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# STATE OF COLORADO

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State Engineer

September 29, 1999

## MEMORANDUM

**TO:** Legislative Interim Committee on Oil and Gas

**FROM:** Hal D. Simpson, State Engineer *Hal D. Simpson*

**RE:** Executive Summary of State Engineer's October 5, 1999, Presentation about Groundwater from Coal Bed Methane Wells in Las Animas County

The Division of Water Resources ("DWR") has been asked to examine and analyze the water rights issues related to the use of water withdrawn from wells used to dewater geologic formations during coal bed methane extraction (hereinafter "CBM wells"). Use of water from CBM wells, until recently, has been limited by water quality concerns. At least three different state agencies (the Colorado Oil and Gas Conservation Commission ("COGCC"), DWR, and the Water Quality Control Division ("WQCD") of the Colorado Department of Public Health and the Environment ("CDPHE")) have authority as it relates to the withdrawal, use, and/or disposal of water from a CBM well, and the interrelationship between the Constitutional provisions, statutory language, and various rules is extremely complex. Nevertheless, this Executive Summary attempts to provide a general overview of the jurisdictional boundaries and explain where conflicts may exist now and in the future. In particular, this summary concentrates on situations where a person wants to beneficially use the water withdrawn from a CBM well.

COGCC has authority over all oil and gas operations including the generation, transportation, storage, treatment, or disposal of exploration and production wastes. Water removed from a CBM well is considered a waste. Pursuant to COGCC rules promulgated in accordance with the COGCC Act, an operator may dispose of water from a CBM well in one of the following four ways: 1) inject it (by pumping the water back down another well); 2) place it in a properly permitted lined or unlined pit for evaporation and or percolation; 3) dispose of the water at permitted commercial facilities; or 4) dispose of the water by roadspreading on lease roads outside sensitive areas for produced waters. But, an operator can only discharge the water into "waters of the state" (as defined by the Water Quality Control Act) if the operator has a discharge permit. The COGCC statute ("COGCC Act") grants certain authority to COGCC to promote oil and gas conservation, and rescinds any authority of any other agency as it relates to the conservation of oil or gas.

CBM wells are not "wells" as defined in the Water Well Construction and Pump Installation Contractors statutory provisions, and operators do not need to obtain a permit from DWR to withdraw water from these wells. However, if water from a CBM well is put to beneficial use then DWR may have certain