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west virginia department of environmental protection

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Office of the General Counsel  
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Charleston, WV 25314

Harold D. Ward, Cabinet Secretary  
dep.wv.gov

April 29, 2024

Adam C. Ortiz  
Regional Administrator  
U.S. Environmental Protection Agency Region 3  
Four Penn Center  
1600 John F. Kennedy Blvd  
Philadelphia, PA 19103-2029

Subject: Attorney General's Statement to Accompany West Virginia's Underground Injection Program Class VI Primacy Application

Dear Mr. Ortiz:

I hereby certify, pursuant to my authority as general counsel for the West Virginia Department of Environmental Protection ("WVDEP"), in accordance with the Safe Drinking Water Act as amended, and 40 CFR 145.24(a), that in my opinion the laws of the State of West Virginia to apply for, assume, and carry out the program set forth in the Program Description submitted by the WVDEP have been duly adopted and are enforceable. The specific authorities provided are contained in statutes or legislative rules that are lawfully adopted at the time this Statement is approved and signed and will be fully effective by the time the program is approved.

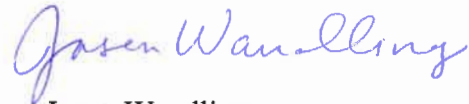
The WVDEP has adequate authority to carry out the program set forth in the Program Description pursuant to the following statutes and legislative rules:

- West Virginia Code § 22-11A-1, *et seq.* "Carbon Dioxide Sequestration Pilot Program";
- West Virginia Code § 22-11B-1, *et seq.* "Underground Carbon Dioxide Sequestration and Storage," including § 22-11B-21, "Judicial Review";
- West Virginia Code § 22-11-1, *et seq.*, "West Virginia Water Pollution Control Act," including W. Va. Code §§ 22-11-3, 22-11-8, 22-11-12, 22-11-15, 22-11-16, 22-11-19, 22-11-21, 22-11-22, 22-11-24, and 22-11-25;
- West Virginia Code § 22-12-1, *et seq.*, "Ground Water Protection Act";

- West Virginia Code § 22B-1-1, *et seq.*, “Environmental Boards” and West Virginia Code §22B-3-1, *et seq.*, “Environmental Quality Board”;
- West Virginia Code of State Rules § 47-13-1. *et seq.*, including West Virginia Code of State Rules § 47 CSR 13-13 “Criteria and Standards Applicable to Class 6 Wells,” authorized pursuant to West Virginia Code §22-11-8(B)(7);
- West Virginia Code of State Rules § 47-58-1, *et seq.*, “Ground Water Protection Regulations,” authorized pursuant to West Virginia Code §22-12-5(d);
- West Virginia Code of State Rules § 47-1-1, *et seq.*, “Administrative Proceeding and Civil Penalty Assessment,” authorized pursuant to West Virginia Code §22-11-22(b); and
- West Virginia Code of State Rules § 46 CSR 4, *et seq.*, “Procedural Rules Governing Appeals Before the Environmental Quality Board,” authorized pursuant to W. Va. Code §§29A-3-3; 22B-1-3(c).

Furthermore, I certify that the State of West Virginia has not enacted any environmental audit privilege and/or immunity laws.

Regards,



Jason Wandling  
General Counsel

JW/