper operations.
4. Regulation, monitoring and enforcement of noise and air quality standards during geothermal development activities, including but not limited to, drilling and testing of geothermal wells, shall remain the exclusive responsibility of the DOH.
5. DLNR and DOH shall communicate to each other, as early as practical, information pertinent to the others' program area, such as operational or facility plans, events, incidents, facts or results, that relate to this MOU and its purposes.
6. Enforcement of regulations or permit conditions during geothermal well drilling as provided under the scope of this MOU shall be cooperatively managed between both agencies. A Notice and Finding of Violation, and an Order, if warranted for a particular violation, will be issued through the agency deemed appropriate.
7. Amendments to this MOU shall only be made as an addendum to this MOU signed by both departments.
8. Either department may terminate this MOU by giving written notice of termination and the reasons therefore, at least 30 days prior to the date of termination.
9. This Agreement shall take effect on OCTOBER 26, 2000, and shall remain in effect until such time as it is terminated by effective written notice.

10. The terms of the MOU shall not operate in any way to relax, extinguish, or relieve the DOH and DLNR from their own respective and independent responsibilities, obligations, and duties as required by any statute, rule, or any other legal requirement, whether relating to the regulation of geothermal well drilling or otherwise. Further, the execution of this MOU by the DOH and DLNR shall not be construed to intend that one department will in any way assume any of the legal responsibilities or duties of the other.

IN WITNESS WHEREOF, the DOH and the DLNR have executed this Memorandum of Understanding as of the date first above written.

Approved by the Board of Land and
Natural Resources at its meeting held
on August 25, 2000

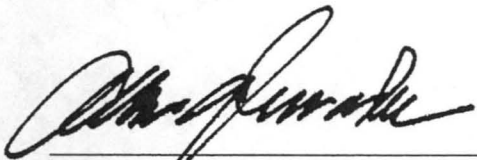
STATE OF HAWAII
DEPARTMENT OF HEALTH



Its Director


APPROVED AS TO FORM:

STATE OF HAWAII
BOARD OF LAND AND NATURAL
RESOURCES



Deputy Attorney General

Dated: October 17, 2000



Its Chairperson
Board of Land and Natural Resources