To: The Regional Hearing Clerk
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202

Re: In the Matter of Novy Oil and Gas, Inc., Respondent; Docket No. SDWA-06-2017-1112

REQUEST FOR HEARING

Respondent Requests a Hearing to Contest Issuance of a Proposed Order in the captioned matter which Proposed Order was signed on August 4, 2017 and filed on August 7, 2017. Respondent is submitting a Freedom of Information Act request for copies of testing results, sampling and other data collected by the EPA which data formed the basis of the Proposed Order and which the EPA is unable to furnish directly. Further, Respondent is currently engaged in discussions about resolution of the Proposed Order with counsel for the EPA. Respondent requests the hearing date be scheduled after the parties complete their negotiations. Respondent believes the EPA does not object to this request for delayed scheduling.

SUMMARY RESPONSE TO PROPOSED ORDER

Respondent Novy Oil and Gas, Inc. ("Novy") denies any violation has occurred and objects to the entry of an order in the form proposed by the Compliance Assurance and Enforcement Division on August 4, 2017.

Summary of Response: The proposed order relates to a water disposal well alleged to operate in Osage County, Oklahoma, through which the EPA proposed order states, water is injected under pressure into the Mississippi Chat formation of rock. That is an incorrect statement. Novy has one authorized Class II well location in the area described by the proposed order, Osage B #15. However, while Osage B #15 is authorized to dispose of water into both the Mississippian and Arbuckle Formations. Osage B #15 was shut in on May 9, 2017, and has not been used for disposal of water since that date. That single well location has previously disposed of water produced from the Mississippi Chat formation into the Mississippian and Arbuckle formations. No pressure injection has ever been utilized. The Mississippian and Arbuckle formation discharge point creates a vacuum at the surface of the well site and water disposed of in the Novy Osage B #15 well bore was drawn by the vacuum directly into the Mississippian and Arbuckle formations.

RESPONSE TO SPECIFIC FINDINGS

2. The authorized Class II well, Osage B #15, is authorized to dispose of water into the Mississippian formation and the Arbuckle formation located in Osage County, Oklahoma.

9. The EPA has not furnished the analysis of the water samples taken by the EPA on October 5, 2016 and June 27 – 29, 2017 from the several locations throughout the tributary of North Bird Creek and the Novy Oil and Gas well #15 and is unable to comment on any correlation between the tributary samples and the fluids being disposed in the Novy Osage B #15 SWD well. Novy has a water analysis of a sample taken on November 9, 2016 from the Osage B Water tank that would be representative of the produced water that is disposed into the Osage B #15 SWD well. We would assume that the water produced from the Mississippian on the Osage B lease would be similar to the water associated with other Mississippian production from other leases in the general area. Identifying a specific correlation between the tributary samples and the fluids disposed of in the Osage B 15 well versus fluids injected into the six injection wells operated by others in the area is problematic. Novy has not been provided any data from the EPA concerning the EPA-reported elevated temperatures at the bottom of the water column of the tributary and North Bird Creek so we are unable to comment on any relation between the temperature of the stream water and the temperature of the produced water Novy disposed of into the Osage B #15 SWD until the EPA provides the data alleged. It is possible that other phenomenon related to the observed variation in Total Dissolved Solids could produce elevated temperatures in the water column.

10. The Osage B #15 SWD well was shut-in on May 9, 2017 and has not been utilized as a disposal well since that date. The date of the #15 shut-in predates the initiation of the May 25, 2017 in-stream fluid monitoring in the tributary and North Bird Creek.

11. THE EPA has not furnished copies of the data referred to in Paragraph 11, accordingly, Novy has not had the opportunity to review data in question and defers an opinion until the EPA provides the data alleged.

12. The Osage B #15 SWD well was shut-in on May 9, 2017 and has remained shut-in before, during and after the coordinated June 9 – 20, 2017 "static shut-in".

(a) Novy has not received a copy of the static fluid level depth measured during the June 9 -20, 2017 "static shut-in" however the last static fluid level measurement of the Osage B #15 SWD well taken by Novy was 707.35 feet from surface on March 9, 2017. As stated, the static fluids cannot migrate from depth to the surface without additional pressure buildup. The Osage B #15 SWD was capable of disposing of 2,000 barrels of water per day in ~~440~~ 760 feet of Mississippian and Arbuckle formation open hole at a depth of 2,470' to 3,230' on 26 inches of vacuum at the time of shut-in. This well has always disposed of fluid with negative pressure at the surface since it disposes into the Arbuckle formation as opposed to the Mississippi Chat formation exclusively.

(b) Any correlation seen between injection operations and in-stream water quality TDS before and after the coordinated shut-in event cannot be

attributed to the operation of the Osage B #15 SWD well since the Osage B #15 SWD well was shut-in before, during and after the event.

(c) The Osage B #15 SWD was shut-in May 9, 2017; in-stream monitoring began May 25, 2017; coordinated shut-in occurred June 9 – 20, 2017. Any differences in amplitude of short term concentration fluctuations observed between the monitoring period prior to the coordinated shut-in and during the shut-in period could not be attributed to the Osage #15 SWD well since it was shut-in during the entire May 25, 2017 to June 20, 2017 monitoring period.

13. On May 4, 2017 a mechanical integrity test was requested on the Osage B #15 by Mr. Andrew Yates of the EPA. The well was checked and found to have a vacuum on the tubing casing annulus. Mr. Yates was informed. On May 9, 2017 disposal into the Osage B #15 SWD was voluntarily suspended and a pulling unit was moved in to repair the problem. A hole was found in the 4-1/2" tubing @ 323.36', the bottom of the 8th joint. The tubing was parted at the top of the 12th joint. Several attempts were made to fish and mill the tubing with minimal success. The top of the fish and fill are at 555'. Irreparable damage was done to the 7" casing, possibly from the fishing and milling operations, from a depth of approximately 450' to the point of the fill. The decision has been made to plug and abandon the Osage B #15 SWD well as opposed to trying to further attempt a repair since a repair has been determined to be cost prohibitive. We are confident that the Osage B #15 SWD well was not the source of contamination of the tributary and North Bird Creek. The capability of the Osage B #15 Arbuckle disposal well to take fluid on a strong vacuum since inception makes the notion that fluids could make their way from this wellbore to the surface physically impossible.

Dated: Sept 1, 2017

Respectfully submitted,

By: _____

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CERTIFICATE OF SERVICE

I, hereby certify that on this 1st day of September, 2017, I caused to be mailed a true and correct copy of the within and foregoing *Request for Hearing* to:

Sent by Fed-Ex:

Regional Hearing Clerk (6RC-D)
U.S. EPA, Regional 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

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Dated: September 1, 2017

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