1021a RC - MT, EAST POPLAR OIL FIELD
MARATHON OIL CO. ADMINISTRATIVE RECORD
Folder ID:75643 2004 Privileged

Release in Full

75643 - R8 FRED

INTER-AGENCY ROUTING SLIP

DATE: 01/24/02

TO: Steven Moores SRC

FROM: **David A. Carson, Senior Trial Attorney**
U.S. Department of Justice
Environment and Natural Resources Division
Environmental Defense Section, Denver Field Office
999 18th Street, Suite 945 - North Tower
Denver, Colorado 80202
Voice: (303) 312-7309
Facsimile: (303) 312-7331

RECEIVED
U.S. COURT OF APPEALS
10TH CIRCUIT
02 JAN 24 PM 12: 15

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

MARATHON OIL COMPANY Petitioner, v. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, Respondent.	)	Case No. 01-9543

CERTIFICATION OF ADMINISTRATIVE RECORD

It is hereby certified that the attached index constitutes the Index to the Administrative Record for the United States Environmental Protection Agency's Emergency Administrative Order, dated September 20, 2001 and First Amended Emergency Administrative Order, dated October 3, 2001, both in United States Environmental Protection Agency Region 8 Docket No. SDWA-08-2001-33. This index refers to seven documents being withheld from disclosure under a claim of privilege.

Date: January 23, 2002

Connally E. Mears

Connally E. Mears, Director
Technical Enforcement Program

Index to Administrative Record for 1st Amended EPA SDWA Emergency Administrative Order SDWA-08-2001-33

FOLDER NO.	DATE(S)	ORIGINATOR	ANALYTE	SAMPLE LOCATION	COMMENTS	NO. PAGES
1	January 1, 1999	EPA		East Poplar Oilfield	Sampling and Analysis Plan	7
1	January 1, 1999	Ft. Peck Tribes		East Poplar Oilfield	Chain of Custody	2
1	February 1, 1999	Energy Labs		East Poplar Oilfield	Sample Condition Report	1
1	February 1, 1999	Energy Labs		East Poplar Oilfield	Lab Case Narrative	1
1	February 1, 1999	Energy Labs	PAH	PSA Bldg Equip	Sample	1
1	February 1, 1999	Energy Labs	PAH	Matrix Spike	QA/QC	2
1	February 1, 1999	Energy Labs	PAH	Lab Reagent Blank	QA/QC	1
1	February 1, 1999	Energy Labs	PAH	Trottier	Sample	1
1	February 1, 1999	Energy Labs	PAH	PSA Bldg Raw Water	Sample	1
1	February 1, 1999	Energy Labs	PAH	PSA Bldg Equip Dupl	Sample	1
1	February 1, 1999	Energy Labs	VOC	Lab Reagent Blank	QA/QC	2
1	February 1, 1999	Energy Labs	VOC	PSA Bldg Equip Dupl	Sample	2
1	February 1, 1999	Energy Labs	VOC	Trip Blank	QA/QC	2
1	February 1, 1999	Energy Labs	VOC	Trottier Dupl	Sample	2
1	February 1, 1999	Energy Labs	VOC	Trottier	Sample	2
1	February 1, 1999	Energy Labs	VOC	~~PSA Bldg Raw Water~~ Dupl	Sample	2
1	February 1, 1999	Energy Labs	VOC	PSA Bldg Raw Water	Sample	2
1	February 1, 1999	Energy Labs	VOC	PSA Bldg Equip	Sample	2
1	February 1, 1999	Energy Labs	VOC	Blank Spike	QA/QC	2
2	February 1, 1999	EPA		East Poplar Oilfield	Sampling and Analysis Plan	7
2	March 1, 1999	EPA		East Poplar Oilfield	Telephone Record w/ Lab	1
2	March 1, 1999	Energy Labs		East Poplar Oilfield	Sample Condition Report	1
2	March 1, 1999	Ft. Peck Tribes		East Poplar Oilfield	Chain of Custody	1
2	March 1, 1999	Energy Labs	DRO	Buckles, Whitmer, Trottier, Ricker	Sample	1
2	March 1, 1999	Energy Labs	DRO	Calibration Report	QA/QC	5
2	March 1, 1999	Energy Labs	Gross Alpha	Buckles, Whitmer, Trottier, Ricker	Sample	1
2	March 1, 1999	Energy Labs	VOC	Trottier	Sample	2
2	March 1, 1999	Energy Labs	VOC	Buckles, Whitmer	Sample	2
2	March 1, 1999	Energy Labs	VOC	Blank Spike	QA/QC	2
2	March 1, 1999	Energy Labs	VOC	Lab Reagent Blank	QA/QC	2
3	June 23, 1999	Energy Labs		East Poplar Oilfield	Sampling and Analysis Plan	7
3	July 2, 1999	Ft. Peck Tribes		East Poplar Oilfield	Chain of Custody	1
3	July 2, 1999	Energy Labs		East Poplar Oilfield	Sample Condition Report	1
3	July 7, 1999	Energy Labs	TDS	QA Package	QA/QC	1
3	July 14, 1999	Energy Labs	DRO	Calibration Report	QA/QC	5
3	July 15, 1999	Energy Labs	VOC	Reagent Blank	QA/QC	2
3	July 15, 1999	Energy Labs	VOC	Blank Spike	QA/QC	2
3	July 15, 1999	Energy Labs	VOC	Trottier	Sample	2
3	July 15, 1999	Energy Labs	VOC	Ricker	Sample	2
3	July 15, 1999	Energy Labs	VOC	Buckles, Whitmer	Sample	2
3	July 22, 1999	Energy Labs	DRO	Buckles, Whitmer, Trottier, Ricker	Sample	1
3	July 29, 1999	Energy Labs		East Poplar Oilfield	Invoice	1
3	July 29, 1999	Energy Labs	TDS	Buckles, Whitmer, Trottier, Ricker	Sample	1

Index to Administrative Record for 1st Amended EPA SDWA Emergency Administrative Order SDWA-08-2001-33

FOLDER NO.	DATE(S)	ORIGINATOR	ANALYTE	SAMPLE LOCATION	COMMENTS	NO. PAGES
4	November 1, 1999	EPA		East Poplar Oilfield	Sampling and Analysis Plan	8
4	November 8, 1999	Energy Labs		East Poplar Oilfield	Sample Condition Report	1
4	November 8, 1999	Ft. Peck Tribes		East Poplar Oilfield	Chain of Custody	1
4	November 9, 1999	Energy Labs	Inorganics	Calibration Report	QA/QC	1
4	November 11, 1999	Energy Labs		East Poplar Oilfield	Sample Condition Report	1
4	November 11, 1999	Energy Labs		East Poplar Oilfield	Chain of Custody	3
4	November 11, 1999	Energy Labs	Inorganics	Calibration Report	QA/QC	
4	November 12, 1999	Energy Labs	Inorganics	Calibration Report	QA/QC	1
4	November 12, 1999	Energy Labs	Inorganics	Calibration Report	QA/QC	1
4	November 16, 1999	Ft. Peck Tribes		Residences	Sample Collection Plan	1
4	November 16, 1999	Energy Labs	VOC	Blank Spike Report	QA/C	2
4	November 17, 1999	Energy Labs	VOC	Lab Reagent Blank	QA/C	2
4	November 18, 1999	Energy Labs		East Poplar Oilfield	Chain of Custody	1
4	November 18, 1999	Energy Labs		East Poplar Oilfield	Chain of Custody	1
4	November 18, 1999	Energy Labs		East Poplar Oilfield	Sample Condition Report	1
4	November 18, 1999	Energy Labs	VOC	Lab Reagent Blank	QA/C	2
4	November 19, 1999	Energy Labs	Inorganics	Calibration Report	QA/QC	1
4	November 22, 1999	Ft. Peck Tribes		Residences	Sample Collection Summary	2
4	November 22, 1999	Energy Labs	DRO	Calibration Report	QA/QC	7
4	November 22, 1999	Energy Labs	Inorganics	Calibration Report	QA/QC	
4	November 23, 1999	Energy Labs		East Poplar Oilfield	Sample Condition Report	1
4	November 23, 1999	Energy Labs	Inorganics	Audrey Kirn	Sample before TX	1
4	November 23, 1999	Energy Labs	Inorganics	Dan Kohl	Sample	1
4	November 23, 1999	Energy Labs	Inorganics	Audrey Kirn	Sample after TX	1
4	November 23, 1999	Energy Labs	Inorganics	Michael Kirn	Sample after TX	1
4	November 23, 1999	Energy Labs	Inorganics	Richards	Sample after TX	1
4	November 23, 1999	Energy Labs	Inorganics	Richards	Sample before TX	1
4	November 23, 1999	Energy Labs	Inorganics	Michael Kirn	Sample before TX	1
4	November 23, 1999	Energy Labs	VOC	Blank Spike Report	QA/QC	2
4	November 24, 1999	Energy Labs	Inorganics	Calibration Report	QA/QC	
4	November 24, 1999	Energy Labs	VOC	Matrix Spike Report	QA/QC	2
4	November 25, 1999	Energy Labs	DRO	Calibration Report	QA/QC	32
4	November 29, 1999	Energy Labs	DRO	Audrey Kirn, Michael Kirn, Dan Kohl	Sample	1
4	November 30, 1999	Energy Labs	Inorganics	Calibration Report	QA/QC	1
4	November 30, 1999	Energy Labs	VOC	Lab Reagent Blank	QA/QC	2
4	November 30, 1999	Energy Labs	VOC	Lab Reagent Blank	QA/QC	2
4	December 1, 1999	Energy Labs	Inorganics	Calibration Report	QA/QC	
4	December 1, 1999	Energy Labs	VOC	Audrey Kirn - dupl	Sample after TX	2
4	December 1, 1999	Energy Labs	VOC	Audrey Kirn	Sample before TX	2
4	December 1, 1999	Energy Labs	VOC	Trip Blank	QA/QC	2
4	December 1, 1999	Energy Labs	VOC	Method Blank	QA/QC	2
4	December 1, 1999	Energy Labs	VOC	Audrey Kirn	Sample after TX	2
4	December 1, 1999	Energy Labs	VOC	Audrey Kirn	Sample after TX	2
4	December 1, 1999	Energy Labs	VOC	Method Blank	QA/QC	2
4	December 1, 1999	Energy Labs	VOC	Matrix Spike	QA/QC	1
4	December 1, 1999	Energy Labs	VOC	Audrey Kirn	Sample before TX	2
4	December 1, 1999	Energy Labs	VOC	Audrey Kirn Dupl	Sample after TX	2

Index to Administrative Record for 1st Amended EPA SDWA Emergency Administrative Order SDWA-08-2001-33

FOLDER NO.	DATE(S)	ORIGINATOR	ANALYTE	SAMPLE LOCATION	COMMENTS	NO. PAGES
4	December 1, 1999	Energy Labs	VOC	Michael Kirn	Sample before TX	2
4	December 1, 1999	Energy Labs	VOC	Michael Kirn	Sample after TX	2
4	December 1, 1999	Energy Labs	VOC	Dan Kohl	Sample	2
4	December 2, 1999	Energy Labs	Inorganics	Joe Abbott	Sample	1
4	December 2, 1999	Energy Labs	Inorganics	Trivian Grainger	Sample before TX	1
4	December 2, 1999	Energy Labs	Inorganics	Grandchamp	Sample after TX	1
4	December 2, 1999	Energy Labs	Inorganics	Grandchamp	Sample before TX	1
4	December 2, 1999	Energy Labs	Inorganics	Four Bear	Sample	1
4	December 2, 1999	Energy Labs	Inorganics	Iva Grainger	Sample	1
4	December 2, 1999	Energy Labs	Inorganics	Trivian Grainger	Sample after TX	1
4	December 2, 1999	Energy Labs	Inorganics	Hendrickson	Sample after TX	1
4	December 2, 1999	Energy Labs	Inorganics	Hendrickson	Sample before TX	1
4	December 2, 1999	Energy Labs	Inorganics	Trottier	Sample after TX	1
4	December 2, 1999	Energy Labs	Inorganics	Youpee, Martell	Sample	1
4	December 2, 1999	Energy Labs	Inorganics	Whitmer	Sample	1
4	December 2, 1999	Energy Labs	Inorganics	Trottier	Sample before TX	1
4	December 2, 1999	Energy Labs	Inorganics	Mavis Loegering	Sample	1
4	December 2, 1999	Energy Labs	Inorganics	Hopkins	Sample	1
4	December 2, 1999	Energy Labs	Inorganics	Lyle "Curly" Lockman	Sample before TX	1
4	December 2, 1999	Energy Labs	Inorganics	Lyle "Curly" Lockman	Sample after TX	1
4	December 2, 1999	Energy Labs	Inorganics	Birdell Lien	Sample	1
4	December 2, 1999	Energy Labs	Inorganics	Jesse Kirn Sr	Sample	1
4	December 2, 1999	Energy Labs	Inorganics	Ricker	Sample	1
4	December 2, 1999	Energy Labs	VOC	Blank Spike Report	QA/C	2
4	December 3, 1999	Energy Labs	VOC	Lab Reagent Blank	QA/C	2
4	December 3, 1999	Energy Labs	VOC	Lyle "Curly" Lockman	Sample after TX	2
4	December 3, 1999	Energy Labs	VOC	Ricker	Sample	2
4	December 3, 1999	Energy Labs	VOC	Joe Abbott	Sample	2
4	December 3, 1999	Energy Labs	VOC	Youpee, Martell	Sample	2
4	December 3, 1999	Energy Labs	VOC	Birdell Lien	Sample	2
4	December 3, 1999	Energy Labs	VOC	Iva Grainger	Sample	2
4	December 3, 1999	Energy Labs	VOC	Trottier	Sample before TX	2
4	December 3, 1999	Energy Labs	VOC	Trottier	Sample after TX	2
4	December 3, 1999	Energy Labs	VOC	Jesse Kirn Sr	Sample	2
4	December 3, 1999	Energy Labs	VOC	Trivian Grainger	Sample before TX	2
4	December 3, 1999	Energy Labs	VOC	Hopkins	Sample	2
4	December 3, 1999	Energy Labs	VOC	Whitmer	Sample	2
4	December 3, 1999	Energy Labs	VOC	Four Bear	Sample	2
4	December 3, 1999	Energy Labs	VOC	Lyle "Curly" Lockman	Sample before TX	2
4	December 3, 1999	Energy Labs	VOC	Hendrickson	Sample before TX	2
4	December 3, 1999	Energy Labs	VOC	Hendrickson	Sample after TX	2
4	December 3, 1999	Energy Labs	VOC	Grandchamp	Sample before TX	2
4	December 3, 1999	Energy Labs	VOC	Grandchamp	Sample after TX	2
4	December 3, 1999	Energy Labs	VOC	Mavis Loegering	Sample	2
4	December 6, 1999	Energy Labs		East Poplar Oilfield	Invoice	1
4	December 6, 1999	Energy Labs	DRO	Calibration Report	QA/QC	4
4	December 6, 1999	Energy Labs	VOC	Trip Blank cooler 4	QA/QC	2
4	December 6, 1999	Energy Labs	VOC	Trip Blank cooler 3	QA/QC	2
4	December 6, 1999	Energy Labs	VOC	Richards	Sample after TX	2
4	December 6, 1999	Energy Labs	VOC	Richards	Sample before TX	2
4	December 6, 1999	Energy Labs	VOC	Trivian Grainger kitchen tap	Sample	2
4	December 6, 1999	Energy Labs	VOC	Trivian Grainger outside faucet	Sample	2
4	December 6, 1999	Energy Labs	VOC	Trip Blank cooler 1	QA/QC	2

Index to Administrative Record for 1st Amended EPA SDWA Emergency Administrative Order SDWA-08-2001-33

FOLDER NO.	DATE(S)	ORIGINATOR	ANALYTE	SAMPLE LOCATION	COMMENTS	NO. PAGES
4	December 6, 1999	Energy Labs	VOC	Trip Blank cooler 2	QA/QC	2
4	December 7, 1999	Energy Labs	DRO	Richards	Sample	1
4	December 8, 1999	Energy Labs	DRO	B. Lien, Butch Corne, Trottier, Jesse Kirn Sr	Sample	1
4	December 8, 1999	Energy Labs	DRO	Trivian Grainger, Whitmer , Trottier, Lockman, Youpee, Martell, Ricker, Four Bear, Hopkins, Abbott, Jesse Kirn Sr, Iva Grainger, B. Lien, Hendrickson, Loegering, Granchamp	Sample	2
4	December 10, 1999	Energy Labs	Inorganics	Birdell Lien	Sample after TX	1
4	December 10, 1999	Energy Labs	Inorganics	Jesse Kirn Sr.	Sample after TX	1
4	December 10, 1999	Energy Labs	Inorganics	Butch Corne	Sample	1
4	December 10, 1999	Energy Labs	Inorganics	Trottier	Sample before TX	1
4	December 10, 1999	Energy Labs	Inorganics	Trottier	Sample before TX	1
4	December 10, 1999	Energy Labs	Inorganics	Butch Corne	Sample	1
4	December 10, 1999	Energy Labs	Inorganics	Jesse Kirn Sr	Sample after TX	1
4	December 10, 1999	Energy Labs	Inorganics	Birdell Lien	Sample after TX	1
4	December 13, 1999	Energy Labs		East Poplar Oilfield	Invoice	4
4	December 16, 1999	Energy Labs	VOC	Birdell Lien	Sample after TX	2
4	December 16, 1999	Energy Labs	VOC	Butch Corne	Sample	2
4	December 16, 1999	Energy Labs	VOC	Trottier	Sample before TX	2
4	December 16, 1999	Energy Labs	VOC	Jesse Kirn Sr	Sample after TX	2
4	December 21, 1999	Energy Labs	VOC	Birdell Lien	Sample after TX	2
4	December 21, 1999	Energy Labs	VOC	Butch Corne	Sample	2
4	December 21, 1999	Energy Labs	VOC	Trottier	Sample before TX	2
4	December 29, 1999	Energy Labs		East Poplar Oilfield	Invoice	1
4	January 3, 2000	Energy Labs	DRO	Birdell Lien, Butch Corne, Trottier, Jesse Kirn Sr	Sample	1
4	January 3, 2000	Energy Labs	DRO	Audrey Kirn, Michael Kirn, Dan Kohl	Sample	1
4	January 24, 2000	Energy Labs	Inorganics	Audrey Kirn revised	Sample after TX	1
4	January 24, 2000	Energy Labs	Inorganics	Audrey Kirn revised	Sample before TX	1
4	November 1999	Energy Labs		East Poplar Oilfield	Cost Estimate	1
4	November 1999	Energy Labs		East Poplar Oilfield	Electronic Records - diskettes	3
5	December 1, 1999	EPA		East Poplar Oilfield	Unique Lab Sample Analyses Request	4
5	December 2, 1999	EPA		East Poplar Oilfield	Sampling and Analysis Plan	14
5	December 2, 1999	EPA	Inorganics	Container Blank	QA/QC	2
5	December 20, 1999	Ft. Peck Tribes		East Poplar Oilfield	Sample Collection Plan	1
5	January 3, 2000	EPA	Inorganics	Trottier	Sample	2
5.	January 3, 2000	EPA	Inorganics	Lyle "Curly" Lockman	Sample	2
5	January 3, 2000	EPA	Inorganics	Trottier	Sample	2
5	January 3, 2000	EPA	Inorganics	Lyle "Curly" Lockman	Sample	2
5	January 3, 2000	EPA	Inorganics	Whitmer	Sample	2
5	January 3, 2000	EPA	Inorganics	Loegering	Sample	2
5	January 4, 2000	EPA	Inorganics	Trivian Grainger	Sample	2
5	January 4, 2000	EPA	Inorganics	Grandchamp	Sample	2
5	January 4, 2000	EPA	Inorganics	Michael Kirn	Sample	2
5	January 4, 2000	EPA	Inorganics	Iva Grainger	Sample	2

Index to Administrative Record for 1st Amended EPA SDWA Emergency Administrative Order SDWA-08-2001-33

FOLDER NO.	DATE(S)	ORIGINATOR	ANALYTE	SAMPLE LOCATION	COMMENTS	NO. PAGES
5	January 4, 2000	EPA	Inorganics	Birdell Lien	Sample	2
5	January 4, 2000	EPA	Inorganics	Richards	Sample	2
5	January 4, 2000	EPA	Inorganics	Butch Corne	Sample	2
5	January 4, 2000	EPA	Inorganics	Audrey Kirn	Sample	2
5	January 4, 2000	EPA	Inorganics	Joe Abbott	Sample	2
5	January 5, 2000	EPA		East Poplar Oilfield	Chain of Custody	8
5	January 13, 2000	EPA		East Poplar Oilfield	Chain of Custody	1
5	January 19, 2000	EPA	TPH	Whitmer	Sample	1
5	January 19, 2000	EPA	TPH	Loegering	Sample	1
5	January 19, 2000	EPA	TPH	Trottier	Sample	1
5	January 20, 2000	EPA	TPH	Trottier	Sample	1
5	January 20, 2000	EPA	TPH	Dan Kohl	Sample	1
5	January 20, 2000	EPA	TPH	Ricker	Sample	1
5	January 20, 2000	EPA	TPH	Birdell Lien	Sample	1
5	January 20, 2000	EPA	TPH	Youpee, Martell	Sample	1
5	January 20, 2000	EPA	TPH	Lyle "Curly" Lockman	Sample	1
5	January 20, 2000	EPA	TPH	Michael Kirn	Sample	1
5	January 20, 2000	EPA	TPH	Richards	Sample	1
5	January 20, 2000	EPA	TPH	Michael Kirn	Sample	1
5	January 20, 2000	EPA	TPH	Jease Kirn Sr	Sample	1
5	January 20, 2000	EPA	TPH	Butch Corne	Sample	1
5	January 20, 2000	EPA	TPH	Four Bear	Sample	1
5	January 20, 2000	EPA	TPH	City of Poplar Well 3	Sample before TX	1
5	January 20, 2000	EPA	TPH	Iva Grainger	Sample	1
5	January 20, 2000	EPA	TPH	Trivian Grainger	Sample	1
5	January 20, 2000	EPA	TPH	City of Poplar Well 3	Sample after TX	1
5	January 20, 2000	EPA	TPH	Grandchamp	Sample	1
5	January 20, 2000	EPA	TPH	Hopkins	Sample	1
5	January 20, 2000	EPA	TPH	Joe Abbott	Sample	1
5	January 20, 2000	EPA	TPH	Audrey Kirn	Sample	1
5	January 21, 2000	EPA	VOC	Youpee, Martell	Sample	1
5	January 21, 2000	EPA	VOC	Trottier	Sample	1
5	January 21, 2000	EPA	VOC	Whitmer	Sample	1
5	January 21, 2000	EPA	VOC	Joe Abbott	Sample	1
5	January 21, 2000	EPA	VOC	Field Blank	QA/QC	1
5	January 21, 2000	EPA	VOC	Trip Blank	QA/QC	1
5	January 21, 2000	EPA	VOC	Ricker	Sample	1
5	January 21, 2000	EPA	VOC	Butch Corne	Sample	1
5	January 21, 2000	EPA	VOC	Audrey Kirn	Sample	1
5	January 21, 2000	EPA	VOC	Lyle "Curly" Lockman	Sample	1
5	January 21, 2000	EPA	VOC	Michael Kirn	Sample	1
5	January 21, 2000	EPA	VOC	Dan Kohl	Sample	1
5	January 21, 2000	EPA	VOC	Grandchamp	Sample	1
5	January 21, 2000	EPA	VOC	Birdell Lien	Sample	1
5	January 21, 2000	EPA	VOC	Trivian Grainger	Sample	1
5	January 21, 2000	EPA	VOC	Iva Grainger	Sample	1
5	January 21, 2000	EPA	VOC	Richards	Sample	1
5	January 21, 2000	EPA	VOC	Loegering	Sample	1
5	January 21, 2000	EPA	VOC	Four Bear	Sample	1
5	March 21, 2000	EPA	VOC	City of Poplar Well 3	Sample after TX	1
5	March 21, 2000	EPA	VOC	City of Poplar Well 3	Sample before TX	1
5	March 21, 2000	EPA	VOC	City of Poplar Well 3	Sample after TX	1
5	March 21, 2000	EPA	VOC	City of Poplar Well 3	Sample before TX	1
5	April 12, 2000	EPA		East Poplar Oilfield	Analytical Data Package and QA/QC	23

Index to Administrative Record for 1st Amended EPA SDWA Emergency Administrative Order SDWA-08-2001-33

FOLDER NO.	DATE(S)	ORIGINATOR	ANALYTE	SAMPLE LOCATION	COMMENTS	NO. PAGES
5	April 12, 2000	EPA		East Poplar Oilfield	Analytical Results Cover memo	1
5	June 28, 2000	EPA		East Poplar Oilfield	Disposition of Samples	1
6	September 13, 2000	EPA		East Poplar Oilfield	Sampling and Analysis Plan	13
6	September 22, 2000	Ft. Peck Tribes		East Poplar Oilfield	Chain of Custody	2
6	September 22, 2000	Energy Labs		East Poplar Oilfield	Sample Condition Report	1
6	September 26, 2000	Energy Labs	VOC	Blank Spike Report	QA/QC	2
6	September 26, 2000	Energy Labs	VOC	Lab Reagent Blank	QA/QC	4
6	September 27, 2000	Energy Labs	VOC	Matrix Spike Report	QA/QC	2
6	September 27, 2000	Energy Labs	VOC	Lab Reagent Blank	QA/QC	2
6	September 28, 2000	Energy Labs	DRO	Calibration Report	QA/QC	1
6	September 28, 2000	Energy Labs	VOC	Michael Kirn	Sample before 1st draw	2
6	September 28, 2000	Energy Labs	VOC	Michael Kirn	Sample after 1st draw	2
6	September 28, 2000	Energy Labs	VOC	Trip Blank	QA/QC	2
6	September 28, 2000	Energy Labs	VOC	Michael Kirn - Dupl	Sample before 1st draw	2
6	September 28, 2000	Energy Labs	VOC	Ricker	Sample	2
6	September 28, 2000	Energy Labs	VOC	Audrey Kirn	Sample after 1st draw	2
6	September 28, 2000	Energy Labs	VOC	Audrey Kirn	Sample before 1st draw	2
6	September 28, 2000	Energy Labs	VOC	Loegering	Sample	2
6	September 28, 2000	Energy Labs	VOC	Birdell Lien	Sample after 1st draw	2
6	September 28, 2000	Energy Labs	VOC	Birdell Lien	Sample before 1st draw	2
6	September 28, 2000	Energy Labs	VOC	Jesse Kirn Sr	Sample	2
6	September 28, 2000	Energy Labs	VOC	Butch Corne	Sample	2
6	September 28, 2000	Energy Labs	VOC	Butch Corne	Sample	2
6	September 28, 2000	Energy Labs	VOC	Youpee	Sample	2
6	September 28, 2000	Energy Labs	VOC	Dan Kohl	Sample	2
6	September 28, 2000	Energy Labs	VOC	Whitmer	Sample	2
6	September 28, 2000	Energy Labs	VOC	Lyle Lockman	Sample after 1st draw	2
6	September 28, 2000	Energy Labs	VOC	Lyle Lockman	Sample before 1st draw	2
6	September 28, 2000	Energy Labs	VOC	Four Bear	Sample	2
6	September 28, 2000	Energy Labs	VOC	Hopkins	Sample	2
6	September 29, 2000	Energy Labs		East Poplar Oilfield	Sample Condition Report	1
6	September 29, 2000	Ft. Peck Tribes		East Poplar Oilfield	Chain of Custody	1
6	September 29, 2000	Energy Labs	DRO	Calibration Report	QA/QC	5
6	October 2, 2000	Energy Labs		East Poplar Oilfield	Sample Condition Report	1
6	October 2, 2000	Ft. Peck Tribes		East Poplar Oilfield	Chain of Custody	1
6	October 3, 2000	Energy Labs	DRO	Calibration Report	QA/QC	14
6	October 4, 2000	Energy Labs	DRO	Whitmer, Jesse Kirn Sr, Butch Corne, B. Lien, Dan Kohl, Lockman, Four Bear, Hopkins, Youpee, A. Kirn, M. Kirn, Ricker	Sample	2
6	October 4, 2000	Energy Labs	Inorganics	City of Poplar Well 3	Sample	1
6	October 4, 2000	Energy Labs	Inorganics	Zimmerman	Sample	1
6	October 4, 2000	Energy Labs	Inorganics	City of Poplar Well 2	Sample	1

Index to Administrative Record for 1st Amended EPA SDWA Emergency Administrative Order SDWA-08-2001-33

FOLDER NO.	DATE(S)	ORIGINATOR	ANALYTE	SAMPLE LOCATION	COMMENTS	NO. PAGES
6	October 4, 2000	Energy Labs	Inorganics	City of Poplar Well 1	Sample	1
6	October 4, 2000	Energy Labs	Inorganics	Iva Grainger	Sample	1
6	October 4, 2000	Energy Labs	Inorganics	QA Data Package	QA/QC	4
6	October 4, 2000	Energy Labs	Inorganics	Joe Abbott	Sample	1
6	October 4, 2000	Energy Labs	VOC	Lab Reagent Blank	QA/QC	2
6	October 4, 2000	Energy Labs	VOC	Lab Reagent Blank	QA/QC	2
6	October 4, 2000	Energy Labs	VOC	Blank Spike Report	QA/QC	2
6	October 6, 2000	Energy Labs	DRO	Calibration Report	QA/QC	2
6	October 6, 2000	Energy Labs	SVOC	Lab Reagent Blank	QA/QC	1
6	October 6, 2000	Energy Labs	SVOC	Blank Spike Report	QA/QC	2
6	October 6, 2000	Energy Labs	VOC	Matrix Spike Report	QA/QC	2
6	October 6, 2000	Energy Labs	VOC	Matrix Spike Report	QA/QC	2
6	October 9, 2000	Energy Labs	Inorganics	Lyle Lockman	Sample 1st draw before TX	1
6	October 9, 2000	Energy Labs	Inorganics	Youpee	Sample	1
6	October 9, 2000	Energy Labs	Inorganics	QA Data Package	QA/QC	
6	October 9, 2000	Energy Labs	Inorganics	Ricker	Sample	1
6	October 9, 2000	Energy Labs	Inorganics	Michael Kirn	Sample 1st draw before TX	1
6	October 9, 2000	Energy Labs	Inorganics	Michael Kirn	Sample 1st draw after TX	1
6	October 9, 2000	Energy Labs	Inorganics	Lyle Lockman	Sample 1st draw after TX	1
6	October 9, 2000	Energy Labs	Inorganics	Audrey Kirn	Sample 1st draw after TX	1
6	October 9, 2000	Energy Labs	Inorganics	Loegering	Sample	1
6	October 9, 2000	Energy Labs	Inorganics	Audrey Kirn	Sample 1st draw before TX	1
6	October 9, 2000	Energy Labs	Inorganics	Hopkins	Sample	1
6	October 9, 2000	Energy Labs	Inorganics	Four Bear	Sample	1
6	October 9, 2000	Energy Labs	Inorganics	Dan Kohl	Sample	1
6	October 9, 2000	Energy Labs	Inorganics	Birdell Lien	Sample 1st draw before TX	1
6	October 9, 2000	Energy Labs	Inorganics	Birdell Lien	Sample 1st draw after TX	1
6	October 9, 2000	Energy Labs	Inorganics	Butch Corne	Sample	1
6	October 9, 2000	Energy Labs	Inorganics	Jesse Kirn Sr	Sample	1
6	October 9, 2000	Energy Labs	Inorganics	Whitmer	Sample	1
6	October 9, 2000	Energy Labs	SVOC	Michael Kirn	Sample before 1st draw	1
6	October 9, 2000	Energy Labs	SVOC	Audrey Kirn	Sample after 1st draw	1
6	October 9, 2000	Energy Labs	SVOC	Michael Kirn	Sample after 1st draw	1
6	October 9, 2000	Energy Labs	SVOC	Audrey Kirn	Sample before 1st draw	1
6	October 10, 2000	Energy Labs	DRO	Calibration Report	QA/QC	4
6	October 11, 2000	Energy Labs	DRO	Calibration Report	QA/QC	16
6	October 12, 2000	Energy Labs	DRO	Huber 5D, Huber 5D Dupl, Murphy 1D, Murphy 1D Dupl, Trottier , T. Grainger, Grandchamp	Sample	1
6	October 13, 2000	Energy Labs	SVOC	Blank Spike Report	QA/QC	1
6	October 13, 2000	Energy Labs	SVOC	Lab Reagent Blank	QA/QC	5
6	October 13, 2000	Energy Labs	VOC	Grandchamp	Sample 1st draw before TX	2
6	October 13, 2000	Energy Labs	VOC	Joe Abbott	Sample	2

Index to Administrative Record for 1st Amended EPA SDWA Emergency Administrative Order SDWA-08-2001-33

FOLDER NO.	DATE(S)	ORIGINATOR	ANALYTE	SAMPLE LOCATION	COMMENTS	NO. PAGES
6	October 13, 2000	Energy Labs	VOC	City of Poplar Well 3	Sample	2
6	October 13, 2000	Energy Labs	VOC	Murphy 1D Well	Sample	2
6	October 13, 2000	Energy Labs	VOC	Huber 5D Well	Sample	2
6	October 13, 2000	Energy Labs	VOC	City of Poplar Well 1	Sample	2
6	October 13, 2000	Energy Labs	VOC	City of Poplar Well 2	Sample	2
6	October 13, 2000	Energy Labs	VOC	Trottier	Sample 1st draw after TX	2
6	October 13, 2000	Energy Labs	VOC	Iva Grainger	Sample	2
6	October 13, 2000	Energy Labs	VOC	Zimmerman	Sample	2
6	October 13, 2000	Energy Labs	VOC	Murphy 1D Well - Dupl	Sample	2
6	October 13, 2000	Energy Labs	VOC	Huber 5D Well - Dupl	Sample	2
6	October 13, 2000	Energy Labs	VOC	Trottier	Sample 1st draw before TX	2
6	October 13, 2000	Energy Labs	VOC	Grandchamp	Sample 1st draw after TX	2
6	October 13, 2000	Energy Labs	VOC	Huber 5D Well Trip Blank	QA/QC	2
6	October 13, 2000	Energy Labs	VOC	Trivian Grainger	Sample 1st draw after TX	2
6	October 13, 2000	Energy Labs	VOC	Murphy 1D Well Trip Blank	QA/QC	2
6	October 13, 2000	Energy Labs	VOC	Trivian Grainger	Sample 1st draw before TX	2
6	October 14, 2000	Energy Labs	SVOC	Matrix Spike Report	QA/QC	1
6	October 16, 2000	Energy Labs	SVOC	Butch Corne	Sample	1
6	October 16, 2000	Energy Labs	SVOC	Jesse Kim Sr	Sample	1
6	October 16, 2000	Energy Labs	SVOC	Birdell Lien	Sample before 1st draw	1
6	October 16, 2000	Energy Labs	SVOC	Dan Kohl	Sample	1
6	October 16, 2000	Energy Labs	SVOC	Birdell Lien	Sample after 1st draw	1
6	October 16, 2000	Energy Labs	SVOC	City of Poplar Well 2	Sample	1
6	October 16, 2000	Energy Labs	SVOC	Trottier	Sample after 1st draw after TX	1
6	October 16, 2000	Energy Labs	SVOC	Whitmer	Sample	1
6	October 16, 2000	Energy Labs	SVOC	City of Poplar Well 1	Sample	1
6	October 16, 2000	Energy Labs	SVOC	Iva Grainger	Sample	1
6	October 16, 2000	Energy Labs	SVOC	Joe Abbott	Sample	1
6	October 16, 2000	Energy Labs	SVOC	Ricker	Sample	1
6	October 17, 2000	Energy Labs	SVOC	Matrix Spike Report	QA/QC	1
6	October 17, 2000	Energy Labs	SVOC	Lab Reagent Blank	QA/QC	1
6	October 17, 2000	Energy Labs	SVOC	Blank Spike Report	QA/QC	2
6	October 17, 2000	Energy Labs	SVOC	Blank Spike Report	QA/QC	9
6	October 18, 2000	Energy Labs	SVOC	Trivian Grainger	Sample 1st draw after TX	1
6	October 18, 2000	Energy Labs	SVOC	Grandchamp	Sample 1st draw after TX	1
6	October 18, 2000	Energy Labs	SVOC	Grandchamp	Sample 1st draw before TX	1
6	October 18, 2000	Energy Labs	SVOC	Four Bear	Sample	1
6	October 18, 2000	Energy Labs	SVOC	Trivian Grainger	Sample 1st draw before TX	1
6	October 18, 2000	Energy Labs	SVOC	Trottier	Sample 1st draw before TX	1
6	October 18, 2000	Energy Labs	SVOC	Youpee	Sample	1
6	October 18, 2000	Energy Labs	SVOC	Loegering	Sample	1
6	October 18, 2000	Energy Labs	SVOC	Lyle Lockman	Sample after 1st draw	1

Index to Administrative Record for 1st Amended EPA SDWA Emergency Administrative Order SDWA-08-2001-33

FOLDER NO.	DATE(S)	ORIGINATOR	ANALYTE	SAMPLE LOCATION	COMMENTS	NO. PAGES
6	October 18, 2000	Energy Labs	SVOC	Matrix Spike Report	QA/QC	2
6	October 18, 2000	Energy Labs	SVOC	Lyle Lockman	Sample before 1st draw	1
6	October 18, 2000	Energy Labs	SVOC	Hopkins	Sample	1
6	October 18, 2000	Energy Labs	SVOC	Blank Spike Report	QA/QC	1
6	October 19, 2000	Energy Labs	SVOC	Ricker	Sample	1
6	October 20, 2000	Energy Labs		East Poplar Oilfield	Invoice	2
6	October 25, 2000	Energy Labs	SVOC	Murphy 1D Well -Dupl	Sample	1
6	October 25, 2000	Energy Labs	SVOC	Huber 5D Well	Sample	1
6	October 25, 2000	Energy Labs	SVOC	Huber 5D Well -Dupl	Sample	1
6	October 25, 2000	Energy Labs	SVOC	Murphy 1D Well	Sample	1
6	October 26, 2000	Energy Labs	SVOC	Zimmerman	Sample	1
6	October 27, 2000	Energy Labs	SVOC	City of Poplar Well 3	Sample	1
6	October 30, 2000	Energy Labs		East Poplar Oilfield	Invoice	2
6	October 30, 2000	Energy Labs	Inorganics	QA Data Package	QA/QC	
6	October 30, 2000	Energy Labs	Inorganics	Trottier	Sample 1st draw before TX	1
6	October 30, 2000	Energy Labs	Inorganics	Trottier	Sample 1st draw after TX	1
6	October 30, 2000	Energy Labs	Inorganics	Murphy 1D Well	Sample	1
6	October 30, 2000	Energy Labs	Inorganics	Murphy 1D Well - Dupl	Sample	1
6	October 30, 2000	Energy Labs	Inorganics	Trivian Grainger	Sample 1st draw after TX	1
6	October 30, 2000	Energy Labs	Inorganics	Grandchamp	Sample 1st draw before TX	1
6	October 30, 2000	Energy Labs	Inorganics	Huber 5D Well	Sample	1
6	October 30, 2000	Energy Labs	Inorganics	Trivian Grainger	Sample 1st draw before TX	1
6	October 30, 2000	Energy Labs	Inorganics	Grandchamp	Sample 1st draw after TX	1
6	October 30, 2000	Energy Labs	Inorganics	Huber 5D Well - Dupl	Sample	1
6	November 6, 2000	Energy Labs		East Poplar Oilfield	Invoice	2
6	November 7, 2000	Energy Labs	DRO	Zimmerman, Iva Grainger , City of Poplar Well 1, City of Poplar Well 2, City of Poplar Well 3, Joe Abbott	Sample	1
7	August 19, 1999	Crane Water Lab	Bacterial	NeMont Water Conditioning	Sample	1
7	October 14, 1999	Crane Water Lab	Bacterial	NeMont Water Conditioning	Sample	
7	December 13, 1999	NeMont Water Conditioning			Invoice	2
7	January 6, 2000	NeMont Water Conditioning			Invoice	2
7	April 7, 2000	NeMont Water Conditioning			Invoice	1
7	April 14, 2000	NeMont Water Conditioning			Invoice	1
7	April 21, 2000	NeMont Water Conditioning			Invoice	1
7	April 28, 2000	NeMont Water Conditioning			Invoice	1
7	April 30, 2000	NeMont Water Conditioning			Invoice	2

Index to Administrative Record for 1st Amended EPA SDWA Emergency Administrative Order SDWA-08-2001-33

FOLDER NO.	DATE(S)	ORIGINATOR	ANALYTE	SAMPLE LOCATION	COMMENTS	NO. PAGES
7	May 1, 2000	NeMont Water Conditioning			Invoice	1
7	May 5, 2000	NeMont Water Conditioning			Invoice	1
7	May 12, 2000	NeMont Water Conditioning			Invoice	1
7	May 19, 2000	NeMont Water Conditioning			Invoice	1
7	May 26, 2000	NeMont Water Conditioning			Invoice	1
7	May 30, 2000	NeMont Water Conditioning			Invoice	1
7	June 2, 2000	NeMont Water Conditioning			Invoice	1
7	June 9, 2000	NeMont Water Conditioning			Invoice	1
7	June 16, 2000	NeMont Water Conditioning			Invoice	1
7	June 23, 2000	NeMont Water Conditioning			Invoice	1
7	June 30, 2000	NeMont Water Conditioning			Invoice	1
7	July 3, 2000	NeMont Water Conditioning			Invoice	1
7	July 7, 2000	NeMont Water Conditioning			Invoice	1
7	July 14, 2000	NeMont Water Conditioning			Invoice	1
7	July 21, 2000	NeMont Water Conditioning			Invoice	1
7	July 28, 2000	NeMont Water Conditioning			Invoice	1
7	July 30, 2000	NeMont Water Conditioning			Invoice	1
7	August 4, 2000	NeMont Water Conditioning			Invoice	1
7	August 11, 2000	NeMont Water Conditioning			Invoice	1
7	August 18, 2000	NeMont Water Conditioning			Invoice	1
7	August 25, 2000	NeMont Water Conditioning			Invoice	1
7	August 30, 2000	NeMont Water Conditioning			Invoice	1
7	September 1, 2000	NeMont Water Conditioning			Invoice	1
7	September 8, 2000	NeMont Water Conditioning			Invoice	1
7	September 15, 2000	NeMont Water Conditioning			Invoice	1
7	September 22, 2000	Crane Water Lab	Bacterial	NeMont Water Conditioning	Sample	1
7	September 22, 2000	NeMont Water Conditioning			Invoice	1

Index to Administrative Record for 1st Amended EPA SDWA Emergency Administrative Order SDWA-08-2001-33

FOLDER NO.	DATE(S)	ORIGINATOR	ANALYTE	SAMPLE LOCATION	COMMENTS	NO. PAGES
7	September 30, 2000	NeMont Water Conditioning			Invoice	2
7	October 6, 2000	NeMont Water Conditioning			Invoice	1
7	October 13, 2000	NeMont Water Conditioning			Invoice	1
7	October 20, 2000	NeMont Water Conditioning			Invoice	1
7	October 27, 2000	NeMont Water Conditioning			Invoice	1
7	November 1, 2000	NeMont Water Conditioning			Invoice	1
7	November 3, 2000	NeMont Water Conditioning			Invoice	1
7	November 10, 2000	NeMont Water Conditioning			Invoice	2
7	November 17, 2000	NeMont Water Conditioning			Invoice	1
7	November 24, 2000	NeMont Water Conditioning			Invoice	1
7	November 30, 2000	NeMont Water Conditioning			Invoice	1
7	December 8, 2000	NeMont Water Conditioning			Invoice	1
7	December 15, 2000	NeMont Water Conditioning			Invoice	1
7	December 22, 2000	NeMont Water Conditioning			Invoice	1
7	December 30, 2000	NeMont Water Conditioning			Invoice	1
7	January 2, 2001	NeMont Water Conditioning			Invoice	1
8	November 3, 1999	USGS		East Poplar Oilfield	5 tables of analytical results	8
8	December 22, 1999	USGS		East Poplar Oilfield	Transmittal for Stiff diagrams from EPA's samples	1

Index to Administrative Record for 1st Amended EPA SDWA Emergency Administrative Order SDWA-08-2001-33

FOLDER NO.	DATE(S)	ORIGINATOR	RECIPIENT	TOPIC	COMMENTS	NO. PAGES
9	October 14, 2000	Goetz, Gallik, Baldwin, Dolan	Nathan Wiser	Exerpts from Samson Resources Co. Interrogatory		3
9	October 30, 2000	Goetz, Gallik, Baldwin, Dolan	Nathan Wiser, Jim Eppers	6th amended complaint Cause No. CV-98-108-BLG-JDS		41
9	November 17, 2000	Goetz, Gallik, Baldwin, Dolan	Carol Browner, Mark Simonich, Murhpy E& P Co., Mesa Petroleum Co, Pioneer Nat. Resources, Samson Hydrocarbons, Marathon Oil, Bill Yellowtail	Notice of intent to file citizen's suit under SDWA		12
9	November 22, 2000	Goetz, Gallik, Baldwin, Dolan	Prentice Hall Corporation Systems	Notice of intent to file citizen's suit under SDWA	Transmittal letter	1
10	October 6, 1997	Paul Osborne	Peggy Livingston, Carol Bowden, Barbara Conklin, Douglas Minter, David Hogle, Tom Speicher, Jim Boyter, Bill Engle	Mesa Biere A-1 Well plugging	Email	2
10	August 19, 1998	Barbara Burkland	Carol Bowden, Barbara Conklin, Sharon Kercher, John Wardell, Jim Boyter	Groundwater problem on Ft. Peck Reservation	Email	1
10	August 25, 1998	Paul Osborne	Carol Bowden, Douglas Minter, David Hogle, Jim Boyter, Sharon Kercher, Barbara Burkland	Groundwater problem on Ft. Peck Reservation	Email	3
10	August 25, 1998	Paul Osborne	Barbara Burkland, Douglas Minter, David Hogle, Carol Bowden, Sharon Kercher, Bill Engle	Mesa Biere A-1 Well plugging	Email	2
10	September 4, 1998	Deb Madison	Carol Bowden	Interview with Strauser	Email	1
10	October 26, 1998	Paul Osborne	Carol Bowden	Ft. Peck Contamination	Email	1
10	October 27, 1998	Paul Osborne	Carol Bowden, Barbara Burkland, Jim Boyter, Jim Eppers	Ft. Peck Contamination	Email	2
10	October 28, 1998	Paul Osborne	Carol Bowden	Ft. Peck Contamination	Email	1
10	October 29, 1998	Paul Osborne	Carol Bowden	Ft. Peck Contamination	Email	1
10	October 30, 1998	Carol Bowden	Deb Madison, Bill Engle, Jim Eppers, Barbara Burkland, Jim Boyter	Ft. Peck Contamination	Email	1
10	October 30, 1998	Deb Madison	Carol Bowden	Ft. Peck Contamination	Email	1
10	November 3, 1998	Paul Osborne	Carol Bowden, Barbara Conklin, Jim Boyter, Jim Eppers	Ft. Peck Contamination - Potential	Email	2
10	November 3, 1998	Carol Bowden	Paul Osborne, Barbara Burkland, Bill Engle, Jim Boyter, Jim Eppers , Barbara Conklin, Carol Bowden, Deb Madison	Conference Call	Email	1

Index to Administrative Record for 1st Amended EPA SDWA Emergency Administrative Order SDWA-08-2001-33

FOLDER NO.	DATE(S)	ORIGINATOR	RECIPIENT	TOPIC	COMMENTS	NO. PAGES
10	November 3, 1998	Carol Bowden	Deb Madison, Bill Engle, Jim Eppers, Jim Boyter, Barbara Burkland, Barbara Conklin, Paul Osborne	Conference Call	Email	1
10	November 12, 1998	Carol Bowden	Jim Boyter, Bill Engle, Paul Osborne, Jim Eppers	Ft. Peck Contamination	Email	1
10	November 17, 1998	Jim Boyter	Carol Bowden	Ft. Peck Contamination	Email	1
10	February 17, 1999	Ken Phillips	Carol Bowden	Lease Records	Email	1
10	February 23, 1999	Deb Madison	Carol Bowden	Benzene	Email	1
10	June 3, 1999	Deb Madison	Carol Bowden	Irma Reddoor	Email	1
10	July 21, 1999	Carol Bowden	Jim Eppers, Bill Engle, Jim Boyter, Ken Phillips	Ft. Peck	Email	1
10	July 21, 1999	Suzanne Wuerthele	Carol Bowden	Drinking Water Contamination	Email	2
10	September 2, 1999	Jim Eppers	Carol Bowden	Benzene	Email	1
10	October 7, 1999	Carol Bowden	Nathan Wiser	Contacts for EPA Order	Email	1
10	October 12, 1999	Nathan Wiser	Steven Leifer, David Cleary, John Fognani, Candance Walker, Patrick Pitet, James Baine, Rob Sterup, Jennifer Fry	EPA Order Follow up	Email	4
10	October 14, 1999	Jody Ostendorf	Nathan Wiser	Suggested Tough Questions	Email	1
10	October 15, 1999	Steven Leifer	Nathan Wiser	Housekeeping Matters	Email	1
10	October 21, 1999	Nathan Wiser	Steven Leifer, David Cleary, John Fognani, Candance Walker, Patrick Pitet, James Baine, Rob Sterup, Jennifer Fry, John Ross, Dan Massey, Susanne Moran, D. Owens	Progess on EPA's Order	Email	1
10	November 3, 1999	John Gillis	Carol Bowden	Wolf Point PWS	Email	2
10	December 23, 1999	Bo Meyer	Nathan Wiser	Water Sampling in EPU	Email	4
10	January 24, 2000	Terry Campbell	Bob Benson	Brockton, Wolf Point, Poplar PWS	Email	1
10	November 20, 2000	Josh Levin	Steven Moores	W.R. Grace Appeal	Email	4
10	November 30, 2000	Nathan Wiser	Steven Leifer, David Cleary, Candance Walker, Patrick Pitet, James Baine, Rob Sterup, Jennifer Fry, John Ross, Dean Massey, Wilbur Dover, Ken Lund, Sid Campbell	2nd Amended EPA Order	Email	3
11	September 2, 1998	Deb Madison	Carol Bowden	Mesa and Pioneer	Fax Cover	1
11	October 19, 1998	George Hudak	Carol Bowden		Fax Cover	1
11	January 21, 1999	Joanna Thamke	Carol Bowden	Equipment Cleaning in EPU Sampling	Fax	3
11	January 25, 1999	George Hudak	Carol Bowden	P&A Reports	Fax Cover	1
11	May 24, 1999	Deb Madison	Carol Bowden	Ft. Peck Addresses, Sampling Results	Fax	4

Index to Administrative Record for 1st Amended EPA SDWA Emergency Administrative Order SDWA-08-2001-33

FOLDER NO.	DATE(S)	ORIGINATOR	RECIPIENT	TOPIC	COMMENTS	NO. PAGES
11	June 29, 1999	Ken Phillips	Chuck Laakso		Fax Cover	2
11	July 6, 1999	George Hudak	Ken Phillips	Well List	Fax	3
11	July 7, 1999	George Hudak	Ken Phillips	Zimmerman 116	Fax Cover	1
11	July 9, 1999	George Hudak	Ken Phillips		Fax Cover	1
11	October 6, 1999	Nathan Wiser	Andy Brown		Fax Cover	2
11	October 7, 1999	Candance Walker	Carol Bowden	EPA Order	Fax	3
11	October 7, 1999	James Baine	Carol Bowden	EPA Order	Fax Cover	1
11	October 7, 1999	Nathan Wiser	Deb Madison	Letter to Residents	Fax Cover	2
11	October 7, 1999	Steven Leifer	Carol Bowden	EPA Order	Fax Cover	1
11	October 8, 1999	James Baine	Jim Eppers		Fax Cover	1
11	October 12, 1999	Steven Leifer	Nathan Wiser	Contact Information	Fax	2
11	October 14, 1999	James Baine	Nathan Wiser	Water Delivery Plan	Fax	4
11	October 14, 1999	James Baine	Nathan Wiser	Water Delivery Plan	Fax Cover	2
11	October 14, 1999	Nathan Wiser	Brian Gallik	EPA Order	Fax Cover	2
11	October 14, 1999	Nathan Wiser	Wendi Thomi	EPA Order	Fax Cover	2
11	October 20, 1999	Nathan Wiser	James Baine	Chemical Analyses	Fax Cover	2
11	November 2, 1999	Nathan Wiser	Sandra White Eagle	Sampling and Analysis Plan	Fax Cover	2
11	November 4, 1999	Nathan Wiser	Alan Morrissey	EPA 1st Amended Order	Fax Cover	2
11	November 5, 1999	Nathan Wiser	James Baine	EPA 1st Amended Order	Fax Cover	2
11	November 5, 1999	Nathan Wiser	Steven Leifer	EPA 1st Amended Order	Fax Cover	2
11	November 5, 1999	Nathan Wiser	Candance Walker	EPA 1st Amended Order	Fax Cover	2
11	November 5, 1999	Nathan Wiser	David Cleary	EPA 1st Amended Order	Fax Cover	2
11	November 9, 1999	Joanna Thamke	Jody Ostendorf	Wotanin Wowapi	Fax	5
11	November 10, 1999	Nathan Wiser	Darcy (Energy Labs)	EPU Sampling	Fax	2
11	November 11, 1999	Steven Leifer	Nathan Wiser	Residential Water Sampling	Fax	2
11	November 16, 1999	Nathan Wiser	Mike Nieskins	Water Sampling List	Fax Cover	2
11	November 30, 1999	Nathan Wiser, Jim Eppers	Josh Levin	EPA 2nd Amended Order	Fax Cover	1
11	January 3, 2000	Nathan Wiser	James Modesto	W.R. Grace Appeal	Fax Cover	2
11	February 10, 2000	Joanna Thamke	Nathan Wiser	Wotanin Wowapi article	Fax	6
11	February 14, 2000	Rene Martell	Nathan Wiser	Ft. Peck Contamination - Murphy	Fax	2
11	August 25, 2000	Rene Martell	Nathan Wiser	Water Pipeline article	Fax	2
11	September 13, 2000	Carol Bowden	John Standish	Sampling and Analysis Plan	Fax Cover	2
11	September 13, 2000	Nathan Wiser	Shelley Curry	Sampling and Analysis Plan	Fax Cover	3
11	September 30, 2000	Jim Halvorson	Carol Bowden		Fax Cover	1
11	October 3, 2000	Nathan Wiser	Brian Gallik, Dick Dolan	Sales agreement Grace Petroleum and Murphy Oil	Fax Cover	2
11	October 19, 2000	Rene Martell	Nathan Wiser	Water Pipeline article	Fax	3
12	October 14, 1999	James Baine	Vicki Ferguson	Review Records		1
12	October 22, 1999	Brian Gallik	Vicki Ferguson	Request Records		2
12	October 25, 1999	Karen Brown	Nathan Wiser	Requet Records		1
12	November 18, 1999	Scott DuBoff	EPA HQ	Appeal of Partial Denial	RIN-00030-00	6
12	December 2, 1999	John Wardell	Michael Webster	Records Release	RIN-00085-00	1
12	December 9, 1999	Connally Mears	Kristin Nelson	Records Release	RIN-00066-00	1
12	December 13, 1999	Connally Mears	Michael Webster	Records Release	RIN-00085-00	1
12	December 15, 1999	Connally Mears	Dean Massey	Records Release	RIN-00074-00	2
12	December 16, 1999	David Janik	Scott DuBoff	Partial Denial Documents	RIN-00030-00	1
12	March 29, 2000	Connally Mears	Mike Sianez	Records Release	RIN-00190-00	1
12	May 1, 2000	Kenneth Mayeaux	EPA - Helena	FOIA Request		3
12	May 30, 2000	Connally Mears	Kenneth Mayeaux	Records Release	RIN-00287-00	4
12	October 29, 2000	Carol Rushin	James Baine	Partial Denial	RIN-00030-00	3
13	August 7, 1978	Joe Ono	Mr. J.L. Vinson	Leases		1
13	February 15, 1989	Debi Madison	Pat Rody	Tim Trottier Well		3
13	June 25, 1997	Mary Pavel	Peggy Livingston	Meas Biere A-1 Well		7

Index to Administrative Record for 1st Amended EPA SDWA Emergency Administrative Order SDWA-08-2001-33

FOLDER NO.	DATE(S)	ORIGINATOR	RECIPIENT	TOPIC	COMMENTS	NO. PAGES
13	October 23, 1997	Sharon Kercher	Mary Pavel	Mesa Biere A-1 Well		3
13	November 25, 1998	Doug Endreson	Bill Yellowtail	Ft. Peck Contamination	Request SDWA Action	31
13	December 2, 1998	Doug Endreson	Bill Yellowtail	Ft. Peck Contamination	Removal of Privilege	16
13	February 1, 1999	Connally Mears	Dennis Whiteman	Lease and map request		2
13	February 8, 1999	Superintendent	Carol Bowden	Leases		1
13	February 19, 1999	Jim Eppers	Doug Endreson	Ft. Peck Contamination		2
13	February 24, 1999	Donna Erwin	Carol Bowden	Leases		1
13	February 28, 1999	Donna Erwin	Connally Mears	Lease request		3
13	March 18, 1999	Doug Endreson	Jim Eppers	Ft. Peck Contamination	Sodium	6
13	March 19, 1999	Jim Eppers	Doug Endreson	Ft. Peck Contamination		1
13	September 15, 1999	Carol Rushin	Spike Bighorn	Proposed Enforcement Action		1
13	September 30, 1999	Connally Mears	Murphy E&P Co.	EPA Order	Transmittal Letter	7
13	October 6, 1999	Candance Walker , Patrick Pitet	Carol Bowden	EPA Order		2
13	October 7, 1999	David Cleary	Carol Bowden	EPA Order		1
13	October 7, 1999	Jennifer Fry	James Baine	EPA Order	Cooperation	2
13	October 7, 1999	Nathan Wiser	Whitmer's	EPA Order	Explanation to resident	2
13	October 7, 1999	Nathan Wiser	Martell's	EPA Order	Explanation to resident	2
13	October 7, 1999	Nathan Wiser	Bleazard's	EPA Order	Explanation to resident	2
13	October 7, 1999	Nathan Wiser	Denise Grandchamp	EPA Order	Explanation to resident	2
13	October 7, 1999	Nathan Wiser	Mavis Loegering	EPA Order	Explanation to resident	2
13	October 7, 1999	Nathan Wiser	Jesse Kirn Sr	EPA Order	Explanation to resident	2
13	October 7, 1999	Nathan Wiser	Trivian Grainger	EPA Order	Explanation to resident	2
13	October 7, 1999	Nathan Wiser	William Lockman	EPA Order	Explanation to resident	2
13	October 7, 1999	Nathan Wiser	Charles Four Bear	EPA Order	Explanation to resident	2
13	October 7, 1999	Nathan Wiser	Ricker's	EPA Order	Explanation to resident	2
13	October 7, 1999	Nathan Wiser	Tim and Donna Trottier	EPA Order	Explanation to resident	2
13	October 7, 1999	Nathan Wiser	Birdell Lien	EPA Order	Explanation to resident	2
13	October 7, 1999	Nathan Wiser	Rachel Gray Hawk	EPA Order	Explanation to resident	2
13	October 7, 1999	Nathan Wiser	Dan Kohl	EPA Order	Explanation to resident	2
13	October 7, 1999	Nathan Wiser	Bill Zimmerman	EPA Order	Explanation to resident	2
13	October 7, 1999	Nathan Wiser	Joe Abbott	EPA Order	Explanation to resident	2
13	October 7, 1999	Nathan Wiser	Audrey Kirn	EPA Order	Explanation to resident	2
13	October 7, 1999	Nathan Wiser	Michael Kirn	EPA Order	Explanation to resident	2
13	October 7, 1999	Steven Leifer	Carol Bowden	EPA Order		2

Index to Administrative Record for 1st Amended EPA SDWA Emergency Administrative Order SDWA-08-2001-33

FOLDER NO..	DATE(S)	ORIGINATOR	RECIPIENT	TOPIC	COMMENTS	NO. PAGES
13	October 8, 1999	James Baine	Jim Eppers	EPA Order	Meeting	1
13	November 5, 1999	Connally Mears	Marathon Oil Co	1st Amended EPA Order	Transmittal Letter	2
13	November 5, 1999	Connally Mears	Murphy E&P Co.	1st Amended EPA Order	Transmittal Letter	2
13	November 5, 1999	Connally Mears	W.R. Grace & Co	1st Amended EPA Order	Transmittal Letter	2
13	November 5, 1999	Connally Mears	Pioneer Natural Resources USA	1st Amended EPA Order	Transmittal Letter	2
13	November 5, 1999	Connally Mears	AMARCO Resources	1st Amended EPA Order	Transmittal Letter Returned	2
13	November 5, 1999	Connally Mears	AMARCO Resources	1st Amended EPA Order	Transmittal Letter	2
13	November 11, 1999	Steven Leifer	Nathan Wiser	Testing Residential Water		1
13	November 12, 1999	Dean Massey	Jim Eppers	Sample Results		1
13	December 23, 1999	Sid Campbell	Nathan Wiser	Water Supply Invoices	NeMont Water	1
13	January 13, 2000	Sid Campbell	Nathan Wiser	Water Supply Invoices	NeMont Water	1
13	February 14, 2000	Rene Martell	Deb Madison	Ft. Peck Contamination - Murphy	Murphy 55 well	1
13	February 15, 2000	Deb Madison	Nathan Wiser	Ft. Peck Contamination - Murphy	Transmittal letter	1
13	February 24, 2000	Patrick Pitet	Nathan Wiser	Documents Produced		1
13	March 30, 2000	Ken Lund	Nathan Wiser	Documents Produced		1
13	March 31, 2000	Michael Webster	Nathan Wiser	Docuemnts Produced		2
13	May 12, 2000	Sid Campbell	Nathan Wiser	Water Supply Invoices	NeMont Water	1
13	June 6, 2000	Sid Campbell	Nathan Wiser	Water Supply Invoices	NeMont Water	1
13	July 25, 2000	Sid Campbell	Nathan Wiser	Water Supply Invoices	NeMont Water	1
13	August 9, 2000	Nathan Wiser	James Modesto	EPA Index to Admin. Record		2
13	August 16, 2000	Rene Martell	Nathan Wiser	Culligan Water Treatment		14
13	September 12, 2000	Sid Campbell	Nathan Wiser	Water Supply Invoices	NeMont Water	1
13	September 12, 2000	Steven Leifer	Nathan Wiser	Biere wells	Study	1
13	September 26, 2000	Sid Campbell	Nathan Wiser	Water Supply Invoices	NeMont Water	1
13	October 7, 2000	James Baine	Carol Bowden	EPA Order		1
13	October 13, 2000	Sid Campbell	Nathan Wiser	Water Supply Invoices	NeMont Water	1
13	October 14, 2000	Jennifer Fry	James Baine	EPA Order	Cooperation	2
13	October 15, 2000	Nathan Wiser	James Baine	Water Supply Plan Approval		2
13	October 24, 2000	Patrick Pitet	Nathan Wiser	Documents Produced	new attachements	1
13	November 21, 2000	Nathan Wiser	Deb Madison	Water Sample Results		4
13	November 22, 2000	Connally Mears	Deb Madison	Proposed Enforcement Action		4
13	November 27, 2000	Sid Campbell	Nathan Wiser	Water Supply Invoices	NeMont Water	1
13	November 30, 2000	Connally Mears	Samons Hydrocarbons Co	2nd Amended EPA Order	Transmittal Letter	3
13	November 30, 2000	Connally Mears	Samons Hydrocarbons Co	2nd Amended EPA Order	Transmittal Letter	3
13	November 30, 2000	Connally Mears	Pioneer Natural Resources Co	2nd Amended EPA Order	Transmittal Letter	3
13	November 30, 2000	Connally Mears	Murphy E&P Co	2nd Amended EPA Order	Transmittal Letter	3
13	November 30, 2000	Connally Mears	AMARCO Resources	2nd Amended EPA Order	Transmittal Letter	3
13	November 30, 2000	Connally Mears	Marathon Oil Co	2nd Amended EPA Order	Transmittal Letter	3
13	November 30, 2000	Connally Mears	Samons Investment Co	2nd Amended EPA Order	Transmittal Letter	3
13	November 30, 2000	Connally Mears	W.R. Grace & Co	2nd Amended EPA Order	Transmittal Letter	3
13	November 30, 2000	Connally Mears	Samson Investment Co	2nd Amended EPA Order	Transmittal Letter	3
13	November 30, 2000	EPA	Respondents		Mailout addresses	1

Index to Administrative Record for 1st Amended EPA SDWA Emergency Administrative Order SDWA-08-2001-33

FOLDER NO.	DATE(S)	ORIGINATOR	RECIPIENT	TOPIC	COMMENTS	NO. PAGES
14	September 30, 1999	EPA	Murphy E&P Co, Murphy Oil USA Inc, Murphy Oil Corp, Pioneer Natural Resources Co, W.R. Grace & Co - Conn, AMARCO Resources Corp, EPEC-Altamount Corp, Marathon Oil Co	EPA SDWA §1431 Order	Docket No. SDWA-8 -99-68	33
14	November 5, 1999	EPA	Murphy E&P Co, Pioneer Natural Resources USA Inc, W .R. Grace & Co - Conn, AMARCO Resources Co, Marathon Oil Co	1st Amended EPA SDWA §1431 Order	Docket No. SDWA-8 -99-68	30
14	November 30, 2000	EPA	Murphy E&P Co, Pioneer Natural Resources USA Inc, Samson Investment Co , Samson Hydrocarbons Co, AMARCO Resources Co, Marathon Oil Co	1st Amended EPA SDWA §1431 Order	Docket No. SDWA-8 -99-68	36
15	April 30, 1974	AMARCO Resources Corp		Financial and Corporate Information	Dun & Bradstreet, Secretaries of State	34
15	July 21, 1999	Fairway Production Co		Financial and Corporate Information	Dun & Bradstreet, Secretaries of State	15
15	March 1, 1971	Grace Petroleum Corp		Financial and Corporate Information	Dun & Bradstreet, Secretaries of State	29
15	February 26, 1973	Juniper Petroleum Corp		Financial and Corporate Information	Dun & Bradstreet, Secretaries of State	14
15	July 30, 1999	Marathon Oil Co		Financial and Corporate Information	Dun & Bradstreet, Secretaries of State	69
15	January 1, 1999	Mesa Petroleum Co		Financial and Corporate Information	Dun & Bradstreet, Secretaries of State	62
15	December 31, 1992	Murphy E&P Co		Financial and Corporate Information	Dun & Bradstreet, Secretaries of State	146
15	December 4, 1969	Natol Petroleum Corp		Financial and Corporate Information	Dun & Bradstreet, Secretaries of State	18
16	July 21, 1999	Phillips Petroleum Co		Financial and Corporate Information	Dun & Bradstreet, Secretaries of State	22
16	February 13, 1984	Pioneer Exploration Co		Financial and Corporate Information	Dun & Bradstreet, Secretaries of State	26
16	July 21, 1999	Pioneer Natural Resouces Co		Financial and Corporate Information	Dun & Bradstreet, Secretaries of State	211
16	July 19, 1999	Polumbus Corp		Financial and Corporate Information	Dun & Bradstreet, Secretaries of State	16
16	October 4, 2000	Samson Investment Co		Financial and Corporate Information	Dun & Bradstreet, Secretaries of State	76
16	March 16, 1960	Tenneco Oil Co		Financial and Corporate Information	Dun & Bradstreet, Secretaries of State	67
16	July 21, 1999	TPEX Exploration Inc		Financial and Corporate Information	Dun & Bradstreet, Secretaries of State	6
16	July 6, 1981	TXO Production Co		Financial and Corporate Information	Dun & Bradstreet, Secretaries of State	101

Index to Administrative Record for 1st Amended EPA SDWA Emergency Administrative Order SDWA-08-2001-33

FOLDER NO.	DATE(S)	ORIGINATOR	RECIPIENT	TOPIC	COMMENTS	NO. PAGES
16	April 1, 1993	W.R. Grace & Co		Financial and Corporate Information	Dun & Bradstreet, Secretaries of State	67
17	1949-1995			Leases	Summary of Assignments	9
17	October 1, 1949	Bureau of Land Management	Henry Forsman	Lease A-012245		9
17	October 20, 1949	Carter Oil Co	Henry Forsman et al	Lease BLM-A-012245		1
17	November 14, 1949	Carter Oil Co	Bureau of Land Management	Lease Application		1
17	February 13, 1950	Notary Public for Montana	Mary Foote et al	Personal appearance		2
17	February 24, 1950	Bureau of Indian Affairs	Maude Foote Buckles et al	Lease I-57-Ind-18722		4
17	February 27, 1950	Bureau of Indian Affairs	Mary Foote	Lease I-57-Ind-12879		3
17	February 27, 1950	Bureau of Indian Affairs	Mary Foote	Lease I-57-Ind-12879		4
17	March 31, 1950	U.S. DOI	Mary Foote et al	Affidavit of Identity		4
17	May 1, 1950	Carter Oil Co	Henry Forsman et al	Lease BLM-A-012245		1
17	November 8, 1950	Notary Public for Montana	Mary W. Foote	Waiver of Rights		7
17	December 22, 1950	County Recorder	Mary Foot et all	Mining Lease Filing		1
17	February 24, 1951	Notary Public for Montana	Mary Foote et al	Personal appearance		1
17	March 22, 1951	Bureau of Indian Affairs	Mary Foote et al	Lease I-37-IND-12879		5
17	April 2, 1951	U.S.A	Unit Agreement	EPU - 1-Sec-No 869		11
17	May 24, 1952	Notary Public for Montana	Mary Foote et al	Affidavit of Identity		2
17	July 21, 1952	Bureau of Indian Affairs	Mary Foote et al	Assignment of Lease	Lease No 3577	2
17	July 21, 1952	Bureau of Indian Affairs	Mary Foote et al	Assignment of Lease	Lease No 3468	3
17	July 21, 1952	Bureau of Indian Affairs	Mary Foote et al	Assignment of Lease	Lease No 3578	2
17	July 16, 1954	Bureau of Indian Affairs	Mary Foote et al	Assignment of Lease	Lease No 3578	2
17	July 16, 1954	Bureau of Indian Affairs	Mary Foote et al	Assignment of Lease	Lease No 3468	2
17	July 16, 1954	Bureau of Indian Affairs	Mary Foote et al	Assignment of Lease	Lease No 3577	2
17	November 1, 1954	Bureau of Indian Affairs	Mary Foote et al	Assignment of Lease	Lease No 3577	2
17	November 1, 1954	Bureau of Indian Affairs	Mary Foote et al	Assignment of Lease	Lease No 3578	2
17	November 1, 1954	Bureau of Indian Affairs	Mary Foote et al	Assignment of Lease	Lease No 3468	2
17	November 5, 1954	Bureau of Indian Affairs	Mary Foote et al	Assignment of Lease	Lease No 3578	2
17	November 5, 1954	Bureau of Indian Affairs	Mary Foote et al	Assignment of Lease	Lease No 3468	2
17	November 5, 1954	Bureau of Indian Affairs	Mary Foote et al	Assignment of Lease	Lease No 3577	2
17	March 5, 1955	F.M. Walker	Austin Buckles	Lease 3578		1

Index to Administrative Record for 1st Amended EPA SDWA Emergency Administrative Order SDWA-08-2001-33

FOLDER NO.	DATE(S)	ORIGINATOR	RECIPIENT	TOPIC	COMMENTS	NO. PAGES
17	August 9, 1960	Bureau of Land Management	Humble Oil & Refining Co	Assignment of Lease	BLM-A-012245	1
17	April 26, 1961	Bureau of Land Management	Drilling Specialties Co	Assignment of Lease	BLM-A-012245	1
17	October 31, 1970	Bureau of Land Management	Phillips Petroleum Co	Assignment of Lease	BLM-A-012245	1
17	January 20, 1982	Bureau of Indian Affairs	Partnership Properties Co	Assignment of Lease	Lease No 17777 (12)	2
17	January 20, 1982	Bureau of Indian Affairs	Partnership Properties Co	Assignment of Lease	Lease No 17777 (91)	2
17	January 20, 1982	Bureau of Indian Affairs	Partnership Properties Co	Assignment of Lease	Lease No 17777 (92)	2
17	January 15, 1985	Bureau of Indian Affairs	Fairway Resources Inc , TPEX Explo. Inc	Assignment of Lease	Lease No 17777 (12)	2
17	January 15, 1985	Bureau of Indian Affairs	Fairway Resources Inc , TPEX Explo. Inc	Assignment of Lease	Lease No 17777 (92)	2
17	January 15, 1985	Bureau of Indian Affairs	Fairway Resources Inc , TPEX Explo. Inc	Assignment of Lease	Lease No 17777 (91)	2
17	January 16, 1985	Notary Puplic for Montana	Mary Pritchard	Personal appearance		1
17	August 13, 1985	Bureau of Indian Affairs	Murphy Oil USA Inc	Assignment of Lease	BLM-A-012245	2
17	September 16, 1986	Bureau of Indian Affairs	Wellstar Corp	Assignment of Lease	Lease No 17777 (91)	2
17	September 16, 1986	Bureau of Indian Affairs	Wellstar Corp	Assignment of Lease	Lease No 17777 (12)	2
17	September 16, 1986	Bureau of Indian Affairs	Wellstar Corp	Assignment of Lease	Lease No 17777 (92)	2
17	January 19, 1987	Bureau of Indian Affairs	Murphy Oil USA Inc	Assignment of Lease	Contact No I-3712879	2
17	January 19, 1987	Bureau of Indian Affairs	Murphy Oil USA Inc	Assignment of Lease	Contact No I-3712878	2
17	January 19, 1987	Bureau of Indian Affairs	Murphy Oil USA Inc	Assignment of Lease	Contact No I-3712722	2
17	January 23, 1987	Bureau of Indian Affairs	Murphy Oil USA Inc	Assignment of Lease	Contact No I-3712879	2
17	January 23, 1987	Bureau of Indian Affairs	Murphy Oil USA Inc	Assignment of Lease	Contact No I-3712878	2
17	January 23, 1987	Bureau of Indian Affairs	Murphy Oil USA Inc	Assignment of Lease	Contact No I-3712722	2
17	February 22, 1995	Bureau of Indian Affairs	Murphy E&P Co	Assignment of Lease	Contact No 14-20-0256-4043	2
17	February 22, 1995	Bureau of Indian Affairs	Murphy E&P Co	Assignment of Lease	Contact No 14-20-0256-4043	2
17	November 28, 1995	Bureau of Indian Affairs	Murphy E&P Co	Lease	Contract No 14-20-0256-8854	8
17	November 29, 1995	Bureau of Indian Affairs	Murphy E&P Co	Lease	Contract No 14-20-0256-8787	8
17	November 29, 1995	Bureau of Indian Affairs	Murphy E&P Co	Lease	Contract No 14-20-0256-8788	8
17	December 4, 1995	Bureau of Indian Affairs	Murphy E&P Co	Lease	Contract No 14-20-0256-8789	7
17	February 10, 1999	Bureau of Indian Affairs		Title Report	Computer printout	3

Index to Administrative Record for 1st Amended EPA SDWA Emergency Administrative Order SDWA-08-2001-33

FOLDER NO.	DATE(S)	ORIGINATOR	RECIPIENT	TOPIC	COMMENTS	NO. PAGES
17	1952-1987			Leases	Summary of Assignments	1
18			EPA	Figures	Strat Column, Ft. Peck Reservation, Willison Basin, USGS Water Types, Stiff diagrams	27
18			EPA	10 Tables	State Well Records, Well Information, Missing Well Info., Injection Wells, Sample Results, PWS Sample Results	50
18			EPA	Maps	East Poplar Oilfield, EPU w/allotments shown, EPU w/ reidences shown, Ft. Peck Reservation w/ road,railroads,rivers shown, tourist map of Williams Co ND, Small map showing some wells, color map showng GW contamination from USGS, industry map showing wells	17
19	August 19, 1998	Carol Bowden	File	PWSSs in Montana	List	7
19	October 2, 1998	Audio Teleconference Reservations	Carol Bowden	Telephone Conference Call	10/07/98	1
19	September 22, 1999	Carol Bowden	File	Communication Strategy	Ft. Peck EPA Order	5
19	January 11, 2000	Ft. Peck Tribes	Public	Public Meeting Annoucement	01/11/00	1
19	January 11, 2000	Rene Martell	Nathan Wiser	Video Tape	Public meeting in Poplar	1
19	January 11, 2000	Nathan Wiser	EPA	Photos	Poplar, EPU, Wolf Point	16
19	January 11, 2000	EPA	Public	Homeowner advice for dealing with VOCs in water		1
19	June 28, 2000	Essis Ltd	Dan Jackson	Advertisement material	Conductivity measurements	5
19	1952-1976	Montana Petroeum Well	Public	Microfiche	Well records: EPU 1 -D, Huber 1-W, Huber 2, C.C. Thomaz, EPU 8-D, EPU 59, Biere 1-W, EPU	10
19	1999	Bob Benson	EPA	Human heath risk	TDS	1
19	March 1997	EPA	File	National Primary Drinking Water Standards	incl. defn of USDW and PWS	11
20	February 11, 1998	Ft. Peck Tribes	EPA	Interview Record	Bill Strauser, contract pumper for Mesa	1

Index to Administrative Record for 1st Amended EPA SDWA Emergency Administrative Order SDWA-08-2001-33

FOLDER NO.	DATE(S)	ORIGINATOR	RECIPIENT	TOPIC	COMMENTS	NO. PAGES
20	October 8, 1998	Ft. Peck Tribes	EPA	Interview Record	Joe Simonson, field inspector for Montana Bd. of Oil and Gas	1
20	September 21, 1999	Carol Bowden	File	George Hudak conversation		1
20	October 12, 1999	Evalyn Ladner	Carol Bowden	Phone message	Suzanne Moran	1
20	October 21, 1999	EPA	File	Meeting Sign-in sheet	Murphy meeting	1
20	October 21, 1999	Nathan Wiser	File	Meeting notes	Murphy meeting	1
20	October 26, 1999	Nathan Wiser	File	Telephone notes	Energy Labs	2
20	November 1, 1999	Nathan Wiser	File	Meeting notes	Respondents	1
20	November 1, 1999	EPA	File	Meeting Sign-in sheet	Respondents	1
20	November 3, 1999	Nathan Wiser	File	Telephone notes	Joanna Thamke	1
20	November 4, 1999	Nathan Wiser	File	Notes	Water supply in Poplar	1
20	January 11, 2000	Nathan Wiser	Public	Case History	for public meeting	1
20	January 11, 2000	Nathan Wiser	File	Photo log, field notes	Poplar, EPU, Wolf Point	6
20	January 20, 2000	Nathan Wiser	File	Telephone notes	Joanna Thamke	1
20	November 28, 2000	Nathan Wiser	File	Telephone notes	Brian Gallik, Dick Dolan	1
20	1999	Deb Madison	File	List of Well Records	Review of Montana Bd. of Oil and Gas Records	9
20	1999	Carol Bowden	File	List of Well Records	well histories	3
20	1999	Deb Madison	EPA	Homesites with contamination	List of homes	1
21	1955	J.B. Powell, Jr	Public	Technical Paper	Case History of E. Poplar Field	8
21	September 24, 1979	Montana Dept. of Nat. Resources & Conservation	Public	Citizen Complaint	O.A. Lien	14
21	1982	Roger A. Noble et al	Public	Paper	MBMG 99: Occurrence and Characteristics of Ground Water in Montana	89
21	February 12, 1987	Joseph J. Donovan et al	Public	Paper	Groundwater Resources of the Ft. Peck Indian Reservation, with Emphasis on Aquifers of the Preglacial Missouri River Valley	100
21	December 1985	EPA	Public	Statement of Policy & Technical Evaluation	Underground Injection Activities into the Judith River Formation on the Ft. Peck Reservation	29
21	March 1985	Montana Geological Society	Public	East Poplar Oilfield data		1
21	1983	U.S. Geological Survey	Public	Water-Supply Paper 2220	Basic Ground-Water Hydrology	90

Index to Administrative Record for 1st Amended EPA SDWA Emergency Administrative Order SDWA-08-2001-33

FOLDER NO.	DATE(S)	ORIGINATOR	RECIPIENT	TOPIC	COMMENTS	NO. PAGES
21	January 1996	Joanna Thamke et al	Public	Open-File Report 95-749	Hydrologic Data for the East Poplar Oil Field, Ft. Peck Indian Reservation, Northeastern Montana	48
21	1994	Steven Craig et al	Public	Paper	The Effects of Oil-Field Briens on Aquifers--Brien Disposal in the East Poplar Oilfield, Ft. Peck Indian Reservation, Northeastern Montana	4
21	1995	Steven Craig et al	Public	Abstract	Hydrogeologic Aspects of Brine Disposal in the East Poplar Oil Field, Ft. Peck Indian Reservation, Northeastern Montana	1
21	December 1988	Joseph J. Donovan	Public	Open File Report 209	Ground-Water Geology and High-Yield Aquifers of Northeastern Montana	116
21	November 18, 1998	Paul Osborne	EPA	Report	Ft. Peck Ground-water Contamination Summary of the Status of Oil and Was Well in Southern Portion of East Poplar Field	5
21	May 1997	Joanna Thamke et al	Public	Water-Resources Investigations Report 97-4000	Saline-Water Contamination in Quaternary Deposits and the Poplar River, East Poplar Oil Field , Northeastern Montana	37
21	December 3, 1997	EPA Groundwater Protection Program	Public	Region VIII Quality Assurance Project Plan		25
21	September 1996	EPA Region VIII	Public	Minimum Requirements for Field Sampling Activities		58
21	July 1999	Ken Phillips	EPA	Draft Report	Geology and Groundwater Resources in the Vicinity of the East Poplar Oil Field, Ft. Peck Indian Reservation, Montana	17

Index to Administrative Record for 1st Amended EPA SDWA Emergency Administrative Order SDWA-08-2001-33

FOLDER NO.	DATE(S)	ORIGINATOR	RECIPIENT	TOPIC	COMMENTS	NO. PAGES
21	May 1999	Holm Technical Services, Inc	Ft. Peck Tribes	Report with Photos	An Operational and Environmental Assessment, East Poplar Unit Oil Field , Northeastern Montana	45
22	April 15, 1977	Murphy Oil Corp	U.S.G.S.	Spill Report		1
22	September 22, 1980	Murphy Oil Corp	U.S.G.S.	Spill Report		1
22	June 20, 1984	Nalco	Murphy Oil Corp	Brine Analysis	C Battery	1
22	August 25, 1988	Murphy E&P Co	BLM	Sundry Notice	Tanks	2
22	August 25, 1988	Murphy Oil	BLM	Sundry Notice	Tanks	1
22	May 16, 1989	Murphy Oil	BLM	Sundry Notice	Tanks	1
22	September 5, 1991	Gerald Hagadone	Sid Campbell	Spill Report		1
22	September 6, 1991	Gerald Hagadone	Sid Campbell	Spill Report		1
22	September 6, 1991	Gerald Hagadone	Sid Campbell	Spill Report		1
22	September 14, 1991	Ray Reede	Sid Campbell	Spill Report		1
22	September 16, 1991	Gerald Hagadone	Sid Campbell	Spill Report		1
22	September 25, 1991	Gerald Hagadone	Sid Campbell	Spill Report		1
22	October 14, 1991	Ray Reede	Sid Campbell	Spill Report		1
22	February 12, 1992	Gerald Hagadone	Sid Campbell	Spill Report		1
22	June 17, 1992	James Corne	Sid Campbell	Spill Report		1
22	November 30, 1992	Gerald Hagadone	Sid Campbell	Spill Report		1
22	January 18, 1993	Gerald Hagadone	Sid Campbell	Spill Report		1
22	January 19, 1993	Gerald Hagadone	Sid Campbell	Spill Report		1
22	January 23, 1993	Gerald Hagadone	Sid Campbell	Spill Report		1
22	January 25, 1993	Gerald Hagadone	Sid Campbell	Spill Report		1
22	January 30, 1993	Gerald Hagadone	Sid Campbell	Spill Report		1
22	February 1, 1993	Gerald Hagadone	Sid Campbell	Spill Report		1
22	February 4, 1993	Gerald Hagadone	Sid Campbell	Spill Report		1
22	February 5, 1993	Gerald Hagadone	Sid Campbell	Spill Report		1
22	February 6, 1993	Gerald Hagadone	Sid Campbell	Spill Report		1
22	February 6, 1993	Gerald Hagadone	Sid Campbell	Spill Report		1
22	March 8, 1993	Gerald Hagadone	Sid Campbell	Spill Report		1
22	March 11, 1993	Gerald Hagadone	Sid Campbell	Spill Report		1
22	March 25, 1993	Gerald Hagadone	Sid Campbell	Spill Report		1
22	August 14, 1993	Gerald Hagadone	Sid Campbell	Spill Report		1
22	October 8, 1993	Murphy E&P Co	Montana Regulatory Compliance Program	Spill Report		1
22	November 18, 1993	Murphy E&P Co	Montana Regulatory Compliance Program	Spill Report		1
22	January 21, 1994	Murphy E&P Co	Montana Regulatory Compliance Program	Spill Report		1
22	January 21, 1994	Murphy E&P Co	Montana Regulatory Compliance Program	Spill Report		1
22	May 30, 1995	Murphy E&P Co	Montana Regulatory Compliance Program	Spill Report		1
22	June 8, 1995	Murphy E&P Co	Montana Regulatory Compliance Program	Spill Report		1
22	June 12, 1995	Murphy E&P Co	Montana Regulatory Compliance Program	Spill Report		1
22	June 13, 1995	EPA	Murphy E&P Co	Oil Pollution Act Inspection	G battery	1
22	June 13, 1995	EPA	Murphy E&P Co	Oil Pollution Act Inspection	R Battery, S. Central Battery	1

Index to Administrative Record for 1st Amended EPA SDWA Emergency Administrative Order SDWA-08-2001-33

FOLDER NO.	DATE(S)	ORIGINATOR	RECIPIENT	TOPIC	COMMENTS	NO. PAGES
22	June 13, 1995	EPA	Murphy E&P Co	Oil Pollution Act Inspection	C Battery	1
22	June 20, 1995	Murphy E&P Co	Montana Regulatory Compliance Program	Spill Report		1
22	June 22, 1995	Murphy E&P Co	Montana Regulatory Compliance Program	Spill Report		1
22	August 23, 1995	EPA	Sid Campbell	Spills, SPCC Plans	Letter	1
22	August 23, 1995	EPA	Sid Campbell	Spills, SPCC Plans	Letter	2
22	August 23, 1995	EPA	Sid Campbell	Spills, SPCC Plans	Letter	2
22	September 2, 1995	Murphy E&P Co	Montana Regulatory Compliance Program	Spill Report		1
22	September 20, 1995	BLM	Murphy E&P Co	Letter	Tanks	1
22	January 13, 1996	Murphy E&P Co	Montana Regulatory Compliance Program	Spill Report		1
22	April 9, 1996	Murphy E&P Co	Montana Regulatory Compliance Program	Spill Report		1
22	June 5, 1996	Murphy E&P Co	Montana Regulatory Compliance Program	Spill Report		1
22	July 19, 1996	Murphy E&P Co	Montana Regulatory Compliance Program	Spill Report		1
22	July 22, 1996	Murphy E&P Co	Montana Regulatory Compliance Program	Spill Report		1
22	October 31, 1996	BLM	Murphy E&P Co	Letter	Tanks	1
22	December 20, 1997	Murphy E&P Co	Montana Regulatory Compliance Program	Spill Report		1
22	December 24, 1997	Murphy E&P Co	Montana Regulatory Compliance Program	Spill Report		1
22	December 29, 1997	Murphy E&P Co	Montana Regulatory Compliance Program	Spill Report		1
22	January 3, 1998	Murphy E&P Co	Montana Regulatory Compliance Program	Spill Report		1
22	January 6, 1998	Murphy E&P Co	Montana Regulatory Compliance Program	Spill Report		1
22	January 9, 1998	Murphy E&P Co	Montana Regulatory Compliance Program	Spill Report		1
22	January 25, 1999	Murphy E&P Co	Montana Regulatory Compliance Program	Spill Report		1
22	January 25, 1999	Murphy E&P Co	Montana Regulatory Compliance Program	Spill Report		1
22	February 28, 2000	Murphy E&P Co	EPA	Tanks, Pipelines	Figures	38
22	February 28, 2000	Murphy E&P Co	EPA	Well Information	Well Locations	11
22	February 28, 2000	Murphy E&P Co	EPA	Tank Information	History Summary	23
22	February 28, 2000	Murphy E&P Co	EPA	Spill Reports	List	2
22	1968-1998	Murphy Oil	File	Authority for Expenditure Records	Related to surface facilities	34

Index to Administrative Record for 1st Amended EPA SDWA Emergency Administrative Order SDWA-08-2001-33

FOLDER NO.	DATE(S)	WELL NAME	WELL RECORDS SUBJECT			NO. PAGES
23	1952	Ajax 1	Geological Data			3
24	1970-1989	Biere 1-22	History			17
24	1970-1984	Biere 1-22	Permit Applications			7
24	1970	Biere 1-22	Geological Data			31
24	1970-1985	Biere 1-22	Service & Testing			81
24	1984-1999	Biere 1-22	Production and Injection Data			26
24	2000	Biere 1-22	Surface Equipment			1
24	1984	Biere 1-22	Plugging and Abandonment			3
24	August 2000	Biere 1-22	Plugging and Abandonment	Special Report	CH2MHill	73
25	1970-1997	Biere 1-W	History			14
25	1970-1984	Biere 1-W	Permit Applications			13
25	1970	Biere 1-W	Geological Data			6
25	2000	Biere 1-W	Service & Testing			2
25	1970-1984	Biere 1-W	Production and Injection Data			3
25	2000	Biere 1-W	Surface Equipment			2
25	1984-1985	Biere 1-W	Plugging and Abandonment			7
26	1985	Biere Relief	History			5
26	1985	Biere Relief	Geological Data			6
26	1985-1986	Biere Relief	Service & Testing			16
26	1970-1984	Biere Relief	Production and Injection Data			3
26	1985	Biere Relief	Plugging and Abandonment			1
27	1980-1995	Buckles A-1	History			33
27	1981-1984	Buckles A-1	Permit Applications			33
27	1981	Buckles A-1	Geological Data			60
27	1981	Buckles A-1	Service & Testing			18
27	1981-1984	Buckles A-1	Production and Injection Data			56
27	2000	Buckles A-1	Surface Equipment			9
27	1984	Buckles A-1	Plugging and Abandonment			11
28	1981-1982	Buckles A-2 (not drilled)	History			2
28	1981	Buckles A-2 (not drilled)	Permit Applications			26
29	1981-1984	Buckles B-1	History			15
29	1981	Buckles B-1	Permit Applications			31
29	1981-1984	Buckles B-1	Geological Data			113
29	1981	Buckles B-1	Service & Testing			26
29	1981-1984	Buckles B-1	Production and Injection Data			13
29	1984	Buckles B-1	Plugging and Abandonment			8
30	1980-1984	Buckles SWD	History			18
30	1981-1984	Buckles SWD	Permit Applications			28
30	1981-2000	Buckles SWD	Geological Data			33
30	1981	Buckles SWD	Service & Testing			2
30	2000	Buckles SWD	Surface Equipment			2

Index to Administrative Record for 1st Amended EPA SDWA Emergency Administrative Order SDWA-08-2001-33

FOLDER NO.	DATE(S)	WELL NAME	WELL RECORDS SUBJECT			NO. PAGES
30	1984	Buckles SWD	Plugging and Abandonment			15
31	1965	~~Catlin 1 (Partee 1~~	History			1
31	1965	~~Catlin 1 (Partee 1~~)	Geological Data			7
31	1965	Catlin 1 (Partee 1)	Plugging and Abandonment			1
32	1969	Empire State 1	Geological Data			1
32	1969	Empire State 1	Plugging and Abandonment			1
33	1950-1988	EPU 1	History			19
33	1951-1959	EPU 1	Permit Applications			4
33	1951-1952	EPU 1	Geological Data			149
33	1956-1960	EPU 1	Service & Testing			48
33	2000	EPU 1	Surface Equipment			4
34	1951-1993	EPU 2-D	History			4
34	1993	EPU 2-D	Permit Applications			1
34	1962	EPU 2-D	Geological Data			1
34	2000	EPU 2-D	Service & Testing			1
34	1992-1995	EPU 2-D	Plugging and Abandonment			8
35	1952-1968	EPU 3	History			17
35	1952-1968	EPU 3	Permit Applications			24
35	1952	EPU 3	Geological Data			41
35	1952-1968	EPU 3	Service & Testing			37
36	1952-1953	EPU 3-G	Permit Applications			4
36	1952	EPU 3-G	Geological Data			3
37	1967-1999	EPU 5	History			21
37	1952-1999	EPU 5	Permit Applications			29
37	1952	EPU 5	Geological Data			24
37	1955-1992	EPU 5	Service & Testing			41
37	1986-1995	EPU 5	Plugging and Abandonment			5
38	1963-1998	EPU 6	History			15
38	1963-1964	EPU 6	Permit Applications			6
38	1952-1957	EPU 6	Geological Data			35
38	1952-1964	EPU 6	Service & Testing			11
39	1952-1990	EPU 7	History			12
39	1953-1966	EPU 7	Permit Applications			10
39	1952-1953	EPU 7	Geological Data			22
39	1963-1969	EPU 7	Service & Testing			17
40	1952-1997	EPU 8-D	History			58
40	1965-1985	EPU 8-D	Permit Applications			57
40	1952-1988	EPU 8-D	Geological Data			41
40	1972-1995	EPU 8-D	Service & Testing			146
40	2000	EPU 8-D	Surface Equipment			7
40	1965	EPU 8-D	Plugging and Abandonment			4
41	1952-1993	EPU 9	History			22
41	1952-1963	EPU 9	Permit Applications			7
41	1952	EPU 9	Geological Data			19
41	1957-1963	EPU 9	Service & Testing			11
42	1952-1997	EPU 11	History			20
42	1987-1998	EPU 11	Permit Applications			7
42	1952	EPU 11	Geological Data			19
42	1953-1992	EPU 11	Service & Testing			16

Index to Administrative Record for 1st Amended EPA SDWA Emergency Administrative Order SDWA-08-2001-33

FOLDER NO.	DATE(S)	WELL NAME	WELL RECORDS SUBJECT			NO. PAGES
43	1954-1980	EPU 12	History			29
43	1952-1976	EPU 12	Permit Applications			13
43	1952-1953	EPU 12	Geological Data			23
43	1953-1983	EPU 12	Service & Testing			33
44	1955-1990	EPU 14	History			14
44	1955-1998	EPU 14	Permit Applications			25
44	1955	EPU 14	Geological Data			20
44	1961-1962	EPU 14	Service & Testing			12
45	1958-1992	EPU 15	History			15
45	1953-1972	EPU 15	Permit Applications			18
45	1953-1957	EPU 15	Geological Data			23
45	1953-1972	EPU 15	Service & Testing			22
46	1952-1993	EPU 17	History			23
46	1953-1993	EPU 17	Permit Applications			18
46	1953-1957	EPU 17	Geological Data			17
46	1962-1996	EPU 17	Service & Testing			28
46	1953-1989	EPU 17	Plugging and Abandonment			5
47	1952-1990	EPU 18	History			35
47	1989-1992	EPU 18	Permit Applications			3
47	1953	EPU 18	Geological Data			20
47	1953-1990	EPU 18	Service & Testing			7
48	1953-1988	EPU 20	History			27
48	1953	EPU 20	Permit Applications			1
48	1953	EPU 20	Geological Data			18
48	1953-1977	EPU 20	Service & Testing			27
49	1953-1996	EPU 22	History			16
49	1953-1999	EPU 22	Permit Applications			4
49	1953	EPU 22	Geological Data			28
49	1953-1957	EPU 22	Service & Testing			38
50	1953-1996	EPU 24	History			19
50	1953-1999	EPU 24	Permit Applications			8
50	1953	EPU 24	Geological Data			21
50	1999	EPU 24	Service & Testing			1
51	1953-1961	EPU 26	History			7
51	1953-1976	EPU 26	Permit Applications			19
51	1953	EPU 26	Geological Data			19
51	1953-1976	EPU 26	Service & Testing			15
51	1976	EPU 26	Plugging and Abandonment			8
52	1954-1994	EPU 32	History			32
52	1954-1994	EPU 32	Permit Applications			34
52	1954	EPU 32	Geological Data			27
52	1954-1994	EPU 32	Service & Testing			18
53	1954-1958	EPU 44	History			9
53	1957-1958	EPU 44	Permit Applications			2
53	1955	EPU 44	Geological Data			23
53	1954-1957	EPU 44	Service & Testing			30
53	1957-1958	EPU 44	Plugging and Abandonment			2
54	1954-1993	EPU 45	History			10
54	1954-1966	EPU 45	Permit Applications			7
54	1954	EPU 45	Geological Data			17
54	1954-1955	EPU 45	Service & Testing			29
55	1955	EPU 55	History			11

Index to Administrative Record for 1st Amended EPA SDWA Emergency Administrative Order SDWA-08-2001-33

FOLDER NO.	DATE(S)	WELL NAME	WELL RECORDS SUBJECT			NO. PAGES
55	1955	EPU 55	Permit Applications			1
55	1955-1957	EPU 55	Geological Data			23
55	1955-1957	EPU 55	Service & Testing			3
56	1955-1986	EPU 59-D	History			8
56	1955-1986	EPU 59-D	Permit Applications			24
56	1955-1957	EPU 59-D	Geological Data			40
56	1955-1961	EPU 59-D	Service & Testing			18
56	1986	EPU 59-D	Plugging and Abandonment			23
57	1955-1957	EPU 61	History			5
57	1955-1961	EPU 61	Permit Applications			4
57	1955	EPU 61	Geological Data			24
57	1955-1957	EPU 61	Service & Testing			13
57	1958-1960	EPU 61	Plugging and Abandonment			4
58	1955	EPU 63	History			3
58	1955-1976	EPU 63	Permit Applications			25
58	1956	EPU 63	Geological Data			48
58	1956-1960	EPU 63	Service & Testing			23
59	1955-1968	EPU 67	History			5
59	1957-1978	EPU 67	Permit Applications			11
59	1955	EPU 67	Geological Data			19
59	1957	EPU 67	Service & Testing			2
60	1955-1993	EPU 68	History			10
60	1968-1978	EPU 68	Permit Applications			10
60	1955	EPU 68	Geological Data			20
60	1957-1962	EPU 68	Service & Testing			23
61	1956	EPU 72	History			4
61	1956	EPU 72	Permit Applications			9
61	1956	EPU 72	Geological Data			22
61	1956-1957	EPU 72	Service & Testing			2
62	1956-1964	EPU 74	History			9
62	1956-1976	EPU 74	Permit Applications			16
62	1956	EPU 74	Geological Data			24
62	1956-1964	EPU 74	Service & Testing			18
63	1956-1967	EPU 76	History			9
63	1956-1976	EPU 76	Permit Applications			16
63	1956	EPU 76	Geological Data			21
63	1956-1964	EPU 76	Service & Testing			15
63	1976	EPU 76	Plugging and Abandonment			2
64	1956-1999	EPU 80-D	History			67
64	1958-1998	EPU 80-D	Permit Applications			70
64	1956-1985	EPU 80-D	Geological Data			29
64	1956-1984	EPU 80-D	Service & Testing			100
64	2000	EPU 80-D	Surface Equipment			7
64	1984	EPU 80-D	Plugging and Abandonment			3
65	1957-1962	EPU 99	History			9
65	1957-1962	EPU 99	Permit Applications			5
65	1957	EPU 99	Geological Data			25
65	1957	EPU 99	Service & Testing			3
65	1962	EPU 99	Plugging and Abandonment			1
66	1957-1973	EPU 100	History			20

Index to Administrative Record for 1st Amended EPA SDWA Emergency Administrative Order SDWA-08-2001-33

FOLDER NO.	DATE(S)	WELL NAME	WELL RECORDS SUBJECT			NO. PAGES
66	1957-1973	EPU 100	Permit Applications			15
66	1957-1996	EPU 100	Geological Data			26
66	1959-1973	EPU 100	Service & Testing			12
66	2000	EPU 100	Surface Equipment			2
67	1957-1998	EPU 101	History			49
67	1983-1997	EPU 101	Permit Applications			15
67	1957	EPU 101	Geological Data			31
67	1988-1997	EPU 101	Service & Testing			47
68	1955-1992	EPU 104	History			53
68	1958-1992	EPU 104	Permit Applications			6
68	1958	EPU 104	Geological Data			24
68	1958-1992	EPU 104	Service & Testing			28
69	1973-1984	EPU 110x	Permit Applications			6
69	1969	EPU 110x	Geological Data			4
69	1981	EPU 110x	Service & Testing			1
69	1985	EPU 110x	Production and Injection Data			1
69	2000	EPU 110x	Surface Equipment			4
70	1997-1998	EPU 116	History			4
70	1996	EPU 116	Permit Applications			9
70	1997	EPU 116	Geological Data			26
70	1997	EPU 116	Service & Testing			45
71	1984-1986	~~Goings Gov't SWD~~	History			5
71	1986	~~Goings Gov't SWD~~	Permit Applications			1
71	1984	~~Goings Gov't SWD~~	Service & Testing			2
72	1952-1975	Huber 1	History			4
72	1968-1971	Huber 1	Permit Applications			9
72	1952	Huber 1	Geological Data			5
72	1952-1977	Huber 1	Service & Testing			41
72	2000	Huber 1	Surface Equipment			1
73	1961	Huber 1-W	Geological Data			3
74	1952	Huber 2	History			2
74	1969-1986	Huber 2	Permit Applications			3
74	1952-1986	Huber 2	Geological Data			9
74	1969-1986	Huber 2	Service & Testing			29
74	2000	Huber 2	Surface Equipment			1
75	1955-1986	Huber 3	Permit Applications			12
75	1952	Huber 3	Geological Data			4
75	1952-1977	Huber 3	Service & Testing			68
75	2000	Huber 3	Surface Equipment			1
76	1976-1982	Huber 4	History			8
76	1969-1982	Huber 4	Permit Applications			5
76	1982	Huber 4	Geological Data			2
76	1978-1984	Huber 4	Service & Testing			38
76	2000	Huber 4	Surface Equipment			6
77	1968-1994	Huber 4A	History			8
77	1965-1996	Huber 4A	Permit Applications			12
77	1966	Huber 4A	Geological Data			21
77	1967-1969	Huber 4A	Service & Testing			31
77	2000	Huber 4A	Surface Equipment			1
78	1990-1999	Huber 5-D	History			14
78	1995-1997	Huber 5-D	Permit Applications			106
78	1968-1969	Huber 5-D	Geological Data			30
78	1969-1995	Huber 5-D	Service & Testing			82
78	2000	Huber 5-D	Surface Equipment			1

Index to Administrative Record for 1st Amended EPA SDWA Emergency Administrative Order SDWA-08-2001-33

FOLDER NO.	DATE(S)	WELL NAME	WELL RECORDS SUBJECT			NO. PAGES
79	1980	Juniper 1-21	Permit Applications			5
79	1980	Juniper 1-21	Geological Data			4
79	1980	Juniper 1-21	Service & Testing			1
79	1981	Juniper 1-21	Plugging and Abandonment			2
80	1983	MapCo 3-34	History			1
81	1995-1996	Natol 1-26 (Sioux 1-26)	History			7
81	1971	Natol 1-26 (Sioux 1-26)	Permit Applications			2
81	1971	Natol 1-26 (Sioux 1-26)	Geological Data			2
82	1973-1995	Schmidt 1-27	History			13
82	1973	Schmidt 1-27	Permit Applications			2
82	1973	Schmidt 1-27	Geological Data			19
82	1973	Schmidt 1-27	Plugging and Abandonment			2
83	1967	Tenneco 1	Permit Applications			1
83	1966	Tenneco 1	Geological Data			5
84	1952	Thomas-Wagner 1	Geological Data			2

Index to Administrative Record for 1st Amended EPA SDWA Emergency Administrative Order SDWA-08-2001-33

FOLDER NO.	DATE(S)	ORIGINATOR	RECIPIENT	TOPIC	COMMENTS	NO. PAGES
.85	November 5, 1999	Chris Marraro	U.S. 2nd Circ. Ct. of Appeals	Petition to appeal EPA Order SDWA-8-99-68	w/Court's instructions	5
85	December 9, 1999	Ken Lund	EPA	Assignment and Bill of Sale	Grace Petroleum to Murphy Oil USA	32
85	December 20, 1999	Chris Marraro	Clerk, 2nd Cir. Ct. of Appeals	Filing		42
85	December 22, 1999	Clerk, 2nd Cir. Ct of Appeals	EPA Region VIII	Notice of Appeal		9
85	January 7, 2000	Susan Lepow	Steven Herman	Memo	Notice of Appeal	2
85	January 11, 2000	Michael Risner, Thomas Speicher	Eric Schaeffer, Susan Lepow	Memo	Appeal	2
85	January 26, 2000	Clerk, 2nd Cir. Ct. of Appeals	Petitioner	Mandate	Dismissal of Appeal	2
85	February 2, 2000	Chris Marraro	Clerk, 2nd Cir. Ct. of Appeals	Motion for Reinstatement		6
85	March 8, 2000	Clerk, 2nd Cir. Ct. of Appeals	Parties	Agency Appeals Scheduling Order 1		2
85	March 8, 2000	Clerk, 2nd Cir. Ct. of Appeals	Parties	Telephonic Pre-Argument Notice and Order		2
85	March 29, 2000	Chris Marraro, Josh Levin	Clerk, 2nd Cir. Ct. of Appeals	Withdrawal of Appeal		1
85	May 19, 2000	Steven Moores	Chris Marraro	Index to 1st Amended EPA Order		21
85	September 20, 2000	Chris Marraro	Clerk, 2nd Cir. Ct. of Appeals	Reinstatement of Appeal		2
85	October 31, 2000	Chris Marraro	Steven Moores	Agreement for Purchase and Sale of the Stock of Grace Petroleum Corp	w/Transmittal letter	78
85	November 7, 2000	Steven Moores	Chris Marraro	Grace Appeal		3
85	November 13, 2000	Chris Marraro	Steven Moores	Grace Appeal		3
85	November 16, 2000	Steven Moores	Chris Marraro	Grace Appeal		2
85	November 20, 2000	Chris Marraro	Steven Moores	Grace Appeal		1
86	July 1954	J. Harold Milam, Murphy Corporation		Article: Poplar Unit Operators Face Varied Production Problems	World Oil - Production Section (pgs. 183 - 190)	7
86	December 8, 1954	Murphy Corporation	Montana Oil and Gas Conservation Commission	"McGowan" Field	Field description	6
86	January 24, 1955	J.R. Schwabrow, United States Department of Interior - Geological Survey		Hearing on East Poplar Field - December 8 and 9, 1954	Memorandum for the Files	5
86	February 15, 1955	H.H. Perrigo, United States Department of Interior - Geological Survey		Hearing on East Poplar Field - February 7 and 8, 1955	Memorandum for the Files	4
86	May 1955	unknown	U.S. Geological Survey, Billings, MT	East Poplar Oil Field	Summary of Reservoir Pressure Survey, volumes oil and water produced	2

Index to Administrative Record for 1st Amended EPA SDWA Emergency Administrative Order SDWA-08-2001-33

FOLDER NO.	DATE(S)	ORIGINATOR	RECIPIENT	TOPIC	COMMENTS	NO. PAGES
86	June 29, 1955	J.B. Flugstad, State of Montana Oil and Gas Conservation Commission	C. C. Thomas	East Poplar Field Order		2
86	July 8, 1955	JBF (assumed to be J.B. Flugstad, State of Montana Oil and Gas Conservation Commission)	Files	Memorandum of Meeting of East Poplar Engineer Operator's Committee	dealing with disposal of produced brine	1
86	July 31, 1956	Murphy Corporation (Safety and Training)	Murphy: All Concerned	Salt Water Tank Explosions	Inter-Office Correspondence	1
86	October 15, 1956	Murphy Corporation		Fourteenth Revision Madison Formation Royalty Area East Poplar Oil Unit	Map	2
86	December 28, 1956	Ralph A. Beegle, Jr., Murphy Oil Corp.	Mr. J.R. Schwabrow, USGS	East Poplar Unit Area letter	fire and explosion at 2 1000-bbl tanks	1
86	July 3, 1957	Gordon Kirby, Murphy Corporation	Oil and Gas Conservation Commission of Montana	Petition For Disposal of Salt Water In Dakota Formation, East Poplar Oil Field		4
86	July 29, 1957	Montana Oil and Gas Conservation Commission		East Poplar Oil Field	Minutes of the Commission's 7/29/ 57 Hearing	1
86	August 30, 1957	State Of Montana Oil and Gas Conservation Commission		Conservation and Prevention of Waste of Oil and Gas	Notice of Public Hearing	1
86	September 24, 1957	Harold Milam, Murphy Corporation	Montana Oil and Gas Conservation Commission	Statement to Commission on Present and Future Salt Water Disposal Practices of East Poplar Unit		3
86	October 21, 1957	James F. Neely, Montana Oil and Gas Conservation Commission		Hearing held Upon The Motion of The Commission Relating To Salt Water Disposal Practices of Operators In The East Poplar Oil Field	Minutes of the Commission's 9/24/ 57 Hearing	3
86	April 28, 1960	J.R. Schwabrow, Regional Oil and Gas Supervisor, USGS	Area Director, Bureau of Indian Affairs, Billings, Montana	Lease Agreement Involving Lands in Fort Peck - Leases 14-20-256-1063 and 14-20-256-82	Memorandum	2
86	May 20, 1960	James F. Neely, Montana Oil and Gas Conservation Commission		In the matter of the application of the Murphy Corporation for permission to inject water into the East Poplar Unit	Minutes of the Commission's 5/20/ 60 Hearing	2

Index to Administrative Record for 1st Amended EPA SDWA Emergency Administrative Order SDWA-08-2001-33

FOLDER NO.	DATE(S)	ORIGINATOR	RECIPIENT	TOPIC	COMMENTS	NO. PAGES
86	October 10, 1960	Hillary A. Oden, District Engineer, Billings, Montana , USGS	Mr. M.T. James, Murphy Corporation	East Poplar Oil Field	Inspections	2
86	February 6, 1961	W.B. Bleakley, Production Editor , The Oil and Gas Journal		Salt Plagues Montana Production - East Poplar Oil Field	Publication in the Oil and Gas Journal (pgs. 107-108)	2
86	May 25, 1961	Hillary A. Oden, District Engineer, Billings, Montana , USGS	Regional Oil and Gas Supervisor, Casper, Wyoming	Temporary shut down of pressure-maintenance program, East Poplar Oil Field, due to water breakthrough at some wells	Memorandum	1
86	June 15, 1961	Montana Oil and Gas Conservation Commission		East Poplar - N.W. Poplar	Map of Evaporation Pits	2
86	June 29, 1961	James F. Neely, Montana Oil and Gas Conservation Commission		East Poplar Oil Field	Minutes from the Commission's 6/29/ 61 Hearing	1
86	July 6, 1961	Hillary A. Oden, District Engineer, USGS	USGS Regional Oil and Gas Supervisor, Casper, Wyoming	Salt Water Disposal, East Poplar Field	Memorandum describing aspects of the 6/29/57 Commission Hearing and 2 attached exhibits presented at the Hearing	10
86	June 9, 1964	J.F. Otero, Acting Superintendent, Fort Peck Agency BIA	District Engineer, U.S. Geological Survey	Salt Water Disposal In East Poplar Field	Memorandum	1
86	June 12, 1964	Hillary A. Oden, District Engineer- U.S. Geological Survey	Superintendent, Fort Peck Agency BIA	Salt Water Disposal in East Poplar Field	Memorandum about pit usage	1
86	June 22, 1964	Hillary A. Oden, District Engineer, U.S. Geological Survey	Superintendent, Fort Peck Agency BIA	Salt Water Disposal in East Poplar Oil Field	Memorandum about damage from pits	1
86	February 4, 1965	Hillary A. Oden, District Engineer, USGS	L. L. Duncan, Production Superintendent, Murphy Oil Corporation	East Poplar Oil Field	Oil and water production volumes	1
86	September 7, 1971	Virgil L. Pauli, District Engineer, USGS	Murphy Oil Corporation	Leases Fort Peck (A1.) 1-37-Ind-12716, - 13045 and -13089, East Poplar Oil Field	Pollution prevention	1
86	December 3, 1974	Virgil L. Pauli, Conservation Division, USGS	Murphy Oil Corporation	East Poplar Oil Field	Inpsections	2
86	March 5, 1975	Virgil. L. Pauli, Conservation Division, USGS	Murphy Oil Corporation	East Poplar Unit	Practices in the East Poplar Oil Field	2

Index to Administrative Record for 1st Amended EPA SDWA Emergency Administrative Order SDWA-08-2001-33

FOLDER NO.	DATE(S)	ORIGINATOR	RECIPIENT	TOPIC	COMMENTS	NO. PAGES
86	April 17, 1975	Donald Chisholm, State of Montana		Minutes from Hearing	East Poplar Oil Field	2
86	April 30, 1975	Judson D. Sweet, Montana Department of Natural Resources and Conservation	V.L. Pauli, District Engineer, USGS	Order 17-75 issued by the Board - East Poplar Oil Field	Orphey "Bud" Lien complaint to the Montana Board of Oil and Gas Conservation	16
86	May 6, 1975	Virgil L. Pauli, District Engineer, Conservation Division, USGS	Judson Sweet, Montana Board of Oil and Gas Conservation	Order No. 17-75 and letter dated April 30, 1975 concerning damage complaints in the East Poplar Oil Field	Attached copy of minutes from 4/17/75 Board Hearing	3
86	May 9, 1975	Judson D. Sweet, Montana Department of Natural Resources and Conservation - Board of Oil and Gas Conservation	Mr. Orphey Lien	Lien's complaint		1
86	July 28, 1975	Judson D. Sweet, Montana Department of Natural Resources and Conservation - Board of Oil and Gas Conservation	Mr. Orphey Lien	Lien's complaint		2
86	July 28, 1975	Judson D. Sweet, Montana Department of Natural Resources and Conservation - Board of Oil and Gas Conservation	Murphy Oil Corporation	Lien's complaint		2
86	August 7, 1975	Billy G. Melear, District Superintendent, Murphy Oil Corporation	Judson D. Sweet, Montana Department of Natural Resources and Conservation	Lien's complaint		2
86	September 18, 1975	Lynn Henson, USGS	File	Murphy Oil Corporation - East Poplar Oil Field	Summary of Environmental Impact Evaluation	2
86	February 1, 1976	unknown	Montana Oil and Gas Board	Undesirable Events Report	East Poplar Oil Field - NW SE 3-28N-51E, MPM, Roosevelt	1
86	February 1, 1976	Billy G. Melear, Murphy Oil Corporation	District Engineer, USGS	Undesirable Events Report	East Poplar Oil Field - NW SE 3-28N-51E, MPM	2
86	February 19, 1976	Ray Reede, Murphy Oil Corporation	District Engineer, USGS	Undesirable Events Report	East Poplar Oil Field - NW NW SW 29-29N -51E, MPM	2

Index to Administrative Record for 1st Amended EPA SDWA Emergency Administrative Order SDWA-08-2001-33

FOLDER NO.	DATE(S)	ORIGINATOR	RECIPIENT	TOPIC	COMMENTS	NO. PAGES
86	February 23, 1976	District Superintendent, Murphy Oil Corporation	District Engineer, U.S. Geological Survey	Pollution Report		1
86	March 9, 1976	Virgil L. Pauli, Conservation Division, USGS	Murphy Oil Corporation	Spill prevention Control and Conuntermeasure Plan (SPCC) East Poplar Unit		1
86	March 20, 1976	Billy G. Melear, Murphy Oil Corporation	District Engineer, USGS	Undersirable Events Report	East Poplar Oil Field - NE NW 11-28N-51E	2
86	May 25, 1976	Billy G. Melear, District Superintendent, Murphy Oil Corporation	Virgil Lee Pauli, USGS	Disposal of produced water	Salt water disposal wells report, Water Analysis	3
86	November 23, 1976	unknown	Montana Oil and Gas Board	Undersirable Events Report	East Poplar Oil Field - NW SE Sec. 10; T28N, R15E, MPM	1
86	November 24, 1976	Billy G. Melear, District Superintendent, Murphy Oil Corporation	District Engineer, U.S. Geological Survey	Pollution Report	East Poplar Oil Field	1
86	December 3, 1976	Bill Melear, District Superintendent, Murphy Oil Corporation	District Engineer, U.S. Geological Survey	Pollution Report	East Poplar Oil Field	1
86	December 3, 1976	unknown	Montana Oil and Gas Board	Undesirable Events Report	East Poplar Oil Field - C SWNE Sec. 2, T28n, R51E, MPM	1
86	December 14, 1976	Billy G. Melear, Production Superintendent, Murphy Oil Corporation	USGS	Letter providing requested information	East Poplar Oil Field	2
86	December 28, 1976	unknown	Montana Oil and Gas Board	Undersirable Events Report	East Poplar Oil Field - T29N, R51E, S30, SE SE	1
86	December 29, 1976	Terry C. Huff, District Superintendent, Murphy Oil Corporation	District Engineer, U.S. Geological Survey	Pollution Report	East Poplar Oil Field	1
86	March 11, 1977	Billy G. Melear, District Superintendent, Murphy Oil Corporation	District Engineer, U.S. Geological Survey	Pollution Report	East Poplar Oil Field	1

Index to Administrative Record for 1st Amended EPA SDWA Emergency Administrative Order SDWA-08-2001-33

FOLDER NO.	DATE(S)	ORIGINATOR	RECIPIENT	TOPIC	COMMENTS	NO. PAGES
86	March 11, 1977	Billy G. Melear, District Superintendent, Murphy Oil Corporation	District Engineer, U.S. Geological Survey	Pollution Report	East Poplar Oil Field	1
86	March 11, 1977	unknown	Montana Oil and Gas Board	Undesirable Events Report	East Poplar Oil Field - NW SE Sec. 3; T28N R51E, MPM	1
86	March 22, 1977	B. Fiant, Petroleum Engineering Technician, Billings, Montana	Files, Billings, Montana	East Poplar Unit	Memorandum	1
86	March 24, 1977	unknown	Montana Oil and Gas Board	Undesirable Events Report	East Poplar Oil Field - NE NE Sec. 30 T29N R51E, MPM	1
86	March 24, 1977	Billy G. Melear, District Superintendent, Murphy Oil Corporation	District Engineer, U.S. Geological Survey	Pollution Report	East Poplar Oil Field	1
86	March 29, 1977	Virgil L. Pauli, Conservation Division	Murphy Oil Corporation	NTL-2B Approval for Salt Water Disposal Wells		1
86	September 24, 1979	Andrew R. Fish, Jr., Montana Department of Natural Resources & Conservation	Mr. Orphey A. Lien	East Poplar Oil Field Study		1
86	February 19, 1980	Billy G. Melear, District Superintendent, Murphy Oil Corporation	Terry Messerli, USGS	East Poplar Oil Field	Lien Complaint: water analysis and map	3
86	August 9, 1983	Ray Reede, Murphy Oil Company		Well statistics	Murphy No. 1-D Well Remarks, indication of high Cl and Fe in mon. wells 45-50 ft. deep nearby , and parted casing	3
86	January 8, 1985	Ray Reede, Murphy Oil USA, Inc.	BLM Miles City District Office - Attn: Warren Barton	East Poplar Oil Field	Follow Up Letter to Telephone Conversation (1/7/85) regarding fire at EPU #8 SWD station	1
86	June 12, 1986	Jim Graham, Acting Asst. Distr . Mgr., U.S. Department of the Interior - Bureau of Land Management	Murphy Oil Corporation	East Poplar Oil Field Well No. 111	Pit problems	3

Index to Administrative Record for 1st Amended EPA SDWA Emergency Administrative Order SDWA-08-2001-33

FOLDER NO.	DATE(S)	ORIGINATOR	RECIPIENT	TOPIC	COMMENTS	NO. PAGES
86	June 27, 1986	Ray Reede, Murphy Oil USA, Inc.	J. E. Graham, United States Dept. of the Interior - Bureau of Land Management	East Poplar Unit No. 111	Pit repaired	1
86	June 1, 1988	Charles A. Norman, Randall Fetterolf		Report On Trust Royalties On The East Poplar Unit, Montana - May 1952 Through May 1987		90
86	October 27, 1988	Larry L. Travis, Land Operations Officer, BIA, Fort Peck Agency	Assistant District Manager, Division of Mineral Resource, U.S . BLM	Murphy Oil	Pipeline leak	1
86	May 12, 1989	Larry L. Travis, Land Operations Officer, BIA, Fort Peck Agency	Assistant District Manager, Division of Mineral Resource, U.S . BLM	Murphy Oil	Fire at R Battery	2
86	May 16, 1989	United States Department of the Interior - Bureau of Land Management		Sundry Notices and Reports on Wells - East Poplar Unit	R Battery Fire	1
86	September 18, 1989	Land Operations Officer, BIA, Fort Peck Agency	Assistant District Manager, Division of Minerals Resources	Murphy Leaking Flow Line	Iron Bear #4 leaking flow line	1
86	November 20, 1991	Ray Reede, Murphy Oil USA, Inc.	Charles E. Lanako, BLM	Letter dated September 26, 1991 East Poplar Unit	Well plugging and testing	2
86	December 13, 1991	Sidney W. Campbell, Murphy Oil USA, Inc.	Montana Department of Health & Environmental Services - Attn: Mike Pasichnyk	Poplar Gathering System Roosevelt County, Montana Report of Leak (12/5/91)		3
86	March 9, 1992	United states Department Of The Interior Bureau Of Land Management		Notice to Lessees NTL-MSO-1-92	Dealing wth Reporting Undesirable Events	5
86	March 10, 1995	Ray Reede, Murphy Exploration & Production Company	Bernice Knopp, Bureau of Land Management	East Poplar Oil Unit - Undesirable Event	East Poplar Oil Field	1
86	September 20, 1995	United States Department of the Interior - Bureau of Land Management	Ray Reede, Murphy Exploration & Production	Inspections of Tank Batteries		2
86	July 15, 1996	Ray Reede, Murphy Exploration & Production Company	Russ Hampton, Bureau Of Land Management	East Poplar Unit - Spill Incident		3

Index to Administrative Record for 1st Amended EPA SDWA Emergency Administrative Order SDWA-08-2001-33

FOLDER NO.	DATE(S)	ORIGINATOR	RECIPIENT	TOPIC	COMMENTS	NO. PAGES
86	October 28, 1996	D. Breisch, Bureau of Land Management Miles City District	Files	Oil and Gas Surface Inspection Report	J Battery - East Poplar Oil Field	1
86	October 28, 1996	D. Breisch, Bureau of Land Management Miles City District	Files	Oil and Gas Surface Inspection Report	P Battery - East Poplar Oil Field	1
86	October 28, 1996	D. Breisch, Bureau of Land Management Miles City District	Files	Abandoned Facility Inspection Report	G Battery - East Poplar Oil Field	1
86	October 29, 1996	D. Breisch, Bureau of Land Management Miles City District	Files	Oil and Gas Surface Inspection Report	Well 110 - East Poplar Oil Field	1
86	October 31, 1996	Charles E. Laasko, United States Department of the Interior - Bureau of Land Management	Murphy Exploration & Production Company	Inspections	J and P Battery - East Poplar Oil Field	1
86	October 31, 1996	Charles E. Laasko, United States Department of the Interior - Bureau of Land Management	Murphy Exploration & Production Company	Inspections	Well No. 110 - East Poplar Oil Field	1
86	July 1, 1997	Sidney Campbell - Murphy Oil Exploration & Production Co.	Dex A. Hight, BLM	Wells' Status	List of east Poplar shut-in wells	2
86	July 14, 1997	Charles E. Laakso - Miles City District Office, BLM	Sidney Campbell - Murphy Oil Exploration & Production Co.	Granting approval	Shut-In Wells - East Poplar Oil Unit	3
86	October 27, 1998	Ray Reede, Murphy Exploration & Production Company	Chuck Laakso, BLM	Report of Telephone Conversation	Casing Leak on Well #16	1
86	January 25, 1999	Bernice Knopp, Miles City BLM District Office	Files	Verbal Report of Undesirable Event (NTL-3A)	East Poplar Unit	1
86	August 31, 1999	Connally E. Mears, EPA	Sid Campbell, Murphy Exploration & Production Company	Underground Injection Control (UIC) Notice of Noncompliance	East Poplar Oil Field	2
86	March 17, 2000	Fred O' Ferrall, United States Department of the Interior - Bureau of Land Management	Sonosky, Chambers, Sachse & Endreson Law Offices - Attn: James T. Meggesto	East Poplar Oil Field Inspections	Holm Technical Services Inc. Report	1

Index to Administrative Record for 1st Amended EPA SDWA Emergency Administrative Order SDWA-08-2001-33

FOLDER NO.	DATE(S)	ORIGINATOR	RECIPIENT	TOPIC	COMMENTS	NO. PAGES
86	March 17, 2000	Jim Corne, Murphy Exploration & Production Company	Montana Board of Oil and Gas	Oil or Hazardous Substances Spill Report	East Poplar Oil Unit - Well No. 111	2
86	March 17, 2000	Jim Corne, Murphy Exploration & Production Company	Montana Board of Oil and Gas	Oil or Hazardous Substances Spill Report	East Poplar Oil Unit - Well No. 111	2
86	March 22, 2000	Murphy Exploration & Production Company	Montana Board of Oil and Gas	Oil or Hazardous Substances Spill Report	East Poplar Oil Unit - EPU #7	1
86	March 27, 2000	David J. Briesch, United States Department of the Interior - Bureau of Land Management	Sonosky, Chambers, Sachse & Endreson Law Offices - Attn: James T. Meggesto	East Poplar Oil Field Inspections	New inspections	1
86	August 8, 2000	Fred O'Ferrall, United States Department of the Interior - Bureau of Land Management	Sonosky, Chambers, Sachse & Endreson Law Offices - Attn: James T. Meggesto	East Poplar Oil Field Inspections	Inspection update	1
86	August 21, 2000	Ray Reede, Murphy Exploration & Production Company	Montana Board of Oil and Gas	Oil or Hazardous Substances Spill Report	East Poplar Oil Unit - C - Battery	1
86	March 1, 2001	Sidney Campbell, Murphy Exploration & Production Co.	Chun C. Wong, US BLM	2000 review of Operations and Plan of Development for 2001, East Poplar Unit		11
86	March 8, 2001	Jay Spielman, United States Department of the Interior - Bureau of Land Management	Dex Hight, United States Department of the Interior - Bureau of Land Management	Memorandum	Plan of Development (POD) for the East Poplar Unit	1
86	May 7, 2001	Ray Reede, Murphy Exploration & Production Company	Montana Board of Oil and Gas	Oil or Hazardous Substances Spill Report	East Poplar Oil Unit - Well No. 80-D	1
86	May 10, 2001	U.S. Bureau of Land Management, Miles City Office		List of Undersirable Events	New electronic record-keeping	1
87	March 16, 2001	Arlyn Headdress, Chairman, Ft. Peck Tribes	Jack McGraw, Acting Regional Administrator , EPA Region 8	Safe Drinking Water Act Emergency Admin. Order		2

Index to Administrative Record for 1st Amended EPA SDWA Emergency Administrative Order SDWA-08-2001-33

FOLDER NO.	DATE(S)	ORIGINATOR	RECIPIENT	TOPIC	COMMENTS	NO. PAGES
87	April 24, 2001	Carol Rushin, Assistant Regional Administrator, EPA Region 8	Arlyn Headdress, Chairman, Ft. Peck Tribes	Response Letter	Also, internal tracking sheets	12
87	August 16, 2001	Douglas Endreson , Sonosky, Chambers, Sachse , Endreson & Perry	Jim Eppers, EPA Region 8	Fort Peck Indian Reservation Groundwater Contamination and SDWA Section 1431		4
88	November 13, 1985	EPA		Publication: Rules and Regulations	Federal Register - Vol. 50 - No. 219 (pg. 46886) - Benzene	1
88	July 25, 1990	EPA		Publication: Rules and Regulations	Federal Register - Vol. 55 - No. 143 (pg. 30398) - Phthalates	2
88	January 30, 1991	EPA		Publication: Rules and Regulations	Federal Register - Vol. 56 - No. 20 (pg. 3526 - 3597) - Final Rule Drinking Water Standards	71
88	January 30, 1992	EPA		Publication: Rules and Regulations	Federal Register - Vol. 57 - No. 138 (pg. 31776 - 31849) - Final Rule Drinking Water Standards	73
88	March 1, 1997	EPA	internet	Integrated Risk Information System (IRIS) - Di(2ethylhexyl)phthalate		11
88	September 17, 1998	EPA	internet	Integrated Risk Information System (IRIS) - Naphthalene		25
88	January 19, 2000	EPA	internet	Integrated Risk Information System (IRIS) - Benene		19
88	April 5, 2001	EPA	internet	Integrated Risk Information System (IRIS) - Toluene		24
88	April 5, 2001	EPA	internet	Integrated Risk Information System (IRIS) - Xylenes		11
88	April 5, 2001	EPA	internet	Integrated Risk Information System (IRIS) - Ethylbenzene		18
88	April 6, 2001	Bob Benson	Nathan Wiser/Jim Eppers/Steve Moores/ Connally Mears	Memorandum: Pioneer Proposed Emergency Order on Consent	Suggested changes	1
88	May 17, 2001	EPA	Steven Leifer, Baker Botts LLP	Draft Emergency Administrative Order upon Consent	Transmittal and draft Order	46
88	July 11, 2001	Connally Mears	Steven Leifer - Baker-Botts LLP	Emergency Admin. Order upon Consent, Pioneer Natural Resources	Transmittal letter, Order	83
88	July 26, 2001	James Eppers	Steven Leifer - Baker Botts LLP	Emergency Admin. Order Upon Consent, Biere 1-22 Production Well	Additions to Consent Order to be added for signaure	20

Index to Administrative Record for 1st Amended EPA SDWA Emergency Administrative Order SDWA-08-2001-33

FOLDER NO.	DATE(S)	ORIGINATOR	RECIPIENT	TOPIC	COMMENTS	NO. PAGES
88	August 10, 2001	Pioneer Natural Resources USA Inc.	Connally Mears	Transmittal letter	Emer. Admin. Order Upon Consent, executed and internal memo	3
88	August 16, 2001	Connally Mears, EPA Region 8	Pioneer Natural Resources USA, Inc.	Final Emergency Admin. Order	Docket No. SDWA-08-2001-27; Biere #1 -22 Well	87
89	December 21, 2000	Steven Leifer, Baker Botts LLP	Nathan Wiser EPA Region 8	Biere Well Site, East Poplar Oil Field	Transmittal and Proposed Response Action Plan	25
89	December 28, 2000	Pioneer Natural Resources USA, Inc.		Job performance document from Halliburton Energy Services	Injectrol U information	9
89	December 29, 2000	Steven Leifer, Baker Botts LLP	Nathan Wiser EPA Region 8	Biere Well Site, East Poplar Oil Field	Relevant materials to December 21, 2000 proposed action plan	1
89	January 3, 2001	Connally E. Mears, EPA, Region 8	Steven Leifer, Baker Botts LLP	Comments on December 21, 2000 Proposal	Also, concurrence copy	4
89	January 17, 2001	Steven Leifer, Baker Botts LLP	Nathan Wiser EPA Region 8	Biere Well Site, East Poplar Oil Field	Response to questions and comments contained in January 3 letter	9
89	January 30, 2001	Pioneer Natural Resources USA, Inc. (CH2MHill for)		Wells Located in the Vicinity of the Biere Wells	Extra Copies of Maps from 1/30/01 Monitoring Plan	2
89	January 30, 2001	Pioneer Natural Resources USA, Inc.	Nathan Wiser EPA Region 8	Monitoring Plan for the Shallow Groundwater	Biere Well Response Action Project	10
89	February 2, 2001	Steven Leifer, Baker Botts LLP	Nathan Wiser EPA Region 8	Biere Well Site, East Poplar Oil Field	Transmittal letter: Pioneer's Monitoring Plan for the Shallow Groundwater	1
89	February 2, 2001	Steven Leifer, Baker Botts LLP	Nathan Wiser, EPA Region 8	Hand Written note suggesting discussion re: document (not attached)		1
89	March 1, 2001	Nathan Wiser, EPA Region 8		Biere 1-22 Monitoring Plan	Working Maps of Biere Area	5
89	March 19, 2001	Mike Gansecki, EPA Region 8	Nathan Wiser EPA Region 8	Monitoring Plan for Shallow Groundwater - Biere Well Response Action Project, January 30 , 2001	Review and Commnets	5
89	March 28, 2001	Connally E. Mears, EPA, Region 8	Steven Leifer, Baker Botts LLP	Monitoring Plan for the Shallow Groundwater	Comments on 1/30/ 01 Proposed Plan and Concurrence copy	15
89	March 28, 2001	Nathan Wiser, EPA Region 8		EPA's Suggestions - Biere 1-22 Remediation Monitoring Plan	Working Maps of Biere Area	2
89	April 13, 2001	Connally E. Mears, EPA, Region 8	Steven Leifer, Baker Botts LLP	Proposed Emergency Administrative Order upon Consent	Transmittal Letter and Draft Order	27
89	May 1, 2001	Steven Leifer, Baker Botts LLP	Connally E. Mears, EPA, Region 8	Response to EPA Comments	Biere Well Site, East Poplar Oil Field	6

Index to Administrative Record for 1st Amended EPA SDWA Emergency Administrative Order SDWA-08-2001-33

FOLDER NO.	DATE(S)	ORIGINATOR	RECIPIENT	TOPIC	COMMENTS	NO. PAGES
89	May 7, 2001	Steven Leifer, Baker Botts LLP	Connally E. Mears, EPA, Region 8	Comments on Draft Administrative Order on Consent	Biere Well Site, East Poplar Oil Field	4
89	May 7, 2001	Steven Leifer, Baker Botts LLP	Nathan Wiser, Jim Eppers, Steven Moores	Comments on Draft Administrative Order on Consent	Biere Well Site, East Poplar Oil Field	4
89	May 12, 2001	Nathan Wiser, EPA Region 8	Deb Madison, Ft. Peck Tribes	Fax cover sheet	May 1, 2001 letter from Baker Botts	1
89	May 12, 2001	Nathan Wiser, EPA Region 8	Doug Endreson, Ft. Peck Tribes	Fax cover sheet and one page	May 1, 2001 letter from Baker Botts	2
89	June 13, 2001	Pioneer Natural Resources USA, Inc.	EPA Region 8	Monitoring Plan for the Shallow Groundwater	Biere Well Reponse Action Project	20
89	August 15, 2001	Pioneer Natural Resources USA, Inc.	Nathan Wiser, EPA Region 8	Faxed Daily Drilling Report	Biere #1-22 Well Remediation Project	8
89	August 16, 2001	Pioneer Natural Resources USA, Inc.	Nathan Wiser, EPA Region 8	Faxed Daily Drilling Report	Biere #1-22 Well Remediation Project	4
89	August 17, 2001	Pioneer Natural Resources USA, Inc.	Nathan Wiser, EPA Region 8	Faxed Daily Drilling Report	Biere #1-22 Well Remediation Project	4
89	August 20, 2001	Pioneer Natural Resources USA, Inc.	Nathan Wiser, EPA Region 8	Faxed Daily Drilling Report	Biere #1-22 Well Remediation Project	4
89	August 20, 2001	Pioneer Natural Resources USA, Inc.	Nathan Wiser, EPA Region 8	Faxed Daily Drilling Report	Biere #1-22 Well Remediation Project	7
89	August 21, 2001	Pioneer Natural Resources USA, Inc.	Nathan Wiser, EPA Region 8	Faxed Daily Drilling Report	Biere #1-22 Well Remediation Project	4
89	August 22, 2001	Pioneer Natural Resources USA, Inc.	Nathan Wiser, EPA Region 8	Faxed Daily Drilling Report	Biere #1-22 Well Remediation Project	4
89	August 23, 2001	Pioneer Natural Resources USA, Inc.	Nathan Wiser, EPA Region 8	Faxed Daily Drilling Report	Biere #1-22 Well Remediation Project	4
89	August 24, 2001	Pioneer Natural Resources USA, Inc.	Nathan Wiser, EPA Region 8	Faxed Daily Drilling Report	Biere #1-22 Well Remediation Project	5
89	August 27, 2001	Pioneer Natural Resources USA, Inc.	Nathan Wiser, EPA Region 8	Faxed Daily Drilling Report	Biere #1-22 Well Remediation Project	13
89	August 28, 2001	Pioneer Natural Resources USA, Inc.	Nathan Wiser, EPA Region 8	Faxed Daily Drilling Report	Biere #1-22 Well Remediation Project	3
89	August 29, 2001	Pioneer Natural Resources USA, Inc.	Nathan Wiser, EPA Region 8	Faxed Daily Drilling Report	Biere #1-22 Well Remediation Project	5
89	August 30, 2001	Pioneer Natural Resources USA, Inc.	Nathan Wiser, EPA Region 8	Faxed Daily Drilling Report	Biere #1-22 Well Remediation Project	4
89	August 31, 2001	Pioneer Natural Resources USA, Inc.	Nathan Wiser, EPA Region 8	Faxed Daily Drilling Report	Biere #1-22 Well Remediation Project	4

Index to Administrative Record for 1st Amended EPA SDWA Emergency Administrative Order SDWA-08-2001-33

FOLDER NO.	DATE(S)	ORIGINATOR	RECIPIENT	TOPIC	COMMENTS	NO. PAGES
89	September 4, 2001	Pioneer Natural Resources USA, Inc.	Nathan Wiser, EPA Region 8	Faxed Daily Drilling Report	Biere #1-22 Well Remediation Project	13
89	September 5, 2001	Pioneer Natural Resources USA, Inc.	Nathan Wiser, EPA Region 8	Faxed Daily Drilling Report	Biere #1-22 Well Remediation Project	9
89	September 6, 2001	Pioneer Natural Resources USA, Inc.	Nathan Wiser, EPA Region 8	Faxed Daily Drilling Report	Biere #1-22 Well Remediation Project	4
89	September 7, 2001	Pioneer Natural Resources USA, Inc.	Nathan Wiser, EPA Region 8	Faxed Daily Drilling Report	Biere #1-22 Well Remediation Project	3
89	September 10, 2001	Pioneer Natural Resources USA, Inc.	Nathan Wiser, EPA Region 8	Faxed Daily Drilling Report	Biere #1-22 Well Remediation Project	11
89	September 11, 2001	Pioneer Natural Resources USA, Inc.	Nathan Wiser, EPA Region 8	Faxed Daily Drilling Report	Biere #1-22 Well Remediation Project	4
89	September 12, 2001	Pioneer Natural Resources USA, Inc.	Nathan Wiser, EPA Region 8	Faxed Daily Drilling Report	Biere #1-22 Well Remediation Project	4
89	September 13, 2001	Pioneer Natural Resources USA, Inc.	Nathan Wiser, EPA Region 8	Faxed Daily Drilling Report	Biere #1-22 Well Remediation Project	4
89	September 17, 2001	Pioneer Natural Resources USA, Inc.	Nathan Wiser, EPA Region 8	Faxed Daily Drilling Report	Biere #1-22 Well Remediation Project	12
89	September 18, 2001	Pioneer Natural Resources USA, Inc.	Nathan Wiser, EPA Region 8	Faxed Daily Drilling Report	Biere #1-22 Well Remediation Project	4
89	September 19, 2001	Pioneer Natural Resources USA, Inc.	Nathan Wiser, EPA Region 8	Faxed Daily Drilling Report	Biere #1-22 Well Remediation Project	3
89	September 20, 2001	Pioneer Natural Resources USA, Inc.	Nathan Wiser, EPA Region 8	Faxed Daily Drilling Report	Biere #1-22 Well Remediation Project	3
89	September 21, 2001	Pioneer Natural Resources USA, Inc.	Nathan Wiser, EPA Region 8	Faxed Daily Drilling Report	Biere #1-22 Well Remediation Project	3
89	September 24, 2001	Pioneer Natural Resources USA, Inc.	Nathan Wiser, EPA Region 8	Faxed Daily Drilling Report	Biere #1-22 Well Remediation Project	4
89	August 2000		Pioneer Natural Resources	Field Investigation Biere Well Evaluation, Poplar, Montana	Report	71
89	Februray 2001	Nathan Wiser EPA Region 8		Pioneer's Biere 1-22 Well Solution	Notes about well Class for Pioneer's wells	1
90	March 7, 1988	United States District Court of Montana Great Falls Division		Stipulation for dismissal	No. CV-86-03-GF-PGH United States of America vs. Grace Petroleum	4

Index to Administrative Record for 1st Amended EPA SDWA Emergency Administrative Order SDWA-08-2001-33

FOLDER NO.	DATE(S)	ORIGINATOR	RECIPIENT	TOPIC	COMMENTS	NO. PAGES
90	January 8, 2001	Elizabeth E. Mack	Dean R. Massey, Steve Leifer, Candace Walker, Hon. Carol Browner, Michael Webster, John W. Ross, Jim Eppers, Lois Schiffer	Petition for Review	Samson Investment Company and Samson Hydrocarbons Company vs. US EPA	2
90	January 8, 2001	Elizabeth E. Mack	Patrick J. Fisher, Clerk, U.S. 10th Circuit Court	Transmittal Letter: Petition for Review	Samson Investment Company and Samson Hydrocarbons Company vs. US EPA	2
90	January 9, 2001	Patrick J. Fisher, Clerk, U.S. 10th Circuit Court	Elizabeth E. Mack	Letter	01-9500, Samson Investment v. EPA Dist/Ag docket: SDWA-8-99-68	2
90	January 11, 2001	Nathan Wiser	Chris Vader	Fax Cover	The appeal of EPA's SDWA Emergency Admin. Order	1
90	January 12, 2001	Carol Rushin, EPA Region 8	Elizabeth E. Mack	Partial Denial Letter	Freedom of Information Act Request 08-RIN-00096-01	4
90	January 24, 2001	Lisa A. Schuh, representing Samson Investment Co. and Samson Hydrocarbons Co	U.S. 10th Circuit Court	Entry of Appearance and Certificate of Interested parties	Docketing Statement and attachments	95
90	January 31, 2001	Lisa A. Schuh; Holme, Roberts, and Owens LLP	Nathan Wiser	Submission of Information Pursuant to Second Amended Emergency Administrative Order, East Poplar Oil Field	Docket No. SDWA-8-99-68	153
90	February 9, 2001	Susan Lepow, EPA HQ	Sylvia Lowrance, Diane Regas, EPA HQ and Jack McGraw, EPA Region 8	Memorandum	Safe Drinking Water Act Appeal No. 01-9500	2
90	February 16, 2001	Connally E. Mears, EPA Region 8	U.S. 10th Circuit Court	Index to Administrative Record for 2nd Amended EPA emergency Administrative Order SDWA-8-99-69	Samson Investment Company and Sampson Hydrocarbons Company v. US EPA - Case No. 01-9500	33
90	March 2, 2001	David W. Aemmer, Chief Circuit Mediator	Lisa A. Schuh, David A. Carson	Notice of follow-up mediation conference and briefing extension	Samson Investment Company v. US EPA Case No. 01-9500	1
90	July 2, 2001	David W. Aemmer, Chief Circuit Mediator	Lisa A. Schuh, David A. Carson, Elizabeth Mack	Notice of follow-up mediation conference and briefing extension	Samson Investment Company v. US EPA Case No. 01-9500	1
90	July 19, 2001	Samson Investment Co.	U.S. 10th Circuit Court	Motion For Withdrawal of Counsel	W.R. Grace attorneys Ken Lund and Lisa Schuh	3
90	undated	Susan Lepow, EPA HQ	Letitia Grishaw, Dept. of Justice, HQ	Letter and enclosures	Safe Drinking Water Act Appeal No. 01-9500	47

Index to Administrative Record for 1st Amended EPA SDWA Emergency Administrative Order SDWA-08-2001-33

FOLDER NO.	DATE(S)	ORIGINATOR	RECIPIENT	TOPIC	COMMENTS	NO. PAGES
91	January 8, 2001	Sid Campbell, Murphy Exploration & Production Company	Nathan Wiser, EPA Region 8	Cover Letter for Invoices	Northeast Montana Water Conditioning	1
91	January 16, 2001	Sid Campbell, Murphy Exploration & Production Company	Nathan Wiser, EPA Region 8	Cover Letter for Invoices	Northeast Montana Water Conditioning	1
91	March 14, 2001	Sid Campbell, Murphy Exploration & Production Company	Nathan Wiser, EPA Region 8	Cover Letter and Invoice From Nemont for the months of Jauary and February, 2001	Northeast Montana Water Conditioning	12
91	April 18, 2001	Sid Campbell, Murphy Exploration & Production Company	Nathan Wiser, EPA Region 8	Cover Letter and Invoice From Nemont for the month of March, 2001	Northeast Montana Water Conditioning	7
91	May 11, 2001	Sid Campbell, Murphy Exploration & Production Company	Nathan Wiser, EPA Region 8	Cover Letter and Invoice From Nemont for the month of April, 2001	Northeast Montana Water Conditioning	6
91	June 11, 2001	Sid Campbell, Murphy Exploration & Production Company	Nathan Wiser, EPA Region 8	Cover letter and invoice from Nemont for the month of May, 2001	Northeast Montana Water Conditioning	6
91	July 11, 2001	Sid Campbell, Murphy Exploration & Production Company	Nathan Wiser, EPA Region 8	Cover letter and invoices from Nemont for the month of June, 2001	Northeast Montana Water Conditioning	8
91	August 9, 2001	Sid Campbell, Murphy Exploration & Production Company	Nathan Wiser, EPA Region 8	Copy of invoice from Nemont for July, 2001		6
91	September 11, 2001	Sid Campbell, Murphy Exploration & Production Company	Nathan Wiser, EPA Region 8	Cover letter and invoices from Nemont for the month of August, 2001	Northeast Montana Water Conditioning	8
92	July 1999	Ken Phillips and Carol Bowden, EPA Region 8		Notes	Inquiries about possible file locations	4
92	December 1999	Nathan Wiser		Notes	Preparation for EPA Region 8 Lab Sampling and Analysis	1
92	January 2000	Nathan Wiser		Telephone Call Notes	Preparation for 1/11/00 Public Meeting in Poplar, MT.	1

Index to Administrative Record for 1st Amended EPA SDWA Emergency Administrative Order SDWA-08-2001-33

FOLDER NO.	DATE(S)	ORIGINATOR	RECIPIENT	TOPIC	COMMENTS	NO. PAGES
92	January 4, 2001	Elizabeth E. Mack	Nathan Wiser	Email	East Poplar Oil Field Partial Index to Admin. Record and Sample Results	1
92	January 11, 2001	Steven Moores	Nathan Wiser	Email	Samson Appeal	1
92	January 17, 2001	Nathan Wiser	Dick Dolan	Telephone Conversation Record	AMARCO Resources	1
92	January 19, 2001	Nathan Wiser	Wilbur Dover, Steve Mamoreaux	Telephone Conversation Record	Biere 1-22 Well - Remediation Plan	1
92	January 19, 2001	George Hudak, Montana Board of Oil and Gas	Nathan Wiser	Email	Fort Peck	1
92	January 24, 2001	Nathan Wiser	Jim Eppers, Steven Moores, Paul Osborne, Connally Mears, David Hogle, Carol Bowden, Douglas Minter, Dan Jackson,	Email	EPA's SDWA 1431 Emergency Order on Ft. Peck Reservation, Montana: Proposed meeting to Discuss Issues	2
92	January 29, 2001	Nathan Wiser	Deb Madison, Ft. Peck Tribes	Fax Cover	Pioneer's reply to EPA's comments on Pioneer's Dec. 21, 2000 Remediation Action Plan	1
92	January 29, 2001	Nathan Wiser	Doug Endreson, Ft. Peck Tribes	Fax Cover	Pioneer's reply to EPA's comments on Pioneer's Dec. 21, 2000 Remediation Action Plan	1
92	January 31, 2001	Nathan Wiser	Wilbur Dover	Telephone Conversation	Biere 1-22 Well	1
92	February 9, 2001	Nathan Wiser	Deb Madison, Ft. Peck Tribes	Fax Cover	The proposed (Jan. 30, 2001) Monitoring Plan	2
92	February 13, 2001	Nathan Wiser	Mary Pavel, Doug Enderson, Jim Eppers	Telephone Conversation	Rural Water Supply Pipeline Project	1
92	February 16, 2001	EPA Region 8		Pioneer Meeting	Sign in Sheet / Meeting Notes	4
92	February 23, 2001	Connally Mears, EPA Region 8	Priscilla Casias, Mike Gaydosh, Nathan Wiser	Email	Funding for Ft. Peck Support	1
92	March 1, 2001	Nathan Wiser	Doug Enderson, Ft. Peck Tribes	Fax Cover	January Monitoring Plan for the Biere 1-22 Production Well from Pioneer Natural Resources	2
92	March 16, 2001	Nathan Wiser	Doug Enderson, Jim Eppers, Steven Moores , Deb Madison	Telephone Conversation	Biere 1-22 Well	1
92	March 19, 2001	Nathan Wiser	Deb Madison, Ft. Peck Tribes	Fax Cover	Halliburton Injectrol U	2
92	March 19, 2001	Nathan Wiser	Doug Enderson, Ft. Peck Tribes	Fax Cover	Halliburton Injectrol U	2
92	March 20, 2001	Nathan Wiser	George Hudak, Montana Board of Oil and Gas	Telephone Conversation	Biere 1-22 Leaking Oil Production Well and State's Intent to Take an Action	1

Index to Administrative Record for 1st Amended EPA SDWA Emergency Administrative Order SDWA-08-2001-33

FOLDER NO.	DATE(S)	ORIGINATOR	RECIPIENT	TOPIC	COMMENTS	NO. PAGES
.92	March 21, 2001	Nathan Wiser		Chemistry Analysis	Ft. Peck East Poplar Oil Field	1
92	March 22, 2001	George Hudak, Montana Board of Oil and Gas	Nathan Wiser	Email	Ft. Peck Enforcement - State Decision to Not Act	1
92	April 4, 2001	Doug Endreson, Ft. Peck Tribes	Nathan Wiser, Jim Eppers	Email	RE: Telephone Conference Call: EPA/Ft. Peck Tribes /Sonosky Chambe	3
92	May 2, 2001	Nathan Wiser	Deb Madison, Ft. Peck Tribes	Transmission Report	UIC Inspections on Fort Peck Indian Reservation	1
92	May 2, 2001	Nathan Wiser	Doug Endreson, Ft. Peck Tribes	Transmission Report	UIC Inspections on Fort Peck Indian Reservation	1
92	May 2, 2001	Nathan Wiser	Jack McGraw, Carol Rushin, Connally Mears, Steven Moores, Jim Eppers, Kris Rittenberry, Shirley Kelley	Email	Ft. Peck Tribal Chairman Arlyn Headdress is not coming on May 7	1
92	May 3, 2001	Jim Boyter	Connally Mears, Nathan Wiser, John Wardell	Email	Fort Peck Inspection Schedule, Reports of Nathan's Inspections and Test's, and Request for Nathan to Witness the Vicker's Well Plugging	2
92	May 16, 2001	Nathan Wiser	Sid Campbell, Murphy Exploration & Production Co.	Telephone Conversation	East Poplar Oil Field Warren Means Residence / Other Issues	2
92	May 17, 2001	Nathan Wiser	Steven Leifer	Fax cover sheets	Draft Emergency Admin. Order re: Biere well	2
92	May 17, 2001	Doug Endreson	Nathan Wiser, Steven Moores, Jim Eppers	Email	Draft Emergency Admin. Order re: Biere well	2
92	May 29, 2001	Steven Leifer	Nathan Wiser, Steven Moores, Jim Eppers	Email	Outstanding issues: Biere well Emergency Admin. Order	2
92	May 31, 2001	Nathan Wiser	Jim Eppers, Steven Moores	Email	Conversation with Chuck Feast, Hydrology consultant for Pioneer	2
92	June 4, 2001	Steven Leifer	Nathan Wiser, John Ross Steve Momerows, Mark Skeen, Wilbur Dover, Charlie Peterson, Chuck Feast, Jim Eppers	Email	Conference Call	1
92	June 5, 2001	EPA Region 8	Ft. Peck Tribes	Agenda	Assiniboine & Sioux Tribes - EPA Meeting and Agenda June 5, 2001	1

Index to Administrative Record for 1st Amended EPA SDWA Emergency Administrative Order SDWA-08-2001-33

FOLDER NO.	DATE(S)	ORIGINATOR	RECIPIENT	TOPIC	COMMENTS	NO. PAGES
92	June 5, 2001	Nathan Wiser	Jack McGraw, Carol Rushin, Connally Mears, Tom Speicher, Leigh Price, Jim Eppers, Sadie Hoskie, Douglas Minter, Doug Endreson, Arlyn Headdress, Deb Madison	Meeting Notes	Ft. Peck Order	1
92	June 13, 2001	Nathan Wiser	Files	Telephone Notes	Private suit	1
92	August 13, 2001	Nathan Wiser	Joanna Thamke	cover sheet for fax	regarding deposition	1
92	August 21, 2001	Nathan Wiser	Wilbur Dover	Press release- Pioneer Natural Resources agree to drinking water protection on Fort Peck	Fax cover sheet and news release	2
92	August 22, 2001	Nathan Wiser	Faith Bremner, reporter	Conversation record - Ground water contamination at East Poplar Oil Field	Telephone record	1
92	August 23, 2001	Connally Mears	Connally Mears, Nathan Wiser	Email	Joanna Thamke record of conversation	1
92	August 24, 2001	Connally Mears	Connally Mears, Nathan Wiser	Email	Deb Madison record of conversation	1
92	August 17, 2001	Nathan Wiser	Doug Endreson, Deb Madison, Steven Moores, Jim Eppers	Email	Notice of upcoming phone call regarding East Poplar Oil Field	1
92	August 30, 2001	U.S. Geological Survey	Nathan Wiser	Proposal	Oil Field Contamination Study, near Poplar	5
92	August 31, 2001	Nathan Wiser	Kevin Schindler	Telephone notes	City of Poplar water supply system	1
92	September 6, 2001	Nathan Wiser	File copy	Conversation Record - Water Dumping in East Poplar Field	Conversation with Carl Four Star	1
92	September 14, 2001	Nathan Wiser	Steve Sasaki, Montana Board of Oil and Gas	Conversation Record	State action to address contamination at Fort Peck	1
92	September 27, 2001	Nathan Wiser	Steve Leifer, Candance Walker, James Baine, Elizabeth Mack	E-Mail	East Poplar Oil Field Emer. Admin. Order	1
92	September 28, 2001	Carl Fourstar	Nathan Wiser	Fax	NE Montana Land & Minerals Owners Assn.	2
92	October 1, 2001	Nathan Wiser	File	Notes	Planning call for Oct. 8-12 visit to Ft. Peck	2
93	October 4, 1993	Assiniboine and Sioux Tribes, Bureau of Reclamation		Needs Assesment	Fort Peck Reservation MR &I Water System	77
93	July 25, 1995	Assiniboine and Sioux Tribes		Technical Report	Fort Peck Reservation Rural Water System	126

Index to Administrative Record for 1st Amended EPA SDWA Emergency Administrative Order SDWA-08-2001-33

FOLDER NO.	DATE(S)	ORIGINATOR	RECIPIENT	TOPIC	COMMENTS	NO. PAGES
93	January 10, 2001	Rene A. Martell	Nathan Wiser	Letter	Request for Public Comment Proposed Fort Peck Reservation Water System	3
93	February 13, 2001	Mary J. Pavel (Law Offices of Sonosky, Chambers, Sachse, Edreson & Perry)	Nathan Wiser	Transmittal Letter	1995 Technical Report and 1993 Needs Assessment	1
93	February 14, 2001	Dry Prairie Rural Water		Newletter	Activities and Accomplishments June 1999 through April 2000	11
93	February 14, 2001	Dry Prairie Rural Water		DPRWA Water Lines Newsletter	Dry Prairie Rural Water Authority	1
93	February 14, 2001	Dry Prairie Rural Water		East Poplar Oil Field Color Map showing proposed water pipeline	Dry Prairie Rural Water Pipline	7
93	February 14, 2001	Dry Prairie Rural Water		Brochure	Dry Prairie Rural Water	2
93	February 14, 2001	Dry Prairie Rural Water		Web Site Printout	Dry Prairie Rural Water Authority	8
93	February 14, 2001	Senate Committe on Energy and Natural Resources		Report	Fort Peck Reservation Rural Water system Act of 1999	7
93	March 2, 2001	Cynthia Cody, EPA Region 8	Tom Escarcega (Water Resources Department) and Clint Jacobs (Dry Prairie Rural Water Authority)	Letter	Proposed Fort peck Reservation Rural Water System Project	5
93	March 9, 2001	Jack McGraw, EPA Region 8	Elizabeth Cordova-Harrison (Bureau of Reclamation)	Letter w/ attachments	Proposed Water Supply Project	10
93	March 16, 2001	Patrick Erger, Bureau of Reclamation	Nathan Wiser	Memorandum	Fort Peck Reservation Rural Water System	8
93	April 16, 2001	Bureau of Reclamation	Nathan Wiser		Fax cover sheet for document entitled " Fort Peck Reservation Rural water System"	8
93	May 8, 2001	Nathan Wiser	Files	Notes	Murphy East Poplar Injection Wells	1
93	August 1, 2001	Nathan Wiser	files	Fort Peck Rural water System Pipeline Project		1
93	August 27, 2001	Mary Pavel: Sonosky, Chambers, Sachse, Endreson & Perry	Nathan Wiser	Fort Peck Ground Water Contamination (B112.31)	Update on rural water system	2
94	February 6, 1961			The Oil and Gas Journal (pg. 107-108)	Salt Plagues Montana Production - East Poplar Oil Field	2

Index to Administrative Record for 1st Amended EPA SDWA Emergency Administrative Order SDWA-08-2001-33

FOLDER NO.	DATE(S)	ORIGINATOR	ANALYTE	SAMPLE LOCATION	COMMENTS	NO. PAGES
94	July 23, 1979	State Departmetn Of Health - Water Quality Bureau	Inorganics	Well 2 - Bud Lien Home Well - 29N 51E 20ABB		1
94	July 23, 1979	State Departmetn Of Health - Water Quality Bureau	Inorganics	Poplar River - Above Oil Field - 29N 51E 9DCD		1
94	July 23, 1979	State Departmetn Of Health - Water Quality Bureau	Inorganics	Brine Sample - Salt Water Sta. No. 1 - 29N 51E 30DDD		1
94	July 23, 1979	State Departmetn Of Health - Water Quality Bureau	Inorganics	Poplar River - Below Oil Field - 29N 51E 31ADD		1
94	July 23, 1979	State Departmetn Of Health - Water Quality Bureau	Inorganics	Well 9 - 29N 51E 21BBA		1
94	July 23, 1979	State Departmetn Of Health - Water Quality Bureau	Inorganics	Well 3 - 29N 51E 21ADC		1
94	July 23, 1979	State Departmetn Of Health - Water Quality Bureau	Inorganics	Well 8 - 29N 51E 17ADD		1
94	July 23, 1979	State Departmetn Of Health - Water Quality Bureau	Inorganics	Well 7 - 29N 51E 17CCC		1
94	November 13, 1979	State Departmetn Of Health - Water Quality Bureau	Inorganics	Carl Person Farm, PCPLAR - 30N 50E 26C		1
94	November 13, 1979	State Departmetn Of Health - Water Quality Bureau	Inorganics	Eugene Price Farm, Poplar - 30N 50E 35A		1

Index to Administrative Record for 1st Amended EPA SDWA Emergency Administrative Order SDWA-08-2001-33

FOLDER NO.	DATE(S)	ORIGINATOR	RECIPIENT	TOPIC	COMMENTS	NO. PAGES
94	April 29, 1976	Roger B. Colton, U.S. Geological Survey		Map: "Geologic Map of the Poplar Quadrangle, Roosevelt, Richland and McCone Counties, Montana	Map #I-367	4
94	September 24, 1979	Andrew Fish, Department of Natural Resources & Conservation, State of Montana		Report	East Poplar Field Area, O. A. Lien Complaint	14
94	1981	Water Resources Division, Montana District	U.S. Geological Survey	Project Proposal	Hydrology Of The East Poplar Oil Field	5
94	July 1, 1981	Joe Moreland, Department of the Interior Geological Survey	Dave Johnson, Ft. Peck Tribes	Letter	O.A. Lien Complaint	2
94	July 1, 1981	Department of Natural Resources and Conservation			East Poplar Oil Field Area	10
94	July 27, 1981	Joe Moreland, Department of the Interior Geological Survey	Dave Johnson, Ft. Peck Tribes	Letter	Suggested format for a letter requesting our assistance on ground and surface water study	1
94	August 1, 1981	Department of the Interior Geological Survey	Ft. Peck Tribes	Agreement	Joint Funding Agreement for Water Resources Investigations	1
94	August 26, 1981	Richard Hutchinson, Department of the Interior Geological Survey	Dave Johnson, Ft. Peck Tribes	Letter	Stream discharge measurements	1
94	September 2, 1981	Richard Hutchinson, United States Department of the Interior	Dave Johnson, Ft. Peck Tribes		Results of preliminary tests on the East Poplar Oil Field - Water samples from Poplar River	2
94	July 1, 1989	US General Accounting Office	Public Document	Drinking Water Publication: GAO/RCED-89-97	Safeguards Are Not Preventing Contamination From Injected Oil and Gas Wastes	47
94	March 30, 2000	Nathan Wiser	Files	List of Huber wells		2
94	February 5, 2001	Nathan Wiser		Briefing: Ft. Peck Indian Reservation East Poplar Oil Field Contamination	Outline of case	2
94	March 9, 2001	John Walker Ross - Brown Law Firm, P.C.	U.S. District Court, Billings, MT	3rd party complaint	Cary G. Youpee v. Murphy Oil USA, INC. - Case No. CV 98-108-BLG -JDS	10
94	March 13, 2001	Rene Martell	Nathan Wiser	East Poplar Oil Field Contamination	Article taken from the Wotanin Wowapi Newspaper	1

Index to Administrative Record for 1st Amended EPA SDWA Emergency Administrative Order SDWA-08-2001-33

FOLDER NO.	DATE(S)	ORIGINATOR	RECIPIENT	TOPIC	COMMENTS	NO. PAGES
94	May 1, 2001	Nathan Wiser		Briefing: Ft. Peck Indian Reservation East Poplar Oil Field Contamination	Outline of the case	1
94	May 3, 2001	Newspaper	Wotanin Wowapi		Wotanin Wowapi - Fort Peck Tribal Newspaper	24
94	May 31, 2001	Connally Mears, EPA Region 8	Sid Campbell - Murphy Exploration and Production Company	UIC Second Notice of Violation - Excess injection pressure EPU# 5-D injection well EPA ID # MT2021-0021	East Poplar Oil Field	5
94	June 20, 2001	Sidney Campbell, Murphy Exploration & Production Company	Nathan Wiser	RE: May 31, 2001 Notice EPU #5-D EPA ID # MT2021-00021	East Poplar Oil Field	2
94	No date	Deb Madison, Ft. Peck Tribes	Carol Bowden, EPA Region 8	List of impacted homesites	East Poplar Oil Field	1
95	January 11, 1962	Oil & Gas Conservation Comm. Montana		Hearing	In the matter of the application of Murphy Oil Corp. fpr permission to drill a salt water disposal well	3
95	December 11, 1963	Murphy Corporation		Notice of Merger	Murphy Corporation to Murphy Oil Corporation	3
95	September 8, 1975	Billy G. Melear, Murphy Oil Corp	Judson Sweet, Montana Oil and Gas Commission	Letter	Permission to drill salt water disposal well	2
95	September 11, 1975	BIA Superintendent	District Oil and Gas Supervisor, U.S. Geol. Survey	Memorandum	Proposed salt water disposal well lease	8
95	September 16, 1975	Frank Kollenbaum	Murphy Oil Corp.	Damage Release	5-D Salt water disposal well	1
95	September 22, 1975	Montana Board of Oil and Gas Conservation		Hearing	Approval of Application from Murphy Oil to drill salt water disposal well	1
95	November 4, 1975	Virgil Pauli, U.S. Geol. Survey	BIA Superintendent	Memorandum	Proposed saltwater disposal well lease language	2
95	May 25, 1976	Billy G. MeLear, Murphy Oil Co.	Virgil Pauli, USGS	Letter	Disposal of produced water	3
95	December 14, 1976	Billy G. Melear, Murphy Oil Co.	USGS	Letter	Letter providing additional information requested	3
95	January 10, 1977	Yapuncich, Sanderson & Brown	Murphy Corporation	Water Analysis	EPU #95 - Dakota Fm. Water	1
95	March 29, 1977	Virgil L. Pauli, U .S. Geol. Survey	Murphy Oil Co.	Letter	Approval for salt water disposal wells	1
95	April 5, 1977	unknown	U.S. Geol. Survey	Completion report fragment		1

Index to Administrative Record for 1st Amended EPA SDWA Emergency Administrative Order SDWA-08-2001-33

FOLDER NO.	DATE(S)	ORIGINATOR	RECIPIENT	TOPIC	COMMENTS	NO. PAGES
95	July 15, 1983	Joe Gilg, BIA	Murphy Oil Corp	Letter	Inspecting Salt Water Disposal Wells	2
95	October 15, 1990	U.S. BLM, Billings, MT	State Management Team	Memorandum of Understanding	MOU with BLM and BIA concerning the management of oil and gas in Montana & S. dakota	19
95	August 25, 1999	Murphy Exploration & Production Co.	U.S. Coast Guard	Spill Report	25 bbl oil spill	1
95	March 29, 2000	Montana Bureau of Mines & Geology, Groundwater Information Center		Well log reports	City of Poplar PWS Wells	3
95	May 6, 2001	Margaret Abbott	Nathan Wiser	Interview form		1
95	May 6, 2001	Abigail Reddoor	Nathan Wiser	Interview form		1
95	May 6, 2001	Irma Reddoor	Nathan Wiser	Interview form		1
95	May 6, 2001	Warren & Dana Whitman	Nathan Wiser	Interview form		1
95	May 6, 2001	Hazel & Lyle Lockman	Nathan Wiser	Interview form		1
95	May 6, 2001	Marvin Youpee	Nathan Wiser	Interview form		1
95	May 6, 2001	Rene Martell	Nathan Wiser	Interview form		1
95	May 6, 2001	George & Helen Ricker	Nathan Wiser	Interview form		1
95	June 13, 2001	Goetz, Gallik, Baldwin & Nolan P.C.	Nathan Wiser	Test results from Jerry Wollaston and Murphy Oil Co.	Sample results from several wells in the East Poplar Oil Field	75
95	June 19, 2001	Nathan Wiser	EPA Funding Sources	Request for extramural case support funding		3
95	June 27, 2001	Kris Rittenberry, EPA Region 8	EPA, HQ	Procurement Request	$18,400	7
95	June 29, 2001	Kris Rittenberry, EPA Region 8	EPA, HQ	Funding support justification		1
95	July 30, 2001	Nathan Wiser	File	Salient - week of July 30, 2001 - east Poplar Oil Field	Pioneer Biere #1-22 well	1
95	August 15, 2001	Gregory Paleolog , Fugro Airborne Surveys	Nathan Wiser	Information about airborne electromagnetic survey - East Poplar Oil Field		54
95	August 17, 2001	Connally Mears	Carl Four Star, Ft. Peck Tribes	Letter	EPA ground water study near Poplar, MT, request for well data	2
95	August 23, 2001	B.A. Jafari	File	List of drilling Contractors	East Poplar Oil Field	1
95	August 27, 2001	Carl Four Star	Nathan Wiser	Fax - Data for 366 wells mailed	Legend to go with raw data	3
95	August 29, 2001	Carl Fourstar, Ft. Peck Tribes		Water data	Water Quality data from T27N, R50E	1
95	August 29, 2001	Carl Fourstar, Ft. Peck Tribes		Water data	Water Quality data from T29N, R51E	1
95	August 29, 2001	Carl Fourstar, Ft. Peck Tribes		Water data	Water Quality data from T29N, R50E	1

Index to Administrative Record for 1st Amended EPA SDWA Emergency Administrative Order SDWA-08-2001-33

FOLDER NO.	DATE(S)	ORIGINATOR	RECIPIENT	TOPIC	COMMENTS	NO. PAGES
95	August 29, 2001	Carl Fourstar, Ft. Peck Tribes		Water data	Water Quality data from T28N, R51E	1
95	August 29, 2001	Carl Fourstar, Ft. Peck Tribes		Well data	Well Data from T29N, R51E	2
95	August 29, 2001	Carl Fourstar, Ft. Peck Tribes		Water data	Water Quality data from T27N, R51E	1
95	August 29, 2001	Carl Fourstar, Ft. Peck Tribes		Well data	Well Data from T29N, R50E	1
95	August 29, 2001	Carl Fourstar, Ft. Peck Tribes		Well data	Well Data from T27N, R50E	3
95	August 29, 2001	Carl Fourstar, Ft. Peck Tribes		Water data	Water Quality data from T29N, R50E	1
95	August 29, 2001	Carl Fourstar, Ft. Peck Tribes		Well data	Well Data from T28N, R51E	3
95	August 29, 2001	Carl Fourstar, Ft. Peck Tribes		Well data	Well Data from T28N, R50E	2
95	August 29, 2001	Carl Fourstar, Ft. Peck Tribes		Well data	Well Data from T27N, R51E	3
95	September 5, 2001	Chris Thorne, Assoc. Press	EPA Region 8	FOIA Request	East Poplar Oil Field	3
95	September 12, 2001	St Paul Insurance Co.	EPA R8	FOIA Request	East Poplar Oil Field	1
95	September 13, 2001	Nathan Wiser	Files	Case Conclusion Data Sheet	Docket No. SDWA-08-2001-27	3
95	September 20, 2001	Safe Drinking Water Information System Report	Nathan Wiser	Compliance Report	Poplar PWSs	2
95	September 25, 2001	Jim Boyter	Memorandum to Nathan Wiser	Fort Peck inspection trip - September 10, 2001	Contains copies of various well information, mapswell records	29
95	October 2, 2001	Nathan Wiser	Christopher Thorne, Assoc. Press	Press Release	East Poplar Oil Field	3
95	October 3, 2001	Jody Ostendorf	Nathan Wiser etal	Newspaper article	E-mail, East Poplar Oil Field, Great Falls Tribune	2
95	No date	BIA	Murphy Oil Corp	Inspection form	BIA document regarding Murphy well	1
95	No date	EPA Region 8		Notes	Regarding funding sources for case support	1
96	March 6, 2001	Pioneer Natural Resources USA Inc	Nathan Wiser, EPA Region 8	Area Permit Application	Class V UIC Permit No. MT5913-00000	196
96	March 11, 2001	Dwyann Dalrymple, Halliburton	Wilbur Dover, Pioneer Natural Resources USA Inc;	Fax	Information on Injectrol U	2
96	March 20, 2001	D. Edwin Hogle, EPA Region 8	Wilbur Dover, Pioneer Natural Resources USA Inc;	Notice of Deficient Permit Application	Class V UIC Permit No. MT5913-00000	10
96	April 12, 2001	Wilbur Dover, Pioneer Natural Resources USA Inc	D. Edwin Hogle, EPA Region 8	Response to 3/30/2001 letter also by fax	Class V UIC Permit No. MT5913-00000	35

Index to Administrative Record for 1st Amended EPA SDWA Emergency Administrative Order SDWA-08-2001-33

FOLDER NO.	DATE(S)	ORIGINATOR	RECIPIENT	TOPIC	COMMENTS	NO. PAGES
96	June 6, 2001	D. Edwin Hogle, EPA Region 8	Wibur Dover, Pioneer Natural Resources USA, Inc.	Underground Injection Control (UIC) Notice of Deficient Class V Permit Application	Biere 1-22 Well Rememdiation	7
96	June 14, 2001	Wilbur Dover, Pioneer Natural Resources USA Inc	D. Edwin Hogle, EPA Region 8	Response to 6/6/2001 letter also by fax	Class V UIC Permit No. MT5913-00000	5
96	July 31, 2001	Fort Peck Tribal Newspaper	Nathan Wiser	Copy of Public Notice - Issuance of an Emergency UIC Permit	cost estimate	3
96	July 31, 2001	Nathan Wiser	Pioneer Natural Resources USA, Inc.	Emergency UIC Permit Biere #1-22A-D wells	Fax Tranmission	5
96	July 31, 2001	Nathan Wiser	Barbara Burkland	Copy of Public Notice - Issuance of an Emergency UIC Permit	repository, information	4
96	July 31, 2001	Nathan Wiser	Marion Clincher, Wotanin Wowapi	Copy of Public Notice - Issuance of an Emergency UIC Permit		3
96	July 31, 2001	Kerrigan Clough, EPA Region 8	Wilbur Dover, Pioneer Natural Resources USA Inc;	Emergency Class V Area Permit No. MT5913-00000	including transmittal letter, and other attachments	110
96	August 9, 2001	Wotanin Wowapi newspaper	Nathan Wiser, EPA Region 8	Public Notice of Class V Emergency Permit	Class V UIC Permit No. MT5913-00000	2
96	August 29, 2001	Wilbur Dover, Pioneer Natural Resources USA Inc;	Nathan Wiser	Faxed Permit modification request	Class V UIC Permit No. MT5913-00000	1
96	August 30, 2001	Wilbur Dover, Pioneer Natural Resources USA Inc;	Nathan Wiser	LetterPermit modification request	Class V UIC Permit No. MT5913-00000	1
96	September 7, 2001	Kerrigan Clough, EPA Region 8	Wilbur Dover, Pioneer Natural Resources USA Inc;	Emergency Class V Area Permit No. MT5913-00000 Minor Modification	several copies	19
96	September 28, 2001	Wilbur Dover, Pioneer Natural Resources USA Inc;	Nathan Wiser	Well test data, including well logs	Class V UIC Permit No. MT5913-00000	65
96	October 4, 2001	Nathan Wiser	Files	Review of well test data	Class V UIC Permit No. MT5913-00000	1
96	October 11, 2001	Connally Mears, EPA Region 8	Wilbur Dover, Pioneer Natural Resources USA Inc;	Conditional Approval to Commence Injection	Class V UIC Permit No. MT5913-00000	7
96	no date	Nathan Wiser	File	Permit Issuance Signoff Papers		28
97	September 20, 2001	Connally E. Mears	Murphy Exploration & Production Co., Marathon Oil Co., Pioneer Natural Resources USA, Inc., Samson Hydrocarbons Co., Samson Investment Co.	Transmittal Letter and Order	EPA Emergency Administrative Order Docket No. SDWA-08-2001-33	84

Index to Administrative Record for 1st Amended EPA SDWA Emergency Administrative Order SDWA-08-2001-33

FOLDER NO.	DATE(S)	ORIGINATOR	RECIPIENT	TOPIC	COMMENTS	NO. PAGES
97	September 26, 2001	James Baine, Murphy Ex. & Prod.	Nathan Wiser	Letter	Acknowledgenment of receipt of EAO	1
97	September 26, 2001	Elizabeth Mack, Locke, Liddell & Sapp LLP	Nathan Wiser	Letter by fax and mail	Request for extension of time to comply with SDWA-8-2001-33	3
97	September 28, 2001	Steve Leifer, Baker Botts LLP	Connally Mears	Letter by fax	Response to SDWA Emer. Admin. Order	4
97	September 28, 2001	Elizabeth Mack, Locke Liddell & Sapp LLP	Nathan Wiser	Rebuttal to EAO	Request to remove Samson Investment Co. from EAO	24
97	September 28, 2001	Elizabeth Mack, Locke Liddell & Sapp LLP	Many Parties	Letter	Appeal of EPA Order Docket No. SDWA-08-2001-33	5
97	September 28, 2001	Elizabeth Mack, Locke Liddell & Sapp LLP	Many Parties	Letters	Appeal of EPA Order Docket No. SDWA-08-2001-33	22
97	October 3, 2001	Connally E. Mears	Murphy Exploration & Production Co., Marathon Oil Co., Pioneer Natural Resources USA, Inc., Samson Hydrocarbons Co.	Transmittal Letter and Order	EPA First Amended Emergency Administrative Order Docket No. SDWA-08-2001-33	19
					TOTAL PAGES (Folders 1- 97)	11554

Index to the Administrative Record for First Amended EPA SDWA Emergency Administrative Order
Docket No. SDWA-08-2001-33
Vaughan Index:
List of Privileged Documents

No.	Date	Document Description	Withholding Justification
1	06/13/01	Email among EPA staff regarding next steps to take in the overall Fort Peck East Poplar Oil Field case	Record compiled for law enforcement purpose 5 U.S.C. 552(b)(7); Privileged inter- or intra-agency record 5 U.S.C. 552(b)(5)
2	07/02/01	Email among EPA staff regarding issues to discuss with Tribes and next steps to take in the overall Fort Peck East Poplar Oil Field case	Record compiled for law enforcement purpose 5 U.S.C. 552(b)(7); Privileged inter- or intra-agency record 5 U.S.C. 552(b)(5)
3	07/23/01	Email among EPA staff regarding funding for overall Fort Peck East Poplar Oil Field case	Record compiled for law enforcement purpose 5 U.S.C. 552(b)(7); Privileged inter- or intra-agency record 5 U.S.C. 552(b)(5)
4	08/03/01	"Touhy" request letter from Thomas Speicher to Gina Guy regarding deposition of Joanna Thamke	Record compiled for law enforcement purpose 5 U.S.C. 552(b)(7); Privileged inter- or intra-agency record 5 U.S.C. 552(b)(5)
5	08/10/01	U.S. 10th Circuit Court mediation document: Draft settlement language from Dept. of Justice to Respondent	Court-ordered confidentiality
6	08/24/01	U.S. 10th Circuit Court mediation document: Draft settlement language from Dept. of Justice to Respondent	Court-ordered confidentiality
7	08/29/01	U.S. 10th Circuit Court mediation document: Draft settlement language from Respondent to Dept. of Justice	Court-ordered confidentiality

CERTIFICATE OF SERVICE

It is hereby certified that on this date the undersigned caused a true and correct copy of the foregoing Certified Index to the Administrative Record to be mailed to the following counsel of record by first class United States mail:

John D. Fognani
Lauren C. Buehler
555 17th Street, 26th Floor
Denver, CO 80202

Date: January 24, 2002

Linda Lutton

Linda Lutton

WR Grace - '86 Complaint & Stipulation

3/7/88

Donohue, B

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MONTANA

GREAT FALLS DIVISION

UNITED STATES OF AMERICA, Plaintiff, vs. GRACE PETROLEUM CORPORATION, Defendant.	)	No. CV-86-03-GF-PGH STIPULATION FOR DISMISSAL

The parties, through their respective counsel, stipulate and agree that the above-entitled action be dismissed with prejudice, as fully settled upon the payment by the defendant of $55,300.00 in the form of a cashier's check made payable to "Treasurer, United States of America", delivered to the office of the United States Attorney for the District of Montana, P. O. Box 1478, Billings, Montana 59103.

DEPARTMENT OF JUSTICE
MAR 15 1988
LANDS DIVISION

The parties further stipulate and agree that the settlement and dismissal of this action does not constitute an adjudication, or any evidence of admission by any party, with respect to any issue of fact or law in the action.

The parties further stipulate and agree that the filing of the complaint in this action, the alleged violations which are the subject of the complaint, the amount of the settlement in this action, and the fact that this settlement was entered into, will not be used by the United States Environmental Protection Agency in any subsequent administrative or civil judicial proceeding in the calculation, determination, or assessment of any penalties against Grace Petroleum Corporation, its affiliated corporations, their agents or employees, unless such subsequent action arises out of operations at the Buck Elk No. 2, Goings Government No. 1, or EPU No. 110-XD underground injection wells.

UNITED STATES OF AMERICA:

Dated MAR 7 1988

ROGER MARZULLA
Acting Assistant Attorney General
Land and Natural Resources Division
U. S. Department of Justice
Washington, D.C. 20530

Dated 3/9/88

BRYAN H. DUNBAR
United States Attorney
District of Montana
P. O. Box 1478
Billings, Montana 59103

Dated

THOMAS L. ADAMS, JR.
Assistant Administrator for
Enforcement and Compliance
Monitoring
Environmental Protection Agency
401 M Street, S.W.
Washington, D.C. 20460

Dated 12/16/87

ALFRED SMITH
Assistant Regional Counsel
Office of Regional Counsel
Region VIII
Environmental Protection Agency
One Denver Place - Suite 1300
999 - 18th Street
Denver, Colorado 80202

Dated 2/17/88

BRIAN G. DONOHUE
Attorney
Environmental Enforcement
Section
Land & Natural Resources
Division
U. S. Department of Justice
Washington, D.C. 20530

The Above Attorneys and Duly
Authorized Representatives for
Plaintiff

CROWLEY, HAUGHEY, HANSON,
TOOLE & DIETRICH

Dated 12/10/87

By Jack Ramirez
P. O. Box 2529
Billings, Montana 59103
Attorneys for Defendant

John Mangers NARA
DFC Bldg 48
Denver Co. 80225
303-236-0813

U.S. Dist. Ct. Great Falls
(406) 727-1922
Records Center - Denver (303) 236-0804
FRC No. 295606
Box 1 of 19
Accession No. 021-93-0033
6th Shipping
Bldg. 48

F. HENRY HABICHT II
Assistant Attorney General
Land & Natural Resources Division
United States Department of Justice
Washington, DC 20530

BRIAN G. DONOHUE
Attorney, Environmental Enforcement Section
Land & Natural Resources Division
United States Department of Justice
Washington, DC 20530

BYRON H. DUNBAR
United States Attorney
GEORGE F. DARRAGH, JR.
Assistant United States Attorney
212 Federal Building
P.O. Box 3446
Great Falls, MT 59403
Telephone: (406) 761-7715

Attorneys for United States of America

FILED

JUN - 2 1986

LOU ALEKSICH, JR. CLERK
BY Deputy Clerk

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MONTANA

GREAT FALLS DIVISION

UNITED STATES OF AMERICA, Plaintiff,	)	No. CV-86-03-GF
v.	)	COMPLAINT
GRACE PETROLEUM CORPORATION, Defendant.	)	

The United States of America, by the authority of the Attorney General, and at the request of and on behalf of the Administrator of the United States Environmental Protection Agency ("EPA"), alleges as follows:

FORM OBD-183

STATEMENT OF THE CASE

1. This is a civil action brought pursuant to Section 1423(b) of the Safe Drinking Water Act ("SDWA"), 42 U.S.C. § 300h-2(b), to enforce the provisions of Part C of the SDWA and implementing regulations, 40 C.F.R. Parts 144 and 147, seeking an injunction requiring the Defendant, Grace Petroleum Corporation ("Grace"), to operate in accordance with the law, and to assess civil penalties against the Defendant for violations of Part C of the SDWA and of 40 C.F.R. Parts 144 and 147.

JURISDICTION AND VENUE

2. This Court has jurisdiction of the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1345, 1355 and Section 1423(b)(1) of the SDWA, 42 U.S.C. § 300h-2(b)(1).

3. Venue resides in this Court pursuant to 28 U.S.C. § 1391(c) and 42 U.S.C. § 300h, et seq.

4. The United States is authorized to bring this action pursuant to Section 1423(d)(2) of the SDWA, 42 U.S.C. § 300h-2(a)(2).

DEFENDANT

5. The defendant is incorporated in the State of Delaware and is authorized to do business in the State of Montana, Grace is engaged in the business of the exploration and development of hydrocarbon reserves.

6. The defendant at all times relevant to this

FORM OBD-183
MAR 83

action owned and operated three salt water disposal wells in Roosevelt County, Montana. These wells, all in the Poplar Field, are known as EPU 110-XD, which is located in the southeast quarter of Section 10, Township 28N, Range 51E; Goings Government #1, which is located in the southwest quarter of Section 11, Township 29N, Range 50E; and Buck Elk #2, which is located in the northwest quarter of Section 7, Township 29N, Range 51E.

GENERAL ALLEGATIONS

7. At all times relevant to this action, administration and enforcement of Part C of the SDWA, 42 U.S.C. §§ 300h to 300h-4 in the State of Montana was, and is, the responsibility of EPA pursuant to 40 C.F.R. § 147.1351(a).

8. Pursuant to 40 C.F.R. § 147.1351(a), injection well operators in the State of Montana must comply with the underground injection control ("UIC") program requirements of 40 C.F.R. Parts 124, 144, 146 and subpart BB of Part 147.

9. Pursuant to 40 C.F.R. § 147.1351(b) the UIC program for the State of Montana became effective on June 25, 1984.

10. Each of the three Grace Poplar wells is subject to the requirements of Part C of the SDWA and its implementing regulations, 40 C.F.R. Parts 124, 144, 146 and 147.

11. Each of the three Grace Poplar wells is an injection well under the definition of 40 C.F.R. § 144.3.

FORM OBD-183
MAR. 83

12. Pursuant to Part C of the SDWA and 40 C.F.R. Parts 124 and 147, EPA has sole authority to issue a UIC permit to the owner or operator of an injection well.

13. Unauthorized injection of fluids into an injection well is prohibited by 42 U.S.C § 300h et seq., and 40 C.F.R. § 144.11.

14. On June 25, 1984, the date the UIC program for the State of Montana became effective, Grace was authorized by rule to operate its injection wells.

15. On or about June 25, 1984, EPA pursuant to 40 C.F.R. § 144.25(b), notified Grace to apply for UIC permits for its injection wells by July 30, 1984.

16. Grace failed to submit a complete UIC permit application to EPA by July 30, 1984, for operation of its injection wells.

17. Pursuant to 40 C.F.R. § 144.25(b), injection activities are no longer authorized by rule upon failure by the owner or operator to submit an application in a timely manner as required in the notice to apply for UIC permits.

18. As a result of Grace's failure to submit to EPA a UIC application for its injection wells as required, Grace's authorization to operate its injection wells after July 30, 1984, terminated by law.

19. EPA notified Grace on numerous occasions of the termination by operation of law of Grace's authorization to

FORM OBD-183
MAR 83

inject fluids into its injection wells.

FIRST CLAIM FOR RELIEF: THE EPU 110-XD WELL

20. Paragraphs 1 through 19 above are hereby incorporated by reference as if fully alleged herein.

21. Despite notice from EPA, Grace continued to operate EPU 110-XD until on or about September 28, 1984, when Grace reported to EPA that it had ceased operating EPU 110-XD as an injection well.

22. Grace's injection of fluids into EPU 110-XD on and after July 30, 1984, despite termination of its legal authority to do so violated 40 C.F.R. § 144.11 and subjects Grace to a civil penalty of not more than $5,000 per day for such injection under Section 1423(b)(2) of the SDWA, 42 U.S.C. § 300h-2(b)(2).

SECOND CLAIM FOR RELIEF: THE GOINGS GOVERNMENT #1 WELL

23. Paragraphs 1 through 19 above are hereby incorporated by reference as if fully alleged herein.

24. Despite notice from EPA, Grace continued to operate Goings Government #1 until on or about September 28, 1984, when Grace reported to EPA that it had ceased operating Goings Government #1 as an injection well.

25. Grace's injection of fluids into Goings Government #1 on or after July 30, 1984, despite termination of its legal authority to do so violated 40 C.F.R. § 144.11 and subjects Grace to a civil penalty of not more than $5,000

FORM OBD-183
MAR 83

per day for such injection under Section 1423(b)(2) of the SDWA, 42 U.S.C. § 300h-2(b)(2).

THIRD CLAIM FOR RELIEF: THE BUCK ELK #2 WELL

26. Paragraphs 1 through 19 above are hereby incorporated by reference as if fully alleged herein.

27. Despite notice from EPA, Grace continued to operate Buck Elk #2 until on or about September 28, 1984, when Grace reported to EPA that it had ceased operating Buck Elk #2 as an injection well.

28. Grace's injection of fluids into Buck Elk #2 on or after July 30, 1984, despite termination of its legal authority to do so violated 40 C.F.R. § 144.11 and subjects Grace to a civil penalty of not more than $5,000 per day for such injection under Section 1423(B)(2) of the SDWA, 42 U.S.C. § 300h-2(b)(2).

FOURTH CLAIM FOR RELIEF

29. Paragraphs 1 through 19 above are hereby incorporated by reference as if fully alleged herein.

30. Defendant tested Buck Elk #2 on or about October 17, 1984, and determined that it did not have mechanical integrity.

31. An injection well which does not have mechanical integrity may, when idle, serve as a conduit for fluid migration which may result in the contamination of underground sources of drinking water.

FORM OBD-183
MAR 83

32. On or about September 11, 1984, EPA received from Grace a satisfactory plugging and abandonment plan for Buck Elk #2 explaining how Grace would secure the mechanical integrity of Buck Elk #2.

33. To date, the plugging and abondonment plan for Buck Elk #2 has not been implemented by the defendant.

34. Pursuant to Section 1433(B)(2) of the SDWA, 42 U.S.C. § 300h-2(b)(1) and (2), protection of the public health requires that this Court enjoin Grace to implement the September 11, 1984, plugging and abandonment plan for Buck Elk #2.

PRAYER FOR RELIEF

WHEREFORE, plaintiff United States of America prays for the following relief:

1. An order requiring Grace to implement its September 11, 1984, plugging and abandonment plan for Buck Elk #2 and further requiring that EPA officials, and their agents and authorized representatives, be allowed to monitor all phases of the plugging and abandonment of Buck Elk #2;

////

////

////

////

////

////

FORM OBD-183
MAR 83

2. Assessment of civil penalties against the defendant as follows:

a. Five thousand dollars ($5,000) for each day Grace is found in violation of Part C of the SDWA and 40 C.F.R. §§ 147.1351(a) and 144.11 for its unlawful operation of EPU 110-XD as alleged in the first claim for relief; and,

b. Five thousand dollars ($5,000) for each day Grace is found in violation of Part C of the SDWA and 40 C.F.R §§ 147.1351(a) and 144.11 for its unlawful operation of Goings Government No. 1 as alleged in its second claim for relief; and,

c. Five thousand dollars ($5,000) for each day Grace is found in violation of Part C of the SDWA and 40 C.F.R §§ 147.1351(a) and 144.11 for its unlawful operation of Buck Elk #2 as alleged in the third claim for relief;

3. Award the costs and disbursements of this action to the plaintiff; and

4. Such other relief as may be just and proper.

Respectfully submitted,

F. HENRY HABICHT II
Assistant Attorney General
Land and Natural Resources
Division
United States Department
of Justice
Washington, D.C. 20530

BYRON H. DUNBAR
United States Attorney
District of Montana

By: George F. Darragh, Jr.
Assistant United States Attorney
Great Falls, Montana

B. G. Donohue
BRIAN G. DONOHUE
Attorneys, Environmental
Enforcement Section
Land and Natural Resources
Division
United States Department
of Justice
Washington, D.C. 20530
(202) 633-5273

Of Counsel:

ALAN J. MORRISSEY
Office of Enforcement and Compliance Monitoring
United States Environmental Protection Agency
Washington, D.C.

ALFRED C. SMITH
Office of Regional Counsel
United States Environmental Protection Agency
Denver, Colorado

NATIONAL ARCHIVES AND
RECORDS ADMINISTRATION

John Mangers
Supervisory Archives Specialist
Rocky Mountain Region

Denver Federal Center, Bldg. 48
P.O. Box 25307
Denver, CO 80225

Telephone: (303) 236-0813
Fax: (303) 236-0854
E-mail: john.mangers@denver.nara.gov

Genola Smith
Director, Record Center Prog.
303 236-08257

Ft Peck AOC ~ final (And Marathon Agmt

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917
http://www.epa.gov/region08

Ref: 8ENF-UFO

JUL 20 2004

CERTIFIED MAIL and EMAIL
RETURN RECEIPT REQUESTED

Sid Campbell
Murphy Oil USA Inc.
131 S. Robertson St.
New Orleans, LA 70112

Scott DuBoff
Wright & Talisman, P.C.
1200 G Street, N.W. Suite 600
Washington, D.C. 20005-3802

Wilbur Dover
Pioneer Natural Resources USA, Inc.
5202 N. O'Connor Blvd., Suite 900
Irving, TX 75039

Marc Skeen
Pioneer Natural Resources USA, Inc.
5202 N. O'Connor Blvd., Suite 900
Irving, TX 75039

Mark Dalton
The Samson Companies
Two West Second Street
Tulsa, OK 74103

Elizabeth Mack
Locke, Liddell & Sapp
2200 Ross Avenue, Suite 2200
Dallas, TX 75201

Re: Fort Peck East Poplar Oil Field
Safe Drinking Water Act Emergency Administrative
Order on Consent Docket No. SDWA-08-2004-0035

Dear Respondents in the above-referenced matter:

Enclosed, please find your copy of the final Safe Drinking Water Act Emergency Administrative Order on Consent (AOC). This AOC's effective date is July 20, 2004. If you should have any questions about this matter, please feel free to contact Nathan Wiser of my staff, at (303) 312-6211, or Jim Eppers, Attorney, at (303) 312-6893.

Sincerely,

Elisabeth Evans

Elisabeth Evans
Director
Technical Enforcement Program

Enclosure

cc: Deb Madison, Manager, Office of Environmental Programs
Fort Peck Tribes (w/Enclosure)

Printed on Recycled Paper

bcc: Dave Carson, Attorney (w/Enclosure)
Department of Justice

Barbara Burkland 8MO (w/Enclosure)
Connally Mears 8P-TA (w/Enclosure)
Steven Moores 8RC (w/Enclosure)
Jim Eppers 8ENF-L (w/Enclosure)
Alan Morrissey, EPA HQ Mail Code 2243A (w/Enclosure)
Richard Witt, EPA HQ Mail Code 2355A (w/Enclosure)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2004 JUL 20 PM 1:45
FILED
EPA REGION VIII
HEARING CLERK

In the matter of: Murphy Exploration & Production Co., Pioneer Natural Resources USA, Inc., and Samson Hydrocarbons Co., Respondents. East Poplar Oil Field Fort Peck Indian Reservation Montana Proceedings under Section 1431(a) of the Safe Drinking Water Act, 42 U.S.C. §300g-i(a)	)	Docket No. SDWA-08-2004-0035 **Administrative Order** **On Consent** **("AOC")** **Replacing Two Emergency** **Administrative Orders Docket Nos.** **SDWA-8-99-68 and SDWA-08-2001-33**

WHEREAS, the United States Environmental Protection Agency ("EPA") Region 8 previously issued two unilateral Emergency Administrative Orders (as amended) under Section 1431(a) of the Safe Drinking Water Act (docket numbers SDWA-8-99-68 and SDWA-08-2001-33), concerning contamination of an underground source of drinking water ("USDW") in the East Poplar Oil Field, on the Fort Peck Indian Reservation in northeastern Montana; and

WHEREAS, Murphy Exploration & Production Company ("Murphy"), Pioneer Natural Resources USA, Inc. ("Pioneer"), and Samson Hydrocarbons Company ("Samson Hydrocarbons") are the Respondents to those orders; and

WHEREAS, Murphy and Samson Hydrocarbons each filed Petitions for Review challenging the previous EPA orders; and

WHEREAS, all of the various Petitions for Review of EPA's previous orders are now pending in the United States Court of Appeals for the Tenth Circuit; and

WHEREAS, EPA and Respondents Murphy and Samson Hydrocarbons have been engaged in settlement discussions with the assistance of the Tenth Circuit Mediator; and

WHEREAS, EPA and Respondents Murphy, Pioneer and Samson Hydrocarbons desire to resolve the matters covered by EPA's previous orders without further litigation; and

WHEREAS, EPA asserts that its authority for entering into this Administrative Order on Consent ("AOC") is section 1431(a) of the Safe Drinking Water Act ("SDWA" or "the Act"), 42 U.S.C. §300i(a), which authority has been properly delegated to the undersigned EPA program supervisors; and

WHEREAS, EPA believes the groundwater in the contaminated USDW in the East Poplar Oil Field may move, should be monitored, and may warrant additional actions in the future;

NOW THEREFORE, without any admission of fact or law by Respondents Murphy, Pioneer or Samson Hydrocarbons, EPA and these same Respondents hereby agree as follows:

1. This AOC replaces two previously issued Emergency Administrative Orders, bearing docket numbers SDWA-8-99-68 and SDWA-08-2001-33.
2. This AOC is binding upon Murphy, Pioneer, and Samson Hydrocarbons and their successors.

3. While Respondents Murphy, Pioneer and Samson Hydrocarbons do not admit to any matter, factual or legal, by entering into this AOC, said Respondents agree that the requirements of this AOC are specifically enforceable by EPA against them in the United States District Court for the District of Montana or another appropriate forum. In the event EPA brings an action to enforce the requirements of this AOC, Respondents Murphy, Pioneer and Samson Hydrocarbons agree not to dispute the enforceability of the requirements of this AOC or to contest the jurisdiction of the Court to entertain the action or to order appropriate relief, nor will said Respondents challenge EPA's authority to enter into this AOC or to bring such an action.

ADMINISTRATIVE ORDER ON CONSENT (AOC)

4. Respondents Murphy, Pioneer and Samson Hydrocarbons agree to and are hereby ordered, in accordance with Paragraphs 5 through 13 hereof, to (a) construct a drinking water pipeline, (b) monitor dedicated groundwater monitoring wells, (c) monitor private water wells, (d) hold and participate in a public meeting, (e) continue to provide bottled drinking water to identified homesites until the drinking water pipeline delivers drinking water to those homesites, (f) report monitoring information to EPA as it is collected, and (g) submit documents, all as specified below.

AOC Requirement A: Construct Drinking Water Pipeline

5. Respondents Murphy, Pioneer and Samson Hydrocarbons shall construct a drinking water pipeline having the capacity to deliver to the homesites listed in Table 1, at no cost to owners and/or residents at each such homesite, no less than 125 gallons of drinking water per person per day for the number of persons resident at the homesites listed in

Table 1 of this AOC as of the issuance date hereof, the source of which will be the public drinking water system of the City of Poplar, Montana ("Poplar") and which will meet all drinking water standards on the same basis as the drinking water otherwise supplied by Poplar to the residents thereof. The pipeline shall be built following generally accepted engineering standards for drinking water supply pipelines. Respondents Murphy, Pioneer and Samson Hydrocarbons shall be responsible for paying for all water delivered through this pipeline to the current homesite occupants or their successors, until the earlier of five (5) years from the date the pipeline is completed, as defined in Paragraph 7, or the federal Fort Peck Water System has been made available to such homesites. Within 120 days of the issuance date hereof, as defined in Paragraph 28, Respondents Murphy, Pioneer and Samson Hydrocarbons will report in writing to EPA, both by U.S. Mail (certified) and electronic mail, to advise whether a binding agreement between said Respondents and Poplar has been entered pursuant to which Poplar will be the source of drinking water to supply the pipeline. In the event said Respondents advise EPA that such a binding agreement has not been entered with Poplar, then within 45 days thereafter said Respondents shall submit a proposed plan for an alternative means for a permanent supply of a minimum of 125 gallons of drinking water per person per day for the number of persons resident at the homesites listed in Table 1 of this AOC as of the issuance date hereof. In addition, said Respondents shall continue to provide drinking water in accordance with Paragraph 11 hereof.

6. In conjunction with completion of the pipeline required in Paragraph 5 hereof, Respondents Murphy, Pioneer and Samson Hydrocarbons shall make a payment (or

payments totaling) $5,000.00 to the then current owner(s) of each homesite listed in Table 1 (which may differ from the persons listed in Table 1) and collect certain water samples, all as further described herein and subject to the conditions specified in this Paragraph:

(a) In advance of the homesites listed in Table 1 being connected to the pipeline, the above-referenced $5,000.00 payments shall be made to the then-current owner(s) of each homesite, with the intent that such payments will be used to reimburse the homesite owner(s) for the cost of replacing in-house plumbing or pipelines, sinks, faucets, tubs, showers, toilets or other fixtures, appliances (including but not limited to washers and hot water heaters) and any other similar items, such payment to a given homesite owner(s) being contingent upon and in consideration of the homesite owner executing the form of release attached hereto as Exhibit A wherein the then-current homesite owner(s) (i) recognizes and acknowledges that such payment constitutes full and adequate consideration for the release referred to herein, (ii) releases Respondents Murphy, Pioneer and Samson Hydrocarbons from any obligations or responsibilities associated with such items and from any water quality issues related to such plumbing, pipelines, fixtures and appliances, and (iii) holds harmless and indemnifies Respondents Murphy, Pioneer and Samson Hydrocarbons from any claim by the homesite owner(s) or any third party, including EPA, related to such plumbing, pipelines, sinks, faucets, tubs, showers, toilets or other fixtures, appliances (including but not limited to washers and hot water heaters) and any other similar or related items; provided that EPA

has made no findings with respect to the sufficiency of the above-described $5,000.00 payments for the purposes stated in this Paragraph; and further provided that no such payment is required where a homesite owner to which this Paragraph applies has otherwise received the $5,000.00 payment described in Paragraph 10 of the May 7, 2002 "Alternative Water System Agreement" entered by the parties in Cary G. Youpee, et al. v. Murphy Exploration & Production Co., et al., No. CV-98-108-BLG-RFC, United States District Court for District of Montana;

(b) Within 10 days following the date that all homesites listed in Table 1 have been connected to the pipeline, Respondents Murphy, Pioneer and Samson Hydrocarbons shall collect a water sample from each homesite and at least one water sample from the source of drinking water as it enters the pipeline described in Paragraph 5. Samples collected from a given homesite shall be obtained, to the extent possible, from an interior water spigot or as close as possible to the point of human contact (e.g. the kitchen sink, bathroom sink, etc.) and analyzed for the physical properties and chemical constituents listed in Table 3, with all such analyses being provided to EPA and the then-current owner(s) of each homesite within 30 days after receipt by Respondents Murphy, Pioneer or Samson Hydrocarbons, it being intended that the analyses will be used by each then-current homesite owner(s) (with offered assistance from EPA) to determine (i) if any contaminants persist within the homesite's in-house water delivery system

and (ii) which, if any, in-house pipelines or plumbing fixtures should be replaced using the payment referenced in this Paragraph;

(c) Contemporaneous with the payments and releases described in Subparagraph (a), Respondents Murphy, Pioneer and Samson Hydrocarbons will inform the then-current homesite owner(s) of the sampling required thereafter under Subparagraph (b) and the intended use of the resulting analyses of the samples; and

(d) Compliance with the terms of this Paragraph by Respondents Murphy, Pioneer and Samson Hydrocarbons shall constitute compliance with this AOC's requirements concerning in-house plumbing or pipelines, sinks, faucets, tubs, showers, toilets or other fixtures, appliances (including but not limited to washers and hot water heaters) and any other similar items within the homesites listed in Table 1.

7. The pipeline required in this *AOC Requirement A* shall be constructed no later than 270 days after the issuance date of this AOC.

AOC Requirement B: Monitor at Dedicated Groundwater Monitoring Wells

8. Respondents Murphy, Pioneer and Samson Hydrocarbons shall monitor for water quality and static water levels at a network of dedicated groundwater monitoring wells. These wells, shown in Table 2, shall each be monitored by Respondents Murphy, Pioneer and Samson Hydrocarbons for eight (8) years after the issuance date of this AOC. Any well shown in Table 2 not constructed by the issuance date of this AOC shall be constructed prior to the first monitoring event. Monitoring shall include measuring the depth to water in each well at a minimum frequency of once each calendar year, collection of water

samples at a minimum frequency of once each calendar year from each well, and analysis of such samples for the physical properties and chemical constituents listed in Table 3. All sample analysis results shall be submitted to EPA within 30 days after their receipt by Respondents Murphy, Pioneer or Samson Hydrocarbons. The laboratory providing the sample analysis results shall be instructed to simultaneously transmit the original sample analysis results to all said Respondents.

AOC Requirement C: Monitor at Private Water Wells

9. Respondents Murphy, Pioneer and Samson Hydrocarbons shall collect water samples from the homesites listed in Table 4 at a minimum of once each calendar year for eight (8) years after the issuance date of this AOC, provided that the duty to conduct such monitoring is contingent upon said Respondents being granted appropriate access to the subject wells. To the extent possible, the samples shall be collected at the applicable homesite's domestic water supply well or other accessible sampling location that precedes water treatment equipment, if any. Samples collected shall be analyzed for the physical properties and chemical constituents listed in Table 3. Respondents Murphy, Pioneer and Samson Hydrocarbons shall share sample analysis results from each homesite with both EPA and the occupants at each respective homesite within 30 days after their receipt by Respondents Murphy, Pioneer or Samson Hydrocarbons. The laboratory providing the sample analysis results shall be instructed to simultaneously transmit the original sample analysis results to all said Respondents.

AOC Requirement D: Hold Public Meeting

10. Respondents Murphy, Pioneer and Samson Hydrocarbons shall participate together in a public meeting to be held within 180 days after the issuance date of this AOC. The public meeting will take place near the East Poplar Oil Field and will be for the purpose of informing local citizens and governments, and other interested parties, about the work to be conducted in accordance with this AOC, including a detailed description of groundwater conditions in the area, the drinking water pipeline described in *AOC Requirement A*, the groundwater monitoring described in *AOC Requirement B*, and the homesite drinking water monitoring described in *AOC Requirement C*. Respondents Murphy, Pioneer and Samson Hydrocarbons shall be responsible for coordinating, organizing, and advertising the public meeting. Advertising of the meeting shall include notice in the Wotanin Wowapi and Wolf Point Herald News newspapers, as well as direct mailing to the homesites listed in both Tables 1 and 4.

AOC Requirement E: Bottled Water Delivery

11. Respondents Murphy, Pioneer and Samson Hydrocarbons shall ensure that delivery of bottled drinking water to each homesite listed in Table 1 continues until the later of the date that (a) the drinking water pipeline as described in *AOC Requirement A* is fully constructed and serving each such homesite, or (b) the public meeting described in *AOC Requirement D* has been completed and notice provided by Respondents Murphy, Pioneer or Samson Hydrocarbons, in consultation with EPA, to the occupants of those homesites that future bottled water delivery will cease; provided that in the event that Poplar is not the source of drinking water to serve the pipeline, said Respondents shall

continue to supply bottled water to each homesite listed in Table 1 until the measures necessary to provide another source of drinking water are implemented, as described in Paragraph 5 hereof.

AOC Requirement F: Monitor and Report throughout the East Poplar Oil Field

12. If, for any reason, Murphy, Pioneer or Samson Hydrocarbons samples any existing or future monitoring well completed in the Quaternary deposits aquifer within the East Poplar Oil Field, or within a perimeter extending three miles beyond the boundaries of the East Poplar Oil Field, but not specifically listed in Table 2, the Respondent that conducts such sampling shall submit the analytical results of such sampling to EPA and the remaining Respondents within 30 days after receipt by the Respondent that performed or directed the sampling. This *AOC Requirement F* shall continue for eight (8) years after the issuance date of this AOC.

AOC Requirement G: Document Submission Requirement

13. If during the period that this AOC remains in effect it comes to the attention of Murphy, Pioneer or Samson Hydrocarbons that their respective previous responses to Paragraphs 1(C) through 1(F) of the Emergency Administrative Order ("EAO") of September 30, 1999 in Docket No. SDWA-8-99-68, as amended, which begins on page 11 thereof, and Paragraph 87 of the September 20, 2001 EAO in Docket No. SDWA-08-2001-33, as amended, which begins on page 57 thereof, did not include a document (or documents) described by said Paragraphs 1(C) though 1(F) or 87, and which were in existence at the time of such previous responses, the affected Respondent(s) shall promptly submit any such document(s) to EPA; provided that nothing in this Paragraph is intended to require

any of said Respondents to conduct an additional examination of their respective records if the examination of their records necessary for compliance with the aforementioned Paragraphs 1(C) through 1(F) and 87 has been previously completed.

DISMISSAL OF EXISTING PETITIONS FOR REVIEW

14. Within ten (10) business days after the issuance date of this AOC, Respondents Murphy and Samson Hydrocarbons shall move to dismiss with prejudice all existing Petitions for Review of the previously issued SDWA Emergency Administrative Orders, bearing docket numbers SDWA-8-99-68 and SDWA-08-2001-33.

FORCE MAJEURE

15. Respondents Murphy, Pioneer and Samson Hydrocarbons shall perform the actions required of them under this AOC within the time limits set forth in this AOC, unless the performance is prevented or delayed solely by events which constitute a Force Majeure event. A Force Majeure event is defined as any event arising from causes beyond the control of Respondents Murphy, Pioneer and Samson, including their employees, agents, consultants and contractors, which could not be overcome by due diligence and which delays or prevents the performance of an action required of them in this AOC within the specified time period. A Force Majeure event does not include, inter alia, increased costs of performance, changed economic circumstances, changed labor relations, normal climatic conditions, or failure to obtain federal, state or local permits if such failure is due to unjustified delay or negligence on the part of said Respondents. When circumstances are occurring or have occurred which may delay the completion of any requirement of this AOC whether or not due to a Force Majeure event, said Respondents shall so notify

EPA in writing within fifteen (15) days after Respondents learn, or in the exercise of reasonable diligence under the circumstances should have learned, of the delay or anticipated delay. The notice shall describe in detail the basis for said Respondents' contention that they experienced a Force Majeure delay, the anticipated length of the delay, the precise cause or causes of the delay, the measures taken or to be taken to prevent or minimize the delay, and the timetable by which those measures will be implemented. Failure to so notify EPA shall constitute a waiver of any claim of Force Majeure as to the event in question. If EPA finds that a delay in performance is, or was, caused by a Force Majeure event, it shall extend the time for performance in writing for a period to compensate for the delay resulting from such event and EPA will not seek imposition of any penalty for such period. In any proceeding regarding a dispute with respect to delay in performance, Respondents Murphy, Pioneer and Samson Hydrocarbons shall have the burden of proving that the delay is, or was, caused by a Force Majeure event, and that the additional time requested is necessary to compensate for that event.

GENERAL PROVISIONS

16. All deadlines in this AOC specified as days before or after a certain event or requirement are defined as calendar days, unless otherwise stated.

17. Unless otherwise stated, all reports and notifications herein required, or otherwise distributed among the parties in connection with this AOC, shall be submitted to the following persons:

For **EPA**:
Nathan Wiser
U.S. Environmental Protection Agency
Office of Enforcement, Compliance
and Environmental Justice
Technical Enforcement Program (8ENF-UFO)
999 18th Street, Suite 300
Denver, Colorado 80202-2466
Telephone (303) 312-6211
Facsimile (303) 312-6409
Email: wiser.nathan@epa.gov

For **Murphy** (principal representative):
Sid Campbell
Murphy Oil USA, Inc.
131 South Robertson Street
New Orleans, Louisiana 70112
Telephone (504) 561-2811
Facsimile (504) 561-2566
Email: sid_campbell@murphyoilcorp.com

With a copy to--
Scott M. DuBoff
Wright & Talisman, P.C.
1200 G Street, N.W. Suite 600
Washington, D.C. 20005-3802
Telephone (202) 393-1200
Facsimile (202) 393-1240
Email: duboff@wrightlaw.com

For **Pioneer** (principal representative)
Pioneer Natural Resources USA, Inc.
Manager, Operation Services
Attn: Wilbur Dover
5205 N. O'Connor Blvd.
Suite 900
Irving, Texas 75039
Telephone (972) 444-9001
Facsimile (972) 969-3588
Email: doverw@pioneernrc.com

With a copy to—
Pioneer Natural Resources USA, Inc.
Office of General Counsel
Attn: Marc Skeen
5205 N. O'Connor Blvd.
Suite 900
Irving, Texas 75039
Telephone (972) 444-9001
Facsimile (972) 969-3577
Email: skeenm@pioneernrc.com

For **Samson Hydrocarbons** (principal representative)
Mark S. Dalton
The Samson Companies
Two West Second Street
Tulsa, OK 74103
Telephone (918) 591-1369
Facsimile (918) 591-7369
Email: mdalton@samson.com

With a copy to–
Elizabeth E. Mack
Locke Liddell & Sapp
2200 Ross Avenue, Suite 2200
Dallas, TX 75201
Telephone (214) 740-8598
Facsimile (214) 756-8598
Email: emack@lockeliddell.com

18. The provisions of this AOC shall apply to and be binding upon Respondents Murphy, Pioneer and Samson Hydrocarbons, their officers, contractors, directors, agents, successors and assigns. Each Respondent shall give notice of this AOC to any successor in interest prior to such Respondent's transfer of any oil and gas facilities within the East Poplar Unit. Action or inaction of any persons, firms, contractors, employees, agents, or corporations acting under, through or for Respondents Murphy, Pioneer or Samson Hydrocarbons, shall not excuse any failure of Respondents Murphy, Pioneer or Samson Hydrocarbons to fully perform their obligations under this AOC.

19. Other than the provisions in Paragraph 6 of this AOC, nothing in this AOC shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this AOC.

20. By consenting to this AOC, Respondents Murphy, Pioneer and Samson Hydrocarbons agree not to challenge the terms of this AOC in any U.S. Court of Appeals or any other forum.

21. EPA does not waive its authority to seek injunctive relief, costs, interest, and any appropriate penalty associated with any failure by Respondents Murphy, Pioneer or Samson Hydrocarbons to comply with the terms of this AOC.

22. This AOC does not constitute a waiver, suspension, or modification of the requirements of any federal or state statute, regulation, or condition of any permit issued thereunder, including the requirements of the SDWA, which remain in full force and effect. Issuance of this AOC is not a waiver by EPA of its authority to initiate any additional administrative, civil, or criminal action(s) otherwise authorized under the SDWA.

23. Violation of any term of this AOC may subject Respondents Murphy, Pioneer and/or Samson Hydrocarbons to an administrative civil penalty of up to $16,500 for each day in which such violation occurs or failure to comply continues, pursuant to §1431(b) of the Act, 42 U.S.C. §300i(b). In addition, actions or omissions that violate requirements of the SDWA or its implementing regulations may subject Respondents Murphy, Pioneer and/or Samson Hydrocarbons to a civil penalty of not more than $32,500 per day per violation pursuant to §1423 of the Act, 42 U.S.C. §300h-2.

24. For a period of 60 days that begins upon the issuance date of this AOC by EPA and each

of the Respondents, EPA may elect, in its sole discretion, to withdraw from the terms hereof by providing notice, by facsimile and certified mail, to the representatives of the Respondents identified in Paragraph 17, in which case this AOC will be null and void. In the absence of such notice within the specified period, this AOC is a final agency action by EPA. In the event this AOC becomes null and void by operation of this Paragraph, Respondents will not rely upon this AOC in any manner in any subsequent administrative or judicial proceedings.

25. Respondents Murphy, Pioneer and Samson Hydrocarbons are jointly and severally responsible for *AOC Requirements A* through *G* contained in Paragraphs 5 through 13 of this AOC.

26. EPA and Respondents Murphy, Pioneer and Samson Hydrocarbons agree to bear their own costs and attorneys fees in connection with this matter, including all administrative and judicial proceedings to date.

ISSUANCE PROCEDURES FOR THIS AOC

27. Each Respondent shall sign its designated signature page in this AOC and, on the same day or the next business day, transmit the original of said signed signature page to EPA to collect all signature pages for incorporation into a single, final document for filing with the Region 8 Hearing Clerk.

28. The issuance date of this AOC shall be the date a fully executed, file-stamped copy is filed with the Region 8 Hearing Clerk.

29. EPA shall mail a copy of the file-stamped AOC to each Respondent using Certified U.S. Mail on the date of filing or on the next business day.

30. EPA shall telephone and email each of the parties in Paragraph 17 on the day the AOC is file-stamped, informing each party of this AOC's issuance date.

31. Each of the undersigned representatives of the parties to this AOC certifies that he or she is fully authorized by the party represented to execute and legally bind the party to the terms and conditions of this AOC.

Signed this 20th day of July, 2004.

Elisabeth Evans

Elisabeth Evans, Director
Technical Enforcement Program
Office of Enforcement, Compliance,
and Environmental Justice
United States Environmental Protection Agency, Region 8

Michael T. Rosive for

David J. Janik, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance,
and Environmental Justice
United States Environmental Protection Agency, Region 8

MURPHY EXPLORATION & PRODUCTION COMPANY

Date: June 2, 2004 By: _____
Scott M. DuBoff

Title: Legal Counsel for Murphy Exploration & Production Company
c/o Wright & Talisman, P.C.
1200 G Street, N.W., Suite 600
Washington, D.C. 20005-3802

PIONEER NATURAL RESOURCES USA, INC.

Date: MAY 27, 2004 By: Mark L Withrow
MARK L. WITHROW

Title: EXECUTIVE VICE-PRESIDENT

SAMSON HYDROCARBONS COMPANY

Date: May 27, 2004 By: Dennis R. Neill

Title: President

TABLE 1

List of private homesites that shall have a drinking water pipeline constructed and connected for the purpose of delivering all drinking water needs (as per Paragraph 5)

Current Resident	City	State	Residence Address	Sec	Twp	Rge
Abbott, Joe	Poplar	MT	5540 Road 75	04	28N	51E
Kim, Audrey	Poplar	MT	5584 Road 75	08	28N	51E
Kim, Michael	Poplar	MT	5632 Road 75	08	28N	51E
Gray Hawk, Rachel	Poplar	MT	5647 Road 75	16	28N	51E
Trottier, Tim & Donna	Poplar	MT	5713 Road 75	16	28N	51E
Lockman, Lyle	Poplar	MT	5715 Road 75	16	28N	51E
Four Bears, Charles	Poplar	MT	5678 Road 75	17	28N	51E
Martell, Rene & Josi	Poplar	MT	5666 Road 75	17	28N	51E
Ricker Sr., George & Helen	Poplar	MT	5712 Road 75	17	28N	51E
Bleazard, Ross & Laura	Poplar	MT	5866 Road 150	29	28N	51E
Whitmer, Warren & Donna	Poplar	MT	58702 Road 75	29	28N	51E
Loegering, Mavis	Poplar	MT	5910 Road 150	29	28N	51E
Kim Sr., Jesse	Poplar	MT	6037 Road 150	32	28N	51E
Grandchamp, Denise	Poplar	MT	5947 Road 75	33	28N	51E
Grainger, Trivian	Poplar	MT	5957 Road 75	33	28N	51E

TABLE 2

List of dedicated groundwater monitoring wells to be monitored for the purpose of detecting oil field contamination movement

Well Name	Status	Location			
		Township	Range	Section	Qtr/Qtr
LAW - M01	Active	28 North	51 East	33	NE/NE
LAW - M03	Active	28 North	51 East	28	SW/NW
LAW - M04	Active	28 North	51 East	29	NW/SE
LAW - M05	Active	28 North	51 East	33	NW/SW
LAW - M06	Active	28 North	51 East	31	SE/SE
LAW - M07	Active	28 North	51 East	30	SW/SE
LAW - M08	To be constructed	28 North	51 East	31	SE/SE
LAW - M09	To be constructed	27 North	51 East	5	NE/NW
PNR27	Active	28 North	51 East	28	NE/SE
PNR28	Active	28 North	51 East	28	NW/SE

PNR29	Active	28 North	51 East	28	SW/SE

TABLE 3

Physical and chemical analysis requirements for samples collected from dedicated groundwater monitoring wells and private homesites

Analyte Parameter	Method Detection Limit	Units
Static water level	0.1	foot
pH	0.1	pH unit
TDS	10	mg/l
Cl	10	mg/l
Na	10	mg/l
Mg	10	mg/l
K	10	mg/l
CO_3	10	mg/l
HCO_3	10	mg/l
SO_4	10	mg/l
Ca	10	mg/l
Benzene	0.05	mg/l
Toluene	0.05	mg/l
Ethylbenzene	0.05	mg/l
Total xylenes	0.05	mg/l

TABLE 4

List of private homesites that shall have drinking water samples collected for the purpose of detecting groundwater contamination

Current Resident	City	State	Residence Address	Sec	Twp	Rge
Kohl, Danny	Poplar	MT	5097 Road 251	15	29N	51E
Lien, Birdell	Poplar	MT	4849 Road 2050	20	29N	51E
Zimmerman, Bill	Poplar	MT	5448 Road 251	01	28N	51E
Grainger, Iva	Poplar	MT	5128 Road 251	15	29N	51E
Ranf, Marie and Corne, Warren	Poplar	MT	5743 Road 251	13	28N	51E

EXHIBIT A - RELEASE

WHEREAS an Administrative Order on Consent (AOC) entered by Region 8 of the United States Environmental Protection Agency on _____, 2004 in Docket No. SDWA-08-2004-_____ requires Pioneer Natural Resources USA, Inc., Murphy Exploration & Production Company, and Samson Hydrocarbons Company (hereinafter referred to collectively as the Companies) to arrange for the construction and operation of a pipeline to transport potable water to the residence of **[insert name of Homeowner(s)]** in Poplar, Montana (hereinafter **[collectively]** referred to herein as Homeowner**[s]**);

WHEREAS, the AOC also requires the Companies to pay the Homeowner**[s]** the sum of Five Thousand Dollars ($5,000.00) (preferably prior to connection of the Homeowner**[s]**[ ] residence to the above-referenced pipeline) for intended use by the Homeowner**[s]** to replace in-house plumbing or pipelines, sinks, faucets, tubs, showers, toilets or other fixtures, appliances (including, but not limited to, washers and hot water heaters) and any other similar items as determined by the Homeowner[s], such payment requirement being contingent upon Homeowner[s][ ] agreement to release and hold harmless and indemnify the Companies as set forth herein;

NOW, THEREFORE, for good and valuable consideration, the Homeowner**[s]** hereby:

1. Acknowledge**[s]** the receipt and adequacy of the $5,000.00 payment as consideration for this Release and in exchange for payment of such sum, fully and forever release**[s]** and discharge**[s]** the Companies, individually and collectively, and the insurers, agents, directors, officers, employees, representatives, administrators, parent companies, affiliates, successors and

assigns of each Company, of and from any and all actions, claims, causes of action, demands, or expenses, of whatever nature and kind, in law or in equity, whether asserted or unasserted, known or unknown, foreseen or unforeseen, on account of or in any way related to or associated with any in-house plumbing or pipelines, sinks, faucets, tubs, showers, toilets or other fixtures, appliances (including, but not limited to, washers and hot water heaters) or any other in-house items of a similar nature or type, including any water quality issues related to such in-house plumbing, etc., it being the intent of the parties hereto to fully compromise and settle all such claims; and

2. Hold[s] harmless and indemnify[ies] the Companies, individually and collectively, from any claims by any other party including, but not limited to, the United States Environmental Protection Agency, related to or associated with any in-house plumbing or pipelines, sinks, faucets, tubs, showers, toilets or other fixtures, appliances (including, but not limited to, washers and hot water heaters) or any other in-house items of a similar nature or type, including any future claims or demands to replace or repair such plumbing or pipelines, sinks, faucets, tubs, showers, toilets or other fixtures, appliances (including, but not limited to, washers and hot water heaters) or any other in-house items of a similar nature or type.

The Homeowner[s][ ] release of and duty to hold harmless and indemnify the Companies shall be binding upon Homeowner[s][ ] heirs, personal representatives, successors, assigns, agents, partners, employees, insurers and attorneys.

In the event that this Release is executed in a representative capacity, the person signing warrants that he or she has the express authority to bind his or her principal to the terms hereof. The Homeowner[s] further represent[s] and warrant[s] that no other person or entity has or had any interest in the potential claims, demands, obligations or causes of action referred to in this Release

and that the parties executing the Release have the sole right and exclusive authority to do so and to receive the sum specified herein.

This Release shall be construed and enforced in accordance with the laws of the State of Montana and shall be interpreted without application of, reliance upon, or respect to any doctrine, the import of which is or would be to interpret this document in favor of a non-drafting party or against the interests of a drafting party.

The Homeowner[s] expressly acknowledge[s] that payment of the above-mentioned $5,000.00 sum shall not be considered as an admission of liability on the part of any of the Companies, each of whom expressly deny any such liability.

The Homeowner[s] state[s] that **[he/she/they]** **[have/has]** carefully read the foregoing Release, understand[s] the contents thereof, discussed its legal effect with **[his/her/their]** attorney and sign[s] the same of **[his/her/their]** own free will and accord, intending to be legally bound thereby.

DATED this _____ day of _____, 2004.

CAUTION: READ BEFORE SIGNING

[insert name of Homeowner]

STATE OF MONTANA)
) ss:
County of _____)

This instrument was acknowledged before me on _____, 2004, by **[insert name of Homeowner]**.

_____

____ [Signature of Notary]

_____

____ [Printed Name of Notary]

Notary Public for the State of Montana
Residing at

_____ [City of Residence]

My commission expires:

_____20___ [Month Day Year]

(NOTARIAL SEAL)

[insert name of Homeowner]

STATE OF MONTANA)
) ss:
County of _____)

This instrument was acknowledged before me on _____, 2004, by **[insert name of Homeowner]**.

_____

[Signature of Notary]

_____

[Printed Name of Notary]

Notary Public for the State of Montana
Residing at

_____ [City of Residence]

My commission expires:

_____20___ [Month Day Year]

(NOTARIAL SEAL)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2004 JUL 20 PM 1:40

FILED
EPA REGION VIII
HEARING CLERK

IN THE MATTER OF: Marathon Oil Company, Murphy Exploration and Production Co., Pioneer Natural Resources USA, Inc., and Samson Hydrocarbons Co., Respondents. East Poplar Oil Field Fort Peck Indian Reservation Montana Proceedings under Section 1431(a) of the Safe Drinking Water Act, 42 U.S.C. §300g-i(a)	)	Docket No. SDWA-8-99-68 SDWA-08-2001-33 **Settlement Agreement with Conditional Release of Respondent Marathon**

WHEREAS, the United States Environmental Protection Agency, Region 8 ("EPA") issued two unilateral Emergency Administrative Orders (each an "EAO" and collectively the "EAOs") under Section 1431(a) of the Safe Drinking Water Act ("SDWA"), docket numbers SDWA-8-99-68 and SDWA-08-2001-33, as amended, concerning contamination of an underground source of drinking water ("USDW") in the East Poplar Oil Field ("Oil Field") on the Fort Peck Indian Reservation in northeastern Montana;

WHEREAS, Marathon Oil Company ("Marathon") was a Respondent to the EAOs based on alleged activities of Marathon's predecessor, TXO Production Corporation (referred to herein collectively with Marathon as "Marathon);

WHEREAS, Marathon filed a Petition for Review of First Amended Administrative Emergency Order, Docket No. SDWA-08-2001-33 ("Petition for Review") in the United States Court of Appeals for the Tenth Circuit;

WHEREAS, the Petition for Review is now pending in the Tenth Circuit;

NOW THEREFORE, EPA and Marathon have entered into this Settlement Agreement with Conditional Release of Respondent Marathon ("Settlement Agreement") and agree as follows:

1. Based on information presented to EPA by Marathon detailing the results of investigations it conducted related to contamination of the USDW at the Oil Field, EPA has determined that Marathon should be released from the EAOs.

2. EPA hereby releases Marathon from the EAOs.

3. If, after execution of this Settlement Agreement, EPA receives new or additional information regarding contamination of the USDW at the Oil Field indicating it would be appropriate to take administrative or judicial action against Marathon under section 1431 of the Safe Drinking Water Act or any other applicable provision of law, EPA hereby reserves its right to do so.

4. Within ten (10) business days after issuance and execution of this Settlement Agreement, Marathon will move to dismiss with prejudice its Petition for Review.

5. This Settlement Agreement does not constitute a waiver, suspension, or modification of the requirements of any federal or state statute, regulation, or condition of any permit issued thereunder, including the requirements of the SDWA, which remain in full force and effect.

6. EPA and Marathon agree to bear their own costs and attorneys fees in connection

with this matter, including all administrative and judicial proceedings to date.

7. Each of the undersigned representatives of the parties to this Settlement Agreement certifies that he or she is fully authorized by the party represented to execute and legally bind the party to the terms and conditions of the Settlement Agreement.

FOR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY:

Elisabeth Evans

Date: 7/20, 2004

ELISABETH EVANS, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice
United States Environmental Protection Agency, Region 8

Michael T. Rainey

Date: 7/20, 2004

DAVID J. JANIK, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice
United States Environmental Protection Agency, Region 8

Date: 7/20, 2004

DAVID A. CARSON
United States Department of Justice
Environment and Natural Resources Division
Suite 945 – North Tower
999 18th Street
Denver, Colorado 80202
(303) 388-7362

FOR MARATHON OIL COMPANY:

Edward A. Strenkowski

Date: July 12, 2004

EDWARD A. STRENKOWSKI, Esq.
Marathon Oil Company
5555 San Felipe Road
Houston, Texas 77352-3128

U.S. Department of Justice

Environment and Natural Resources Division

LJG:DAC
90-5-1-7-16553

David A. Carson
Environmental Defense Section
999 18th Street
Suite 945 North Tower
Denver, CO 80202

Telephone (303) 312-7309
Facsimile (303) 312-7331

May 14, 2004

John D. Fognani, Esq.
Fognani Guibord Homsy & Roberts, LLP
555 Seventeenth Street
Twenty-Sixth Floor
Denver, Colorado 80202

Re: Marathon Oil Co. v. EPA, Appeal No. 01-9543

Dear John:

Enclosed please find the final Settlement Agreement with Conditional Release of Marathon. Please have Mr. Strenkowski sign the document on behalf of the Marathon Oil Company and mail the original back to me.

The Settlement Agreement is contingent upon its approval by the Assistant Attorney General. I will seek his approval after I receive the signed document back from Marathon. I will send a copy of the fully executed document back to you once I and the EPA signatories have signed it.

We have enjoyed working with you and we are glad we were finally able to resolve this matter to everyone's satisfaction.

As always, please do not to hesitate to call me directly at (303) 312-7309 if you have any questions.

Sincerely,

David A. Carson, Senior Counsel
Environmental Defense Section

cc: David Aemmer
Jim Eppers
Steven Moores
Nathan Wiser

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

IN THE MATTER OF: Marathon Oil Company, Murphy Exploration and Production Co., Pioneer Natural Resources USA, Inc., and Samson Hydrocarbons Co., Respondents. East Poplar Oil Field Fort Peck Indian Reservation Montana Proceedings under Section 1431(a) of the Safe Drinking Water Act, 42 U.S.C. §300g-i(a)	)	Docket No. **Settlement Agreement with Conditional Release of Respondent Marathon**

WHEREAS, the United States Environmental Protection Agency, Region 8 ("EPA") issued two unilateral Emergency Administrative Orders (each an "EAO" and collectively the "EAOs") under Section 1431(a) of the Safe Drinking Water Act ("SDWA"), docket numbers SDWA-8-99-68 and SDWA-08-2001-33, as amended, concerning contamination of an underground source of drinking water ("USDW") in the East Poplar Oil Field ("Oil Field") on the Fort Peck Indian Reservation in northeastern Montana;

WHEREAS, Marathon Oil Company ("Marathon") was a Respondent to the EAOs based on alleged activities of Marathon's predecessor, TXO Production Corporation (referred to herein collectively with Marathon as "Marathon);

WHEREAS, Marathon filed a Petition for Review of First Amended Administrative Emergency Order, Docket No. SDWA-08-2001-33 ("Petition for Review") in the United States Court of Appeals for the Tenth Circuit;

WHEREAS, the Petition for Review is now pending in the Tenth Circuit;

NOW THEREFORE, EPA and Marathon have entered into this Settlement Agreement with Conditional Release of Respondent Marathon ("Settlement Agreement") and agree as follows:

1. Based on information presented to EPA by Marathon detailing the results of investigations it conducted related to contamination of the USDW at the Oil Field, EPA has determined that Marathon should be released from the EAOs.

2. EPA hereby releases Marathon from the EAOs.

3. If, after execution of this Settlement Agreement, EPA receives new or additional information regarding contamination of the USDW at the Oil Field indicating it would be appropriate to take administrative or judicial action against Marathon under section 1431 of the Safe Drinking Water Act or any other applicable provision of law, EPA hereby reserves its right to do so.

4. Within ten (10) business days after issuance and execution of this Settlement Agreement, Marathon will move to dismiss with prejudice its Petition for Review.

5. This Settlement Agreement does not constitute a waiver, suspension, or modification of the requirements of any federal or state statute, regulation, or condition of any permit issued thereunder, including the requirements of the SDWA, which remain in full force and effect.

6. EPA and Marathon agree to bear their own costs and attorneys fees in connection

with this matter, including all administrative and judicial proceedings to date.

7. Each of the undersigned representatives of the parties to this Settlement Agreement certifies that he or she is fully authorized by the party represented to execute and legally bind the party to the terms and conditions of the Settlement Agreement.

FOR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY:

_____ Date: _____, 2004

ELISABETH EVANS, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice
United States Environmental Protection Agency, Region 8

_____ Date: _____, 2004

DAVID J. JANIK, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice
United States Environmental Protection Agency, Region 8

_____ Date: _____, 2004

DAVID A. CARSON
United States Department of Justice
Environment and Natural Resources Division
Suite 945 – North Tower
999 18th Street
Denver, Colorado 80202
(303) 388-7362

FOR MARATHON OIL COMPANY:

_____ Date: _____, 2004

EDWARD A. STRENKOWSKI, Esq.
Marathon Oil Company
5555 San Felipe Road
Houston, Texas 77352-3128

Ft. Peck - Δ's support for Order Amendment

Steven M.
FYI
-Jathe-
3/31/03

LOCKE LIDDELL & SAPP LLP

2200 Ross Avenue
Suite 2200
Dallas, TX 75201-6776

FACSIMILE TRANSMISSION

Main: **(214) 740-8000**
Fax: **(214) 740-8800**

Date: March 28, 2003 2:14 PM

PLEASE DELIVER AS SOON AS POSSIBLE TO:

TO	COMPANY	FAX NO.	PHONE NO.
Nathan Wiser	Region 8	(303) 312-6409	(303) 312-6211
Scott DuBoff		(202) 393-1240	(202) 393-1200
David A. Carson	United States Department of Justice, Environment and Natural Resources Division	(303) 312-7331	(303) 312-7309
John Fognani	Fognani, Guibard, Homsey @ Roberts, LLP	(303) 382-6210	(303) 382-6200
Steve Leifer	Cabot	(202) 585-1040	(202) 639-7723
Deb Madison	Assiniboine/Sioux Tribes of Fort Peck	(406) 768-5606	(406) 768-5155 , ext. 399
Marc Skeen	Pioneer Natural Resources USA	(972) 969-3577	(972) 969-4040
Jack Canon	Samson	(918) 591-7009	(918) 591-1009
Mark S. Dalton	Samson Resources Company	(918) 591-7369	(918) 591-1369

FROM: Elizabeth E. Mack PHONE (214) 740-8598

Total number of pages including this page: 15

If you do not receive all the pages, please call (214) 740-8598.

Notes:

IMPORTANT/CONFIDENTIAL: This facsimile transmission (and/or the documents accompanying it) may contain confidential information belonging to the sender which is protected by the attorney-client privilege. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this information is strictly prohibited. If you have received this transmission in error, please immediately notify us by telephone to arrange for the return of the documents.

LOCKE LIDDELL & SAPP LLP
ATTORNEYS & COUNSELORS

2200 ROSS AVENUE
SUITE 2200
DALLAS, TEXAS 75201-6776

AUSTIN • DALLAS • HOUSTON • NEW ORLEANS

(214) 740-8000
Fax: (214) 740-8800
www.lockeliddell.com

DIRECT NUMBER: (214) 740-8598
email: emack@lockeliddell.com

March 28, 2003

VIA TELECOPY and FEDEX

Nathan Wiser
United States Environmental Protection Agency
Region 8
999 18th Street, Suite 300
Denver, CO 80202-2466

Ref: 8ENF-T

Re: Notice of Proposed Withdrawal of Party ("Notice") from two Emergency Administrative Order under the Safe Drinking Water Act, Docket Nos. SDWA 08-99-68 and SDWA-08-2001-33 (dated September 20, 2001, as amended October 3, 2001) (the "Orders")

Dear Mr. Wiser:

This firm represents Samson Hydrocarbons Company ("Samson"). The EPA proposes to remove Marathon Oil Company as a named Respondent in the Orders (the "Proposed Action"). The Orders relate to lands within the Fort Peck Indian Reservation in Roosevelt County, Montana, and allege, among other things, that oil field brine contaminated the drinking water of certain residents and threatens an underground source of drinking water (USDW). Specifically, Marathon or its predecessors owned and/or operated certain wells on the Buckles Lease (the "Buckles wells"). This letter constitutes Samson's comments to the Proposed Action.

The EPA appears to base its Proposed Action on groundwater samples and modeling. However, neither the sampling nor the modeling can support the Proposed Action and therefore, the EPA should not finalize the Proposed Action.

Groundwater Sampling

Marathon's sampling program has generated unreliable data and cannot support the Proposed Action. The sampling program is flawed in its number and location of borings, its failure to complete the borings as monitor wells, and the depth from which the samples were taken.

Number & location

directional flow

Conventional methodology dictates that Marathon should have initially installed a minimum of three monitor wells to determine local flow direction. Based upon local flow direction, Marathon should have added additional monitor wells to establish a down gradient well (or wells) to properly assess groundwater quality. *See, e.g.,* FLETCHER G. DRISCOLL, PH.D., GROUNDWATER AND WELLS 80-85, 712-717(Johnson Division 2nd ed. 1986).[1] This methodology was not followed. Indeed, Marathon did not generate any local directional flow data through completion of monitor wells or otherwise, and just as important, it ignored the existing directional flow data, which indicates that the local flow direction is probably to the southwest.[2]

Establishing directional flow is not just an academic nicety. Local directional flow is the primary method for determining where to sample. *Id.* Here, it is particularly important given that the nearby leaking Biere well built a local groundwater mound that could have changed the local groundwater flow direction at the Buckles location. Simply put, an up gradient or cross gradient well will yield far different sample results than a truly down gradient well. An up gradient or cross gradient well will not tell the story about what contaminants are migrating off location or the extent to which they are migrating off location.

Despite the fact that the only currently available groundwater level data indicates that the local flow direction is probably to the southwest, Marathon installed one soil boring due west of the Buckles area and a second boring due south of the Buckles area, neither of which appears to be down gradient from the Buckles wells. No other borings were installed, and the borings that were installed were not completed as monitor wells. The importance of the failure to complete the borings to monitor wells cannot be overstated: indeed, the use of temporary borings can neither confirm that the samples were collected in a location that would yield reliable water quality information, nor can they be used to evaluate water quality changes over time. Because the borings do not appear to be down gradient, samples taken from the two borings cannot demonstrate what contaminants are migrating off location and cannot support a conclusion that Marathon's former operations are not an imminent threat to an USDW.

no comp[illegible] as a water well

The number and placement of the borings and the failure to complete the borings as monitor wells are not the only flaws with the sampling program. According to the soil boring logs provided in the Notice of Proposed Withdrawal, samples were taken from a depth of 55', which is approximately 10' above the Bearpaw Shale (the top of the Bearpaw Shale is at 64'). In cases of oil field brine contamination, the brine, which is

---

[1] Excerpts from FLETCHER G. DRISCOLL, PH.D., GROUNDWATER AND WELLS (Johnson Division 2nd ed. 1986) are attached to this Comment.

[2] Indeed, Pioneer's water level data demonstrates a groundwater mound resulting from the Biere well, creating local flow direction to the southwest. The data has been available to Marathon as a result of its participation in the Respondent's Technical Committee. Marathon's potentiometric surface maps ignore the Pioneer water level data, although Marathon chose to use some of Pioneer's chemical data. Additionally, no single map produced by Marathon's consultants honors all the data, which also leads to confusion and unreliable results.

Deep enough?

denser than fresh water, tends to sink through the aquifer and come to rest on the confining layer (here, the Bearpaw Shale). Therefore, the sampling program may not have detected contamination emanating from the Buckles wells even though the contaminants might be present.

Computer Modeling

The modeling also appears to be flawed and cannot support the Proposed Action. Marathon used the Hydrus-2D model, which is not specifically designed for and does not automatically take into account the electrochemical conditions present in the area. Specifically, the area is clay rich, which results in an anion exclusion effect. Anion exclusion is the phenomenon whereby non-reactive negatively charged ions (chloride) are repulsed from the negatively charged clay particles in the soil matrix, thus forcing the anions (chlorides) into the macropores of the matrix. The effect results in fast travel times for chlorides in soils. Marathon's modeler would have had to have used an adsorption coefficient (K_d) of less than zero[3] to account for the anion exclusion phenomenon, but there is no evidence that the modeler did so – in fact the modeling results would indicate that the modeler did ***not*** use $K_d<0$.

Without explanation, the modeling actually seems to indicate attenuation in concentration of conservative ions (chloride). This does not make sense, given that the chloride ion does not react with the soil matrix. Therefore, it appears that an improper adsorption coefficient was used in the modeling that was performed.

The conclusion that the adsorption coefficient was inappropriately used is further supported by the fact that the modeling does not agree with the hard data in the area. Marathon's modeling effort suggests that no contaminants migrate from pits to groundwater. However, the EM (electromagnetic) and hard analytical data in section 10 that Samson has provided to EPA indicates that pits and spills are the major contributors of brine into the underlying ground water. For example, without limitation, the EM data uniformly showed high conductivity levels at historic pits (identified through aerial photographs).

Based on the flaws in the data as noted in these comments, Samson respectfully requests that EPA not withdraw Marathon from the Orders and that its Proposed Action not be made final. Samson looks forward to receiving the EPA's response to these comments.

If you have any questions or need additional information, please do not hesitate to contact me. Thank you for your consideration of these comments.

---

[3] See attached email from Jirka Simunek, creator of the HYDRUS-2D model, to Mark Dalton dated March 14, 2003.

Very truly yours,

Elizabeth E. Mack

EEM:dmc
Enclosures
cc w/enc.: Scott DuBoff
Dave Carson
John Fognani
Steve Leifer
Deb Madison
Marc Skeen
Jack Canon
Mark Dalton

Groundwater and Wells

Second Edition

Fletcher G. Driscoll, Ph.D.
Principal Author and Editor

Published by Johnson Division, St. Paul, Minnesota 55112

To Gerald F. Briggs

for his outstanding contributions to the success of Johnson Division and to the worldwide development of the groundwater industry

Copyright © 1986 by Johnson Division, St. Paul, Minnesota 55112

Library of Congress Catalog Card Number 85-63577

Printed in the United States of America. All rights reserved. This book, or parts thereof, may not be reproduced without written permission from the publisher.

H. M. Smyth Company, Inc. printed this volume on Mead Corporation's sixty pound Moistrite stock. Typography was done by CTS Inc.; the text was set in 9. point Times Roman type face.

The information and recommendations contained in this book have been compiled from sources believed to be reliable and to represent the best opinion on the subject as of 1986. However, no warranty, guarantee, or representation, express or implied, is made by Johnson Division as to the correctness or sufficiency of this information or to the results to be obtained from the use thereof. It cannot be assumed that all necessary warnings, safety suggestions, and precautionary measures are contained in this book, or that any additional information or measures may not be required or desirable because of particular conditions or circumstances, or because of any applicable U.S.A. federal, state, or local law, or any applicable foreign law or any insurance requirements or codes. The warnings, safety suggestions, and precautionary measures contained herein do not supplement or modify any U.S.A. federal, state, or local law, or any applicable foreign law, or any insurance requirements or codes.

MAR 28 2003 3:33 PM FR LOCKE LIDDELL 214 740 8800 TO 93713033126405 P.06/15

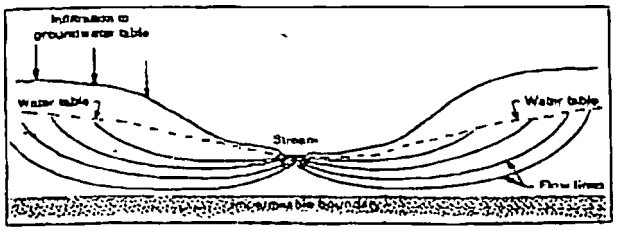


Figure 5.17a. Cross section through a stream valley showing flow lines in the groundwater system.

the potential energy head is the same. Flow lines can be easily drawn where the elevations of the water table are known because groundwater always flows perpendicular to these potentials in a down-gradient direction. This is strictly true only for isotropic aquifers where flow rates can be the same in all directions. The set of intersecting flow lines and equipotential lines is called a flow net. Figure 5.18 shows the arrangement of flow lines and equipotential lines around a pumping well in a homogeneous aquifer; the fault crossing the aquifer serves as an impermeable boundary.

Flow patterns and equipotential lines demonstrate how adjacent wells can have different water levels, depending on the hydraulic head at their intake points (Figure 5.19). This condition exists in many well fields but may be obscured because the elevation differences are minor or natural inhomogeneities of the aquifers cause distortion of the flow lines.

Knowing the direction of groundwater movement has become increasingly important because of the danger of contaminating groundwater supplies. Wells may become unsafe when sewage or other contaminants enter the ground at a higher head (gradient)

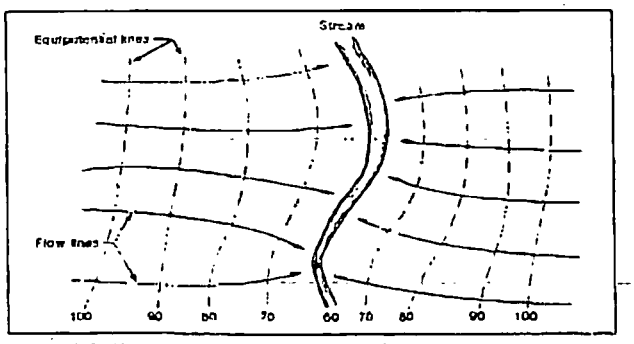


Figure 5.17b. Looking down on the stream valley from above with the water table exposed. The dotted lines represent points of equal groundwater elevation.

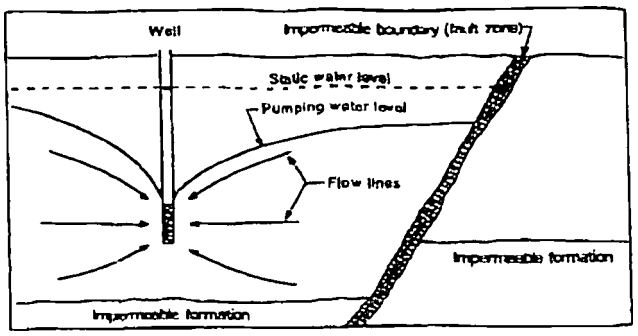


Figure 5.18a. Cross section near a pumping well showing the flow lines followed by water moving toward the well.

than exists in nearby shallow wells. The flow lines, or lines of water movement, can be determined by using water-elevation data from a minimum of three wells (Figure 5.20). The heavy solid line shown in Figure 5.20 shows the flow-path taken by water in the area. If sufficient information is available, flow lines may be drawn which indicate the general direction of groundwater flow in a specific area. Areas of recharge and discharge can also be defined by the use of a flow-net diagram. Flow lines diverge in areas of recharge and converge in areas of discharge.

GROUNDWATER FLOW VELOCITIES

Ordinarily, the rate of groundwater movement is of negligible interest to water well

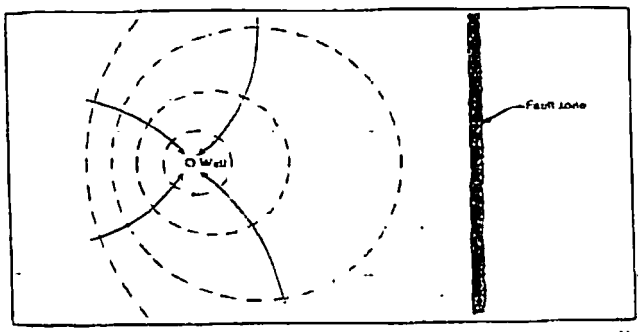


Figure 5.18b. Map of the potentiometric surface during long-term pumping shows that the impermeable boundary causes greater drawdown in the direction of the fault.

MAR 28 2003 3:33 PM FR LOCKE LIDDELL 214 740 8600 TO 93713033126405 P.05/15

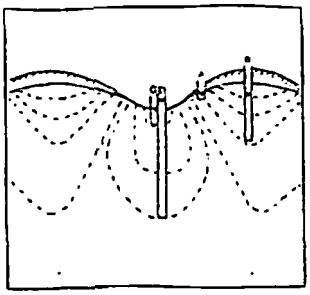


Figure 5.19. Water level in a well rises to the elevation of the hydraulic head represented by the piezometer at the intake end of the well. The water level in wells A and B is the same because both wells intercept the same equipotential line. (Feller, 1980)

contractors or others concerned primarily with yields from wells. Yields are directly affected by flow velocities, of course, but velocity in an aquifer is difficult to study. Determination of the groundwater flow rate, however, has become more important as underground contamination problems multiply. The ability to predict the rate at which a plume of contaminated water may move downgradient from a source of pollution has become a vital water management objective.

The average groundwater flow rate is easily determined by combining Darcy's equation with the standard continuity equation of hydraulics. The continuity equation simply states that whatever goes into a system must come out. In Darcy's equation, the hydraulic conductivity has the dimensional units of velocity. When the conductivity is expressed as cubic feet (meters) per day passing through one square foot (meter) of aquifer, this is the same as expressing the flow rate in terms of feet (meters) per day under the defined hydraulic gradient of one. Multiplying this flow rate by the actual hydraulic gradient in the aquifer gives the velocity of groundwater movement in that aquifer.

Thus, using Darcy's equation:

$$Q = \frac{KA\,(h_1 - h_2)}{L} \qquad (5.14)$$

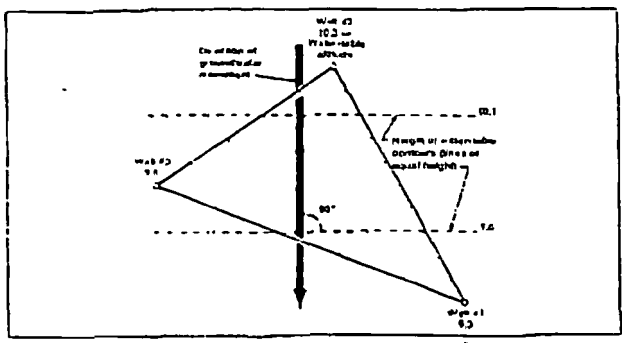


Figure 5.20. The direction of groundwater flow can be calculated by connecting a triangle linking the known potentiometric heads of three wells.

and the continuity equation:

$$Q_{in} = V_1A_1 = V_2A_2 = Q_{out} \qquad (5.15)$$

we can make the substitution:

$$VA = \frac{KA\,(h_1 - h_2)}{L} \qquad (5.16)$$

and by eliminating terms:

$$V_{av} = \frac{K(h_1 - h_2)}{L} \qquad (5.17)$$

Equation 5.17 is not yet complete, for actual groundwater flow velocities will be higher than the equation indicates because flow occurs only through the actual pore space, and not through the entire cross section of the porous medium. The actual velocity of groundwater flow, V_a, can now be calculated by knowing only the hydraulic conductivity, the hydraulic gradient, and the average porosity:

$$V_a = \frac{\dfrac{K(h_1 - h_2)}{L}}{\eta} \qquad (5.18a)$$

where η equals the porosity of the porous medium.

In the English system of measurement, the hydraulic conductivity, K, is in gallons per day per square foot, and this volume must be converted to cubic feet to calculate a velocity in feet per day. To obtain the velocity of the water in feet per day through the actual openings in a formation, divide Equation 5.17 by 7.5 (the number of gallons in a cubic foot) and by the porosity of the aquifer. Equation 5.18a becomes:

$$V_a = \frac{\dfrac{K(h_1 - h_2)}{L}}{7.5 \cdot \eta} \qquad (5.18b)$$

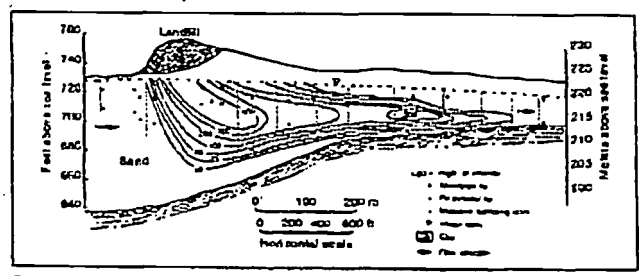


Figure 5.21. Plume of chloride leachate migrating from a sanitary landfill into a homogeneous, sandy aquifer; contaminated area is represented by contours of chloride concentration in groundwater. (R. Allan Freeze and John A. Cherry, GROUNDWATER, ©1979, page 439. Reprinted by permission of Prentice-Hall, Inc., Englewood Cliffs, NJ.)

The reader should keep in mind that the velocity calculated in Equation 5.18b is only approximate. In certain parts of an aquifer, the interconnections between pores may be almost straight line in a downgradient direction, whereas elsewhere the water is forced to travel great distances to move rather short distances downgradient. Tor-

Table 5.5. Common Types of Tracers and Their Special Uses

Tracer	Lowest Detectable Concentrations	Advantages	Disadvantages
Dyes: Uranine (Sodium fluorescein) Rhodamine B Sulforhodamine G. Extra	0.01–0.04 μg/l	Easy to use, safe. Concentrations can be measured in the field.	Some dyes affected by pH, temperature, or are absorbed by clays and organic soils.
Strong Electrolytes Sodium Chloride Potassium Chloride Ammonium Chloride Lithium Chloride	1–0.001 mg/l	Can be measured in field or laboratory by electrical conductivity or electrical resistivity. Smaller concentrations measured by atomic absorption spectroscopy.	Must use large amounts of salts if ordinary analytical methods are used.
Radioactive Isotopes Tritiated Water Iodine ion Many others	0.001 mg/l or lower	Can be used in such small quantities that no effect on physical and chemical properties of water occurs. Concentrations easily measured by sophisticated equipment. Cost of tritiated water very low.	May be radiation danger (not in case of tritiated water). Requires expensive detection equipment.
Detergents Alkylbenzol-sulfonates	0.05 mg/l	Easy to use, safe.	May be confused with sewage-related detergents. Material disperses aggregated soils thereby changing permeabilities.

tuosity is the special term applied to the length of the sinuous path followed by a fluid particle. Tortuosity is defined as the length of flow path divided by the overall length of sample. The arrival time of any contaminant depends partly on the tortuosity of its flowpath through the aquifer.

Measuring Groundwater Flow Velocities

Groundwater flow velocity can be measured by placing a tracer such as dye or salt in one well and noting the time of its arrival in a second well downgradient from the first. Tracers are used also to determine groundwater flow patterns, the age of groundwater, geologic and geophysical origin of groundwater, volume of water in an aquifer, and physical and chemical characteristics of an aquifer such as porosity, hydraulic conductivity, and dispersivity.

The ability of a tracer to indicate dispersion is particularly important because knowledge of the dilution rate of any contaminant is extremely important in assessing the severity of pollution problems. Except in karstic regions, dispersion of a contaminant usually results in a plume of contaminated water downgradient from the source (Figure 5.21). The width, depth, and spreading velocity of this plume can be determined by tracers.

The type of groundwater investigation followed will usually dictate which tracer should be used. But generally any tracer must be detectable in extremely low concentrations and must not react chemically or physically with the groundwater or the aquifer material. Table 5.5 lists some common types of tracers and their special uses.

Tracer analysis has improved greatly in recent years because new testing devices are capable of detecting extremely small concentrations of any chemical added to groundwater. Extensive tracer tests of an aquifer can yield valuable information concerning flow rates and other physical characteristics. But understanding the physical complexities of even small aquifers may be only partly achieved by tracer methods alone. A more thorough discussion of contaminants appears in Chapter 21.

MAR 28 2003 3:34 PM FR LOCKE LIDDELL 214 740 8800 TO 4937130331264 05 P.11/15

a contaminant anisotropic/isotropic properties of the rock medium, advection rate, hydrodynamic dispersion processes, and reaction potential with the subsurface materials. Therefore, underground movement of groundwater contaminants is often exceedingly difficult to analyze in a straightforward manner. Many sophisticated methods are now being used to determine contaminant movement, including special mathematical modeling techniques, electrical (surface resistivity) methods, radioactive tracers, various dyes and salts, water temperature, and baker's yeast (Davis et al., 1980). Some of these techniques are discussed later in this chapter.

DELINEATING CONTAMINANT PLUMES

Openings in rocks or unconsolidated materials are not regularly spaced, and the permeability of the aquifer material varies both vertically and horizontally (see Chapter 3). Thus, the flow of contaminants is highly anisotropic (Figure 21.5). In spite of these difficulties, it is necessary to estimate flow direction within the aquifer so that the source of contamination and the direction of plume movement can be determined.

Usually, the general direction of groundwater flow can be established on the basis of the local topography (use of topographic maps or aerial photos) and the presence of streams or rivers which act as groundwater discharge boundaries. Recall that near-surface groundwater flow will generally follow surface drainage patterns. If the flow direction cannot be established, three small-diameter wells are temporarily installed into the aquifer. An analysis of the relative water table or potentiometric surfaces in the wells will reveal the direction of flow (see Chapter 5 for details of this method). For anisotropic aquifers, however, the direction of flow may not be parallel to the hydraulic gradient (Fetter, 1981).

To determine the dimensions of a plume, test borings can be made and water samples taken. The danger of handling many chemicals, even those that are highly diluted, makes this a less desirable procedure than using some form of geophysical method to gain information on the plume. The use of geophysical techniques offers

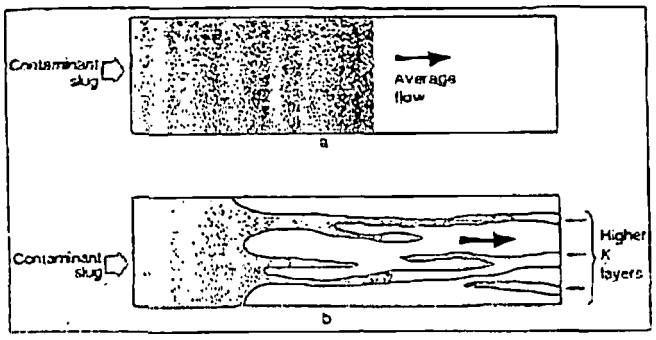


Figure 21.5. Comparison of the advance of contaminant zones influenced by hydrodynamic dispersion. (a) Partially homogeneous granular medium; (b) fingering caused by layered beds and lenses. (Freeze, R. Allan and Cherry, John A. GROUNDWATER. © 1979. Reprinted by permission of Prentice-Hall Inc., Englewood Cliffs, NJ)

several advantages: (1) the investigation can proceed rapidly with little danger to health, (2) the near-surface physical characteristics of the aquifer can be determined, and (3) the limits of the plume can be generally defined. At least one and preferably several test borings should be made at the site so the geophysical data can be correlated with data from the borings.

Three of the principal surface geophysical methods used for the reconnaissance of contamination plumes include electromagnetic induction (terrain conductivity), earth resistivity, and ground-penetrating radar. In many investigations, the data from more than one geophysical method are combined to give a clearer picture of both the stratigraphy and the extent of the plume (Taylor and Cherbauer, 1984). Terrain conductivity has proven to be especially useful in tracking hydrocarbon leaks in urban areas, because, unlike resistivity, no stakes need to be placed in the ground (Saunders, 1983). Thus, the use of terrain conductivity is ideal where pavement or structures cover the ground. Electromagnetic (EM) induction methods are often used to track acid mine drainage (Ladwig, 1983). This method is also used to map saltwater intrusion in coastal areas and to circumscribe the extent of hazardous waste sites (Rudy and Caolic, 1984).

Information on plume geometry can be obtained quickly by radar techniques, but interpretation of radar information is difficult for inexperienced personnel and must be correlated with data from strategically placed borings. The cost of a radar investigation is high relative to EM or resistivity methods because of instrument costs and data interpretation (Knowles et al., 1982).

Earth resistivity continues to be a popular device for plume detection, because its depth of detection is significantly greater than with either of the other two methods (Gilkeson and Cartwright, 1982). Furthermore, earth resistivity measurements are particularly sensitive to the amount of total dissolved solids in the pore fluids. Thus, resistivity readings indicate clearly the areal extent of contaminant plumes that are created by leachate from typical landfill sites. See Chapter 8 for a more detailed explanation of these instruments and others mentioned below.

Other surface methods that are useful in plume detection are magnetic techniques and seismic analysis (both refraction and reflection). Magnetometers are particularly useful in gauging the areal dimensions of a fill site by detecting the location of metal drums. But magnetometers will not indicate the depth of buried metal objects nor provide information on the stratigraphy of the site. In general, the magnetometer is only useful for locating the top of metal objects. Seismic refraction is advantageous in determining the stratigraphy, but only if the density of geologic materials increases with depth. It is especially useful in defining the limits of a hazardous waste site where exploratory drilling would be too dangerous (Knowles et al., 1982). Seismic refraction data also provide information on the location of buried bedrock surfaces, the depths to groundwater, and the lateral lithologic changes within the aquifer (Sendlein and Yazicigil, 1981). This information is helpful in delineating the potential plume dimensions. Data can be gathered much more quickly over a larger area by seismic methods than by test borings.

Several borehole geophysical methods are used in defining the extent of plumes; the most important of these are resistivity, conductivity, neutron, hole caliper, and temperature. Resistivity and conductivity values of the groundwater are affected by the contaminating substance and thus are an indication of the plume's presence at a

MAR 28 2003 3:34 PM FR LOCKE LIDDELL

dle. Gamma ray and other nuclear methods provide information on subsurface lithology, particularly zones that have high permeability. It can be expected that contaminant migration will be greatest in these zones. Hole calipers indicate the presence of solution channels penetrated by a borehole in hard terrains (Micham et al., 1984). Temperature logs are useful in tracing the movement of injected water in highly permeable zones and detecting any changes in flow rate over time (Keys and Brown, 1978).

MONITORING CONTAMINANT MOVEMENT (TRANSPORT)

In many instances of groundwater contamination, the ability to predict how the contaminant plume will behave in the future can only be done on the basis of expensive drilling and sampling programs. Many scientists interested in the movement of contaminants in the subsurface believe, however, that it will soon be possible to use mathematical modelling techniques to estimate the spread of a contaminant and its strength at any point in the plume. The steps or processes used to build the model are shown in Figure 21.6. Five basic steps are accomplished in sequence:

1. In the first step, the basic factors affecting contaminant transport are identified — hydraulic characteristics of the aquifer, the physical and chemical properties of the aquifer materials, and the chemical and physical properties of the contaminants entering the groundwater system.

2. The attenuating processes for single chemicals are established. Different chemicals will move at varying rates and therefore occur at different concentrations in the aquifer.

3. In the third step, a mathematical model is set up to account for the attenuation processes, and a method of solving the equation is determined.

4. Predictions are made on the basis of the answers obtained in Step 3 for the occurrence of the various contaminant concentrations in the aquifer at a particular time.

5. In the last step, the validity of the model is assessed by comparing the model's results to any known field data. If the results differ significantly, the various model inputs are adjusted to produce better correlation with the field data.

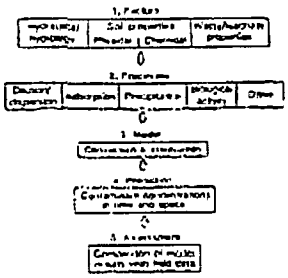


Figure 21.6. Steps in modelling landfill contaminant transport in soil. (After Foreshaw, 1981)

In this modeling process, the factors identified in Step 1 are the most difficult to determine. This is true because the construction of virtually all aquifers is highly complex, with little uniformity either vertically or horizontally. Thus, it is difficult to predict how fast the contaminants will move through the aquifer, at what depth, and over what area they will be dispersed within a certain time. Furthermore, the geochemical attenuation mechanisms for many chemicals are not thoroughly understood. For these reasons, some transport models have not

yielded good results, and field data are much more reliable. Many groundwater scientists are working on ways to improve model accuracy, however, and, because the use of a model can be so much less costly than field work in estimating plume dimensions and contaminant concentrations, the use of contaminant transport models will probably increase significantly in the future.

Even though the mathematical analysis and the complex geochemical relationships that are a fundamental part of any contaminant transport model may be beyond the experience of most drilling contractors, much of this information will probably be available as "canned" models adaptable to a wide range of geologic situations. The contractor or consulting hydrogeologist will then be able to use the models to define a cost-effective field drilling program. Results from the field data can then be used to calibrate the model for the specific site.

LOCATING MONITORING WELLS

Once the areal extent of the plume has been defined, several monitoring wells are installed in or adjacent to the plume. The purpose of a monitoring well is to (Lewis, 1982):

1. Determine the hydrogeologic properties of the formation in which the contaminant exists.
2. Determine the water table or potentiometric surface of all aquifers in the system.
3. Permit access for the collection of water-quality samples for detection of contaminants.
4. Monitor the movement of the contaminant plume.

Usually one well is sited near the center of the plume just downgradient from the contaminant source. Another well is installed downgradient of the contaminant source, outside the limits of the plume. For ambient environmental data, one well is placed upgradient of the contaminant source. Other wells may be installed to verify the amount of dispersion taking place. The most difficult decision is rarely where to place the monitoring wells, but at what depths should the samples be taken. Selection of the most appropriate depths will depend on the density of the contaminant, the anisotropic characteristics of the aquifer, and the slope of the water table or potentiometric surface. The design of the monitoring network is extremely important if maximum information concerning the extent of the contamination is to be obtained.

In the past, too few monitoring wells were required for each disposal site. Thus it was not possible to adequately monitor contaminant movement (Clark and Sabel, 1980). In practice, the number of wells required to adequately monitor a specific disposal site will vary greatly, depending on the local hydrogeology. If the disposal site is higher than the surrounding landscape, for example, leachates may flow some distance in all four directions. In this instance, at least four wells would be needed, plus one other to monitor the upgradient chemistry. Ideally, some wells would be installed at more than one depth in the aquifer to verify if vertical flow is occurring or if the spread of the contaminant varies at different depths. Proper placement of monitoring wells must be based on accurate information concerning the groundwater flow direction at the waste disposal site and the type of contaminant.

Although monitoring wells can be drilled by virtually any drilling method, some methods may be more suitable in certain situations. Table 21.5 lists the major methods used to install monitoring wells, and their advantages and disadvantages. For details

of each method, see Chapter 10.

For monitoring work, many of the objectives of a drilling program are similar to those for a water well, but some of the steps must be done with greater care to insure that the water quality is protected and reliable water samples can be obtained. Specific steps in monitoring well construction include (Lohdorff and Scalmanini, 1982):

1. Ability to penetrate all formation materials at a reasonable rate and to construct a borehole diameter of the proper size, assuring that cross-contamination will not occur.
2. Ability to provide accurate information on all the formations being drilled — either by cuttings, split-spoon samples, or sidewall cores.
3. Containment of cuttings and drilling fluids so they do not contaminate the formation.
4. Collection of water samples at various depths during drilling.
5. Ability to accommodate for lost-circulation problems, confining pressures, and flammable and toxic substances.
6. Construction of the monitoring well either during the drilling process or immediately thereafter.
7. Ability to maintain an open borehole long enough for geophysical exploration (if required) and data analysis.

Table 21.5 Drilling Methods for Monitoring Wells

Type	Advantages	Disadvantages
Hollow-stem auger	• No drilling fluid is used, eliminating contamination by drilling fluid additives • Formation water can be sampled during drilling by using a screened auger or advancing a well point ahead of the augers • Formation samples taken by split-spoon or core-barrel methods are highly accurate • Natural gamma-ray logging can be done inside the augers • Hole caving can be overcome by setting the screen and casing before the augers are removed • Fast • Rigs are highly mobile and can reach most drilling sites • Usually less expensive than rotary or cable tool drilling	• Can be used only in unconsolidated materials • Limited to depths of 100 to 150 ft (30.5 to 45.7 m) • Possible problems in controlling heaving sands • May not be able to run a complete suite of geophysical logs
Direct rotary	• Can be used in both unconsolidated and consolidated formations • Capable of drilling to any depth • Core samples can be collected • A complete suite of geophysical logs can be obtained in the open hole • Casing is not required during drilling • Many options for well construction • Fast • Smaller rigs can reach most drilling sites • Relatively inexpensive	• Drilling fluid is required and contaminants are circulated with the fluid • Drilling fluid mixes with the formation water and invades the formation and is sometimes difficult to remove • Bentonite fluids may absorb metals and may interfere with other parameters • Organic fluids may interfere with bacterial analyses and/or organic-related parameters • During drilling, no information can be obtained on the location of the water table and only limited information on water-producing zones. • Formation samples may not be accurate

Type	Advantages	Disadvantages
Air rotary	• No water-based drilling fluid is used, eliminating contamination by additives • Can be used in both unconsolidated and consolidated formations • Capable of drilling to any depth • Formation sampling is excellent in hard, dry formations • Formation water blown out of the hole makes it possible to determine when the first water-bearing zone is encountered • Field analysis of water blown from the hole can provide information regarding changes for some basic water-quality parameters such as chloride • Fast	• Casing is required to keep the hole open when drilling in soft, caving formations below the water table • When more than one water-bearing zone is encountered and hydraulic pressures are different, flow between zones occurs during the time drilling is being completed and before the borehole can be cased and grouted properly • Relatively more expensive than other methods • May not be economical for small jobs
Cable tool	• Only small amounts of drilling fluids are required (usually water with no additives) • Can be used in both unconsolidated and consolidated formations; well suited for extremely permeable formations • Can drill to depths required for most monitoring wells • Highly representative formation samples can be obtained by an experienced driller • Changes in water level can be observed • Relative permeabilities for different zones can be determined by skilled drillers • A good seal between casing and formation is virtually assured if flush-jointed casing is used • Rigs can reach most drilling sites • Relatively inexpensive	• Minimum casing size is 4 in (102 mm) • Steel casing must be used • Cannot run a complete suite of geophysical logs • Usually a screen must be set before a water sample can be taken • Slow

PERSONNEL SAFETY AT MONITORING SITES

Safety should be a primary concern of water well contractors engaged in drilling and constructing monitoring wells. Besides the usual physical hazards of normal drilling activities, chemical, biological, radiological, and explosive hazards are added when drilling monitoring wells. So many toxic chemicals have been placed in the ground, either accidentally or intentionally, that drillers must use extreme caution when drilling in areas of known or suspected waste sites. In the past, many extremely toxic chemicals were mixed indiscriminately into ordinary municipal waste streams. Even the innocent disposal by homeowners of many dangerous organic chemicals has led to their introduction into the groundwater system beneath sanitary landfills. Unfortunately, the exact location or the extent of many former waste disposal sites are not known with precision. Furthermore, many chemicals may appear to be harmless and any injury may be rather insignificant on a short-term basis. Yet long-term effects may be acute, causing premature death, unusual forms of cancer, or generally poor health (Wallace et al., 1982).

Some of the most significant dangers are:

1. Explosions from methane gas produced by the decay of organic materials in sanitary landfills. An explosion potential also exists in monitoring work involving hydrocarbon recovery.

Mack, Elizabeth E.

From: Mark Dalton [MDALTON@samson.com]
Sent: Wednesday, March 19, 2003 9:51 AM
To: Elizabeth E. Mack (emack@lockeliddell.com)
Subject: FW: Fwd: HYDRUS-2D Question

FYI.

Mark S. Dalton
Samson Companies
Office Phone...(918) 591-1369
Cell Phone.....(918) 671-5845
Pager.....(888) 444-7163
FAX.....(918) 591-7369
email.....mdalton@samson.com

-----Original Message-----
From: Rien VAN GENUCHTEN [mailto:RVANG@ussl.ars.usda.gov]
Sent: Friday, March 14, 2003 11:19 AM
To: Mark Dalton; Jirka SIMUNEK
Cc: mireks@pc-progress.cz
Subject: Re: Fwd: HYDRUS-2D Question

Yes, use a Kd<0. That is the classic way of doing things. Perhaps have a look also at CFITM, and especially CFITIM within STANMOD on our CD. CFITM runs without authorization. Example 3 deals with anion exclusion. Thanks.

Rien van Genuchten
George E. Brown, Jr. Salinity Laboratory, USDA-ARS
450 W. Big Springs Road
Riverside, CA 92507-4617
Tel: 909-369-4847

>>> Jirka SIMUNEK 03/14/03 08:54AM >>>
Mark,

There are two ways in which you can model anion exclusion using HYDRUS models.

1/ Both HYDRUS-1D and HYDRUS-2D implement mobile-immobile solute transport concept. Using this option you can specify which amount of the water content is excluded for solute transport. The pore velocities are then larger since Darcy flux is divided by mobile water content (instead of the total water content).

2/ In both codes there is no restriction on the value of the Kd adsorption coefficient. If Kd>0, the retardation coefficient is larger than 1 and solute is slowed down (retarded). If Kd<0, the retardation coefficient is smaller than 1 and solute is accelerated. One can use this option to model

anion exclusion, which typically shows retardation coefficients slightly smaller than one.

Best regards

Jirka

PS. Since this is an interesting question, we will post it in our HYDRUS discussion forum at www.pc-progress.cz. Let us know if you have an objection to that. Thanks.

>>> IGWMC <igwmc@Mines.EDU> 03/14/03 08:22AM >>>
Hi Jirka

Could you help this person?
Thanks,
Sophia

>From: Mark Dalton <MDALTON@samson.com>
>
>I am interested in modelling the percolation of a sodium-chloride brine
>from a surface pit to a shallow water table through clay soils, and need
>to know something about the Hydrus-2D model.
>
>Anion exclusion is the repulsion of the negatively charged ions
>(chloride,
>sulfate, bicarbonate) from the negatively charged clay particles which
>forces the anions into the macropores of the matrix. This phenomena
>results in incredibly fast travel times for some ions (like chloride)
>through the soils. Does the model take into account the anion exclusion
>effect? If so, how does it do it?
>
>For more information on this effect, see:
> * Thomas, G. W. and A.R. Swoboda. 1970. Anion exclusion effects on
> chloride movement in soil. Soil Sci. 110:163-166.
> * McMahon, M.A. and G.W. Thomas. 1974. Chloride and tritiated water
> flow in distrubed and undisturbed soil cores. Soil Sci. Soc. Amer. Proc.
> 38:727-732.
>A prompt answer would be appreciated.
>
>Mark S. Dalton
>Samson Companies
>Office Phone...(918) 591-1369
>Cell Phone.....(918) 671-5845
>Pager.....(888) 444-7163
>FAX.....(918) 591-7369 email.....mdalton@samson.com

FORT PECK TRIBES

Assiniboine & Sioux

Nathan Wiser
US EPA Region 8
999 18th Street - Suite 300
Denver, CO 80202-2466

March 27, 2003

Dear Sir;

Attached are the Fort Peck Assiniboine and Sioux Tribes' comment concerning the proposed withdrawal of Marathon Oil Company from the two Emergency Administrative Orders SDWA-08-2001-33 and SDWA-08-99-68. As Chairman of the Fort Peck Tribes, I am submitting these comments on behalf of the residents of the Fort Peck Reservation for you consideration.

Thank you for this opportunity to comment on this important issue.

Sincerely,

Arlyn Headdress
Chairman
Fort Peck Assiniboine & Sioux Tribes

RECEIVED
APR 01 2003
Office of Enforcement
Compliance & Environmental
Justice

Poplar, Montana 59255 P.O. Box 1027 (406) 768-5155

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

IN THE MATTER OF	)	
	)	
Marathon Oil Company,	)	Docket Nos. SDWA-08-2001-33
	)	& SDWA-08-99-68
Murphy Exploration and Production Company,	)	
	)	
Pioneer Natural Resources USA Incorporated, and	)	**FT. PECK COMMENTS ON NOTICE OF PROPOSED WITHDRAWAL OF PARTY**
	)	
Samson Hydrocarbons Company,	)	
	)	
Respondents	)	
	)	
	)	
East Poplar Oil Field Fort Peck Indian Reservation Montana	)	
	)	
Proceedings under Section 1431 (a) of the State Drinking Water Act, 42 U.S.C. § 300g-i(a)	)	

I. INTRODUCTION.

The Assiniboine & Sioux Tribes of the Fort Peck Reservation (hereinafter "Tribes") provide the following comments regarding the proposed withdrawal of Marathon Oil Company (hereinafter "Marathon") from the two above-captioned Emergency Administrative Orders (hereinafter "EAOs"). The Tribes oppose the proposed withdrawal.

It is ironic that just before the comment period closes a new report will be issued that may add substantially to knowledge about the complex geology and hydrology of this site. The Tribes urge that no action be taken on Marathon's request until this new evidence can be

RECEIVED
APR 0 1 2003
Office of Enforcement
Compliance & Environmental
Justice

assessed.

If EPA does decide to withdraw Marathon from the EAOs, it is essential that any release language used is written narrowly to insure that future information linking Marathon to contamination of the aquifer would trigger a future EAO and/or court action. Any such release language must be disclosed by EPA and be made available for comment.

Given that important new scientific evidence will soon add to our understanding of this site, and improperly releasing Marathon could preclude future EPA actions, EPA should devote its energies towards better defining and cleaning up the plumes that threatens the Tribes' members, not to prematurely excusing potentially responsible parties.

II. ARGUMENT.

A. The Proposed Withdrawal of Marathon is Premature.

Data are lacking to adequately characterize this complex site. About the time these comments are filed the Tribes anticipate that a new scientific report, which will provide important new information about the vicinity of the Marathon wells, will become available. The comment period should be extended so that this report can be assessed.

1. A new report will soon add considerably more site-specific information.

In general the geology in the vicinity of the Marathon wells is not well characterized. For example, all the hydraulic conductivity and transmissivity values used in Marathon's submittals are estimated values based on reference texts, not on site-specific measurements.

Land & Water Consulting, Inc. (hereinafter "Land & Water"), consultant to Murphy Exploration and Production Company, is about to present a report based on an electromagnetic

survey which will provide a much more detailed picture of the local geology and hydrology in the vicinity of the Marathon wells. Unlike Marathon's simpler analysis, the Land & Water report will include results from aquifer tests that provide site-specific data regarding critical aquifer characteristics such as hydraulic conductivity and transmissivity.

The Tribes have been informed that this report will be presented as soon as the week of March 24, 2003. Unfortunately, if this occurs, the Tribes will not be able to fully review the report in time to reflect the Land & Water report's contribution to local knowledge in its comments.

2. The Tribes urge EPA to withhold action until this new and better information can be applied to the Marathon wells.

In passing the Safe Drinking Water Act, Congress found that "safe drinking water is essential to the protection of public health." Public Law 104-182 (Section 3). EPA cannot uphold this Congressional objective by excusing potentially responsible parties based on incomplete information. The comment period should be extended so that EPA and the Tribes can assess this new evidence.

B. Any Potential Release Language Must Be Carefully Written to Avoid Excusing Marathon Even if Future Evidence Ties the Company to Contamination of the Aquifer.

The Notice of Proposed Withdrawal of Party provides no information about how EPA proposes to effect a withdrawal of Marathon, if EPA decides doing so would be appropriate. The Notice states that a withdrawal of Marathon "would not prevent EPA from reinstating Marathon as a Respondent should yet additional new information support reinstatement." Notice at 2. However, if the withdrawal is intended to be accompanied by any release

language, over-broad or inadequate release language could prevent a meritorious future effort to reinstate Marathon.

The Tribes must have an opportunity to review and comment on any release language. Therefore, if a proposed withdrawal of Marathon would include any form of release, that language must be disclosed and put out for comment.

C. Conclusion.

EPA's proposal to withdraw Marathon as a party to the EAOs is premature. It is based on new information that fails to fully characterize an incompletely known and complex local system. At the least EPA should delay any action until the forthcoming Land & Water report is available and can be assessed. If EPA does decide to go forward and withdraw Marathon as a party, any release language should be released for comment before withdrawal proceeds.

FOGNANI GUIBORD HOMSY & ROBERTS, LLP

CHICAGO
20 NORTH CLARK STREET
THIRTY-SECOND FLOOR
CHICAGO, ILLINOIS 60602
TELEPHONE: (312) 596-7777
FACSIMILE: (312) 596-7788

DENVER
1700 LINCOLN STREET
SUITE 2222
DENVER, COLORADO 80203
TELEPHONE: (303) 382-6200
FACSIMILE: (303) 382-6210
WWW.FGHR.COM

NEW YORK
1350 AVENUE OF THE AMERICAS
THIRTY-FIRST FLOOR
NEW YORK, NEW YORK 10019
TELEPHONE: (212) 974-0060
FACSIMILE: (212) 974-0648

March 31, 2003

VIA HAND DELIVERY

Mr. Nathan Wiser
United States Environmental Protection Agency
Office of Enforcement, Compliance and Environmental Justice
Technical Enforcement Program (8ENF-T)
999 18th Street, Suite 300
Denver, CO 80202-2466

Re: Comments Relating to Proposed Withdrawal of Marathon Oil Company from Two Emergency Administrative Orders Under Section 1431 of the Safe Drinking Water Act, Docket Nos. SDWA-08-99-68 and SDWA-08-2001-33

Dear Mr. Wiser:

Set forth herein are comments submitted on behalf of Marathon Oil Company ("Marathon") regarding the United States Environmental Protection Agency's ("EPA") proposal to withdraw Marathon as a party to the above-referenced Emergency Administrative Orders ("EAOs"). Marathon believes the proposal should be adopted because the record demonstrates overwhelming support for EPA's conclusion that Marathon did not contribute to the imminent and substantial threat to public health addressed by the EAOs. Consequently, EPA's proposal is fair, reasonable, in the public interest, and consistent with the letter and spirit of the Safe Drinking Water Act, 42 U.S.C. § 300i.

I. Background

EPA named Marathon, along with numerous other parties, in the two EAOs because it believed that Marathon – as successor to TXO Production Corporation – was responsible for contamination of groundwater in the East Poplar Oil Field. In particular, EPA believed that

RECEIVED
APR 01 2003
Office of Enforcement
Compliance & Environmental
Justice

releases of contaminants associated with oil production wells owned and operated by TXO on the Buckles lease between 1981 and 1984 contributed to contamination of groundwater.

After being named in the EAOs, Marathon conducted a painstaking review of the information and data in the administrative record, and engaged hydrologic and geotechnical consultants to evaluate the factual and technical bases for the Agency's allegations. Marathon presented the results of its review to EPA, and its presentation is part of the administrative record in this matter.

Marathon demonstrated in its presentation the basis for its contention that the factual and technical information in the administrative record was insufficient to support EPA's allegations. However, after considering Marathon's position, EPA nonetheless recommended that Marathon should conduct additional sampling and analysis. Marathon conducted the requested sampling and analysis which, indeed, verified its position. As discussed below, the evidence that was already in the record, in combination with new sampling data, provides more than adequate support for removing Marathon from the EAOs.

II. Discussion

A. Absence of Evidence Demonstrating Impacts from the Buckles Wells

EPA cited four reasons in its EAOs in support of its conclusion that releases on the Buckles lease contributed to groundwater contamination. Marathon analyzed these four reasons and demonstrated to EPA that there was no *actual evidence* that any releases from the Buckles lease could have created an imminent or substantial endangerment to human health. Moreover, Marathon cited monitoring well data and scientific modeling demonstrating that releases from the Buckles wells could not have contributed to groundwater contamination.

1. Potential Release of Contamination Along Well Casing

EPA alleged that construction activities associated with the Buckles SWD#1 well might have created a permanent channel behind the well casing that would have allowed groundwater to flow from the Judith River Formation along the casing into the Quaternary aquifer. *See* Emergency Administrative Order, ¶ 66. However, evidence in the record indicates that the potential for flow through this channel, which lasted no more than three days, was stopped by the injection of a cement plug. The competence and completeness of the plug was proven when the injected cement reached the surface of the casing. Thereafter, no further problems were noted by well operators, and there was no evidence of further channeling. Marathon also analyzed and presented EPA with hydrologic data – including regional groundwater flows, dispersion patterns, and data from down-gradient monitoring wells – which showed no indication of impacts to the Quaternary aquifer from the construction and operation of the Buckles SWD #1 well.

2. Brine Release

EPA alleged that leaks from the produced brine water pipeline might have contaminated the Quaternary aquifer. *See* Emergency Administrative Order, ¶ 67. In this regard, EPA cited an internal TXO memorandum recommending that the Buckles "A" # 1, Buckles "B" #2 and Buckles SWD wells should be plugged due to leaks in pipes caused by corrosive brine water. EPA believed this memorandum indicated that there had been an actual or threatened escape of fluids from the well into the Quaternary aquifer. *See* Emergency Administrative Order, ¶ 69. Yet there was no evidence regarding the magnitude of the produced water releases and, given the fact daily inspections took place, there is every indication that such releases were short-lived and of low quantity. Moreover, Marathon presented geologic data and modeling of potential chloride transport through the low permeability soils, based on conservative assumptions, indicating that the releases would not have impacted the Quaternary aquifer.

3. Hydrocarbon Release

EPA alleged that an overflow event in which a relatively small quantity of crude oil was spilled might have contaminated or endangered the aquifer. The event in question involved a spill of approximately the 200 barrels, all but ten of which were recovered. Marathon prepared a risk–based corrective action model of potential hydrocarbons leaching through 33 feet of low-permeability soils, based on conservative assumptions, demonstrating that impacts to groundwater would not threaten human health.

4. Contamination through Blasting Fractures

Finally, EPA alleged that blasting conducted as part of geologic seismic surveys could have fractured the Bear Paw Shale, located approximately 150-700 feet below ground surface, creating a conduit for water to travel from the Bear Paw shale into the Quaternary aquifer. To analyze this allegation, Marathon engaged a leading blasting expert who determined that the expected impact radius from seismic blasting would have been *15 feet*, which – even if multiplied – could not have created a connection though the hundreds of feet separating the Bear Paw from the Quaternary aquifer.

Marathon believes, based on the foregoing, that there is no reliable indication of a connection between Marathon's activities and any imminent and substantial endangerment to human health. Rather, any connection between the events and any endangerment is speculative at best, and any impacts from Marathon's activities would have been, at most, *de minimis*. In the absence of sufficient evidence in the administrative record to support the issuance of the EAOs against it, Marathon believes it should have been dismissed as a party from the orders. *See W.R Grace & Co. v. Environmental Protection Agency*, 261 F.3d 330, 338 (3rd Cir. 2001)(EPA must "articulate a rational connection" between the activity and an "imminent and substantial endangerment to human health" and cannot sustain its burden where the risk of harm is "remote

in time, completely speculative in nature, or *de minimis* in degree."). However, despite the evidence and analysis presented by Marathon, EPA was unwilling to release it from the orders without further proof. Thus, EPA urged Marathon to collect additional soil and groundwater samples from the Quaternary aquifer in the immediate vicinity of the Buckles lease in order to confirm Marathon's conclusions. Marathon complied with EPA's request.

B. New Sampling Information

Pursuant to EPA's recommendation, Marathon drilled two sampling holes to a depth of 67 feet and collected and analyzed the water it encountered. Analysis based on this new data supported Marathon's earlier conclusions based on prior data that there was no connection between activities on the Buckles lease and the Quarternary aquifer. In particular, as set forth in EPA's *Notice of Proposed Withdrawal of Party*, February 25, 2003, BTEX was not detected in the samples, and there was no significant detection of chloride ions typically associated with oil field waster water. Moreover, modeling indicated that the potential for vertical transport through the formation was minimal.

On behalf of Marathon, Hamp Mathews and Associates, Inc. ("HMA") has offered some technical comments on EPA's proposal respecting the new sampling information. See letter from HMA dated March 12, 2003, attached hereto as "Exhibit A." As well, HMA has addressed some issues raised with regard to the new sampling information submitted on behalf of Sampson Hydrocarbon Company by its counsel, the firm of Locke Liddell & Sapp. See letter from HMA dated March 31, 2003, attached hereto as "Exhibit B." In short, Marathon agrees with EPA's conclusion, based on the new data, that it is highly unlikely that activities at the Buckles lease could have caused or contributed to any imminent and substantial endangerment to the health of persons as addressed in the EAOs.

III. Conclusion

The evidence available at the time the EAOs were issued, at best, supported only a *speculation* that activities at the Buckles lease could have impacted groundwater and, even if they did, such impacts would have been *de minimis*. Available data and scientific modeling showed no actual impacts. In any event, subsequent testing have confirmed that the Buckles lease did not cause or contribute to any imminent and substantial threat.

EPA's approach in reaching a determination to release Marathon from the EAOs has been conservative, and the Agency has erred heavily on the side of caution. Marathon obtained

the additional information requested by EPA, which further solidified the Agency's decision. The Agency has concluded that Marathon should be released from the order, and there is no question that the Agency's proposal is just and proper and should be approved.

Respectfully submitted this 31st day of March 2003.

John D. Fognani, Esq.
R. Kirk Mueller, Esq.
FOGNANI GUIBORD HOMSY & ROBERTS, LLP
1700 Lincoln Street, Suite 2222
Denver, Colorado 80203
Telephone: (303) 382-6200
Facsimile: (303) 382-6210

JDF/rkm
Enclosures
cc w/enc.: Mr. Dave Carson
Mr. Steve Leifer
Mr. Scott DuBoff
Ms. Deb Madison
Ms. Elizabeth E. Mack

#18931v1

EXHIBIT A

HAMP, MATHEWS &
ASSOCIATES, INC.
15266 Ann Drive
Bath, Michigan 48808
(517) 641-7333
Fax (517) 641-7337

March 12, 2003

Mr. Nathan Wiser
U. S. Environmental Protection Agency
Region 8
999 18th Street, Suite 300
Denver, CO 80202-2466

8ENF-T

RE: U.S. EPA's Proposed Withdrawal of Marathon Oil Company from Emergency Administrative Orders Related to Groundwater Impacts Near East Poplar, Montana

Dear Mr. Wiser:

We have reviewed U.S. EPA's "Notice of Proposed Withdrawal of Party" related to alleged groundwater impacts in the East Poplar oil field. Based on this review, we offer the following comments.

Paragraphs 7 and 8 of the draft proposal state that three water zones were encountered at TXOSB-1 and two water zones were encountered at TXOSB-2. This should be clarified to state these zones correspond to water sample depths, not zones of geologic materials that yield water. Quaternary aquifer materials are continuously present at TXOSB-1 from approximately 39 to 64 feet and at TXOSB-2 from approximately 39 to 63 feet below grade.

Paragraph 10 summarizes our predictive modeling of chloride transport through the vadose zone materials above the Quaternary aquifer. Our model evaluation, based on the assumption of 33 feet of silty clay above the aquifer, was based on then-existing information from nearby monitoring wells. Based on the installation of TXOSB-1 and -2, more heterogeneous soil profiles were confirmed present. These are summarized as follows:

Hydrus 2-D Model	TXOSB-1	TXOSB-2
Silty Clay 0-33'	Sandy Clay 1-6'	Sandy Clay 1-21'
	Clay 6-19'	
	Silty Sand 19-21'	
	Sandy Clay 21-29'	
	Silt 29-31'	Silt 21-29'
	Sandy Clay 31-39'	Sandy Silt 29-39'

The above-summarized soil profiles are not sufficiently different to be deemed problematic. Each boring location at the former facility shows the presence of at least 20 feet of sandy clay above the Quaternary aquifer. Although the travel time through the unsaturated clayey soils may be less than indicated in the original model, a large proportion of the attenuation of chloride concentrations occurs in the upper few feet of the soil profile. We would still expect acceptable chloride concentrations reaching the groundwater. In either case, our original predictions of groundwater quality at the facility are clearly supported by the absence of groundwater impacts based on the confirmation samples. We only point this out in anticipation that the other parties subject to the EAO may attempt to diminish the effectiveness of our data presentation based on modeled conditions not comporting exactly to soil conditions revealed in soil boring TXOSB-1 and -2.

We appreciate the opportunity to provide this information to you. Please contact us with any questions you may have.

Sincerely,

Digitally signed by Lonn P. Hamp

Lonn P. Hamp, P.G.
Principal Hydrogeologist

EXHIBIT B

HAMP, MATHEWS &
ASSOCIATES, INC.
15266 Ann Drive
Bath, Michigan 48808
(517) 641-7333
Fax (517) 641-7337

March 31, 2003

Mr. Nathan Wiser
U. S. Environmental Protection Agency
Region 8
999 18th Street, Suite 300
Denver, CO 80202-2466

8ENF-T

RE: Response to Sampson Hydrocarbons Company Comments Regarding EPA's Notice of Proposed Withdrawal of Party from Emergency Administrative Orders (EAOs) SDWA 08-99-68 and SDWA 08-2001-33, East Poplar Oil Field, Poplar, Montana

Dear Mr. Wiser:

Hamp, Mathews and Associates, Inc. (HMA) is pleased to provide the following responses to comments transmitted to EPA by the law firm of Locke Liddell & Sapp (LLS) on behalf of Samson Hydrocarbons Company (Samson) in response to EPA's Notice of Proposed Withdrawal of Party (Notice).

Samson's comments revolve around what they deem are two central issues that should persuade EPA to not allow Marathon Oil Company (MOC) to withdraw from the EAOs. These include 1) placement of the soil borings for collection of groundwater samples at the former Buckles facility, and 2) inappropriate adsorption coefficients used to simulate chloride transport from alleged surface releases through surficial soils to the underlying Quaternary aquifer.

Soil Boring Placement

Careful consideration was given to the collection of groundwater samples at the former Buckles facility. This included a teleconference with you prior to completing the field work to ensure that HMA, MOC and EPA were in agreement as to rationale for boring placement and the methods considered appropriate by all parties to ensure collection of reliable groundwater samples from the Quaternary aquifer at the former facility.

Two soil boring locations were selected (i.e., one west and one south) near the former production and disposal wells. These locations were deemed appropriate because data present in the administrative record suggest that two interpretations of the groundwater flow direction are possible in the area of the former facility (i.e., westerly or more likely southerly).

Samson states that a local flow direction should have been determined at the facility by means of three monitoring wells. In our opinion, historical water level data from nearby wells (i.e., MOC-1B, PNR-12 and PNR-13) are sufficient to discern the probable groundwater flow direction in the area of the former Buckles wells. Triangulation of water level data from these three local wells shows a flow direction nearly due south. Even if the flow direction is primarily to the southwest as alleged by Samson, a significant release of brine causing endangerment to the drinking water aquifer probably would be sufficiently dispersed laterally to the principal transport direction to allow detection at the soil borings actually installed.[1] Hence, the installation of a soil boring south of the former facility is still deemed appropriate for the collection of reliable groundwater data that would indicate impacts to groundwater consistent with imminent and substantial endangerment.

Samson also alleges that the impacts from the former Buckles facility may be limited to the base of the Quaternary aquifer and that, due to the fact that groundwater samples were not collected immediately above the top of the Bear Paw Shale (i.e., 63-65 feet), brine impacts may be present but undetected. Review of our records shows that groundwater samples were collected within a screened interval five to 10 feet above the base of the Quaternary aquifer, not 10 feet as alleged by Samson. Nevertheless, any alleged brine releases migrating through the surficial soils would also migrate through the entire thickness of the Quaternary aquifer in order to accumulate by means of density contrasts at the base of the aquifer. As a consequence, the entire aquifer zone would show evidence of impacts. Data present in the Administrative record do not indicate any significant stratification of chloride concentrations in the Quaternary aquifer. The soil boring data collected by MOC clearly show an absence of brine impacts in the Quaternary aquifer from near the upper surface to depths within approximately five feet of the top of the Bear Paw Shale.

Hydrus-2D Modeling

HMA used a conservative adsorption coefficient (k_d) of zero in the Hydrus 2-D model to simulate any chloride transport through the surficial clay soils to the underlying Quaternary aquifer. Although a negative value may have been used, as suggested by Samson, the resulting simulation would have resulted only in a slightly faster chloride transport rate. Please note that the authors of Hydrus-2D state in their e-mail to Mr. Mark Dalton of Samson that a negative adsorption coefficient may be used to simulate anion exclusion. However, they also state that the retardation coefficients that result are only slightly smaller than one. HMA's use of an adsorption coefficient of zero is equivalent to a retardation coefficient of 1. In other words, we assumed that the chloride would not be attenuated in

[1] Please note the wide dispersion pattern of the chloride plume at the Biere well to the southwest.

the soil column due to adsorption. Because mechanical dispersion will remain as the primary control on chloride concentrations at the base of the clay soils, the estimated low concentrations of chloride are still deemed valid although the overall transport time may be less.

All parties should keep in mind that models are a predictive tool that should be confirmed by field evidence. Reasonable people can disagree as to the most appropriate model inputs for any given situation. Because MOC appropriately proceeded to the level of collecting confirmatory field data, less emphasis should be placed on the model because it is a predictive tool subject to the vagaries of hydrogeological interpretation. Results of the confirmation sampling should form the largest proportion of the weight of evidence.

Samson states that EM survey data show a positive correlation between surface pits and spills in Section 10. Review of EM survey data presented by the USGS (Thamke and Craigg, 1997), show EM anomalies in Section 10 and near the Biere well in Section 22. However, no anomalies are shown for the area of Section 22 occupied by the former Buckles facility. If, as stated by Samson, the EM survey is an accurate methodology for locating surficial soils impacted by brine, the data presented by the USGS supports the conclusion that significant brine releases did not occur at the former Buckles facility.

We appreciate the opportunity to provide this information to you. Please contact us with any questions you may have.

Sincerely,

Hamp, Mathews & Associates, Inc.

Digitally signed by Lonn P. Hamp

Lonn P. Hamp, P.G.
Principal Hydrogeologist

Ft. Peck Dismissal Stipulation & ORDER

1200 G Street N.W., Suite 600
Washington, D.C. 20005-3802
(202) 393-1200
(202) 393-1240 – Telefax

Wright & Talisman, P.C.

Fax

To:	Dave Carson	**From:**	Scott DuBoff
Fax:	303-312-7331	**Pages:**	3
Phone:		**Date:**	09/21/04
Re:		**Charge:**	709-1007

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

● Comments:

Please call to
Nathan
Steve.

THE INFORMATION CONTAINED IN THIS FACSIMILE IS ATTORNEY-CLIENT PRIVILEGED INFORMATION INTENDED ONLY FOR THE RECIPIENT. IF THE READER IS NOT THE RECIPIENT OR AN EMPLOYEE OR AUTHORIZED AGENT OF THE RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS FACSIMILE OR THE INFORMATION IN THIS DOCUMENT IS UNAUTHORIZED. IF YOU RECEIVED THIS FACSIMILE IN ERROR, PLEASE IMMEDIATELY NOTIFY US AT THE ABOVE TELEPHONE NUMBER AND RETURN ALL OF THE PAGES TO US AT THE ABOVE ADDRESS.

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

MURPHY EXPLORATION & PRODUCTION COMPANY, Petitioner, v. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, Respondent.	No. 02-9512

STIPULATION TO DISMISS

Pursuant to discussions held under Tenth Circuit Rule 33.1, Federal Rule of Appellate Procedure 42(b), and the agreement of the parties, the undersigned hereby stipulate that the above appeal may be dismissed with prejudice. Each party shall bear its own costs on appeal.

9-21-04

SCOTT M. DUBOFF, Esq.
Attorney for Petitioner
Murphy Exploration & Production Company

DAVID A. CARSON, Esq.
Attorney for Respondent
United States Environmental Protection Agency

CERTIFICATE OF SERVICE

I hereby certify that I have this 21st day of September 2004, caused a copy of the foregoing Stipulation To Dismiss to be served by delivering a copy thereof to the U.S. Postal Service with postage prepaid and addressed as follows:

David A. Carson, Senior Trial Counsel
Environmental Defense Section
U.S. Department of Justice
999 18th Street
Suite 945 North Tower
Denver, Colorado 80202

Scott M. DuBoff
WRIGHT & TALISMAN, P.C.
1200 G Street, N.W., Suite 600
Washington, D.C. 20005
(202) 393-1200

General Counsel
Environmental Protection Agency
Region VIII
999 18th St.
Suite 500
Denver, CO 80202-2466

United States Court of Appeals for the Tenth Circuit

OFFICE OF THE CLERK

Byron White United States Courthouse
1823 Stout Street
Denver, Colorado 80257
(303)844-3157

Patrick J. Fisher, Jr.
Clerk of Court

Douglas E. Cressler
Chief Deputy Clerk

September 23, 2004

Mr. David Carson
United States Environmental Protection Agency--Region 8
Legal Enforcement Program (ENF-L)
999 18th Street
Denver, CO 80202-2466

General Counsel
Environmental Protection Agency
Region VIII
999 18th St.
Suite 500
Denver, CO 80202-2466

Mr. Scott M. DuBoff
Wright & Talisman
1200 G Street, N.W.
Suite 600
Washington, DC 20005-3802

Re: 02-9512, Murphy Exploration v. EPA
Dist/Ag docket: SDWA-8-2001-33,

Dear Counsel:

The court filed an order today dismissing this case. A copy of the order is enclosed for all parties.

Also enclosed for the named agency, is a certified copy of the dismissal order which is issued as the mandate of the court. Please file it in the records of the district court or agency.

The agency is requested to acknowledge receipt of this mandate by file stamping and returning the enclosed copy of this letter. Any original record will be returned to you at a later date.

Please contact this office if you have questions.

Sincerely,

PATRICK FISHER
Clerk

By: O. Lowell
Deputy Clerk

PF:lg

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

MURPHY EXPLORATION & PRODUCTION COMPANY, Petitioner, v. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, Respondent.	No. 02-9512 (D.C. No. SDWA-8-2001-33)

ORDER
Filed September 23, 2004

In accordance with Rule 33.1, Rules of the Tenth Circuit, and upon consideration of the stipulation to dismiss this appeal,

IT IS ORDERED that the above appeal be and it hereby is dismissed pursuant to Rule 42(b), Federal Rules of Appellate Procedure. Each party shall bear its own costs on appeal. A certified copy of this order shall stand as and for the mandate of the court.

Entered for the Court

PATRICK FISHER, Clerk

by: Lisa Gallegos
Deputy Clerk

U.S. Department of Justice

Environment and Natural Resources Division

LJG:DAC
90-5-1-7-16553

David A. Carson
Environmental Defense Section
999 18th Street
Suite 945 North Tower
Denver, CO 80202

Telephone (303) 312-7309
Facsimile (303) 312-7331

July 21, 2004

John D. Fognani, Esq.
Fognani Guibord & Homsy, LLP
1700 Lincoln Street
Suite 2222
Denver, Colorado 80203

Re: Marathon Oil Co. v. EPA, Appeal No. 01-9543

Dear John:

As requested, enclosed please find two original signed copies of the Settlement Agreement with Conditional Release of Marathon. Please note that you have 10 business days from July 20 to move to dismiss the Petition for Review with prejudice. In that regard, I also enclose a signed copy of the Stipulation to dismiss that David Aemmer's office prepared for the parties.

Please do not to hesitate to call me directly at (303) 312-7309 if you have any questions. Thanks for your efforts. It is good to have this concluded.

Sincerely,

David A. Carson, Senior Counsel
Environmental Defense Section

cc: Jim Eppers
Steven Moores
Nathan Wiser

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

MARATHON OIL COMPANY, Petitioner, v. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, Respondent	No. 01-9543

STIPULATION TO DISMISS

Pursuant to discussions held under Tenth Circuit Rule 33.1, Federal Rule of Appellate Procedure 42(b), and the agreement of the parties, the undersigned hereby stipulate that the above appeal may be dismissed with prejudice. Each party shall bear its own costs on appeal.

JOHN D. FOGNANI, Esq.
Attorney for Petitioner
Marathon Oil Company

DAVID A. CARSON, Esq.
Attorney for Respondent
United States Environmental Protection Agency

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2004 JUL 20 PM 1:40

IN THE MATTER OF: Marathon Oil Company, Murphy Exploration and Production Co., Pioneer Natural Resources USA, Inc., and Samson Hydrocarbons Co., Respondents. East Poplar Oil Field Fort Peck Indian Reservation Montana Proceedings under Section 1431(a) of the Safe Drinking Water Act, 42 U.S.C. §300g-i(a)	)	Docket No. **SDWA-8-99-68** **SDWA-08-2001-33** EPA REGION VIII HEARING CLERK **Settlement Agreement with Conditional Release of Respondent Marathon**

WHEREAS, the United States Environmental Protection Agency, Region 8 ("EPA") issued two unilateral Emergency Administrative Orders (each an "EAO" and collectively the "EAOs") under Section 1431(a) of the Safe Drinking Water Act ("SDWA"), docket numbers SDWA-8-99-68 and SDWA-08-2001-33, as amended, concerning contamination of an underground source of drinking water ("USDW") in the East Poplar Oil Field ("Oil Field") on the Fort Peck Indian Reservation in northeastern Montana;

WHEREAS, Marathon Oil Company ("Marathon") was a Respondent to the EAOs based on alleged activities of Marathon's predecessor, TXO Production Corporation (referred to herein collectively with Marathon as "Marathon);

WHEREAS, Marathon filed a Petition for Review of First Amended Administrative Emergency Order, Docket No. SDWA-08-2001-33 ("Petition for Review") in the United States Court of Appeals for the Tenth Circuit;

WHEREAS, the Petition for Review is now pending in the Tenth Circuit;

NOW THEREFORE, EPA and Marathon have entered into this Settlement Agreement with Conditional Release of Respondent Marathon ("Settlement Agreement") and agree as follows:

1. Based on information presented to EPA by Marathon detailing the results of investigations it conducted related to contamination of the USDW at the Oil Field, EPA has determined that Marathon should be released from the EAOs.

2. EPA hereby releases Marathon from the EAOs.

3. If, after execution of this Settlement Agreement, EPA receives new or additional information regarding contamination of the USDW at the Oil Field indicating it would be appropriate to take administrative or judicial action against Marathon under section 1431 of the Safe Drinking Water Act or any other applicable provision of law, EPA hereby reserves its right to do so.

4. Within ten (10) business days after issuance and execution of this Settlement Agreement, Marathon will move to dismiss with prejudice its Petition for Review.

5. This Settlement Agreement does not constitute a waiver, suspension, or modification of the requirements of any federal or state statute, regulation, or condition of any permit issued thereunder, including the requirements of the SDWA, which remain in full force and effect.

6. EPA and Marathon agree to bear their own costs and attorneys fees in connection

with this matter, including all administrative and judicial proceedings to date.

7. Each of the undersigned representatives of the parties to this Settlement Agreement certifies that he or she is fully authorized by the party represented to execute and legally bind the party to the terms and conditions of the Settlement Agreement.

FOR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY:

Elisabeth Evans

Date: 7/20, 2004

ELISABETH EVANS, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice
United States Environmental Protection Agency, Region 8

Michael T. Brown for

Date: 7/20, 2004

DAVID J. JANIK, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice
United States Environmental Protection Agency, Region 8

Date: 7/20, 2004

DAVID A. CARSON
United States Department of Justice
Environment and Natural Resources Division
Suite 945 – North Tower
999 18th Street
Denver, Colorado 80202
(303) 388-7362

FOR MARATHON OIL COMPANY:

Edward A. Strenkowski

EDWARD A. STRENKOWSKI, Esq.
Marathon Oil Company
5555 San Felipe Road
Houston, Texas 77352-3128

Date: July 12, 2004

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2004 JUL 20 PM 1:40

IN THE MATTER OF: Marathon Oil Company, Murphy Exploration and Production Co., Pioneer Natural Resources USA, Inc., and Samson Hydrocarbons Co., Respondents. East Poplar Oil Field Fort Peck Indian Reservation Montana Proceedings under Section 1431(a) of the Safe Drinking Water Act, 42 U.S.C. §300g-i(a)	)	Docket No. SDWA-8-99-68 SDWA-08-2001-33 **Settlement Agreement with Conditional Release of Respondent Marathon**

WHEREAS, the United States Environmental Protection Agency, Region 8 ("EPA") issued two unilateral Emergency Administrative Orders (each an "EAO" and collectively the "EAOs") under Section 1431(a) of the Safe Drinking Water Act ("SDWA"), docket numbers SDWA-8-99-68 and SDWA-08-2001-33, as amended, concerning contamination of an underground source of drinking water ("USDW") in the East Poplar Oil Field ("Oil Field") on the Fort Peck Indian Reservation in northeastern Montana;

WHEREAS, Marathon Oil Company ("Marathon") was a Respondent to the EAOs based on alleged activities of Marathon's predecessor, TXO Production Corporation (referred to herein collectively with Marathon as "Marathon);

WHEREAS, Marathon filed a Petition for Review of First Amended Administrative Emergency Order, Docket No. SDWA-08-2001-33 ("Petition for Review") in the United States Court of Appeals for the Tenth Circuit;

WHEREAS, the Petition for Review is now pending in the Tenth Circuit;

NOW THEREFORE, EPA and Marathon have entered into this Settlement Agreement with Conditional Release of Respondent Marathon ("Settlement Agreement") and agree as follows:

1. Based on information presented to EPA by Marathon detailing the results of investigations it conducted related to contamination of the USDW at the Oil Field, EPA has determined that Marathon should be released from the EAOs.

2. EPA hereby releases Marathon from the EAOs.

3. If, after execution of this Settlement Agreement, EPA receives new or additional information regarding contamination of the USDW at the Oil Field indicating it would be appropriate to take administrative or judicial action against Marathon under section 1431 of the Safe Drinking Water Act or any other applicable provision of law, EPA hereby reserves its right to do so.

4. Within ten (10) business days after issuance and execution of this Settlement Agreement, Marathon will move to dismiss with prejudice its Petition for Review.

5. This Settlement Agreement does not constitute a waiver, suspension, or modification of the requirements of any federal or state statute, regulation, or condition of any permit issued thereunder, including the requirements of the SDWA, which remain in full force and effect.

6. EPA and Marathon agree to bear their own costs and attorneys fees in connection

with this matter, including all administrative and judicial proceedings to date.

7. Each of the undersigned representatives of the parties to this Settlement Agreement certifies that he or she is fully authorized by the party represented to execute and legally bind the party to the terms and conditions of the Settlement Agreement.

FOR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY:

Elisabeth Evans

Date: 7/20, 2004

ELISABETH EVANS, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice
United States Environmental Protection Agency, Region 8

Michael T. Rainey

Date: 7/20, 2004

DAVID J. JANIK, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice
United States Environmental Protection Agency, Region 8

Date: 7/20, 2004

DAVID A. CARSON
United States Department of Justice
Environment and Natural Resources Division
Suite 945 – North Tower
999 18th Street
Denver, Colorado 80202
(303) 388-7362

FOR MARATHON OIL COMPANY:

Edward A. Strenkowski

EDWARD A. STRENKOWSKI, Esq.
Marathon Oil Company
5555 San Felipe Road
Houston, Texas 77352-3128

Date: July 12, 2004

U.S. Department of Justice

Environment and Natural Resources Division

LJG:DAC
90-5-1-7-16553

David A. Carson
Environmental Defense Section
999 18th Street
Suite 945 North Tower
Denver, CO 80202

Telephone (303) 312-7309
Facsimile (303) 312-7331

July 23, 2004

John D. Fognani, Esq.
Fognani Guibord & Homsy, LLP
1700 Lincoln Street
Suite 2222
Denver, Colorado 80203

Re: Marathon Oil Co. v. EPA, Appeal No. 01-9543

Dear John:

As requested, enclosed please find a copy of the Administrative Order on Consent between EPA, Murphy, Pioneer and Samson.

Sincerely,

David A. Carson, Senior Counsel
Environmental Defense Section

enclosure

cc: (w/out encl.)
Jim Eppers
Steven Moores
Nathan Wiser

U.S. Department of Justice

Environment and Natural Resources Division

LJG : DAC

David A. Carson
Environmental Defense Section
999 18th Street
Suite 945 North Tower
Denver, CO 80202

Telephone (303) 312-7309
Facsimile (303) 312-7331

July 23, 2004

via federal express

Scott M. DuBoff
Wright & Talisman, P.C.
1200 G. Street, N.W.
Suite 600
Washington, D.C. 20005-3802

Re: Murphy Tenth Circuit appeal

Dear Scott:

Enclosed please find the Stipulation for Dismissal for the Murphy case, which I have signed on behalf of EPA. Please sign it for Murphy, file it with the court and serve me with a copy.

Also enclosed is a copy of the Marathon release.

Please do not hesitate to call me directly at (303) 312-7309 if you have any questions. I appreciate all your hard work in helping to resolve this matter.

Sincerely,

David A. Carson, Senior Trial Counsel
Environmental Defense Section

enclosure

cc: James Eppers
Steven Moores
Nathan Wiser

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

MURPHY EXPLORATION & PRODUCTION COMPANY, Petitioner, v. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, Respondent.	No. 02-9512

STIPULATION TO DISMISS

Pursuant to discussions held under Tenth Circuit Rule 33.1, Federal Rule of Appellate Procedure 42(b), and the agreement of the parties, the undersigned hereby stipulate that the above appeal may be dismissed with prejudice. Each party shall bear its own costs on appeal.

SCOTT M. DUBOFF, Esq.
Attorney for Petitioner
Murphy Exploration & Production Company

DAVID A. CARSON, Esq.
Attorney for Respondent
United States Environmental Protection Agency

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2004 JUL 23 PM 1:40

IN THE MATTER OF: Marathon Oil Company, Murphy Exploration and Production Co., Pioneer Natural Resources USA, Inc., and Samson Hydrocarbons Co., Respondents. East Poplar Oil Field Fort Peck Indian Reservation Montana Proceedings under Section 1431(a) of the Safe Drinking Water Act, 42 U.S.C. §300g-i(a)	)	Docket No. **SDWA-8-99-68** **SDWA-08-2001-33** **Settlement Agreement with Conditional Release of Respondent Marathon**

WHEREAS, the United States Environmental Protection Agency, Region 8 ("EPA") issued two unilateral Emergency Administrative Orders (each an "EAO" and collectively the "EAOs") under Section 1431(a) of the Safe Drinking Water Act ("SDWA"), docket numbers SDWA-8-99-68 and SDWA-08-2001-33, as amended, concerning contamination of an underground source of drinking water ("USDW") in the East Poplar Oil Field ("Oil Field") on the Fort Peck Indian Reservation in northeastern Montana;

WHEREAS, Marathon Oil Company ("Marathon") was a Respondent to the EAOs based on alleged activities of Marathon's predecessor, TXO Production Corporation (referred to herein collectively with Marathon as "Marathon);

WHEREAS, Marathon filed a Petition for Review of First Amended Administrative Emergency Order, Docket No. SDWA-08-2001-33 ("Petition for Review") in the United States Court of Appeals for the Tenth Circuit;

WHEREAS, the Petition for Review is now pending in the Tenth Circuit;

NOW THEREFORE, EPA and Marathon have entered into this Settlement Agreement with Conditional Release of Respondent Marathon ("Settlement Agreement") and agree as follows:

1. Based on information presented to EPA by Marathon detailing the results of investigations it conducted related to contamination of the USDW at the Oil Field, EPA has determined that Marathon should be released from the EAOs.

2. EPA hereby releases Marathon from the EAOs.

3. If, after execution of this Settlement Agreement, EPA receives new or additional information regarding contamination of the USDW at the Oil Field indicating it would be appropriate to take administrative or judicial action against Marathon under section 1431 of the Safe Drinking Water Act or any other applicable provision of law, EPA hereby reserves its right to do so.

4. Within ten (10) business days after issuance and execution of this Settlement Agreement, Marathon will move to dismiss with prejudice its Petition for Review.

5. This Settlement Agreement does not constitute a waiver, suspension, or modification of the requirements of any federal or state statute, regulation, or condition of any permit issued thereunder, including the requirements of the SDWA, which remain in full force and effect.

6. EPA and Marathon agree to bear their own costs and attorneys fees in connection

with this matter, including all administrative and judicial proceedings to date.

7. Each of the undersigned representatives of the parties to this Settlement Agreement certifies that he or she is fully authorized by the party represented to execute and legally bind the party to the terms and conditions of the Settlement Agreement.

FOR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY:

Elisabeth Evans

Date: 7/20, 2004

ELISABETH EVANS, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice
United States Environmental Protection Agency, Region 8

Michael T. Brown

Date: 7/20, 2004

DAVID J. JANIK, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice
United States Environmental Protection Agency, Region 8

Date: 7/20, 2004

DAVID A. CARSON
United States Department of Justice
Environment and Natural Resources Division
Suite 945 – North Tower
999 18th Street
Denver, Colorado 80202
(303) 388-7362

FOR MARATHON OIL COMPANY:

Edward A. Strenkowski

Date: July 12, 2004

EDWARD A. STRENKOWSKI, Esq.
Marathon Oil Company
5555 San Felipe Road
Houston, Texas 77352-3128

U.S. Department of Justice

Environment and Natural Resources Division

LJG : DAC

David A. Carson
Environmental Defense Section
999 18th Street
Suite 945 North Tower
Denver, CO 80202

Telephone (303) 312-7309
Facsimile (303) 312-7331

July 23, 2004

via federal express

Elizabeth E. Mack
Locke Lidell, & Sapp, L.L.C.
2200 Ross Avenue
Suite 2200
Dallas, Texas 75201-6776

Re: Samson Tenth Circuit appeals

Dear Elizabeth:

Enclosed please find the Stipulations for Dismissal for the Samson cases, which I have signed on behalf of EPA. Please sign them for Samson, file them with the court and serve me with a copy of each one.

Also enclosed is a copy of the Marathon release.

Please do not hesitate to call me directly at (303) 312-7309 if you have any questions. I appreciate all your efforts in helping to resolve this matter.

Sincerely,

David A. Carson, Senior Trial Counsel
Environmental Defense Section

enclosure

cc: James Eppers
Steven Moores
Nathan Wiser

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

SAMSON INVESTMENT COMPANY and SAMSON HYDROCARBONS COMPANY, Petitioners, v. ENVIRONMENTAL PROTECTION AGENCY, Respondent.	No. 01-9500

STIPULATION TO DISMISS

Pursuant to discussions held under Tenth Circuit Rule 33.1, Federal Rule of Appellate Procedure 42(b), and the agreement of the parties, the undersigned hereby stipulate that the above appeal may be dismissed with prejudice. Each party shall bear its own costs on appeal.

ELIZABETH E. MACK, Esq.
Attorney for Petitioners
Samson Investment Company and Samson Hydrocarbons Company

DAVID A. CARSON, Esq.
Attorney for Respondent
United States Environmental Protection Agency

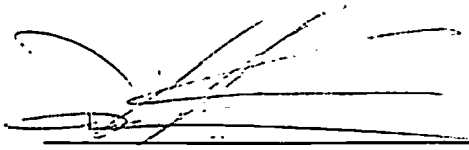
UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

SAMSON HYDROCARBONS COMPANY, Petitioner, v. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, Respondent.	Nos. 02-9510 02-9511

STIPULATION TO DISMISS

Pursuant to discussions held under Tenth Circuit Rule 33.1, Federal Rule of Appellate Procedure 42(b), and the agreement of the parties, the undersigned hereby stipulate that the above appeals may be dismissed with prejudice. Each party shall bear its own costs on appeal.



ELIZABETH E. MACK, Esq.
Attorney for Petitioner
Samson Hydrocarbons Company

DAVID A. CARSON, Esq.
Attorney for Respondent
United States Environmental Protection Agency

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2004 JUL 20 PM 1:40

IN THE MATTER OF: Marathon Oil Company, Murphy Exploration and Production Co., Pioneer Natural Resources USA, Inc., and Samson Hydrocarbons Co., Respondents. East Poplar Oil Field Fort Peck Indian Reservation Montana Proceedings under Section 1431(a) of the Safe Drinking Water Act, 42 U.S.C. §300g-i(a)	Docket No. **SDWA-8-99-68** **SDWA-08-2001-33** **Settlement Agreement with Conditional Release of Respondent Marathon**

WHEREAS, the United States Environmental Protection Agency, Region 8 ("EPA") issued two unilateral Emergency Administrative Orders (each an "EAO" and collectively the "EAOs") under Section 1431(a) of the Safe Drinking Water Act ("SDWA"), docket numbers SDWA-8-99-68 and SDWA-08-2001-33, as amended, concerning contamination of an underground source of drinking water ("USDW") in the East Poplar Oil Field ("Oil Field") on the Fort Peck Indian Reservation in northeastern Montana;

WHEREAS, Marathon Oil Company ("Marathon") was a Respondent to the EAOs based on alleged activities of Marathon's predecessor, TXO Production Corporation (referred to herein collectively with Marathon as "Marathon);

WHEREAS, Marathon filed a Petition for Review of First Amended Administrative Emergency Order, Docket No. SDWA-08-2001-33 ("Petition for Review") in the United States Court of Appeals for the Tenth Circuit;

WHEREAS, the Petition for Review is now pending in the Tenth Circuit;

NOW THEREFORE, EPA and Marathon have entered into this Settlement Agreement with Conditional Release of Respondent Marathon ("Settlement Agreement") and agree as follows:

1. Based on information presented to EPA by Marathon detailing the results of investigations it conducted related to contamination of the USDW at the Oil Field, EPA has determined that Marathon should be released from the EAOs.

2. EPA hereby releases Marathon from the EAOs.

3. If, after execution of this Settlement Agreement, EPA receives new or additional information regarding contamination of the USDW at the Oil Field indicating it would be appropriate to take administrative or judicial action against Marathon under section 1431 of the Safe Drinking Water Act or any other applicable provision of law, EPA hereby reserves its right to do so.

4. Within ten (10) business days after issuance and execution of this Settlement Agreement, Marathon will move to dismiss with prejudice its Petition for Review.

5. This Settlement Agreement does not constitute a waiver, suspension, or modification of the requirements of any federal or state statute, regulation, or condition of any permit issued thereunder, including the requirements of the SDWA, which remain in full force and effect.

6. EPA and Marathon agree to bear their own costs and attorneys fees in connection

with this matter, including all administrative and judicial proceedings to date.

7. Each of the undersigned representatives of the parties to this Settlement Agreement certifies that he or she is fully authorized by the party represented to execute and legally bind the party to the terms and conditions of the Settlement Agreement.

FOR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY:

Elisabeth Evans

Date: 7/20, 2004

ELISABETH EVANS, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice
United States Environmental Protection Agency, Region 8

Michael T. Brown

Date: 7/20, 2004

DAVID J. JANIK, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice
United States Environmental Protection Agency, Region 8

Date: 7/20, 2004

DAVID A. CARSON
United States Department of Justice
Environment and Natural Resources Division
Suite 945 – North Tower
999 18th Street
Denver, Colorado 80202
(303) 388-7362

FOR MARATHON OIL COMPANY:

Edward A. Strenkowski

Date: July 12, 2004

EDWARD A. STRENKOWSKI, Esq.
Marathon Oil Company
5555 San Felipe Road
Houston, Texas 77352-3128

United States Court of Appeals for the Tenth Circuit
OFFICE OF THE CLERK
Byron White United States Courthouse
1823 Stout Street
Denver, Colorado 80257
(303)844-3157

Patrick J. Fisher, Jr.
Clerk of Court

August 3, 2004

RECEIVED
AUG 05 2004
Office of Enforcement
Compliance & Environmental
Justice

General Counsel
Environmental Protection Agency
401 M Street, N.W.
Washington, DC 20460

Mr. John D. Fognani
Ms. Lauren C. Buehler
Fognani Guibord Homsy & Roberts
555 17th St.
26th Flr.
Denver, CO 80202

Jim Eppers, Mr.
U.S. Environmental Protection Agency
Region VIII
999 18th St.
#300
Denver, CO 80202-2466

Mr. David A. Carson
United States Department of Justice
999 18th Street
Suite 945N
Denver, CO 80202

Re: 01-9543, Marathon Oil Company v. EPA
Dist/Ag docket: SDWA-08-2001-33,

Dear Counsel:

The court filed an order today dismissing this case. A copy of the order is enclosed for all parties.

Also enclosed for the United States Environmental Protection Agency, is a certified copy of the dismissal order which is issued as the mandate of the court. Please file it in the records of the agency.

The agency is requested to acknowledge receipt of this mandate by file stamping and returning the enclosed copy of this letter.

Please contact this office if you have questions.

Sincerely,

PATRICK FISHER
Clerk

By: Opal A. Carter
Deputy Clerk

PF:oac

U.S. Department of Justice

Environment and Natural Resources Division

LJG:DAC
90-5-1-7-16553

David A. Carson
Environmental Defense Section
999 18th Street
Suite 945 North Tower
Denver, CO 80202

Telephone (303) 312-7309
Facsimile (303) 312-7331

August 10, 2004

Patrick J. Fisher, Jr.
Clerk of Court
United States Court of Appeals
for the Tenth Circuit
Byron White United States Courthouse
1823 Stout Street
Denver, Colorado 80257

Re: Marathon Oil Co. v. EPA, Appeal No. 01-9543

Dear Mr. Fisher:

Pursuant to your request, enclosed please find a copy of the Court's mandate in the above referenced case which the United States Environmental Protection Agency has file stamped.

Sincerely,

David A. Carson, Senior Counsel
Environmental Defense Section

enclosure

cc: Jim Eppers
Steven Moores
Nathan Wiser

U.S. Department of Justice

Environment and Natural Resources Division

LJG:DAC
90-5-1-7-16553

David A. Carson
Environmental Defense Section
999 18th Street
Suite 945 North Tower
Denver, CO 80202

Telephone (303) 312-7309
Facsimile (303) 312-7331

October 1, 2004

Patrick J. Fisher, Jr.
Clerk of Court
United States Court of Appeals
for the Tenth Circuit
Byron White United States Courthouse
1823 Stout Street
Denver, Colorado 80257

Re: Samson Investment Co. v. EPA, No. 01-9500; Samson Hydrocarbons Co. v. EPA, No. 02-9510; Murphy Exploration and Production Co. v. EPA, No. 02-9512

Dear Mr. Fisher:

Pursuant to your request, enclosed please find a copy of the Court's mandate in each of the above referenced cases which the United States Environmental Protection Agency has file stamped.

Sincerely,

David A. Carson, Senior Counsel
Environmental Defense Section

enclosures

cc: Jim Eppers
Steven Moores
Nathan Wiser

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

RECEIVED
SEP 30 2004
ECEJ-TEP

SAMSON INVESTMENT COMPANY and SAMSON HYDROCARBONS COMPANY, Petitioners, v. ENVIRONMENTAL PROTECTION AGENCY, Respondent.	No. 01-9500 (D.C. No. SDWA-8-99-68)

ORDER

Filed September 24, 2004

In accordance with Rule 33.1, Rules of the Tenth Circuit, and upon consideration of the stipulation to dismiss this appeal,

IT IS ORDERED that the above appeal be and it hereby is dismissed pursuant to Rule 42(b), Federal Rules of Appellate Procedure. Each party shall bear its own costs on appeal. A certified copy of this order shall stand as and for the mandate of the court.

Entered for the Court

PATRICK FISHER, Clerk

by: Audrey H. Siegel
Deputy Clerk

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

RECEIVED
SEP 30 2004
ECEJ-TEP

SAMSON HYDROCARBONS COMPANY,

Petitioner,

v.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY,

Respondent.

Nos. 02-9510
02-9511
(D.C. No. SDWA-8-2001-33)

ORDER

Filed September 24, 2004

In accordance with Rule 33.1, Rules of the Tenth Circuit, and upon consideration of the stipulation to dismiss these appeals,

IT IS ORDERED that the above appeals be and hereby are dismissed pursuant to Rule 42(b), Federal Rules of Appellate Procedure. Each party shall bear its own costs on appeal. A certified copy of this order shall stand as and for the mandate of the court.

Entered for the Court

PATRICK FISHER, Clerk

by: Audrey F. Weigel
Deputy Clerk

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

MURPHY EXPLORATION & PRODUCTION COMPANY,

Petitioner,

v.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY,

Respondent.

RECEIVED
SEP 30 2004
ECEJ-TEP

No. 02-9512
(D.C. No. SDWA-8-2001-33)

A true copy
Teste
Patrick Fisher
Clerk, U. S. Court of
Appeals, Tenth Circuit
By
Deputy Clerk

ORDER
Filed September 23, 2004

In accordance with Rule 33.1, Rules of the Tenth Circuit, and upon consideration of the stipulation to dismiss this appeal,

IT IS ORDERED that the above appeal be and it hereby is dismissed pursuant to Rule 42(b), Federal Rules of Appellate Procedure. Each party shall bear its own costs on appeal. A certified copy of this order shall stand as and for the mandate of the court.

Entered for the Court

PATRICK FISHER, Clerk

by: _____
Deputy Clerk

U.S. Department of Justice

Environment and Natural Resources Division

LJG:DAC
90-5-1-7-16553

David A. Carson
Environmental Defense Section
999 18th Street
Suite 945 North Tower
Denver, CO 80202

Telephone (303) 312-7309
Facsimile (303) 312-7331

October 1, 2004

Patrick J. Fisher, Jr.
Clerk of Court
United States Court of Appeals
for the Tenth Circuit
Byron White United States Courthouse
1823 Stout Street
Denver, Colorado 80257

Re: Samson Investment Co. v. EPA, No. 01-9500; Samson Hydrocarbons Co. v. EPA, No. 02-9510; Murphy Exploration and Production Co. v. EPA, No. 02-9512

Dear Mr. Fisher:

Pursuant to your request, enclosed please find a copy of the Court's mandate in each of the above referenced cases which the United States Environmental Protection Agency has file stamped.

Sincerely,

David A. Carson, Senior Counsel
Environmental Defense Section

enclosures

cc: Jim Eppers
Steven Moores
Nathan Wiser

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

RECEIVED
SEP 30 2004
ECEJ-TEP

SAMSON INVESTMENT COMPANY and SAMSON HYDROCARBONS COMPANY, Petitioners, v. ENVIRONMENTAL PROTECTION AGENCY, Respondent.	No. 01-9500 (D.C. No. SDWA-8-99-68)

ORDER

Filed September 24, 2004

In accordance with Rule 33.1, Rules of the Tenth Circuit, and upon consideration of the stipulation to dismiss this appeal,

IT IS ORDERED that the above appeal be and it hereby is dismissed pursuant to Rule 42(b), Federal Rules of Appellate Procedure. Each party shall bear its own costs on appeal. A certified copy of this order shall stand as and for the mandate of the court.

Entered for the Court

PATRICK FISHER, Clerk

by: Audrey H. Siegel
Deputy Clerk

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

RECEIVED
SEP 30 2004
ECEJ-TEP

SAMSON HYDROCARBONS COMPANY, Petitioner, v. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, Respondent.	Nos. 02-9510 02-9511 (D.C. No. SDWA-8-2001-33)

ORDER

Filed September 24, 2004

In accordance with Rule 33.1, Rules of the Tenth Circuit, and upon consideration of the stipulation to dismiss these appeals,

IT IS ORDERED that the above appeals be and hereby are dismissed pursuant to Rule 42(b), Federal Rules of Appellate Procedure. Each party shall bear its own costs on appeal. A certified copy of this order shall stand as and for the mandate of the court.

Entered for the Court

PATRICK FISHER, Clerk

by: Audrey F. Weigel
Deputy Clerk

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

MURPHY EXPLORATION & PRODUCTION COMPANY,

Petitioner,

v.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY,

Respondent.

RECEIVED
SEP 30 2004
ECEJ-TEP

No. 02-9512
(D.C. No. SDWA-8-2001-33)

A true copy
Teste
Patrick Fisher
Clerk, U. S. Court of Appeals, Tenth Circuit
By
Deputy Clerk

ORDER
Filed September 23, 2004

In accordance with Rule 33.1, Rules of the Tenth Circuit, and upon consideration of the stipulation to dismiss this appeal,

IT IS ORDERED that the above appeal be and it hereby is dismissed pursuant to Rule 42(b), Federal Rules of Appellate Procedure. Each party shall bear its own costs on appeal. A certified copy of this order shall stand as and for the mandate of the court.

Entered for the Court

PATRICK FISHER, Clerk

by:
Deputy Clerk

EPA
SDWA-8-99-68

MANDATE

IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

UNITED STATES COURT OF APPEALS
FILED
DEC 18 2000
Roseann B. MacKechnie, CLERK
SECOND CIRCUIT

W.R. GRACE & CO. – CONN., Petitioner, v. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, Respondent.	No. 99-4223

STIPULATION OF DISMISSAL

The undersigned hereby stipulate that the above-captioned appeal is hereby withdrawn without costs and attorneys fees pursuant to rule 42(b) of the Federal Rules of Appellate Procedure.

Respectfully submitted,

For Petitioner:

By: Christopher H Marraro
Christopher H. Marraro
Wallace King Marraro & Branson PLLC
1050 Thomas Jefferson Blvd.
Suite 500
Washington, D.C. 20007
(202) 204-1000

For Respondent:

By: Joshua M Levin
Joshua Levin
U.S. Department of Justice
601 D Street, N.W.
Suite 8000
Washington, DC 20004
(202) 514-4198

Dated: December 4, 2000

FOR THE COURT
Roseann B. MacKechnie, Clerk of Cou
By
Frank J. Scardilli, S[redacted]

A TRUE COPY
Roseann B. MacKechnie, Clerk
By: Donna M Morgan Stell
Deputy Clerk

ISSUED AS MANDATE: DEC 18 2000

Ft. Peck - FOIA correspondence

David Bruce Petit Straks

Doc. 1 - maybe give up - delib. Prov.
June 13, 01

Doc 2 - 7/2 cm.
Concepts from A. Morrissey
Plans for
Preclude from written comm.
- mentioned convenual
- orig. murphy/Pioneer - what new info on Summons & marathon
- confusion - increased scope for unilateral
- Ct's question on final order.

Doc. 3 -

are on waiver / cherry picking.

Scott M. DuBoff

Wright & Talisman, P.C.
Attorneys at Law
1200 G Street, N.W., Suite 600
Washington, D.C. 20005-3802
(202) 393-1200
Fax (202) 393-1240

Please substitute for the first page of the FOIA appeal letter on which you were copied last week. The RIN number was incorrect. Apologies for any inconvenience.

Thank you

Scott DuBoff

RECEIVED

JAN 17 2002

Office of Enforcement
Compliance & Environmental
Justice

ATTORNEYS AT LAW
WRIGHT & TALISMAN, P.C.

1200 G Street, N.W.
Suite 600
Washington, D.C. 20005-3802
202-393-1200
FAX 202-393-1240
www.wrightlaw.com

January 8, 2002

RECEIVED
EPA/HDQTRS
2002 JAN -8 PM 4: 30
FREEDOM OF
INFORMATION OFFICE

RECEIVED
JAN 17 2002
Office of Enforcement
Compliance & Environmental
Justice

BY HAND DELIVERY

Freedom of Information Officer (Mail Code 1105A)
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, D.C. 20460

Re: Freedom of Information Act Request 08 RIN-00028-02,
APPEAL FROM PARTIAL DENIAL

Dear Sir or Madam:

Murphy Exploration & Production Company (Murphy) hereby appeals the Agency's December 4, 2001 Partial Denial Letter in connection with the above-referenced Freedom of Information Act (FOIA) request. The Partial Denial Letter (copy attached) was issued by Carol Rushin, Assistant Regional Administrator, Office of Enforcement, Compliance and Environmental Justice, U.S. EPA Region 8, 999 18th Street, Denver, CO 80202-2466.[1] The records that EPA is withholding, and which are the subject of this appeal, are items 1-4 in the Vaughan Index that accompanies the Partial Denial Letter. Although the regulation that governs this appeal, 40 C.F.R. § 2.114(c), does not require identification of the bases for the appeal, Murphy submits that the Partial Denial Letter improperly withholds the subject records in purported reliance on the FOIA exemptions for law enforcement documents (5 U.S.C. § 552(b)(7)) and agency records (5 U.S.C. § 552(b)(5)).

The exemption for law enforcement documents, 5 U.S.C. § 552(b)(7), is inapplicable here. To paraphrase the statute, it exempts records from the FOIA where disclosure "could reasonably be expected to interfere with enforcement proceedings, . . . deprive a person of a right to a fair trial or an impartial adjudication, . . . constitute an unwarranted invasion of personal privacy, . . . [or] disclose the identity of a confidential source," etc. It is the government's burden to demonstrate a reasonable likelihood that at least one of the harms specified in section 552(b)(7) would result from disclosure. See FBI v. Abramson, 456 U.S. 615, 622 (1982); see also Miller v. U.S. Dep't of Agriculture, 13 F.3d 260, 263 (8th Cir. 1993) (the government must make a specific showing at to why disclosure could reasonably be expected to interfere with enforcement proceedings). In this case, there is no basis for suggesting any reasonable

---

1 Although the letter was addressed to the undersigned, as of this date he has not received it. A copy of the letter was, however, received by Murphy on or about December 10.

ATTORNEYS AT LAW
WRIGHT & TALISMAN, P.C.

1200 G Street, N.W.
Suite 600
Washington, D.C. 20005-3802
202-393-1200
FAX 202-393-1240
www.wrightlaw.com

January 8, 2002

BY HAND DELIVERY

Freedom of Information Officer (Mail Code 1105A)
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, D.C. 20460

RECEIVED
EPA/HQOTRS
2002 JAN -8 PM 4:45
FREEDOM OF
INFORMATION OFFICE

Re: Freedom of Information Act Request 08 RIN-00020-02,
APPEAL FROM PARTIAL DENIAL

Dear Sir or Madam:

Murphy Exploration & Production Company (Murphy) hereby appeals the Agency's December 4, 2001 Partial Denial Letter in connection with the above-referenced Freedom of Information Act (FOIA) request. The Partial Denial Letter (copy attached) was issued by Carol Rushin, Assistant Regional Administrator, Office of Enforcement, Compliance and Environmental Justice, U.S. EPA Region 8, 999 18th Street, Denver, CO 80202-2466.[1] The records that EPA is withholding, and which are the subject of this appeal, are items 1-4 in the Vaughan Index that accompanies the Partial Denial Letter. Although the regulation that governs this appeal, 40 C.F.R. § 2.114(c), does not require identification of the bases for the appeal, Murphy submits that the Partial Denial Letter improperly withholds the subject records in purported reliance on the FOIA exemptions for law enforcement documents (5 U.S.C. § 552(b)(7)) and agency records (5 U.S.C. § 552(b)(5)).

The exemption for law enforcement documents, 5 U.S.C. § 552(b)(7), is inapplicable here. To paraphrase the statute, it exempts records from the FOIA where disclosure "could reasonably be expected to interfere with enforcement proceedings, . . . deprive a person of a right to a fair trial or an impartial adjudication, . . . constitute an unwarranted invasion of personal privacy, . . . [or] disclose the identity of a confidential source," etc. It is the government's burden to demonstrate a reasonable likelihood that at least one of the harms specified in section 552(b)(7) would result from disclosure. See FBI v. Abramson, 456 U.S. 615, 622 (1982); see also Miller v. U.S. Dep't of Agriculture, 13 F.3d 260, 263 (8th Cir. 1993) (the government must make a specific showing at to why disclosure could reasonably be expected to interfere with enforcement proceedings). In this case, there is no basis for suggesting any reasonable

---

1 Although the letter was addressed to the undersigned, as of this date he has not received it. A copy of the letter was, however, received by Murphy on or about December 10.

possibility that one of those harms would result from disclosure of the documents that Murphy has requested.

Equally invalid is the Partial Denial Letter's reliance on the agency record exemption in 5 U.S.C. § 552(b)(5).[2] Given the "general disclosure policy of FOIA," Wolfe v. Dep't of Health and Human Servs., 839 F.2d 768, 773 (D.C. Cir. 1988) (en banc), the section 552(b)(5) exemption is to be construed "as narrowly as is consistent with efficient government operation." Army Times Publishing Co. v. Dep't of the Air Force, 998 F.2d 1067, 1069 (D.C. Cir. 1993). Put another way, "'Disclosure, not secrecy, is the dominant objective' of FOIA's statutory scheme," id. at 1070, quoting Dep't of the Air Force v. Rose, 425 U.S. 352, 361 (1976), and EPA has failed to meet its burden to justify nondisclosure. See Army Times, 998 F.2d at 1072. EPA's decision to withhold the requested documents is further undermined by the inapplicability of the agency record exemption (e.g., the deliberative process privilege) to factual matters or the factual portions of otherwise deliberative memoranda, EPA v. Mink, 410 U.S. 72, 87-88 (1973), as well as the fact that the records in question appear to be similar to other records Region 8 previously released. See Army Times, 998 F.2d at 1068, 1072 ("FOIA was designed to preclude a government agency from cherry-picking the materials to be made public. FOIA operates on the premise that government will function best if its warts as well as its wonders are available for public review").

Finally, the need for full disclosure is heightened in a case such as this where the Region claims that a public health emergency justifies its action and the underlying administrative record was developed unilaterally by the agency. Region 8's decision has already been made, and there is no reasonable possibility that disclosure will harm the agency's decision-making process. In sum, Region 8's decision to withhold the requested documents is improper.

* * *

The original and one copy of this appeal letter are being provided for filing purposes. One additional copy of the letter is also enclosed; please date-stamp that copy showing receipt by your office and return it to our messenger.

Very truly yours,

Scott M. DuBoff

cc: James E. Baine (w/out attachment)
Carol Rushin (same)
Nathan Wiser (same)

K:\1007-014-709

---

2 Although section 552(b)(5) is interpreted as encompassing three evidentiary privileges (the deliberative process, attorney work-product and attorney-client privileges), the Partial Denial Letter refers generally to section 552(b)(5) without identifying which of the three privileges is its basis.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917
http://www.epa.gov/region08

DEC - 4 2001

Ref: 8ENF-T

PARTIAL DENIAL LETTER

Scott M. DuBoff
Wright & Talisman, P.C.
1200 G Street, N.W.
Washington, DC 20005-3802

Re: Freedom of Information Act Request
08-RIN-00028-02
East Poplar Oil Field
Roosevelt County, Montana

Dear Mr. DuBoff:

This is in response to your Freedom of Information Act (FOIA) request, dated October 23, 2001, in which you requested (1) a copy the administrative record for the Safe Drinking Water Act Emergency Administrative Order, Docket No. SDWA-08-2001-33, and (2) copies of any additional records the agency has related to the same Order.

On October 29, 2001, Mr. Nathan Wiser of my staff contacted you to inform you that processing this request would require pre-payment, owing to the very large number of pages involved. During that conversation, you indicated that you would await the finalization of an index to the administrative record for this Order so as to assist you to decide which documents to reproduce. On November 9, 2001, Mr. Wiser electronically transmitted to you an index to the administrative record. On November 9, 2001, you sent a letter in which you specified that you wanted a copy of the entire administrative record for EPA's Order referenced above and included a pre-payment check in the amount $1800.00. In that letter you also specified an alternate address to which all the photocopies should be shipped. EPA then began copying the documents you requested. In addition, of the documents in the agency's possession for which the second part of your request is applicable, you are still determining which additional documents to copy.

The records responsive to the first part of your request (the administrative record) are being shipped to Mr. James Baine in El Dorado, Arkansas per instructions in your November 9, 2001 letter. We are unable to provide the documents, or portions of documents, which have been determined exempt from disclosure under 5 U.S.C. § 552(b). These documents are being withheld pursuant to the provisions of 40 C.F.R. § 2.118(a).

Printed on Recycled Paper

In addition, there are publications which we are unable to provide you due to copyright issues. These published documents are available by contacting the U.S. Geological Survey, Branch of Information Services, P.O. Box 25286, Denver, Colorado 80225-0286.

An itemized list by categories of the withheld material along with the basis for withholding is provided on the enclosure to this letter (Vaughan index).

The additional cost of providing this material is $325.55. An itemized invoice covering the charges for processing your request will follow under separate cover. This was a rather large FOIA request to process; a total of 14,171 pages were photocopied.

You may appeal this partial denial by submitting a written appeal to the Freedom of Information Officer (Mail Code 1105A), United States Environmental Protection Agency, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460, within 30 days of receipt of this partial denial. Your appeal should refer to the RIN number listed above, the date of this determination, and my name, title and address.

Should you have any questions in this matter, the person most knowledgeable on my staff is Nathan Wiser who can be reached at (303) 312-6211.

Sincerely,

For

Carol Rushin
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

Enclosures (Vaughan index)

cc: Mr. James E. Baine (with 8 boxes of photocopies)
Murphy Oil USA, Inc.
200 Peach Street
El Dorado, AR 71730

Vaughan Index
Docket No. SDWA-08-2001-33
FOIA RIN 00028-02

No.	Date	Document Description	Withholding Justification
1	06/13/01	Email among EPA staff regarding next steps to take in the overall Fort Peck East Poplar Oil Field case	Record compiled for law enforcement purpose 5 U.S.C. 552(b)(7); Privileged inter- or intra-agency record 5 U.S.C. 552(b)(5)
2	07/02/01	Email among EPA staff regarding issues to discuss with Tribes and next steps to take in the overall Fort Peck East Poplar Oil Field case	Record compiled for law enforcement purpose 5 U.S.C. 552(b)(7); Privileged inter- or intra-agency record 5 U.S.C. 552(b)(5)
3	07/23/01	Email among EPA staff regarding funding for overall Fort Peck East Poplar Oil Field case	Record compiled for law enforcement purpose 5 U.S.C. 552(b)(7); Privileged inter- or intra-agency record 5 U.S.C. 552(b)(5)
4	08/03/01	"Touhy" request letter from Thomas Speicher to Gina Guy regarding deposition of Joanna Thamke	Record compiled for law enforcement purpose 5 U.S.C. 552(b)(7); Privileged inter- or intra-agency record 5 U.S.C. 552(b)(5)
5	08/10/01	U.S. 10th Circuit Court mediation document: Draft settlement language from Dept. of Justice to Respondent	Court-ordered confidentiality
6	08/24/01	U.S. 10th Circuit Court mediation document: Draft settlement language from Dept. of Justice to Respondent	Court-ordered confidentiality
7	08/29/01	U.S. 10th Circuit Court mediation document: Draft settlement language from Respondent to Dept. of Justice	Court-ordered confidentiality

(1)

Nathan Wiser

06/13/01 03:56 PM

To: Richard Witt/DC/USEPA/US@EPA, Alan Morrissey/DC/USEPA/US@EPA, Jim Eppers/ENF/R8/USEPA/US@EPA, Steven Moores/RC/R8/USEPA/US@EPA
cc: Connally Mears/ENF/R8/USEPA/US@EPA, Nathan Wiser/ENF/R8/USEPA/US@EPA
Subject: Scheduled Confernce Call Monday June 18 (9:00 am MDT) East Poplar Oilfield SDWA 1431

Hi Alan, Jim, Steven, and Richard:

This message is to confirm that we will have a conference call to discuss the next steps to be taken administratively on the East Poplar Oil Field (Montana - Ft. Peck Indian Reservation) Safe Drinking Water Act §1431 Emergency Orders. Currently EPA has some choices for how it will proceed next, including some rather large steps that may cause an action to be appealed to Circuit Court.

EPA Region 8 staff will assemble in one room and call both Alan and Richard (if Richard agrees to the call) at **9:00 am Mountain Daylight Time (11:00 Eastern Time) on Monday June 18, 2001.**

FYI:

1. EPA SDWA §1431 Order Docket #SDWA-8-99-68 (2nd Amended) has been appealed to 10th Circuit and may soon be settled.

2. EPA SDWA §1431 Order Docket (new Docket No. - not yet assigned) against Pioneer Natural Resources USA Inc. is being signed upon consent, and thus may minimize the risk of an appeal. BUT, the remaining problem is the issue of making Pioneer do the work required in the action by date certain. I will explain during the call.

3. EPA SDWA §1431 Order Docket (yet another new Docket No. - not yet assigned) against up to four Respondents in the East Poplar Oil Field to require them to (a) study current extent of groundwater contamination, (b) install several groundwater monitoring wells in the oil field, (c) submit records, and (d) install groundwater monitoring wells near the City of Poplar to serve as "sentinel" monitoring wells to warn of impending moving contamination plume toward City's three PWS wells.

These are the topics, especially #2 and #3 we'd like to discuss. This may take a while (2-3 hours?)

--Nathan Wiser, UIC Technical Enforcement Program
(303) 312-6211

(2)

Nathan Wiser
07/02/01 09:36 AM

To: Jim Eppers/ENF/R8/USEPA/US@EPA
cc: Steven Moores/RC/R8/USEPA/US@EPA
Subject: Re: 10:00 AM Doug E call in 7th floor conf room

Jim,

I agree. 9:45 am it is. The other topics that are likely to come up at some point include our rather fruitful discussion with Alan Morrissey on Friday, June 22, which produced such concepts as:

1. Using EPA-HQ Atal Eralp and the SAIC contract
2. Letter to USGS to request expert opinion for more study (e.g. airborne E-M, groundwater monitoring, etc.)
3. Additional consentual 1431 Order with Murphy + Pioneer to do more study and provide more water, and produce more documents
4. Additional 1431 Order to install sentinel GW monitoring wells

--Nathan Wiser
(303) 312-6211
Jim Eppers

Jim Eppers
07/02/01 08:50 AM

To: Nathan Wiser/ENF/R8/USEPA/US@EPA, Steven Moores/RC/R8/USEPA/US@EPA
cc:
Subject: 10:00 AM Doug E call in 7th floor conf room

Nathan (and Steven, if you'd like),

How about 9:45 for 15 minutes of updating, i.e., our call with the mediator; rig availability; anything else?

(3)

Connally Mears

07/23/01 10:02 AM

To: Nathan Wiser/ENF/R8/USEPA/US@EPA
cc: (bcc: Connally Mears/ENF/R8/USEPA/US)
Subject: MORE $$ for Ft. Peck?

Let's talk this AM.

----- Forwarded by Connally Mears/ENF/R8/USEPA/US on 07/23/01 09:56 AM -----

Mike Gaydosh

07/18/01 08:09 AM

To: Martin Hestmark/ENF/R8/USEPA/US@EPA, Sharon Kercher/ENF/R8/USEPA/US@EPA, Connally Mears/ENF/R8/USEPA/US@EPA, Ron Rutherford/ENF/R8/USEPA/US@EPA, Tim Osag/ENF/R8/USEPA/US@EPA, Carole VandenBerg/ENF/R8/USEPA/US@EPA, Carol Rushin/ENF/R8/USEPA/US@EPA, Elisabeth Evans/ENF/R8/USEPA/US@EPA, Marvin Frye/ENF/R8/USEPA/US@EPA, Diane Sipe/ENF/R8/USEPA/US@EPA, David Janik/ENF/R8/USEPA/US@EPA, Christine Lehnertz/ENF/R8/USEPA/US@EPA, Melanie Pallman/ENF/R8/USEPA/US@EPA, Pricilla Casias/ENF/R8/USEPA/US@EPA, Michael Risner/ENF/R8/USEPA/US@EPA, Eddie Sierra/ENF/R8/USEPA/US@EPA, Debra Lucas/ENF/R8/USEPA/US@EPA
cc:
Subject: FY 2001 4th Quarter Enforcement Funding Assistance

Attached is OECA's response to our June 20 request for additional FY 2001 EOY funding from ORE. 7 out of our 10 requests were funded.

Please let me know if this augmented funding will free up any $ that we allocated from our (Regional) extramural sources (RA's, ECEJ EPM extramural funds, or our 97.8 K allocation of the Regional surplus- (Cripple Creek?, Ft. Peck?,Yellowstone Mt. Club?).

Contacts in HQ are indicated in the memo. Our deadline for contract commitments is August 10.

Pricilla: Would you contact Kia Logan and ascertain any similar HQ deadlines for commitments and let us all know when these will occur?

Andrew Michael Gaydosh
Deputy Assistant Regional Administrator
Office of Enforcement, Compliance and Environmental Justice
USEPA Region VIII

----- Forwarded by Mike Gaydosh/ENF/R8/USEPA/US on 07/18/01 07:59 AM -----

Carol Rushin

07/16/01 01:19 PM

To: Mike Gaydosh/ENF/R8/USEPA/US@EPA, Pricilla Casias/ENF/R8/USEPA/US@EPA
cc:
Subject: FY 2001 4th Quarter Enforcement Funding Assistance - CORRECTION

---------- Forwarded by Carol Rushin/ENF/R8/USEPA/US on 07/16/2001 01:18 PM ----------

Kia Logan
07/12/2001 02:24 PM

To: Michael Risner/ENF/R8/USEPA/US@EPA, Rosemarie Kelley/DC/USEPA/US@EPA
cc: Tom Speicher/RC/R8/USEPA/US@EPA, Carol Rushin/ENF/R8/USEPA/US@EPA, Eddie Sierra/ENF/R8/USEPA/US@EPA, Martin Hestmark/ENF/R8/USEPA/US@EPA, Jack Mcgraw/RA/R8/USEPA/US@EPA

Subject: FY 2001 4th Quarter Enforcement Funding Assistance - CORRECTION

The case name was not addressed for commitment #3? That funding is for Penalty Training. See corrected memo below.

01r84thqtr.wp

ENFORCEMENT SENSITIVE, DO NOT RELEASE-
CONFIDENTIAL

MEMORANDUM

SUBJECT: FY 2001 4th Quarter Enforcement Funding Assistance

FROM: Connie Musgrove, Deputy Director
Office of Regulatory Enforcement

TO: Mike Risner, Director
Legal Enforcement Program
Region 8

I am responding to Region 8's request to ORE for fourth quarter FY 2001 enforcement litigation/case support funding. ORE focused on MOA enforcement priorities and core programs where possible. Several regions requested funding for compliance assistance and inspections, federal facilities, superfund or other activities not within the scope of the ORE budget. Other offices such as the Office of Compliance (compliance assistance, inspections) have the lead for those programs.

In most circumstances, the funds listed below are accessed through the ORE mission contract vehicle to perform case work. For FY 2001, ORE has been processing the accounting paperwork, for work not procured through ORE's mission contract, out of headquarters for any established Regional contract mechanism. This allows us to oversee efficiently our Congressional directive against using enforcement funds for compliance assistance purposes. It also gives us maximum flexibility to fund emergency situations later in the year and shift funding into and out of cases that may settle or have trial dates established. ORE's Resource Management Team will ensure that all paperwork is handled in an expeditious manner to alleviate delays in this process.

ORE is making the following resources available:

1. $151,240 Magcorp
Contact Sounjay Gairola, RCRA Enforcement Division,
at (202) 564-4003.

2. $5,000 Davis County/Wasatch Energy Systems
Contact Sounjay Gairola, RCRA Enforcement Division, at (202) 564-4003.

3. $1,600 Penalty Training
Contact RoseMarie Kelley, Multimedia Enforcement Division (MED), at 202-564-4014.

4. $30,000 Cripple Creek
Contact Kia Logan, ORE Resource Mgmt Team, at 202-564-2571.

Contact Atal Eralp, WED at (202) 564-4056 to access funds for the projects below:

5. $30,000 Cam West

6. $25,000 Fort Peck

7. $3,500 Yellowstone Mt. Club

Compliance assistance funding requests are not within our enforcement budget, and have been forwarded to the Office of Compliance (OC). If you have any questions or need further assistance, please call Kia Logan at 202-564-2571.

cc: E. Schaeffer
K. Logan
T. Speicher
C. Rushin
E. Sierra
M. Hestmark
J. McGraw

bcc: Rose Burgess
Atal Eralp
Sounjay Gairola
RoseMarie Kelley
ORE DD's/ADD's

25,000 is just a number not dollars for the project. They will decide to support a project or not based on that #. If it goes over or under doesn't really matter ~~contracts~~

Atal Eralp
202 564 4056
FAX: 202-564-0024

$25,000
Stormwater Discharge
- Ft. Peck -

(4)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
http://www.epa.gov/region08

AUG 3 2001

Ref: 8RC

Gina Guy
Regional Solicitor
Office of the Regional Solicitor
Rocky Mountain Region
755 Parfet Street, Suite 151
Lakewood, Colorado 80215

Re: "Touhy" request for deposition testimony of Joanna Thamke, in Youpee, et al. v. Murphy Oil USA, Inc., et al.

Dear Ms. ~~Guy~~ Gina,

As we discussed in our telephone call of August 2, 2001, parties in the above-referenced civil action in U.S. District Court, District of Montana, have asked that the Department of the Interior provide deposition testimony of Ms. Joanna Thamke, an employee of the U.S. Geological Service, located in Helena, Montana. Plaintiffs in that case have sued various oil production companies located in or near the East Poplar Oil Field, in Roosevelt County, Montana, for contamination of the Quaternary Deposits, an aquifer constituting the plaintiff's only underground source of drinking water. The United States is not a party to that action.

Thus far, EPA has issued two administrative orders and one consent order to various respondents, most (if not all) of whom are named defendants in the private lawsuit. As I indicated earlier, one of these orders has been appealed to the Court of Appeals for the Tenth Circuit. Additional orders may need to follow, if actions are to be taken to remedy widespread contamination in the East Poplar Oil Field.

As you can see from the enclosed "Touhy" request, the parties wish to depose Ms. Thamke on two reports: (1) USGS Open File Report 95-749 (entitled Hydrologic Data for the East Poplar Oil Field, Ft. Peck Indian Reservation, North Eastern Montana (Jan. '96)), and (2) USGS Water Resources Investigation Report 97-4000 (entitled Saline-Water Contaminations in Quaternary Deposits and the Poplar River, East Poplar Oil Field, North Eastern Montana (May '97)). The first of these documents reports on water chemistry in the East Poplar Oil Field and piezometric water levels to determine flow direction. The second document includes an electronic

Printed on Recycled Paper

survey of the East Poplar Oil Field showing the areal extent and concentration of contamination as a function of the effect of changes in Total Dissolved Solids on the conductivity of groundwater. The results of the first report have been incorporated into the second, larger report.

To my knowledge, all of the respondents named by EPA in its enforcement action are operating on the Ft. Peck Reservation under oil and gas leases issued by or in coordination with the Bureau of Indian Affairs and managed by the Bureau of Land Management. And, arguably, these same respondents have violated their obligations under 43 C.F.R. §3162.5-1 to conduct operations "in a manner that protects the mineral resources, other natural resources and environmental quality."

Thus far, all of EPA's administrative orders have relied on both of Ms. Thamke's reports for their technical underpinnings. EPA may issue future orders, if necessary, including one to require cleanup of all or a portion of the contaminated aquifer characterized by Ms. Thamke. As you can see, it would be unwise for us to allow litigants in an action to which the United States is not a party to question the procedures used to produce these reports and their results before EPA has concluded its own enforcement actions. Ms. Thamke's testimony would be under oath, and the United States, while not a party to the action, might none-the-less be bound by Ms. Thamke's deposition. Moreover, Ms. Thamke's deposition testimony, and the parties' use of her reports, may prompt the court to compel Ms. Thamke's testimony at trial, if desired by any party.

As you know, "Touhy" regulations for both EPA and Interior were developed in response to the U.S. Supreme Court's ruling in United States ex rel. Touhy v. Ragen, which upheld regulations of the Department of Justice prohibiting an employee from testifying unless the Attorney General determined that such testimony was in the "best public interest." Ragen, 416 U.S. 462, 463, note 1. Both EPA and Department of the Interior regulations, at 40 C.F.R. Part 2 and 43 C.F.R. Part 2, respectively, reflect this public policy concern. For EPA, testimony must be withheld unless the General Counsel or his designee determines that providing testimony would "clearly be in the interests of EPA . . . ." 40 C.F.R. §2.403. Under 43 C.F.R. §2.81, it is Interior's policy that testimony not be allowed unless it would ensure "the orderly execution of its mission and programs while not impeding any proceeding inappropriately." Again, under 43 C.F.R. §2.88, testimony is not authorized by Interior where it would impair the Department's ability to conduct business unimpeded, and it would involve the Department in issues that are not related to its mission.

In this matter, EPA and Interior have somewhat overlapping missions, i.e. protection of the ground water natural resource in the East Poplar Oil Field. EPA believes that allowing parties in the civil suit to depose Ms. Thamke and possibly involve her as a witness at trial may unduly impede EPA's ability to appropriately resolve ongoing and possible future enforcement actions to protect that resource.

Regulations at 43 C.F.R. §2.86 and 40 C.F.R. §2.406 allow the Department of the Interior and EPA, respectively, to offer private litigants authenticated documents that may be offered into evidence under Rule 44 of the Federal Rules of Civil Procedure without supporting oral testimony. EPA is willing to provide any documentary evidence the parties may need; however, I ask that, in this case, the Department of the Interior withhold authorization under 43 C.F.R. Part 2 for Ms. Thamke to testify in the above-referenced judicial action.

Please call me if you wish to discuss this further, or you may contact Mr. Steven B. Moores, of my staff, if you have questions concerning EPA's enforcement action in the East Poplar Oil Field.

Sincerely,

Thomas A. Speicher
Regional Counsel
(303) 312-7100

enclosure

JOHN WALKER ROSS
Brown Law Firm, P.C.
315 North 24th Street
P.O. Drawer 849
Billings, MT 59103-0849
(406) 248-2611

Attorneys for Defendants and Third Party Plaintiffs MESA Petroleum Co. and Pioneer Natural Resources USA, Inc.

RECEIVED
JUN 05 2001
U. S. GEOLOGICAL SURVEY

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION**

CARY G. YOUPEE, et al., Plaintiffs, v. MURPHY OIL USA, INC., et al. Defendants.	Cause No. CV 98-108-BLG-JDS Judge Jack D. Shanstrom
MESA PETROLEUM and PIONEER NATURAL RESOURCES, USA, INC., Defendants/Third Party Plaintiffs, and Cross-Plaintiffs, v. AMARCO RESOURCES CORP. BESTWAY INC.; WESTDALE PETROLEUM INC.;and THE PRUDENTIAL GROUP, Third Party Defendants, v. JOHN DOES 4-50, Cross-Defendants.	**"TOUHY" REQUEST FOR DEPOSITION TESTIMONY OF JOANNA THAMKE, and PRODUCTION OF USGS REPORTS and USGS MONITORING DATA, RELATING TO USGS STUDY OF CONTAMINATION IN AREA OF THE EAST POPLAR OIL FIELD, ROOSEVELT COUNTY, MONTANA**

To: Joanna Thamke & Robert Davis
U.S. Geological Survey
312 Bozeman Avenue
Helena, MT 59601

John Chaffin & Rich Aldrich
Dept. of Justice
U.S. Solicitors Office
316 North 26th, Room 3005
Billings, MT 59101

Pursuant to 43 CFR Sections 2.81, and 2.82, the undersigned parties in the above-captioned litigation hereby submit this written Request for the Deposition Testimony of Joanna Thamke, which deposition will be conducted sometime during the months of June, July, or August, 2001, in Helena, Montana, as more specifically arranged with Thamke. The undersigned parties will submit a check for costs in conjunction with said deposition, to the Department of Interior, in accordance with Section 2.85, if the request is granted. The undersigned parties will also pay the costs of duplication in accordance with 43 CFR Part 2 Appendix A, if their request for production of documents is granted. The undersigned parties have copies of the USGS Water Resources Investigation Report 97-4000 (i.e. the "97 Report"), and the other documents already produced by the USGS do not have to be produced. Any documents relating to the "1996 Report" and "1997 Report", and the USGS Open File Report 95-749 (i.e. the "96 Report") which have not previously been produced, should be produced.

Plaintiffs in the above-captioned case are members of households on certain lands in Roosevelt County, Montana, on which the groundwater thereunder has allegedly become polluted due to conduct of Defendants. A copy of Plaintiffs' Eighth Amended Complaint is enclosed. Defendants have generally denied Plaintiffs' allegations and raised various affirmative defenses. Copies of the undersigned Defendants' most recent Answers to Plaintiffs' Complaints are enclosed. Plaintiffs' Complaint is factually based substantially upon field investigation and monitoring conducted by USGS, EPA and others. The desired deposition testimony of Joanna Thamke is relevant and necessary and not reasonably available from any other source. The undersigned parties seek the deposition and testimony of Thamke in order that they fully understand the procedures that were followed by Thamke and other USGS employees in conducting the studies and investigations conducted by the USGS with regard to the East Poplar Oil Field in Roosevelt County, Montana, and in order to fully understand results of those investigations and studies, as particularly reflected in the USGS 1996 and 1997 Reports.

The undersigned parties believe that this request is appropriate pursuant to 43 CFR Section 2.88, considering the following factors:

(a) The parties have obtained copies of the "1996 and "1997 USGS Reports" from USGS; however, parties believe it is necessary to obtain the deposition testimony of Thamke regarding those reports because of her particular familiarity and knowledge regarding the USGS's investigation and findings, as particularly reported in the1996 and 1997 Reports.

(b) The USGS has previously produced relevant documents, including the 1996 and 1997 Reports under the FOIA and Privacy Acts, and this request for Thamke's testimony and related record production elaborates further on previous FOIA requests and production.

(c) As noted, the undersigned parties will arrange and schedule the deposition of Thamke at or near her Helena, Montana office, at a mutually convenient time, sometime during the months of June, July, or August, 2001. The undersigned parties recognize USGS and Thamke as objective and impartial in the above-captioned litigation. The undersigned parties are not and will not seek to engage USGS or Thamke in irrelevant or private matters and will take necessary steps to recognize and abide by procedures to protect privileged, protected, and confidential matters. The undersigned parties agree to work with USGS and Thamke and minimize the burden on USGS and Thamke in conjunction with this request, and appreciate the cooperation of USGS and Thamke in this matter.

Respectfully submitted this 1st day of June, 2001.

Richard J. Dolan
Goetz, Gallik, Baldwin & Dolan, P.C.
Attorneys for Petitioners

Michael E. Webster/Carolyn Ostby
Crowley, Haughty, Hanson, Toole & Dietrich, PLLP
Attorneys for Murphy Exploration & Production Co.

Robert Sterup
Dorsey & Whitney, LLP
Attorneys for Samson Hydrocarbons

for Gerald Murphy/~~Gerry Fagan~~
Moulton, Bellingham, Longo & Mather
Attorneys for Marathon Oil Company

John Walker Ross
Brown Law Firm
Attorneys for Pioneer Natural Resources, USA Inc.

Vaughan Index
Docket No. SDWA-08-2001-33
FOIA RIN 00028-02

No.	Date	Document Description	Withholding Justification
1	06/13/01	Email among EPA staff regarding next steps to take in the overall Fort Peck East Poplar Oil Field case	Record compiled for law enforcement purpose 5 U.S.C. 552(b)(7); Privileged inter- or intra-agency record 5 U.S.C. 552(b)(5)
2	07/02/01	Email among EPA staff regarding issues to discuss with Tribes and next steps to take in the overall Fort Peck East Poplar Oil Field case	Record compiled for law enforcement purpose 5 U.S.C. 552(b)(7); Privileged inter- or intra-agency record 5 U.S.C. 552(b)(5)
3	07/23/01	Email among EPA staff regarding funding for overall Fort Peck East Poplar Oil Field case	Record compiled for law enforcement purpose 5 U.S.C. 552(b)(7); Privileged inter- or intra-agency record 5 U.S.C. 552(b)(5)
4	08/03/01	"Touhy" request letter from Thomas Speicher to Gina Guy regarding deposition of Joanna Thamke	Record compiled for law enforcement purpose 5 U.S.C. 552(b)(7); Privileged inter- or intra-agency record 5 U.S.C. 552(b)(5)
5	08/10/01	U.S. 10th Circuit Court mediation document: Draft settlement language from Dept. of Justice to Respondent	Court-ordered confidentiality
6	08/24/01	U.S. 10th Circuit Court mediation document: Draft settlement language from Dept. of Justice to Respondent	Court-ordered confidentiality
7	08/29/01	U.S. 10th Circuit Court mediation document: Draft settlement language from Respondent to Dept. of Justice	Court-ordered confidentiality

Freedom Of Information Act Appeal
08-RIN-00028-02-A

Appellant:	SCOTT DUBOFF	Appeal Date:	01/08/2002
Company:	WRIGHT & TALISMAN	Date Received:	01/08/2002
		Acknowledged:	01/14/2002

Requestor: SCOTT DUBOFF

Company: WRIGHT & TALISMAN

Subject: EMERGENCY ADMINISTRATIVE ORDER

Nathan Wiser

FYI Copies: 08-ENF

Assigned to OGC: 01/14/2002

Due Date: 02/05/2002 New Due Date:

FIS Initials: LP

NOTES:

DIRECT REPLY. SEND 1 COPY OF REPLY TO FOI OFFICE (1105) AND 1 COPY TO RESPONDING OFFICE.

REC'D BY

DATE

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 14 2002

EXECUTIVE SECRETARIAT

MEMORANDUM

SUBJECT: Provision of Withheld Documents in 08-RIN-00028-02

FROM: Freedom of Information Operations Staff (1105A)

TO: Region 8

This is to inform you that a Freedom of Information Act (FOIA) appeal was received on 01/08/02, in FOIA Operations. Under our regulations (40 C.F.R. Section 2.117), the Office of General Counsel (OGC) is required to resolve this appeal within 20 working days. Accordingly, OGC's appeal determination is due on or before 02/06/02. In order to meet this regulatory deadline, OGC must receive the following items from you, or the person who prepared the initial FOIA response, no later than **TEN WORKING DAYS FROM THE DATE OF THIS MEMORANDUM:**

1. a copy of the FOIA request letter;
2. a copy of the denial letter;
3. an index of the withheld documents if they are not contained in the denial letter;
4. a complete set of withheld documents numbered to correspond to the index listing;
5. the name and telephone number of the person who prepare the response;
6. the name of the legal advisor most familiar with the records; and
7. an articulation of the specific harm that would occur if each document withheld under exemptions 2, 5, or 7(A) was released.

Please forward the above items to Barbara Bruce, Office of General Counsel (2377A). Please be sure that copies forwarded to OGC are legible and complete (i.e., include all attachments or enclosures). Please indicate the exemption(s) claimed for each document. If a portion of a document was withheld, please bracket the withheld portion and indicate the exemption(s) claimed. If you relied on exemption 5, state the particular privilege being claimed. If you relied on exemption 7, please identify the applicable subsection.

Printed on Recycled Paper

Prior to forwarding the withheld documents, you must:

* review them to determine whether the claimed exemption still applies and whether there is a continuing need to withhold them.

* review them to determine whether they contained any segregable factual information which must be released under the FOIA.

FOR EACH DOCUMENT WITHHELD UNDER EXEMPTION 2, 5, OR 7(A), YOU MUST PROVIDE OGC WITH AN ARTICULATION OF THE SPECIFIC HARM THAT WOULD OCCUR IF THOSE DOCUMENTS WERE RELEASED IN THE AGENCY'S DISCRETION. IN THE ABSENCE OF SUCH AN ARTICULATION, OGC WILL CONCLUDE THAT NO SUCH HARM EXISTS AND THAT THE DOCUMENTS(S) MAY BE RELEASED IN THE AGENCY'S DISCRETION.

If you have any administrative questions about what documents and information you need to provide to OGC, please call Barbara Bruce, Program Specialist, at (202) 564-5672. If you have any substantive legal questions concerning this FOIA appeal, please call Patricia K. Hirsch, Assistant General Counsel for Information Law, at (202) 564-5462.

cc: Barbara Bruce, OGC

1200 G Street, N.W.
Suite 600
Washington, D.C. 20005-3802
202-393-1200
FAX 202-393-1240
www.wrightlaw.com

ATTORNEYS AT LAW
WRIGHT & TALISMAN, P.C.

January 8, 2002

Appeal
OGC => Action
Region 8 => FYI
08-RIN-00028-02

2002 JAN -9 PM 4:30
RECEIVED
OFFICE OF ADMINISTRATOR

BY HAND DELIVERY

Freedom of Information Officer (Mail Code 1105A)
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, D.C. 20460

Re: Freedom of Information Act Request 08 RIN-00028-02,
APPEAL FROM PARTIAL DENIAL

Dear Sir or Madam:

Murphy Exploration & Production Company (Murphy) hereby appeals the Agency's December 4, 2001 Partial Denial Letter in connection with the above-referenced Freedom of Information Act (FOIA) request. The Partial Denial Letter (copy attached) was issued by Carol Rushin, Assistant Regional Administrator, Office of Enforcement, Compliance and Environmental Justice, U.S. EPA Region 8, 999 18th Street, Denver, CO 80202-2466.[1] The records that EPA is withholding, and which are the subject of this appeal, are items 1-4 in the Vaughan Index that accompanies the Partial Denial Letter. Although the regulation that governs this appeal, 40 C.F.R. § 2.114(c), does not require identification of the bases for the appeal, Murphy submits that the Partial Denial Letter improperly withholds the subject records in purported reliance on the FOIA exemptions for law enforcement documents (5 U.S.C. § 552(b)(7)) and agency records (5 U.S.C. § 552(b)(5)).

The exemption for law enforcement documents, 5 U.S.C. § 552(b)(7), is inapplicable here. To paraphrase the statute, it exempts records from the FOIA where disclosure "could reasonably be expected to interfere with enforcement proceedings, . . . deprive a person of a right to a fair trial or an impartial adjudication, . . . constitute an unwarranted invasion of personal privacy, . . . [or] disclose the identity of a confidential source," etc. It is the government's burden to demonstrate a reasonable likelihood that at least one of the harms specified in section 552(b)(7) would result from disclosure. See FBI v. Abramson, 456 U.S. 615, 622 (1982); see also Miller v. U.S. Dep't of Agriculture, 13 F.3d 260, 263 (8th Cir. 1993) (the government must make a specific showing at to why disclosure could reasonably be expected to interfere with enforcement proceedings). In this case, there is no basis for suggesting any reasonable

[1] Although the letter was addressed to the undersigned, as of this date he has not received it. A copy of the letter was, however, received by Murphy on or about December 10.

In addition, there are publications which we are unable to provide you due to copyright issues. These published documents are available by contacting the U.S. Geological Survey, Branch of Information Services, P.O. Box 25286, Denver, Colorado 80225-0286.

An itemized list by categories of the withheld material along with the basis for withholding is provided on the enclosure to this letter (Vaughan index).

The additional cost of providing this material is $325.55. An itemized invoice covering the charges for processing your request will follow under separate cover. This was a rather large FOIA request to process; a total of 14,171 pages were photocopied.

You may appeal this partial denial by submitting a written appeal to the Freedom of Information Officer (Mail Code 1105A), United States Environmental Protection Agency, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460, within 30 days of receipt of this partial denial. Your appeal should refer to the RIN number listed above, the date of this determination, and my name, title and address.

Should you have any questions in this matter, the person most knowledgeable on my staff is Nathan Wiser who can be reached at (303) 312-6211.

Sincerely,

For

Carol Rushin
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

Enclosures (Vaughan index)

cc: Mr. James E. Baine (with 8 boxes of photocopies)
Murphy Oil USA, Inc.
200 Peach Street
El Dorado, AR 71730

Vaughan Index
Docket No. SDWA-08-2001-33
FOIA RIN 00028-02

No.	Date	Document Description	Withholding Justification
1	06/13/01	Email among EPA staff regarding next steps to take in the overall Fort Peck East Poplar Oil Field case	Record compiled for law enforcement purpose 5 U.S.C. 552(b)(7); Privileged inter- or intra-agency record 5 U.S.C. 552(b)(5)
2	07/02/01	Email among EPA staff regarding issues to discuss with Tribes and next steps to take in the overall Fort Peck East Poplar Oil Field case	Record compiled for law enforcement purpose 5 U.S.C. 552(b)(7); Privileged inter- or intra-agency record 5 U.S.C. 552(b)(5)
3	07/23/01	Email among EPA staff regarding funding for overall Fort Peck East Poplar Oil Field case	Record compiled for law enforcement purpose 5 U.S.C. 552(b)(7); Privileged inter- or intra-agency record 5 U.S.C. 552(b)(5)
4	08/03/01	"Touhy" request letter from Thomas Speicher to Gina Guy regarding deposition of Joanna Thamke	Record compiled for law enforcement purpose 5 U.S.C. 552(b)(7); Privileged inter- or intra-agency record 5 U.S.C. 552(b)(5)
5	08/10/01	U.S. 10th Circuit Court mediation document: Draft settlement language from Dept. of Justice to Respondent	Court-ordered confidentiality
6	08/24/01	U.S. 10th Circuit Court mediation document: Draft settlement language from Dept. of Justice to Respondent	Court-ordered confidentiality
7	08/29/01	U.S. 10th Circuit Court mediation document: Draft settlement language from Respondent to Dept. of Justice	Court-ordered confidentiality

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917
http://www.epa.gov/region08

DEC - 4 2001

Ref: 8ENF-T

PARTIAL DENIAL LETTER

Scott M. DuBoff
Wright & Talisman, P.C.
1200 G Street, N.W.
Washington, DC 20005-3802

Re: Freedom of Information Act Request
08-RIN-00028-02
East Poplar Oil Field
Roosevelt County, Montana

Dear Mr. DuBoff:

This is in response to your Freedom of Information Act (FOIA) request, dated October 23, 2001, in which you requested (1) a copy the administrative record for the Safe Drinking Water Act Emergency Administrative Order, Docket No. SDWA-08-2001-33, and (2) copies of any additional records the agency has related to the same Order.

On October 29, 2001, Mr. Nathan Wiser of my staff contacted you to inform you that processing this request would require pre-payment, owing to the very large number of pages involved. During that conversation, you indicated that you would await the finalization of an index to the administrative record for this Order so as to assist you to decide which documents to reproduce. On November 9, 2001, Mr. Wiser electronically transmitted to you an index to the administrative record. On November 9, 2001, you sent a letter in which you specified that you wanted a copy of the entire administrative record for EPA's Order referenced above and included a pre-payment check in the amount $1800.00. In that letter you also specified an alternate address to which all the photocopies should be shipped. EPA then began copying the documents you requested. In addition, of the documents in the agency's possession for which the second part of your request is applicable, you are still determining which additional documents to copy.

The records responsive to the first part of your request (the administrative record) are being shipped to Mr. James Baine in El Dorado, Arkansas per instructions in your November 9, 2001 letter. We are unable to provide the documents, or portions of documents, which have been determined exempt from disclosure under 5 U.S.C. § 552(b). These documents are being withheld pursuant to the provisions of 40 C.F.R. § 2.118(a).

Printed on Recycled Paper

possibility that one of those harms would result from disclosure of the documents that Murphy has requested.

Equally invalid is the Partial Denial Letter's reliance on the agency record exemption in 5 U.S.C. § 552(b)(5).[2] Given the "general disclosure policy of FOIA," Wolfe v. Dep't of Health and Human Servs., 839 F.2d 768, 773 (D.C. Cir. 1988) (en banc), the section 552(b)(5) exemption is to be construed "as narrowly as is consistent with efficient government operation." Army Times Publishing Co. v. Dep't of the Air Force, 998 F.2d 1067, 1069 (D.C. Cir. 1993). Put another way, "'Disclosure, not secrecy, is the dominant objective' of FOIA's statutory scheme," id. at 1070, quoting Dep't of the Air Force v. Rose, 425 U.S. 352, 361 (1976), and EPA has failed to meet its burden to justify nondisclosure. See Army Times, 998 F.2d at 1072. EPA's decision to withhold the requested documents is further undermined by the inapplicability of the agency record exemption (e.g., the deliberative process privilege) to factual matters or the factual portions of otherwise deliberative memoranda, EPA v. Mink, 410 U.S. 72, 87-88 (1973), as well as the fact that the records in question appear to be similar to other records Region 8 previously released. See Army Times, 998 F.2d at 1068, 1072 ("FOIA was designed to preclude a government agency from cherry-picking the materials to be made public. FOIA operates on the premise that government will function best if its warts as well as its wonders are available for public review").

Finally, the need for full disclosure is heightened in a case such as this where the Region claims that a public health emergency justifies its action and the underlying administrative record was developed unilaterally by the agency. Region 8's decision has already been made, and there is no reasonable possibility that disclosure will harm the agency's decision-making process. In sum, Region 8's decision to withhold the requested documents is improper.

* * *

The original and one copy of this appeal letter are being provided for filing purposes. One additional copy of the letter is also enclosed; please date-stamp that copy showing receipt by your office and return it to our messenger.

Very truly yours,

Scott M. DuBoff

cc: James E. Baine (w/out attachment)
Carol Rushin (same)
Nathan Wiser (same)

K:\1007-014-709

---

2 Although section 552(b)(5) is interpreted as encompassing three evidentiary privileges (the deliberative process, attorney work-product and attorney-client privileges), the Partial Denial Letter refers generally to section 552(b)(5) without identifying which of the three privileges is its basis.

Connally Mears

07/23/01 10:02 AM

To: Nathan Wiser/ENF/R8/USEPA/US@EPA
cc: (bcc: Connally Mears/ENF/R8/USEPA/US)
Subject: MORE $$ for Ft. Peck?

Let's talk this AM.

----- Forwarded by Connally Mears/ENF/R8/USEPA/US on 07/23/01 09:56 AM -----

Mike Gaydosh

07/18/01 08:09 AM

To: Martin Hestmark/ENF/R8/USEPA/US@EPA, Sharon Kercher/ENF/R8/USEPA/US@EPA, Connally Mears/ENF/R8/USEPA/US@EPA, Ron Rutherford/ENF/R8/USEPA/US@EPA, Tim Osag/ENF/R8/USEPA/US@EPA, Carole VandenBerg/ENF/R8/USEPA/US@EPA, Carol Rushin/ENF/R8/USEPA/US@EPA, Elisabeth Evans/ENF/R8/USEPA/US@EPA, Marvin Frye/ENF/R8/USEPA/US@EPA, Diane Sipe/ENF/R8/USEPA/US@EPA, David Janik/ENF/R8/USEPA/US@EPA, Christine Lehnertz/ENF/R8/USEPA/US@EPA, Melanie Pallman/ENF/R8/USEPA/US@EPA, Pricilla Casias/ENF/R8/USEPA/US@EPA, Michael Risner/ENF/R8/USEPA/US@EPA, Eddie Sierra/ENF/R8/USEPA/US@EPA, Debra Lucas/ENF/R8/USEPA/US@EPA
cc:
Subject: FY 2001 4th Quarter Enforcement Funding Assistance

Attached is OECA's response to our June 20 request for additional FY 2001 EOY funding from ORE. 7 out of our 10 requests were funded.

Please let me know if this augmented funding will free up any $ that we allocated from our (Regional) extramural sources (RA's, ECEJ EPM extramural funds, or our 97.8 K allocation of the Regional surplus- (Cripple Creek?, Ft. Peck?,Yellowstone Mt. Club?).

Contacts in HQ are indicated in the memo. Our deadline for contract commitments is August 10.

Pricilla: Would you contact Kia Logan and ascertain any similar HQ deadlines for commitments and let us all know when these will occur?

Andrew Michael Gaydosh
Deputy Assistant Regional Administrator
Office of Enforcement, Compliance and Environmental Justice
USEPA Region VIII

----- Forwarded by Mike Gaydosh/ENF/R8/USEPA/US on 07/18/01 07:59 AM -----

Carol Rushin

07/16/01 01:19 PM

To: Mike Gaydosh/ENF/R8/USEPA/US@EPA, Pricilla Casias/ENF/R8/USEPA/US@EPA
cc:
Subject: FY 2001 4th Quarter Enforcement Funding Assistance - CORRECTION

---------- Forwarded by Carol Rushin/ENF/R8/USEPA/US on 07/16/2001 01:18 PM ----------

Kia Logan
07/12/2001 02:24 PM

To: Michael Risner/ENF/R8/USEPA/US@EPA, Rosemarie Kelley/DC/USEPA/US@EPA
cc: Tom Speicher/RC/R8/USEPA/US@EPA, Carol Rushin/ENF/R8/USEPA/US@EPA, Eddie Sierra/ENF/R8/USEPA/US@EPA, Martin Hestmark/ENF/R8/USEPA/US@EPA, Jack Mcgraw/RA/R8/USEPA/US@EPA

Subject: FY 2001 4th Quarter Enforcement Funding Assistance - CORRECTION

The case name was not addressed for commitment #3? That funding is for Penalty Training. See corrected memo below.

01r84thqtr.wp

ENFORCEMENT SENSITIVE, DO NOT RELEASE-
CONFIDENTIAL

MEMORANDUM

SUBJECT: FY 2001 4th Quarter Enforcement Funding Assistance

FROM: Connie Musgrove, Deputy Director
Office of Regulatory Enforcement

TO: Mike Risner, Director
Legal Enforcement Program
Region 8

I am responding to Region 8's request to ORE for fourth quarter FY 2001 enforcement litigation/case support funding. ORE focused on MOA enforcement priorities and core programs where possible. Several regions requested funding for compliance assistance and inspections, federal facilities, superfund or other activities not within the scope of the ORE budget. Other offices such as the Office of Compliance (compliance assistance, inspections) have the lead for those programs.

In most circumstances, the funds listed below are accessed through the ORE mission contract vehicle to perform case work. For FY 2001, ORE has been processing the accounting paperwork, for work not procured through ORE's mission contract, out of headquarters for any established Regional contract mechanism. This allows us to oversee efficiently our Congressional directive against using enforcement funds for compliance assistance purposes. It also gives us maximum flexibility to fund emergency situations later in the year and shift funding into and out of cases that may settle or have trial dates established. ORE's Resource Management Team will ensure that all paperwork is handled in an expeditious manner to alleviate delays in this process.

ORE is making the following resources available:

1. $151,240 Magcorp
Contact Sounjay Gairola, RCRA Enforcement Division,
at (202) 564-4003.

2. $5,000 Davis County/Wasatch Energy Systems
Contact Sounjay Gairola, RCRA Enforcement Division, at (202) 564-4003.

3. **$1,600** **Penalty Training**
Contact RoseMarie Kelley, Multimedia Enforcement Division (MED), at 202-564-4014.

4. $30,000 Cripple Creek
Contact Kia Logan, ORE Resource Mgmt Team, at 202-564-2571.

Contact Atal Eralp, WED at (202) 564-4056 to access funds for the projects below:

5. $30,000 Cam West

6. $25,000 Fort Peck

7. $3,500 Yellowstone Mt. Club

Compliance assistance funding requests are not within our enforcement budget, and have been forwarded to the Office of Compliance (OC). If you have any questions or need further assistance, please call Kia Logan at 202-564-2571.

cc: E. Schaeffer
K. Logan
T. Speicher
C. Rushin
E. Sierra
M. Hestmark
J. McGraw

bcc: Rose Burgess
Atal Eralp
Sounjay Gairola
RoseMarie Kelley
ORE DD's/ADD's

25,000 is just a number not dollars for the project. They will decide to support a project or not based on that #. If it goes over or under doesn't really matter ~~contract~~

Atal Eralp
202 564 4056
FAX: 202-564-0024

$25,000
Stormwater Discharge
- Ft. Peck -

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
http://www.epa.gov/region08

AUG 3 2001

Ref: 8RC

Gina Guy
Regional Solicitor
Office of the Regional Solicitor
Rocky Mountain Region
755 Parfet Street, Suite 151
Lakewood, Colorado 80215

Re: "Touhy" request for deposition testimony of Joanna Thamke, in Youpee, et al. v. Murphy Oil USA, Inc., et al.

Dear Ms. ~~Guy~~ Gina,

As we discussed in our telephone call of August 2, 2001, parties in the above-referenced civil action in U.S. District Court, District of Montana, have asked that the Department of the Interior provide deposition testimony of Ms. Joanna Thamke, an employee of the U.S. Geological Service, located in Helena, Montana. Plaintiffs in that case have sued various oil production companies located in or near the East Poplar Oil Field, in Roosevelt County, Montana, for contamination of the Quaternary Deposits, an aquifer constituting the plaintiff's only underground source of drinking water. The United States is not a party to that action.

Thus far, EPA has issued two administrative orders and one consent order to various respondents, most (if not all) of whom are named defendants in the private lawsuit. As I indicated earlier, one of these orders has been appealed to the Court of Appeals for the Tenth Circuit. Additional orders may need to follow, if actions are to be taken to remedy widespread contamination in the East Poplar Oil Field.

As you can see from the enclosed "Touhy" request, the parties wish to depose Ms. Thamke on two reports: (1) USGS Open File Report 95-749 (entitled Hydrologic Data for the East Poplar Oil Field, Ft. Peck Indian Reservation, North Eastern Montana (Jan. '96)), and (2) USGS Water Resources Investigation Report 97-4000 (entitled Saline-Water Contaminations in Quaternary Deposits and the Poplar River, East Poplar Oil Field, North Eastern Montana (May '97)). The first of these documents reports on water chemistry in the East Poplar Oil Field and piezometric water levels to determine flow direction. The second document includes an electronic

Printed on Recycled Paper

survey of the East Poplar Oil Field showing the areal extent and concentration of contamination as a function of the effect of changes in Total Dissolved Solids on the conductivity of groundwater. The results of the first report have been incorporated into the second, larger report.

To my knowledge, all of the respondents named by EPA in its enforcement action are operating on the Ft. Peck Reservation under oil and gas leases issued by or in coordination with the Bureau of Indian Affairs and managed by the Bureau of Land Management. And, arguably, these same respondents have violated their obligations under 43 C.F.R. §3162.5-1 to conduct operations "in a manner that protects the mineral resources, other natural resources and environmental quality."

Thus far, all of EPA's administrative orders have relied on both of Ms. Thamke's reports for their technical underpinnings. EPA may issue future orders, if necessary, including one to require cleanup of all or a portion of the contaminated aquifer characterized by Ms. Thamke. As you can see, it would be unwise for us to allow litigants in an action to which the United States is not a party to question the procedures used to produce these reports and their results before EPA has concluded its own enforcement actions. Ms. Thamke's testimony would be under oath, and the United States, while not a party to the action, might none-the-less be bound by Ms. Thamke's deposition. Moreover, Ms. Thamke's deposition testimony, and the parties' use of her reports, may prompt the court to compel Ms. Thamke's testimony at trial, if desired by any party.

As you know, "Touhy" regulations for both EPA and Interior were developed in response to the U.S. Supreme Court's ruling in United States ex rel. Touhy v. Ragen, which upheld regulations of the Department of Justice prohibiting an employee from testifying unless the Attorney General determined that such testimony was in the "best public interest." Ragen, 416 U.S. 462, 463, note 1. Both EPA and Department of the Interior regulations, at 40 C.F.R. Part 2 and 43 C.F.R. Part 2, respectively, reflect this public policy concern. For EPA, testimony must be withheld unless the General Counsel or his designee determines that providing testimony would "clearly be in the interests of EPA . . . ." 40 C.F.R. §2.403. Under 43 C.F.R. §2.81, it is Interior's policy that testimony not be allowed unless it would ensure "the orderly execution of its mission and programs while not impeding any proceeding inappropriately." Again, under 43 C.F.R. §2.88, testimony is not authorized by Interior where it would impair the Department's ability to conduct business unimpeded, and it would involve the Department in issues that are not related to its mission.

In this matter, EPA and Interior have somewhat overlapping missions, i.e. protection of the ground water natural resource in the East Poplar Oil Field. EPA believes that allowing parties in the civil suit to depose Ms. Thamke and possibly involve her as a witness at trial may unduly impede EPA's ability to appropriately resolve ongoing and possible future enforcement actions to protect that resource.

Regulations at 43 C.F.R. §2.86 and 40 C.F.R. §2.406 allow the Department of the Interior and EPA, respectively, to offer private litigants authenticated documents that may be offered into evidence under Rule 44 of the Federal Rules of Civil Procedure without supporting oral testimony. EPA is willing to provide any documentary evidence the parties may need; however, I ask that, in this case, the Department of the Interior withhold authorization under 43 C.F.R. Part 2 for Ms. Thamke to testify in the above-referenced judicial action.

Please call me if you wish to discuss this further, or you may contact Mr. Steven B. Moores, of my staff, if you have questions concerning EPA's enforcement action in the East Poplar Oil Field.

Sincerely,

Thomas A. Speicher
Regional Counsel
(303) 312-7100

enclosure

JOHN WALKER ROSS
Brown Law Firm, P.C.
315 North 24th Street
P.O. Drawer 849
Billings, MT 59103-0849
(406) 248-2611

Attorneys for Defendants and Third Party Plaintiffs MESA Petroleum Co. and Pioneer Natural Resources USA, Inc.

RECEIVED
JUN 05 2001
U. S. GEOLOGICAL SURVEY

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION**

CARY G. YOUPEE, et al., Plaintiffs, v. MURPHY OIL USA, INC., et al. Defendants.	Cause No. CV 98-108-BLG-JDS Judge Jack D. Shanstrom
MESA PETROLEUM and PIONEER NATURAL RESOURCES, USA, INC., Defendants/Third Party Plaintiffs, and Cross-Plaintiffs, v. AMARCO RESOURCES CORP. BESTWAY INC.; WESTDALE PETROLEUM INC.;and THE PRUDENTIAL GROUP, Third Party Defendants, v. JOHN DOES 4-50, Cross-Defendants.	**"TOUHY" REQUEST FOR DEPOSITION TESTIMONY OF JOANNA THAMKE, and PRODUCTION OF USGS REPORTS and USGS MONITORING DATA, RELATING TO USGS STUDY OF CONTAMINATION IN AREA OF THE EAST POPLAR OIL FIELD, ROOSEVELT COUNTY, MONTANA**

To: Joanna Thamke & Robert Davis
U.S. Geological Survey
312 Bozeman Avenue
Helena, MT 59601

John Chaffin & Rich Aldrich
Dept. of Justice
U.S. Solicitors Office
316 North 26th, Room 3005
Billings, MT 59101

Pursuant to 43 CFR Sections 2.81, and 2.82, the undersigned parties in the above-captioned litigation hereby submit this written Request for the Deposition Testimony of Joanna Thamke, which deposition will be conducted sometime during the months of June, July, or August, 2001, in Helena, Montana, as more specifically arranged with Thamke. The undersigned parties will submit a check for costs in conjunction with said deposition, to the Department of Interior, in accordance with Section 2.85, if the request is granted. The undersigned parties will also pay the costs of duplication in accordance with 43 CFR Part 2 Appendix A, if their request for production of documents is granted. The undersigned parties have copies of the USGS Water Resources Investigation Report 97-4000 (i.e. the "97 Report"), and the other documents already produced by the USGS do not have to be produced. Any documents relating to the "1996 Report" and "1997 Report", and the USGS Open File Report 95-749 (i.e. the "96 Report") which have not previously been produced, should be produced.

Plaintiffs in the above-captioned case are members of households on certain lands in Roosevelt County, Montana, on which the groundwater thereunder has allegedly become polluted due to conduct of Defendants. A copy of Plaintiffs' Eighth Amended Complaint is enclosed. Defendants have generally denied Plaintiffs' allegations and raised various affirmative defenses. Copies of the undersigned Defendants' most recent Answers to Plaintiffs' Complaints are enclosed. Plaintiffs' Complaint is factually based substantially upon field investigation and monitoring conducted by USGS, EPA and others. The desired deposition testimony of Joanna Thamke is relevant and necessary and not reasonably available from any other source. The undersigned parties seek the deposition and testimony of Thamke in order that they fully understand the procedures that were followed by Thamke and other USGS employees in conducting the studies and investigations conducted by the USGS with regard to the East Poplar Oil Field in Roosevelt County, Montana, and in order to fully understand results of those investigations and studies, as particularly reflected in the USGS 1996 and 1997 Reports.

The undersigned parties believe that this request is appropriate pursuant to 43 CFR Section 2.88, considering the following factors:

(a) The parties have obtained copies of the "1996 and "1997 USGS Reports" from USGS; however, parties believe it is necessary to obtain the deposition testimony of Thamke regarding those reports because of her particular familiarity and knowledge regarding the USGS's investigation and findings, as particularly reported in the1996 and 1997 Reports.

(b) The USGS has previously produced relevant documents, including the 1996 and 1997 Reports under the FOIA and Privacy Acts, and this request for Thamke's testimony and related record production elaborates further on previous FOIA requests and production.

(c) As noted, the undersigned parties will arrange and schedule the deposition of Thamke at or near her Helena, Montana office, at a mutually convenient time, sometime during the months of June, July, or August, 2001. The undersigned parties recognize USGS and Thamke as objective and impartial in the above-captioned litigation. The undersigned parties are not and will not seek to engage USGS or Thamke in irrelevant or private matters and will take necessary steps to recognize and abide by procedures to protect privileged, protected, and confidential matters. The undersigned parties agree to work with USGS and Thamke and minimize the burden on USGS and Thamke in conjunction with this request, and appreciate the cooperation of USGS and Thamke in this matter.

Respectfully submitted this 1st day of June, 2001.

Richard J. Dolan
Goetz, Gallik, Baldwin & Dolan, P.C.
Attorneys for Petitioners

Michael E. Webster/Carolyn Ostby
Crowley, Haughty, Hanson, Toole & Dietrich, PLLP
Attorneys for Murphy Exploration & Production Co.

Robert Sterup
Dorsey & Whitney, LLP
Attorneys for Samson Hydrocarbons

for Gerald Murphy/Gerry Fagan
Moulton, Bellingham, Longo & Mather
Attorneys for Marathon Oil Company

John Walker Ross
Brown Law Firm
Attorneys for Pioneer Natural Resources, USA Inc.

Nathan Wiser
07/02/01 09:36 AM

To: Jim Eppers/ENF/R8/USEPA/US@EPA
cc: Steven Moores/RC/R8/USEPA/US@EPA
Subject: Re: 10:00 AM Doug E call in 7th floor conf room

Jim,

I agree. 9:45 am it is. The other topics that are likely to come up at some point include our rather fruitful discussion with Alan Morrissey on Friday, June 22, which produced such concepts as:

1. Using EPA-HQ Atal Eralp and the SAIC contract
2. Letter to USGS to request expert opinion for more study (e.g. airborne E-M, groundwater monitoring, etc.)
3. Additional consentual 1431 Order with Murphy + Pioneer to do more study and provide more water, and produce more documents
4. Additional 1431 Order to install sentinel GW monitoring wells

--Nathan Wiser
(303) 312-6211
Jim Eppers

Jim Eppers
07/02/01 08:50 AM

To: Nathan Wiser/ENF/R8/USEPA/US@EPA, Steven Moores/RC/R8/USEPA/US@EPA
cc:
Subject: 10:00 AM Doug E call in 7th floor conf room

Nathan (and Steven, if you'd like),

How about 9:45 for 15 minutes of updating, i.e., our call with the mediator; rig availability; anything else?

Nathan Wiser
06/13/01 03:56 PM

To: Richard Witt/DC/USEPA/US@EPA, Alan Morrissey/DC/USEPA/US@EPA, Jim Eppers/ENF/R8/USEPA/US@EPA, Steven Moores/RC/R8/USEPA/US@EPA
cc: Connally Mears/ENF/R8/USEPA/US@EPA, Nathan Wiser/ENF/R8/USEPA/US@EPA
Subject: Scheduled Confernce Call Monday June 18 (9:00 am MDT) East Poplar Oilfield SDWA 1431

Hi Alan, Jim, Steven, and Richard:

This message is to confirm that we will have a conference call to discuss the next steps to be taken administratively on the East Poplar Oil Field (Montana - Ft. Peck Indian Reservation) Safe Drinking Water Act §1431 Emergency Orders. Currently EPA has some choices for how it will proceed next, including some rather large steps that may cause an action to be appealed to Circuit Court.

EPA Region 8 staff will assemble in one room and call both Alan and Richard (if Richard agrees to the call) at **9:00 am Mountain Daylight Time (11:00 Eastern Time) on Monday June 18, 2001**.

FYI:

1. EPA SDWA §1431 Order Docket #SDWA-8-99-68 (2nd Amended) has been appealed to 10th Circuit and may soon be settled.

2. EPA SDWA §1431 Order Docket (new Docket No. - not yet assigned) against Pioneer Natural Resources USA Inc. is being signed upon consent, and thus may minimize the risk of an appeal. BUT, the remaining problem is the issue of making Pioneer do the work required in the action by date certain. I will explain during the call.

3. EPA SDWA §1431 Order Docket (yet another new Docket No. - not yet assigned) against up to four Respondents in the East Poplar Oil Field to require them to (a) study current extent of groundwater contamination, (b) install several groundwater monitoring wells in the oil field, (c) submit records, and (d) install groundwater monitoring wells near the City of Poplar to serve as "sentinel" monitoring wells to warn of impending moving contamination plume toward City's three PWS wells.

These are the topics, especially #2 and #3 we'd like to discuss. This may take a while (2-3 hours?)

--Nathan Wiser, UIC Technical Enforcement Program
(303) 312-6211

2002–03 Season

Colorado Pass™

Information Card

- VAIL™
- BEAVER CREEK™
- BRECKENRIDGE™
- KEYSTONE™
- ARAPAHOE BASIN

Colorado Pass™ holders get exclusive deals at www.snow.com.

Log on to **www.snow.com** and access the members-only Colorado Pass section. You'll find Colorado Pass specials, last-minute lodging deals, how many days you've skied at Vail™ and Beaver Creek™, Ski-with-a-Friend coupons remaining, PEAKS information and your PEAKS point balance. While there, sign up for e-mail updates, and we'll send you the latest discounts and deals.

For more information, call **888-215-3867** or visit **www.snow.com** and enter your pass number in the space provided.

The ski resorts are located within the Arapaho and White River National Forests and are under permit from the US Forest Service, U.S.D.A.

© 2002 Vail Resorts. All rights reserved.
Trademarks property of Vail Trademarks, Inc.

10107776 CP 9/02

Colorado Pass™ benefits

- **Unlimited access** to Breckenridge,™ Keystone™ and Arapahoe Basin.
- **10 days*** at Vail™ and Beaver Creek™ (or 20 days* if purchased).
- **6 Ski-with-a-Friend coupons** have been loaded onto your card for your friends to ski at discounted rates. Just bring your friend to a resort ticket office and show your pass. Visit **www.snow.com** for prices.
- **Resort Charge privileges.** For added benefits and convenience, go to a season pass office and link your credit card to your pass to charge lessons, on-mountain dining and more.

* The Colorado Pass is restricted at Vail and Beaver Creek 11/29–11/30/02, 12/27–12/31/02, 2/15–2/16/03. Discounted rates are available during these dates.

Plus earn PEAKS points

As a Colorado Pass holder, you're also a member of PEAKS at Vail Resorts.™ When you show your card, you can earn points toward great rewards every time you purchase ski/snowboard classes (1,000 points per day), private lessons (4,000 points per day), and more.

Receive a free lift ticket with just 10,000† PEAKS points – or enjoy other exciting rewards such as free adult class lessons, discounts on dining, and more.

For more information on PEAKS and how to earn and redeem points, pick up a PEAKS pocket guide, visit a resort ticket office or go to **www.snow.com**.

†Points are available for rewards 2–3 weeks from date earned.

FAX COVERSHEET

TO: BARBARA BRUCE

OFFICE CODE 2377A

PHONE NUMBER 202. 564. 5672

AGENCY/FIRM OGC

CITY/STATE

FAX NUMBER 202. 564. 5433

FROM: Steven Moores

U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION VIII
OFFICE OF REGIONAL COUNSEL, 8RC
999 18TH STREET, SUITE 500

PHONE NUMBER 303. 312. 6857

TOTAL NUMBER OF PAGES SENT 22 including cover sheet

ORC FAX NUMBER: (303) 312-6859

COMMENTS

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917
http://www.epa.gov/region08

February 1, 2002

Attorney Work Product
Deliberative Process Material
Do Not Disclose

Via Facsimile and Pouch Mail

Ref: 8RC

Memorandum

To: Barbara Bruce
Office of General Counsel
Mail Code 2377A

From: Steven B. Moores
Associate Regional Counsel

Subject: FOIA appeal 08-RIN-00028-02(A)

I am responding to your memorandum of January 14, 2002, which makes several requests of the Region in response to the above-referenced Freedom of Information Act ("FOIA") appeal. Unfortunately, the action office for the purpose of responding to this FOIA and the subsequent appeal did not receive OGC's package until January 28, 2002.

Nonetheless, the Region's responses are as follows:

1. A copy of the FOIA request letter is enclosed. The requestor is Scott M. DuBoff, an attorney with the law firm of Wright and Talisman, P.C., representing Murphy Exploration & Production Company, one of the respondents named in two recent EPA administrative orders issued under section 1431 of the Safe Drinking Water Act for contamination of drinking water sources in aquifers underlying the East Poplar Oil Field on the Ft. Peck Indian Reservation, located in Montana. Murphy has also appealed EPA's most recent order in the East Poplar matter to the U.S. Court of Appeals for the Third Circuit.

2. A copy of the Region's denial of the original FOIA request is enclosed.

Printed on Recycled Paper

3. An index of the withheld documents was part of the Region's partial denial of the original FOIA request and is enclosed. The FOIA requestor is only appealing Region 8's denial of the first four records, numbered 1 through 4 on that index. The remaining three documents, numbered 5 through 7, have not been appealed by the FOIA requestor.

4. A complete set of the withheld documents is enclosed. Inasmuch as the documents number only four, and in the interest of sending this memorandum at the earliest possible date, the enclosed withheld documents have not been individually numbered, although, as I've said, they are numbered on the index enclosed herewith and which was enclosed with Region 8's denial of the original FOIA request.

5. The name and telephone number of the person preparing the Region's response to the original FOIA request are, respectively, Mr. Nathan Wiser, (303) 312-6211. Mr. Wiser received legal counseling and concurrence on the denial by Mr. Steven B. Moores, Associate Regional Counsel, at (303) 312-6857. The Region's "initial response," including the partial denial, was signed by Ms. Carol Rushin, Assistant Regional Administrator, Office of Enforcement, Compliance and Environmental Justice, whose telephone number is (303) 312-6051.

6. The legal advisor most familiar with the records withheld is Mr. James Eppers, Region 8 Legal Enforcement Program, who can be contacted at (303) 312-6893.

7. As you know, by its own terms, the provisions of FOIA "do not apply" to those documents that fall within the "exemptions" listed at 5 U.S.C. §552(b)(1) through (9). In addition, and as explained in the October 12, 2001 memorandum from U.S. Attorney General John Ashcroft, EPA need no longer articulate a specific harm in order to withhold documents for which the Agency can assert a valid privilege or for documents that are otherwise protected under one or more of the listed statutory exemptions. Nonetheless, the Region provides the following explanation for having withheld the records in question.

To begin, documents numbered 1 through 3 on the enclosed index constitute email discussions among Regional staff, including attorneys and supervisors (and, in one instance, an EPA OECA attorney), concerning the pursuit of an administrative enforcement strategy under the authority of section 1431 of the Safe Drinking Water Act by responding to an imminent and substantial threat to human health presented by contaminants found in the drinking water supplies of residents in the East Poplar Oil Field, located on the Ft. Peck Indian Reservation, and to the citizens of the City of Poplar, located on the reservation in Montana. Thus far, a total of three outstanding administrative orders have been issued to address this matter, of which two are currently on appeal, in the Third and Tenth U.S. Circuit Courts of Appeal.

Each of the first three documents withheld by Region 8 constitute internal discussions by EPA staff about various strategies, results, and other aspects of the Ft. Peck administrative enforcement initiative. Therefore, each of these documents is protected from disclosure by FOIA

Exemption 7(A) as documents compiled for law enforcement purposes,[1] and by Exemption 5, as deliberative process materials. Disclosure of these communications would not only reveal information directly relevant to EPA's enforcement activities, but it would also chill the full and frank discussion of issues between EPA staff and their supervisors in the future. These documents, and documents like them, must be withheld to protect the integrity of EPA's enforcement initiative and the Agency's internal deliberative process in this case, and for the Agency generally.

To support a claim of deliberative process privilege, documents must be deliberative and predecisional.[2] Documents 1 through 3, are all deliberative and predecisional in that they constitute discussions among EPA staff on strategy and goals of the ongoing enforcement initiative in the East Poplar Oil Field. Pending decisions include, but are not limited to, whether to issue additional orders, which parties should be included as potential respondents, and what goals have been met and have yet to be met. As long as a document is generated as part of such a continuing process of agency decision making, exemption 5 is applicable.[3]

The most commonly cited policy purpose for supporting deliberative process claims is to encourage open, frank discussions on matters of policy between subordinates and superiors,[4] but

---

[1] "[I]t is sufficient for the agency to make a generalized showing that release of these particular kinds of documents would generally interfere with enforcement proceedings." Freedom of Information Act Guide ..., U.S. Dept. of Justice, May 2000 edition, p. 362, citing, among other cases, Wichlacz v. U.S. Dept. of Interior, 938 F.Supp. 325, 331 (E.D. Va. 1996), aff'd 114 F.3d 429, 436 (4th Cir 1997) ("[A] particularized showing is not required; rather, the government may justify non-disclosure in a generic fashion . . . ."). The FOIA appellant's claim that a specific showing is required, and its supporting case citations, are out of date. "Congress amended [exemption 7] to relax significantly the standard for demonstrating interference with enforcement proceedings." Manna v. U.S. Dept. of Justice, 51 F.3rd 1158,1164, n.5 (3rd Cir. 1995).

[2] See Mapother v. DOJ, 3 F.3d 1533, 1537 (D.C.Cir. 1993). In determining whether a document is predecisional, an agency does not have to point to any specific final agency decision, but merely establish "what deliberative process is involved, and the role played by the documents in issue in the course of that process." Coastal States Gas Corp. v. DOE, 617 F.2d 854, 868 (D.C.Cir. 1980). See also NLRB v. Sears, Roebuck & Co., 421 U.S. 132, 150 (1975).

[3] See e.g. Felsen v. HHS, NO. 95-975, slip op. at 90 (D.Md. Sept 30, 1998) ("agency need not identify any specific decision, but merely must establish what deliberative process is involved . . . .").

[4] See, e.g. Sears, 421 U.S. at 150, Missouri es rel. Shorr v. U.S. Army Corps of Engineers, 147 F.3rd 708, 710 (8th Cir. 1998) ("The purpose of the deliberative process privilege is to allow agencies freely to explore alternative avenues of action and to engage internal debates without fear of public scrutiny.").

the very process of deliberation is also protected by exemption 5.[5] These documents fit that description, and knowing that such communications might be held up to public scrutiny would cause many EPA staff members to hesitate to put recommendations, suggestions, opinions, discussions of issues, or other communications in writing.

Document No. 3 is somewhat different, in that it and an attachment to it discuss EPA funding for the East Poplar Oil Field enforcement initiative as well as for other ongoing and contemplated actions by Region 8's Office of Enforcement, Compliance, and Environmental Justice. Revealing funding for enforcement for this and other actions would tend to present the targets of such enforcement with an undue advantage. This document is both deliberative process and enforcement sensitive and therefore exempt from disclosure under FOIA exemptions 5 and 7.

Document number 4 is an August 3, 2001, letter from Thomas A. Speicher, then Regional Counsel, to Ms. Gina Guy, Regional Solicitor for the Department of the Interior. This letter sets forth EPA Region 8's reasons why the United States should resist a subpoena seeking the deposition testimony of Ms. Joanna Thamke, an employee of the U.S. Geological Survey, in a civil matter to which the United States is not a party. Murphy Exploration & Production Co., client of the FOIA requestor, was and is a named defendant in that litigation. Mr. Speicher's letter discusses Region 8's enforcement action and the potential effect of Ms. Thamke's testimony, if given in a forum other than that of the enforcement action itself and where EPA is not a party, but the FOIA requestor's client is. Providing Ms. Thamke's testimony was found by the Regional Solicitor to be not in the United States' interest because the private litigants sought to question Ms. Thamke about a study that largely forms the basis of EPA's administrative enforcement initiative in the East Poplar Oil Field. Therefore, Mr. Speicher's letter is not only attorney work product (given the appeals pending in the 3rd and 10th Circuits, and the anticipation of other administrative and judicial enforcement) but also predecisional in nature. Therefore, this letter is exempt from disclosure under both exemptions 5 and 7(A) of FOIA.

EPA Region 8 has released approximately 60,000 thousand pages of documents in response to FOIA requesters in this matter. Murphy Exploration & Production Company itself has made two separate requests of Region 8, and to date has received approximately 2,900 and 14,000 pages of records, respectively. As you can see, the few documents Region 8 has withheld clearly fall under statutory exemptions 5 and 7(A) of FOIA and should not be disclosed.

Thank you for your prompt attention to this matter. If you have any questions or wish to discuss this matter further or need additional information, please contact me at your earliest convenience.

---

[5] See Wolfe v. Dept. of Health & Human Services, 839 F.2d 768, 776 (D.C.Cir. 1988).

ATTORNEYS AT LAW
WRIGHT & TALISMAN, P.C.

1200 G Street, N.W.
Suite 600
Washington, D.C. 20005-3802
202-393-1200
FAX 202-393-1240
www.wrightlaw.com

RECEIVED
2001 OCT 23 PM 3:06
FOIA OFFICE

Scott M. DuBoff
duboff@wrightlaw.com

October 23, 2001

VIA FACSIMILE and ELECTRONIC MAIL

Vicki Ferguson
Freedom of Information Office
U. S. Environmental Protection Agency, Region 8
Mailcode: 8-OC
999 18th Street, Suite 300
Denver, CO 80202-2466

(8) RIN 28-02
ENF

Re: Docket No. SDWA-8-2001-33, Freedom of Information Act Request

Dear Ms. Ferguson:

This Freedom of Information Act Request concerns the Emergency Administrative Order issued by USEPA Region 8 in Docket No. SDWA-8-2001-33 on September 20, 2001 and the First Amended Emergency Administrative Order entered in the same docket on October 3, 2001, which modifies the September 20th order (hereafter the two orders are jointly referred to as the "EAOs").

Please provide copies of the following:

(i) all documents, including without limitation all EPA records as defined in 40 C.F.R. § 2.100(b), which comprise the administrative record with respect to the EAOs; and

(ii) to the extent not provided in the Agency's response to clause (i), all other documents, including without limitation all EPA records as defined in 40 C.F.R. § 2.100(b), which concern, address or otherwise relate to the EAOs.

I understand that reimbursement of Region 8's expenses in connection with processing this request may be required, and ask that you advise me in advance if such costs will exceed $400.

Very truly yours,

Scott M. DuBoff

K:\1007-008-709

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917
http://www.epa.gov/region08

DEC - 4 2001

Ref: 8ENF-T

PARTIAL DENIAL LETTER

Scott M. DuBoff
Wright & Talisman, P.C.
1200 G Street, N.W.
Washington, DC 20005-3802

Re: Freedom of Information Act Request
08-RIN-00028-02
East Poplar Oil Field
Roosevelt County, Montana

Dear Mr. DuBoff:

This is in response to your Freedom of Information Act (FOIA) request, dated October 23, 2001, in which you requested (1) a copy the administrative record for the Safe Drinking Water Act Emergency Administrative Order, Docket No. SDWA-08-2001-33, and (2) copies of any additional records the agency has related to the same Order.

On October 29, 2001, Mr. Nathan Wiser of my staff contacted you to inform you that processing this request would require pre-payment, owing to the very large number of pages involved. During that conversation, you indicated that you would await the finalization of an index to the administrative record for this Order so as to assist you to decide which documents to reproduce. On November 9, 2001, Mr. Wiser electronically transmitted to you an index to the administrative record. On November 9, 2001, you sent a letter in which you specified that you wanted a copy of the entire administrative record for EPA's Order referenced above and included a pre-payment check in the amount $1800.00. In that letter you also specified an alternate address to which all the photocopies should be shipped. EPA then began copying the documents you requested. In addition, of the documents in the agency's possession for which the second part of your request is applicable, you are still determining which additional documents to copy.

The records responsive to the first part of your request (the administrative record) are being shipped to Mr. James Baine in El Dorado, Arkansas per instructions in your November 9, 2001 letter. We are unable to provide the documents, or portions of documents, which have been determined exempt from disclosure under 5 U.S.C. § 552(b). These documents are being withheld pursuant to the provisions of 40 C.F.R. § 2.118(a).

Printed on Recycled Paper

In addition, there are publications which we are unable to provide you due to copyright issues. These published documents are available by contacting the U.S. Geological Survey, Branch of Information Services, P.O. Box 25286, Denver, Colorado 80225-0286.

An itemized list by categories of the withheld material along with the basis for withholding is provided on the enclosure to this letter (Vaughan index).

The additional cost of providing this material is $325.55. An itemized invoice covering the charges for processing your request will follow under separate cover. This was a rather large FOIA request to process; a total of 14,171 pages were photocopied.

You may appeal this partial denial by submitting a written appeal to the Freedom of Information Officer (Mail Code 1105A), United States Environmental Protection Agency, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460, within 30 days of receipt of this partial denial. Your appeal should refer to the RIN number listed above, the date of this determination, and my name, title and address.

Should you have any questions in this matter, the person most knowledgeable on my staff is Nathan Wiser who can be reached at (303) 312-6211.

Sincerely,

For

Carol Rushin
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

Enclosures (Vaughan index)

cc: Mr. James E. Baine (with 8 boxes of photocopies)
Murphy Oil USA, Inc.
200 Peach Street
El Dorado, AR 71730

Vaughan Index
Docket No. SDWA-08-2001-33
FOIA RIN 00028-02

No.	Date	Document Description	Withholding Justification
1	06/13/01	Email among EPA staff regarding next steps to take in the overall Fort Peck East Poplar Oil Field case	Record compiled for law enforcement purpose 5 U.S.C. 552(b)(7); Privileged inter- or intra-agency record 5 U.S.C. 552(b)(5)
2	07/02/01	Email among EPA staff regarding issues to discuss with Tribes and next steps to take in the overall Fort Peck East Poplar Oil Field case	Record compiled for law enforcement purpose 5 U.S.C. 552(b)(7); Privileged inter- or intra-agency record 5 U.S.C. 552(b)(5)
3	07/23/01	Email among EPA staff regarding funding for overall Fort Peck East Poplar Oil Field case	Record compiled for law enforcement purpose 5 U.S.C. 552(b)(7); Privileged inter- or intra-agency record 5 U.S.C. 552(b)(5)
4	08/03/01	"Touhy" request letter from Thomas Speicher to Gina Guy regarding deposition of Joanna Thamke	Record compiled for law enforcement purpose 5 U.S.C. 552(b)(7); Privileged inter- or intra-agency record 5 U.S.C. 552(b)(5)
5	08/10/01	U.S. 10th Circuit Court mediation document: Draft settlement language from Dept. of Justice to Respondent	Court-ordered confidentiality
6	08/24/01	U.S. 10th Circuit Court mediation document: Draft settlement language from Dept. of Justice to Respondent	Court-ordered confidentiality
7	08/29/01	U.S. 10th Circuit Court mediation document: Draft settlement language from Respondent to Dept. of Justice	Court-ordered confidentiality

Nathan Wiser
06/13/01 03:56 PM

To: Richard Witt/DC/USEPA/US@EPA, Alan Morrissey/DC/USEPA/US@EPA, Jim Eppers/ENF/R8/USEPA/US@EPA, Steven Moores/RC/R8/USEPA/US@EPA
cc: Connally Mears/ENF/R8/USEPA/US@EPA, Nathan Wiser/ENF/R8/USEPA/US@EPA
Subject: Scheduled Confernce Call Monday June 18 (9:00 am MDT) East Poplar Oilfield SDWA 1431

Hi Alan, Jim, Steven, and Richard:

This message is to confirm that we will have a conference call to discuss the next steps to be taken administratively on the East Poplar Oil Field (Montana - Ft. Peck Indian Reservation) Safe Drinking Water Act §1431 Emergency Orders. Currently EPA has some choices for how it will proceed next, including some rather large steps that may cause an action to be appealed to Circuit Court.

EPA Region 8 staff will assemble in one room and call both Alan and Richard (if Richard agrees to the call) at **9:00 am Mountain Daylight Time (11:00 Eastern Time) on Monday June 18, 2001.**

FYI:

1. EPA SDWA §1431 Order Docket #SDWA-8-99-68 (2nd Amended) has been appealed to 10th Circuit and may soon be settled.

2. EPA SDWA §1431 Order Docket (new Docket No. - not yet assigned) against Pioneer Natural Resources USA Inc. is being signed upon consent, and thus may minimize the risk of an appeal. BUT, the remaining problem is the issue of making Pioneer do the work required in the action by date certain. I will explain during the call.

3. EPA SDWA §1431 Order Docket (yet another new Docket No. - not yet assigned) against up to four Respondents in the East Poplar Oil Field to require them to (a) study current extent of groundwater contamination, (b) install several groundwater monitoring wells in the oil field, (c) submit records, and (d) install groundwater monitoring wells near the City of Poplar to serve as "sentinel" monitoring wells to warn of impending moving contamination plume toward City's three PWS wells.

These are the topics, especially #2 and #3 we'd like to discuss. This may take a while (2-3 hours?)

--Nathan Wiser, UIC Technical Enforcement Program
(303) 312-6211

Nathan Wiser
07/02/01 09:36 AM

To: Jim Eppers/ENF/R8/USEPA/US@EPA
cc: Steven Moores/RC/R8/USEPA/US@EPA
Subject: Re: 10:00 AM Doug E call in 7th floor conf room

Jim,

I agree. 9:45 am it is. The other topics that are likely to come up at some point include our rather fruitful discussion with Alan Morrissey on Friday, June 22, which produced such concepts as:

1. Using EPA-HQ Atal Eralp and the SAIC contract
2. Letter to USGS to request expert opinion for more study (e.g. airborne E-M, groundwater monitoring, etc.)
3. Additional consentual 1431 Order with Murphy + Pioneer to do more study and provide more water, and produce more documents
4. Additional 1431 Order to install sentinel GW monitoring wells

--Nathan Wiser
(303) 312-6211
Jim Eppers

Jim Eppers
07/02/01 08:50 AM

To: Nathan Wiser/ENF/R8/USEPA/US@EPA, Steven Moores/RC/R8/USEPA/US@EPA
cc:
Subject: 10:00 AM Doug E call in 7th floor conf room

Nathan (and Steven, if you'd like),

How about 9:45 for 15 minutes of updating, i.e., our call with the mediator; rig availability; anything else?

Connally Mears

07/23/01 10:02 AM

To: Nathan Wiser/ENF/R8/USEPA/US@EPA
cc: (bcc: Connally Mears/ENF/R8/USEPA/US)
Subject: MORE $$ for Ft. Peck?

Let's talk this AM.

----- Forwarded by Connally Mears/ENF/R8/USEPA/US on 07/23/01 09:56 AM -----

Mike Gaydosh

07/18/01 08:09 AM

To: Martin Hestmark/ENF/R8/USEPA/US@EPA, Sharon Kercher/ENF/R8/USEPA/US@EPA, Connally Mears/ENF/R8/USEPA/US@EPA, Ron Rutherford/ENF/R8/USEPA/US@EPA, Tim Osag/ENF/R8/USEPA/US@EPA, Carole VandenBerg/ENF/R8/USEPA/US@EPA, Carol Rushin/ENF/R8/USEPA/US@EPA, Elisabeth Evans/ENF/R8/USEPA/US@EPA, Marvin Frye/ENF/R8/USEPA/US@EPA, Diane Sipe/ENF/R8/USEPA/US@EPA, David Janik/ENF/R8/USEPA/US@EPA, Christine Lehnertz/ENF/R8/USEPA/US@EPA, Melanie Pallman/ENF/R8/USEPA/US@EPA, Pricilla Casias/ENF/R8/USEPA/US@EPA, Michael Risner/ENF/R8/USEPA/US@EPA, Eddie Sierra/ENF/R8/USEPA/US@EPA, Debra Lucas/ENF/R8/USEPA/US@EPA
cc:
Subject: FY 2001 4th Quarter Enforcement Funding Assistance

Attached is OECA's response to our June 20 request for additional FY 2001 EOY funding from ORE. 7 out of our 10 requests were funded.

Please let me know if this augmented funding will free up any $ that we allocated from our (Regional) extramural sources (RA's, ECEJ EPM extramural funds, or our 97.8 K allocation of the Regional surplus- (Cripple Creek?, Ft. Peck?,Yellowstone Mt. Club?).

Contacts in HQ are indicated in the memo. Our deadline for contract commitments is August 10.

Pricilla: Would you contact Kia Logan and ascertain any similar HQ deadlines for commitments and let us all know when these will occur?

Andrew Michael Gaydosh
Deputy Assistant Regional Administrator
Office of Enforcement, Compliance and Environmental Justice
USEPA Region VIII

----- Forwarded by Mike Gaydosh/ENF/R8/USEPA/US on 07/18/01 07:59 AM -----

Carol Rushin

07/16/01 01:19 PM

To: Mike Gaydosh/ENF/R8/USEPA/US@EPA, Pricilla Casias/ENF/R8/USEPA/US@EPA
cc:
Subject: FY 2001 4th Quarter Enforcement Funding Assistance - CORRECTION

---------- Forwarded by Carol Rushin/ENF/R8/USEPA/US on 07/16/2001 01:18 PM ----------

Kia Logan
07/12/2001 02:24 PM

To: Michael Risner/ENF/R8/USEPA/US@EPA, Rosemarie Kelley/DC/USEPA/US@EPA
cc: Tom Speicher/RC/R8/USEPA/US@EPA, Carol Rushin/ENF/R8/USEPA/US@EPA, Eddie Sierra/ENF/R8/USEPA/US@EPA, Martin Hestmark/ENF/R8/USEPA/US@EPA, Jack Mcgraw/RA/R8/USEPA/US@EPA

Subject: FY 2001 4th Quarter Enforcement Funding Assistance - CORRECTION

The case name was not addressed for commitment #3? That funding is for Penalty Training. See corrected memo below.

01r84thqtr.wp

ENFORCEMENT SENSITIVE, DO NOT RELEASE-
CONFIDENTIAL

MEMORANDUM

SUBJECT: FY 2001 4th Quarter Enforcement Funding Assistance

FROM: Connie Musgrove, Deputy Director
Office of Regulatory Enforcement

TO: Mike Risner, Director
Legal Enforcement Program
Region 8

I am responding to Region 8's request to ORE for fourth quarter FY 2001 enforcement litigation/case support funding. ORE focused on MOA enforcement priorities and core programs where possible. Several regions requested funding for compliance assistance and inspections, federal facilities, superfund or other activities not within the scope of the ORE budget. Other offices such as the Office of Compliance (compliance assistance, inspections) have the lead for those programs.

In most circumstances, the funds listed below are accessed through the ORE mission contract vehicle to perform case work. For FY 2001, ORE has been processing the accounting paperwork, for work not procured through ORE's mission contract, out of headquarters for any established Regional contract mechanism. This allows us to oversee efficiently our Congressional directive against using enforcement funds for compliance assistance purposes. It also gives us maximum flexibility to fund emergency situations later in the year and shift funding into and out of cases that may settle or have trial dates established. ORE's Resource Management Team will ensure that all paperwork is handled in an expeditious manner to alleviate delays in this process.

ORE is making the following resources available:

1. $151,240 Magcorp
Contact Sounjay Gairola, RCRA Enforcement Division,
at (202) 564-4003.

2. $5,000 Davis County/Wasatch Energy Systems
Contact Sounjay Gairola, RCRA Enforcement Division, at (202) 564-4003.

3. $1,600 Penalty Training
Contact RoseMarie Kelley, Multimedia Enforcement Division (MED), at 202-564-4014.

4. $30,000 Cripple Creek
Contact Kia Logan, ORE Resource Mgmt Team, at 202-564-2571.

Contact Atal Eralp, WED at (202) 564-4056 to access funds for the projects below:

5. $30,000 Cam West

6. $25,000 Fort Peck

7. $3,500 Yellowstone Mt. Club

Compliance assistance funding requests are not within our enforcement budget, and have been forwarded to the Office of Compliance (OC). If you have any questions or need further assistance, please call Kia Logan at 202-564-2571.

cc: E. Schaeffer
K. Logan
T. Speicher
C. Rushin
E. Sierra
M. Hestmark
J. McGraw

bcc: Rose Burgess
Atal Eralp
Sounjay Gairola
RoseMarie Kelley
ORE DD's/ADD's

25,000 is just a number not dollars for the project. They will decide to support a project or not based on that #. If it goes over or under doesn't really matter ~~contract~~

Atal Eralp
202 564 4056
FAX: 202-564-0024

$25,000
Stormwater Discharge
- Ft. Peck -

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
http://www.epa.gov/region08

AUG 3 2001

Ref: 8RC

Gina Guy
Regional Solicitor
Office of the Regional Solicitor
Rocky Mountain Region
755 Parfet Street, Suite 151
Lakewood, Colorado 80215

Re: "Touhy" request for deposition testimony of Joanna Thamke, in Youpee, et al. v. Murphy Oil USA, Inc., et al.

Dear Ms. ~~Guy~~ Gina,

As we discussed in our telephone call of August 2, 2001, parties in the above-referenced civil action in U.S. District Court, District of Montana, have asked that the Department of the Interior provide deposition testimony of Ms. Joanna Thamke, an employee of the U.S. Geological Service, located in Helena, Montana. Plaintiffs in that case have sued various oil production companies located in or near the East Poplar Oil Field, in Roosevelt County, Montana, for contamination of the Quaternary Deposits, an aquifer constituting the plaintiff's only underground source of drinking water. The United States is not a party to that action.

Thus far, EPA has issued two administrative orders and one consent order to various respondents, most (if not all) of whom are named defendants in the private lawsuit. As I indicated earlier, one of these orders has been appealed to the Court of Appeals for the Tenth Circuit. Additional orders may need to follow, if actions are to be taken to remedy widespread contamination in the East Poplar Oil Field.

As you can see from the enclosed "Touhy" request, the parties wish to depose Ms. Thamke on two reports: (1) USGS Open File Report 95-749 (entitled Hydrologic Data for the East Poplar Oil Field, Ft. Peck Indian Reservation, North Eastern Montana (Jan. '96)), and (2) USGS Water Resources Investigation Report 97-4000 (entitled Saline-Water Contaminations in Quaternary Deposits and the Poplar River, East Poplar Oil Field, North Eastern Montana (May '97)). The first of these documents reports on water chemistry in the East Poplar Oil Field and piezometric water levels to determine flow direction. The second document includes an electronic

Printed on Recycled Paper

survey of the East Poplar Oil Field showing the areal extent and concentration of contamination as a function of the effect of changes in Total Dissolved Solids on the conductivity of groundwater. The results of the first report have been incorporated into the second, larger report.

To my knowledge, all of the respondents named by EPA in its enforcement action are operating on the Ft. Peck Reservation under oil and gas leases issued by or in coordination with the Bureau of Indian Affairs and managed by the Bureau of Land Management. And, arguably, these same respondents have violated their obligations under 43 C.F.R. §3162.5-1 to conduct operations "in a manner that protects the mineral resources, other natural resources and environmental quality."

Thus far, all of EPA's administrative orders have relied on both of Ms. Thamke's reports for their technical underpinnings. EPA may issue future orders, if necessary, including one to require cleanup of all or a portion of the contaminated aquifer characterized by Ms. Thamke. As you can see, it would be unwise for us to allow litigants in an action to which the United States is not a party to question the procedures used to produce these reports and their results before EPA has concluded its own enforcement actions. Ms. Thamke's testimony would be under oath, and the United States, while not a party to the action, might none-the-less be bound by Ms. Thamke's deposition. Moreover, Ms. Thamke's deposition testimony, and the parties' use of her reports, may prompt the court to compel Ms. Thamke's testimony at trial, if desired by any party.

As you know, "Touhy" regulations for both EPA and Interior were developed in response to the U.S. Supreme Court's ruling in United States ex rel. Touhy v. Ragen, which upheld regulations of the Department of Justice prohibiting an employee from testifying unless the Attorney General determined that such testimony was in the "best public interest." Ragen, 416 U.S. 462, 463, note 1. Both EPA and Department of the Interior regulations, at 40 C.F.R. Part 2 and 43 C.F.R. Part 2, respectively, reflect this public policy concern. For EPA, testimony must be withheld unless the General Counsel or his designee determines that providing testimony would "clearly be in the interests of EPA . . . ." 40 C.F.R. §2.403. Under 43 C.F.R. §2.81, it is Interior's policy that testimony not be allowed unless it would ensure "the orderly execution of its mission and programs while not impeding any proceeding inappropriately." Again, under 43 C.F.R. §2.88, testimony is not authorized by Interior where it would impair the Department's ability to conduct business unimpeded, and it would involve the Department in issues that are not related to its mission.

In this matter, EPA and Interior have somewhat overlapping missions, i.e. protection of the ground water natural resource in the East Poplar Oil Field. EPA believes that allowing parties in the civil suit to depose Ms. Thamke and possibly involve her as a witness at trial may unduly impede EPA's ability to appropriately resolve ongoing and possible future enforcement actions to protect that resource.

Regulations at 43 C.F.R. §2.86 and 40 C.F.R. §2.406 allow the Department of the Interior and EPA, respectively, to offer private litigants authenticated documents that may be offered into evidence under Rule 44 of the Federal Rules of Civil Procedure without supporting oral testimony. EPA is willing to provide any documentary evidence the parties may need; however, I ask that, in this case, the Department of the Interior withhold authorization under 43 C.F.R. Part 2 for Ms. Thamke to testify in the above-referenced judicial action.

Please call me if you wish to discuss this further, or you may contact Mr. Steven B. Moores, of my staff, if you have questions concerning EPA's enforcement action in the East Poplar Oil Field.

Sincerely,

Thomas A. Speicher
Regional Counsel
(303) 312-7100

enclosure

JOHN WALKER ROSS
Brown Law Firm, P.C.
315 North 24th Street
P.O. Drawer 849
Billings, MT 59103-0849
(406) 248-2611

Attorneys for Defendants and Third Party Plaintiffs MESA Petroleum Co. and Pioneer Natural Resources USA, Inc.

RECEIVED
JUN 05 2001
U. S. GEOLOGICAL SURVEY

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION**

CARY G. YOUPEE, et al., Plaintiffs, v. MURPHY OIL USA, INC., et al. Defendants.	Cause No. CV 98-108-BLG-JDS Judge Jack D. Shanstrom
MESA PETROLEUM and PIONEER NATURAL RESOURCES, USA, INC., Defendants/Third Party Plaintiffs, and Cross-Plaintiffs, v. AMARCO RESOURCES CORP. BESTWAY INC.; WESTDALE PETROLEUM INC.;and THE PRUDENTIAL GROUP, Third Party Defendants, v. JOHN DOES 4-50, Cross-Defendants.	**"TOUHY" REQUEST FOR DEPOSITION TESTIMONY OF JOANNA THAMKE, and PRODUCTION OF USGS REPORTS and USGS MONITORING DATA, RELATING TO USGS STUDY OF CONTAMINATION IN AREA OF THE EAST POPLAR OIL FIELD, ROOSEVELT COUNTY, MONTANA**

To: Joanna Thamke & Robert Davis
U.S. Geological Survey
312 Bozeman Avenue
Helena, MT 59601

John Chaffin & Rich Aldrich
Dept. of Justice
U.S. Solicitors Office
316 North 26th, Room 3005
Billings, MT 59101

Pursuant to 43 CFR Sections 2.81, and 2.82, the undersigned parties in the above-captioned litigation hereby submit this written Request for the Deposition Testimony of Joanna Thamke, which deposition will be conducted sometime during the months of June, July, or August, 2001, in Helena, Montana, as more specifically arranged with Thamke. The undersigned parties will submit a check for costs in conjunction with said deposition, to the Department of Interior, in accordance with Section 2.85, if the request is granted. The undersigned parties will also pay the costs of duplication in accordance with 43 CFR Part 2 Appendix A, if their request for production of documents is granted. The undersigned parties have copies of the USGS Water Resources Investigation Report 97-4000 (i.e. the "97 Report"), and the other documents already produced by the USGS do not have to be produced. Any documents relating to the "1996 Report" and "1997 Report", and the USGS Open File Report 95-749 (i.e. the "96 Report") which have not previously been produced, should be produced.

Plaintiffs in the above-captioned case are members of households on certain lands in Roosevelt County, Montana, on which the groundwater thereunder has allegedly become polluted due to conduct of Defendants. A copy of Plaintiffs' Eighth Amended Complaint is enclosed. Defendants have generally denied Plaintiffs' allegations and raised various affirmative defenses. Copies of the undersigned Defendants' most recent Answers to Plaintiffs' Complaints are enclosed. Plaintiffs' Complaint is factually based substantially upon field investigation and monitoring conducted by USGS, EPA and others. The desired deposition testimony of Joanna Thamke is relevant and necessary and not reasonably available from any other source. The undersigned parties seek the deposition and testimony of Thamke in order that they fully understand the procedures that were followed by Thamke and other USGS employees in conducting the studies and investigations conducted by the USGS with regard to the East Poplar Oil Field in Roosevelt County, Montana, and in order to fully understand results of those investigations and studies, as particularly reflected in the USGS 1996 and 1997 Reports.

The undersigned parties believe that this request is appropriate pursuant to 43 CFR Section 2.88, considering the following factors:

(a) The parties have obtained copies of the "1996 and "1997 USGS Reports" from USGS; however, parties believe it is necessary to obtain the deposition testimony of Thamke regarding those reports because of her particular familiarity and knowledge regarding the USGS's investigation and findings, as particularly reported in the1996 and 1997 Reports.

(b) The USGS has previously produced relevant documents, including the 1996 and 1997 Reports under the FOIA and Privacy Acts, and this request for Thamke's testimony and related record production elaborates further on previous FOIA requests and production.

(c) As noted, the undersigned parties will arrange and schedule the deposition of Thamke at or near her Helena, Montana office, at a mutually convenient time, sometime during the months of June, July, or August, 2001. The undersigned parties recognize USGS and Thamke as objective and impartial in the above-captioned litigation. The undersigned parties are not and will not seek to engage USGS or Thamke in irrelevant or private matters and will take necessary steps to recognize and abide by procedures to protect privileged, protected, and confidential matters. The undersigned parties agree to work with USGS and Thamke and minimize the burden on USGS and Thamke in conjunction with this request, and appreciate the cooperation of USGS and Thamke in this matter.

Respectfully submitted this 1st day of June, 2001.

Richard J. Dolan
Goetz, Gallik, Baldwin & Dolan, P.C.
Attorneys for Petitioners

Michael E. Webster/Carolyn Ostby
Crowley, Haughty, Hanson, Toole & Dietrich, PLLP
Attorneys for Murphy Exploration & Production Co.

Robert Sterup
Dorsey & Whitney, LLP
Attorneys for Samson Hydrocarbons

for Gerald Murphy/~~Gerry Fagan~~
Moulton, Bellingham, Longo & Mather
Attorneys for Marathon Oil Company

John Walker Ross
Brown Law Firm
Attorneys for Pioneer Natural Resources, USA Inc.

FAX COVERSHEET

TO: _____

OFFICE CODE.....

PHONE NUMBER.....

AGENCY/FIRM.....

CITY/STATE.....

FAX NUMBER _____

FROM: _____

U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION VIII
OFFICE OF REGIONAL COUNSEL, 8RC
999 18TH STREET, SUITE 500

PHONE NUMBER.....

TOTAL NUMBER OF PAGES SENT.....

ORC FAX NUMBER: ***(303) 312-6859***

COMMENTS

United States Department of Justice
OFFICE OF INFORMATION AND PRIVACY
FOIA Post

New Attorney General FOIA Memorandum Issued

A new statement of Administration policy on the Freedom of Information Act has been issued by Attorney General John Ashcroft and has been transmitted to all agencies across the executive branch of the federal government.

On October 12, Attorney General Ashcroft issued a memorandum to the heads of all departments and agencies that supersedes the Department of Justice FOIA policy memorandum that had been in effect since October 1993. The new Ashcroft FOIA Memorandum was effective immediately upon issuance, and the presidential statement on the FOIA that was issued in 1993 remains in effect as well.

The Ashcroft FOIA Memorandum emphasizes the Administration's commitment to full compliance with the FOIA as an important means of maintaining an open and accountable system of government. At the same time, it recognizes the importance of protecting the sensitive institutional, commercial, and personal interests that can be implicated in government records -- such as the need to safeguard national security, to maintain law enforcement effectiveness, to respect business confidentiality, to protect internal agency deliberations, and to preserve personal privacy.

In replacing the predecessor FOIA memorandum, the Ashcroft FOIA Memorandum establishes a new "sound legal basis" standard governing the Department of Justice's decisions on whether to defend agency actions under the FOIA when they are challenged in court. This differs from the "foreseeable harm" standard that was employed under the predecessor memorandum. Under the new standard, agencies should reach the judgment that their use of a FOIA exemption is on sound footing, both factually and legally, whenever they withhold requested information.

Significantly, the Ashcroft FOIA Memorandum also recognizes the continued agency practice of considering whether to make discretionary disclosures of information that is exempt under the Act, subject to statutory prohibitions and other applicable limitations. It also places particular emphasis on the right to privacy among the other interests that are protected by the FOIA's exemptions.

The text of the Ashcroft FOIA Memorandum is as follows:

Memorandum for Heads of all Federal Departments and Agencies

From: John Ashcroft, Attorney General

Subject: The Freedom of Information Act

As you know, the Department of Justice and this Administration are committed to full compliance with the Freedom of Information Act (FOIA), 5 U.S.C. § 552 (2000). It is only through a well-informed citizenry that the leaders of our nation remain accountable to the governed and the American people can be assured that neither fraud nor government waste is concealed.

The Department of Justice and this Administration are equally committed to protecting other fundamental values that are held by our society. Among them are safeguarding our national security, enhancing the effectiveness of our law enforcement agencies, protecting sensitive business information and, not least, preserving personal privacy.

Our citizens have a strong interest as well in a government that is fully functional and efficient. Congress and the courts have long recognized that certain legal privileges ensure candid and complete agency deliberations without fear that they will be made public. Other privileges ensure that lawyers' deliberations and communications are kept private. No leader can operate effectively without confidential advice and counsel. Exemption 5 of the FOIA, 5 U.S.C. § 552(b)(5), incorporates these privileges and the sound policies underlying them.

I encourage your agency to carefully consider the protection of all such values and interests when making disclosure determinations under the FOIA. Any discretionary decision by your agency to disclose information protected under the FOIA should be made only after full and deliberate consideration of the institutional, commercial, and personal privacy interests that could be implicated by disclosure of the information.

In making these decisions, you should consult with the Department of Justice's Office of Information and Privacy when significant FOIA issues arise, as well as with our Civil Division on FOIA litigation matters. When you carefully consider FOIA requests and decide to withhold records, in whole or in part, you can be assured that the Department of Justice will defend your decisions unless they lack a sound legal basis or present an unwarranted risk of adverse impact on the ability of other agencies to protect other important records.

This memorandum supersedes the Department of Justice's FOIA Memorandum of October 4, 1993, and it likewise creates no substantive or procedural right enforceable at law.

* * * * *

This policy memorandum was issued pursuant to the Attorney General's specific statutory responsibility "to encourage agency compliance with [the Freedom of Information Act]," 5 U.S.C. § 552(e)(5) (2000), a responsibility that the Department of Justice discharges in several ways, including through statements of FOIA policy. *See, e.g.*, Department of Justice Calendar Year 2000 Annual FOIA Report at 99-107 ("Description of Department of Justice Efforts to Encourage Agency Compliance with the Act").

A new FOIA policy statement traditionally has been issued by the Attorney General at the beginning of a new Administration. Such statements were issued in May 1977 by Attorney General Griffin B. Bell, in May 1981 by Attorney General William French Smith, and in October 1993 by Attorney General Janet Reno. The Ashcroft FOIA Memorandum continues that tradition and in so doing calls attention to the administration of the FOIA at the highest levels of all agencies.

Additionally, the Office of Information and Privacy is disseminating this new FOIA policy memorandum to the principal administrative and legal FOIA contacts at all agencies, with the request that it be further disseminated as widely and expeditiously as possible through FOIA administrative channels within each agency. This dissemination should ensure that the memorandum reaches all FOIA personnel within each agency directly, in addition to through its distribution by each agency head.

OIP also will be both distributing and discussing the Ashcroft FOIA Memorandum at a FOIA Officers Conference to be held on October 18. A second topic to be discussed at this FOIA Officers Conference will be agency implementation of the electronic availability and annual reporting requirements of the Electronic Freedom of Information Act Amendments of 1996, in accordance with this past year's General Accounting Office Report entitled, "Progress in Implementing the 1996 Electronic Freedom of Information Act Amendments"). OIP issued a policy guidance memorandum on that subject earlier this year, *see FOIA Post*, "GAO E-FOIA Implementation Report Issued" (posted 3/23/01), and issued follow-up guidance on the preparation of annual FOIA reports as well, *see FOIA Post*, "Supplemental Guidance on Annual FOIA Reports" (posted 8/13/01).

Lastly, a third topic that will be discussed at this FOIA Officers Conference is one that has become a subject of greatly increased significance since the horrific events of September 11. In light of those events, and the possibilities for further terrorist activity in their aftermath, federal agencies are concerned with the need to protect critical systems, facilities, stockpiles, and other assets from security breaches and harm -- and in some instances from their potential use as weapons of mass destruction in and of themselves. Such protection efforts, of course, must at the same time include the protection of any agency information that could enable someone to succeed in causing the feared harm.

Protection for such records or information, if requested under the FOIA, is available under Exemption 2 of the Act, 5 U.S.C. § 552(b)(2) (2000). Any agency assessment of, or statement regarding, the vulnerability of such a critical asset should be protected pursuant to Exemption 2. *See* *FOIA Update*, Vol. X, No. 3, at 3-4 ("OIP Guidance: Protecting Vulnerability Assessments Through Application of Exemption Two"). Beyond that, a wide range of information can be withheld under Exemption 2's "circumvention" aspect, sometimes referred to as "high 2," as is discussed in the "'High 2': Risk of Circumvention" Subsection of the "Exemption 2" Section of the "Justice Department Guide to the Freedom of Information Act." Agencies should be sure to avail themselves of the full measure of Exemption 2's protection for their critical infrastructure information as they continue to gather more of it, and assess its heightened sensitivity, in the wake of the September 11 terrorist attacks.

Any question concerning the Ashcroft FOIA Memorandum, about implementation of the Electronic FOIA Amendments, about the use of Exemption 2 to provide necessary protection in the wake of terrorism, or about any aspect of FOIA administration can be raised through the Office of Information and Privacy's FOIA Counselor service, at (202) 514-3642. *(posted 10/15/01)*

Go to: Main *FOIA Post* Page// DOJ FOIA Page // DOJ Home Page

ATTORNEYS AT LAW
WRIGHT & TALISMAN, P.C.

1200 G Street, N.W.
Suite 600
Washington, D.C. 20005-3802
202-393-1200
FAX 202-393-1240
www.wrightlaw.com

January 8, 2002

BY HAND DELIVERY

RECEIVED
EPA/HQOTRS
2002 JAN -8 PM 4:45
FREEDOM OF
INFORMATION OFFICE

Freedom of Information Officer (Mail Code 1105A)
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, D.C. 20460

Re: Freedom of Information Act Request 08 RIN-00020-02,
APPEAL FROM PARTIAL DENIAL

Dear Sir or Madam:

Murphy Exploration & Production Company (Murphy) hereby appeals the Agency's December 4, 2001 Partial Denial Letter in connection with the above-referenced Freedom of Information Act (FOIA) request. The Partial Denial Letter (copy attached) was issued by Carol Rushin, Assistant Regional Administrator, Office of Enforcement, Compliance and Environmental Justice, U.S. EPA Region 8, 999 18th Street, Denver, CO 80202-2466.[1] The records that EPA is withholding, and which are the subject of this appeal, are items 1-4 in the Vaughan Index that accompanies the Partial Denial Letter. Although the regulation that governs this appeal, 40 C.F.R. § 2.114(c), does not require identification of the bases for the appeal, Murphy submits that the Partial Denial Letter improperly withholds the subject records in purported reliance on the FOIA exemptions for law enforcement documents (5 U.S.C. § 552(b)(7)) and agency records (5 U.S.C. § 552(b)(5)).

The exemption for law enforcement documents, 5 U.S.C. § 552(b)(7), is inapplicable here. To paraphrase the statute, it exempts records from the FOIA where disclosure "could reasonably be expected to interfere with enforcement proceedings, . . . deprive a person of a right to a fair trial or an impartial adjudication, . . . constitute an unwarranted invasion of personal privacy, . . . [or] disclose the identity of a confidential source," etc. It is the government's burden to demonstrate a reasonable likelihood that at least one of the harms specified in section 552(b)(7) would result from disclosure. See FBI v. Abramson, 456 U.S. 615, 622 (1982); see also Miller v. U.S. Dep't of Agriculture, 13 F.3d 260, 263 (8th Cir. 1993) (the government must make a specific showing at to why disclosure could reasonably be expected to interfere with enforcement proceedings). In this case, there is no basis for suggesting any reasonable

[1] Although the letter was addressed to the undersigned, as of this date he has not received it. A copy of the letter was, however, received by Murphy on or about December 10.

possibility that one of those harms would result from disclosure of the documents that Murphy has requested.

Equally invalid is the Partial Denial Letter's reliance on the agency record exemption in 5 U.S.C. § 552(b)(5).[2] Given the "general disclosure policy of FOIA," Wolfe v. Dep't of Health and Human Servs., 839 F.2d 768, 773 (D.C. Cir. 1988) (en banc), the section 552(b)(5) exemption is to be construed "as narrowly as is consistent with efficient government operation." Army Times Publishing Co. v. Dep't of the Air Force, 998 F.2d 1067, 1069 (D.C. Cir. 1993). Put another way, "'Disclosure, not secrecy, is the dominant objective' of FOIA's statutory scheme," id. at 1070, quoting Dep't of the Air Force v. Rose, 425 U.S. 352, 361 (1976), and EPA has failed to meet its burden to justify nondisclosure. See Army Times, 998 F.2d at 1072. EPA's decision to withhold the requested documents is further undermined by the inapplicability of the agency record exemption (e.g., the deliberative process privilege) to factual matters or the factual portions of otherwise deliberative memoranda, EPA v. Mink, 410 U.S. 72, 87-88 (1973), as well as the fact that the records in question appear to be similar to other records Region 8 previously released. See Army Times, 998 F.2d at 1068, 1072 ("FOIA was designed to preclude a government agency from cherry-picking the materials to be made public. FOIA operates on the premise that government will function best if its warts as well as its wonders are available for public review").

Finally, the need for full disclosure is heightened in a case such as this where the Region claims that a public health emergency justifies its action and the underlying administrative record was developed unilaterally by the agency. Region 8's decision has already been made, and there is no reasonable possibility that disclosure will harm the agency's decision-making process. In sum, Region 8's decision to withhold the requested documents is improper.

* * *

The original and one copy of this appeal letter are being provided for filing purposes. One additional copy of the letter is also enclosed; please date-stamp that copy showing receipt by your office and return it to our messenger.

Very truly yours,

Scott M. DuBoff

cc: James E. Baine (w/out attachment)
Carol Rushin (same)
Nathan Wiser (same)

K:\1007-014-709

---

2 Although section 552(b)(5) is interpreted as encompassing three evidentiary privileges (the deliberative process, attorney work-product and attorney-client privileges), the Partial Denial Letter refers generally to section 552(b)(5) without identifying which of the three privileges is its basis.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917
http://www.epa.gov/region08

DEC - 4 2001

Ref: 8ENF-T

PARTIAL DENIAL LETTER

Scott M. DuBoff
Wright & Talisman, P.C.
1200 G Street, N.W.
Washington, DC 20005-3802

Re: Freedom of Information Act Request
08-RIN-00028-02
East Poplar Oil Field
Roosevelt County, Montana

Dear Mr. DuBoff:

This is in response to your Freedom of Information Act (FOIA) request, dated October 23, 2001, in which you requested (1) a copy the administrative record for the Safe Drinking Water Act Emergency Administrative Order, Docket No. SDWA-08-2001-33, and (2) copies of any additional records the agency has related to the same Order.

On October 29, 2001, Mr. Nathan Wiser of my staff contacted you to inform you that processing this request would require pre-payment, owing to the very large number of pages involved. During that conversation, you indicated that you would await the finalization of an index to the administrative record for this Order so as to assist you to decide which documents to reproduce. On November 9, 2001, Mr. Wiser electronically transmitted to you an index to the administrative record. On November 9, 2001, you sent a letter in which you specified that you wanted a copy of the entire administrative record for EPA's Order referenced above and included a pre-payment check in the amount $1800.00. In that letter you also specified an alternate address to which all the photocopies should be shipped. EPA then began copying the documents you requested. In addition, of the documents in the agency's possession for which the second part of your request is applicable, you are still determining which additional documents to copy.

The records responsive to the first part of your request (the administrative record) are being shipped to Mr. James Baine in El Dorado, Arkansas per instructions in your November 9, 2001 letter. We are unable to provide the documents, or portions of documents, which have been determined exempt from disclosure under 5 U.S.C. § 552(b). These documents are being withheld pursuant to the provisions of 40 C.F.R. § 2.118(a).

Printed on Recycled Paper

In addition, there are publications which we are unable to provide you due to copyright issues. These published documents are available by contacting the U.S. Geological Survey, Branch of Information Services, P.O. Box 25286, Denver, Colorado 80225-0286.

An itemized list by categories of the withheld material along with the basis for withholding is provided on the enclosure to this letter (Vaughan index).

The additional cost of providing this material is $325.55. An itemized invoice covering the charges for processing your request will follow under separate cover. This was a rather large FOIA request to process; a total of 14,171 pages were photocopied.

You may appeal this partial denial by submitting a written appeal to the Freedom of Information Officer (Mail Code 1105A), United States Environmental Protection Agency, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460, within 30 days of receipt of this partial denial. Your appeal should refer to the RIN number listed above, the date of this determination, and my name, title and address.

Should you have any questions in this matter, the person most knowledgeable on my staff is Nathan Wiser who can be reached at (303) 312-6211.

Sincerely,

For

Carol Rushin
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

Enclosures (Vaughan index)

cc: Mr. James E. Baine (with 8 boxes of photocopies)
Murphy Oil USA, Inc.
200 Peach Street
El Dorado, AR 71730

Vaughan Index
Docket No. SDWA-08-2001-33
FOIA RIN 00028-02

No.	Date	Document Description	Withholding Justification
1	06/13/01	Email among EPA staff regarding next steps to take in the overall Fort Peck East Poplar Oil Field case	Record compiled for law enforcement purpose 5 U.S.C. 552(b)(7); Privileged inter- or intra-agency record 5 U.S.C. 552(b)(5)
2	07/02/01	Email among EPA staff regarding issues to discuss with Tribes and next steps to take in the overall Fort Peck East Poplar Oil Field case	Record compiled for law enforcement purpose 5 U.S.C. 552(b)(7); Privileged inter- or intra-agency record 5 U.S.C. 552(b)(5)
3	07/23/01	Email among EPA staff regarding funding for overall Fort Peck East Poplar Oil Field case	Record compiled for law enforcement purpose 5 U.S.C. 552(b)(7); Privileged inter- or intra-agency record 5 U.S.C. 552(b)(5)
4	08/03/01	"Touhy" request letter from Thomas Speicher to Gina Guy regarding deposition of Joanna Thamke	Record compiled for law enforcement purpose 5 U.S.C. 552(b)(7); Privileged inter- or intra-agency record 5 U.S.C. 552(b)(5)
5	08/10/01	U.S. 10th Circuit Court mediation document: Draft settlement language from Dept. of Justice to Respondent	Court-ordered confidentiality
6	08/24/01	U.S. 10th Circuit Court mediation document: Draft settlement language from Dept. of Justice to Respondent	Court-ordered confidentiality
7	08/29/01	U.S. 10th Circuit Court mediation document: Draft settlement language from Respondent to Dept. of Justice	Court-ordered confidentiality

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
http://www.epa.gov/region08

DEC 31 2001

By U.S. Mail and Facsimile (214-740-8800)

Ref: 8ENF-L

Elizabeth E. Mack
2200 Ross Avenue Suite 2200
Dallas, Texas 75201-6776

Re: East Poplar Oil Field Order
Docket No. SDWA-08-2001-33

Dear Elizabeth:

Based on your telephonic request last week and stated reasons for Samson's need for a extension of the 90-day deadline to submit documents required under the referenced order, most relevantly, due to the poor economy of late, Samson has fewer people doing the same tasks, e.g., this document production and the water pipeline project related to the Youpee et al. case, EPA grants to Samson an extension to submit the documents (referred to in the order as "Action 3. Document Submission"). We will meet you halfway on the number of days you requested so that Samson's responsive documents are now due no later than January 22, 2002. This is an extension of 15 days.

If you have any questions or comments concerning this matter, please call me at 303-312-6893.

Sincerely,

James H. Eppers
Senior Enforcement Attorney

cc: Nathan Wiser 8ENF-T

Printed on Recycled Paper

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917
http://www.epa.gov/region08

FEB 20 2002

Ref: 8ENF-T

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Sidney W. Campbell, Manager
Onshore Operations
Murphy Exploration & Production Company
131 South Robertson Street (70112)
P.O. Box 61780
New Orleans, Louisiana 70161-1780

Re: Safe Drinking Water Act Emergency Administrative
Amended Order Docket No. SDWA-8-2001-33
Notice of Non-Compliance and
Comments on the January 30, 2002 Letter
Domestic Use Homesite Water Replacement Plan
Public Water Supply Well Threat Study Plan

Dear Mr. Campbell:

We have received your January 30, 2002 letter containing responses to EPA's earlier comments. Thank you for your submission. EPA is pleased that you have replied to each of the issues we have raised to you in three comment letters, dated October 30, 2001, November 28, 2001 and December 13, 2001. However, EPA has concerns about the insufficient detail of these responses and the untimeliness in achieving the requirements contained in the above-captioned EPA amended Order. Further, EPA identifies to you throughout this letter various instances of non-compliance with the amended Order.

Lack of Plan Detail:

Your October 22, 2001 submission contained a 4-page Public Water Supply Well Threat Study Plan identifying three tasks (Remote Sensing, Groundwater Sampling and Characterization of Groundwater Flow) along with an implementation schedule, and a 2-page Domestic Water Supply Replacement Implementation Plan (hereafter referred to as the Plans) outlining 6 water replacement options and containing a time schedule. These Plans are somewhat general, lacking

Printed on Recycled Paper

sufficient detail and specificity for full approval. EPA has sent three letters with suggestions for more specificity to be contained in the Plans. Respondents have, by letter, replied to issues raised by EPA but updated versions of the Plans themselves have not yet been submitted to EPA for an overall review, despite the fact that EPA's October 30, 2001 and November 28, 2001 letters specifically required that these Plans be updated and submitted for EPA approval within time frames contained in the letters. I call your attention to the amended Order at Section VIII, Paragraph 81: "If a deadline passes due to Respondents' failure or refusal to address one or more EPA comment, as determined solely by EPA, Respondents shall be considered to be in violation of this Order." Your failure or refusal to update and submit the Plans to EPA for full approval within the time frame specified by EPA constitutes non-compliance with the amended Order.

EPA here also addresses its approval, in part, of the Public Water Supply Well Threat Study Plan. In our October 30, 2001 letter, we completely approved the October 22, 2001 Plan's "Task A" (Remote Sensing), which included plans to commence electro-magnetic, or another remote sensing method, in and around the City of Poplar for the purpose of detecting any oil field brine plume that may threaten the City of Poplar's public water supply. In your letter dated November 8, 2001, you requested that EPA approve the Plan in full before you would proceed with implementing any part of that Plan. In our subsequent letters, dated November 28 and December 13, 2001, our comments on the Public Water Supply Well Threat Study Plan were limited to (1) recommending a particular study area for the remote sensing data acquisition, and (2) that you needed to amend the Plan incorporating all EPA's comments and submit it for final approval. We see no reason why you could not have begun the proposed and approved Task A.

EPA expects that each of the above-captioned Plans will be stand-alone documents containing all required elements found in EPA's amended Order dated October 3, 2001 and which also addresses each of the issues identified in EPA's comment letters of October 30, 2001, November 28, 2001, and December 13, 2001. There must be sufficient detail contained in each Plan that EPA can determine that the requirements of the amended Order will be met upon implementation. This includes such detail, for instance, as description of the pipe diameter, flow rate, joint materials and so forth regarding the proposed pipeline project to serve as the Domestic Use Homesite Water Replacement Plan. We are aware that there exist maps and engineering diagrams for the pipeline option you proposed in your December 7, 2001 letter and we approved in concept. Those should be included in the Domestic Use Homesite Water Replacement Plan as well. In short, EPA expects a copy of the same plans you have for implementing the Order requirements. It is this level of detail and specificity EPA requires in order to fully review and ultimately approve both of the two Plans.

Specific Comments on Your January 30, 2002 Letter:

Paragraph A(2) in your January 30, 2002 letter states that Respondents will not make a blanket offer to replace indoor household plumbing without first determining that the tap water fails to meet all primary drinking water standards and second that such failure is due to oilfield

related contamination. EPA agrees that if tap water inside a home, after delivery of replacement water, no longer presents an imminent and substantial endangerment, there should be no reason to replace the indoor plumbing at that home. At those homes, if any, where the delivered water gathers residual contaminants coating the indoor plumbing and at the tap the water may still present an imminent and substantial endangerment with an unacceptable continued exposure to contaminants, EPA cautions against the potential mire of engaging experts for their opinions as to the cause. EPA believes this would be a waste of valuable resources that might be more prudently spent to simply replace or clean the indoor plumbing at such homes.

Under Paragraph B(5), please change the recipients of your weekly updates of progress made toward finalization of the two Plans by replacing former Mayor of Poplar, Dallas O'Connor, with the new Mayor of Poplar, Kevin Buckles. The contact information for Mr. Buckles is:

Mayor Kevin Buckles
P.O. Box 603
Poplar, Montana 59255
(406) 768-3408 telephone
(406) 768-3422 facsimile
kevinbuckles@yahoo.com E-mail

You are reminded that the amended Order, at Section VIII, Paragraph 82 states "On a weekly basis after submission of the proposed schedule for studying options, Respondents shall provide updates to Nathan Wiser, by facsimile (303) 312-6409, which summarize progress made toward finalization of the DOMESTIC USE HOMESITE WATER REPLACEMENT PLAN." The amended Order at Section VIII, Paragraph 85 states "On a weekly basis after submission of the proposed schedule for studying and assessing the threat to the City of Poplar's PWS wells, Respondents shall provide updates to Nathan Wiser, by facsimile (303) 312-6409, which summarize progress made toward finalization of the PWS WELL THREAT STUDY PLAN." Sixteen weeks have now passed since you first submitted the two Plans, each containing a schedule for implementation. EPA has received only five E-mails (EPA has been accepting and will continue to accept E-mail in lieu of the facsimiles) with summary information about these two Plans' development. Failure to timely submit these weekly updates constitutes non-compliance with the amended Order.

Timeliness of Response:

The above-referenced Order, at Section VIII, Paragraph 81 states in part that "...(c) Respondents, shall, within 30 days of receipt of EPA's comments on the Plan or approval of the Plan, address EPA's comments or implement the Plan accordingly." On November 28, 2001, EPA submitted comments on both the Public Water Supply Well Threat Study Plan and the Domestic Use Homesite Water Replacement Plan. On December 13, 2001, EPA submitted additional comments on the Domestic Use Homesite Water Replacement Plan, largely in response

to your December 7, 2001 letter announcing that Respondents had stated a preference to install a water pipeline as the water replacement system at the homesites named in EPA's amended Order. Until your January 30, 2002 letter arrived, you had not responded to EPA's November 28, 2001 and December 13, 2001 comment letters. Although EPA is aware that you sent email and left voice mail recordings indicating that you requested additional time to respond to EPA's November and December 2001 letters, there was no extension given. Therefore, your lateness in replying to EPA's two comment letters constitutes non-compliance with the amended Order.

Timing of Implementing the Plans:

EPA remains very concerned about the schedule for implementing these Plans. In your October 22, 2001 submission for instance, the implementation schedule for the Public Water Supply Well Threat Study Plan indicates that by January 31, 2002, the remote sensing data acquisition would be completed. Yet, your January 30, 2002 letter indicates that this data acquisition will not commence until March 2002 and may not be completed until May 2002. As I have already stated, in EPA's October 30, 2001 letter, we approved the initiation (Task A) of this Plan. The amended Order at Section VIII, Paragraph 86 requires that within 30 days of EPA's approval, Respondents should have begun collecting electro-magnetic (or other remote sensing) data. That deadline was on November 29, 2001. This has not happened, constituting violation of the amended Order.

Also, your October 22, 2001 submission specifies that a final Domestic Use Homesite Water Replacement Plan would be submitted to EPA by January 29, 2002. Yet, your January 30, 2002 letter indicates that the design of the pipeline is to be completed in the second quarter of the 2002 (by March 31, 2002) and the actual construction will not be completed until the end of 2002 (December 31, 2002). The January 30 letter does not even forecast by when EPA will receive a final Domestic Use Homesite Water Replacement Plan.

Since the amended Order was issued on October 3, 2001, more than 135 days have elapsed. Significant deadlines that your own October 22, 2001 Plans forecast, and approved in part by EPA, have passed without achieving the activities envisioned in those Plans. Your E-mails and letters sent so far have failed to transmit the updated Plans EPA has long sought and you have provided inadequate justification for why so much time has passed without submitting approvable Plans. You have failed to commence any actual work on the ground required by EPA to begin to relieve the threat to human health that still exists in and around the East Poplar Oil Field.

You are directed to submit to EPA updated Plans (a Domestic Use Homesite Water Replacement Plan and a Public Water Supply Well Threat Study Plan) for EPA approval within **15 days** of your receipt of this letter. If you seek plan review by other entities, those reviews must not delay any required submission to EPA. These updated Plans must include all information you have for carrying out the EPA amended Order's requirements, including all

information required by the amended Order and all previously identified items in earlier EPA comment letters dated October 30, November 28 and December 13, 2001. If you do not have adequate information to include in the submitted Plans, please fully justify any omission. If you do not understand this direction, please feel free to contact Nathan Wiser of my staff at (303) 312-6211.

You are reminded that, pursuant to Section 1431 of the Safe Drinking Water Act, failure to comply with an Emergency Administrative Order issued under the same Section of the Act may result in penalties of up to $15,000.00 per day of violation. EPA is authorized to levy this amount against each Respondent, individually.

Sincerely,

for J R Ong

Connally E. Mears, Director
Technical Enforcement Program

cc: Deb Madison, Fort Peck Tribes
Mayor Kevin Buckles, City of Poplar, Montana
Lauren Buehler, Marathon Oil Company
Steve Leifer, Baker Botts LLP, representing Pioneer Natural Resources USA, Inc.
Elizabeth Mack, Lock, Liddell & Sapp, representing Samson Hydrocarbons Company

bcc: Jim Eppers, 8ENF-L
Steven Moores, 8RC
Paul Osborne, 8P-W-GW
Barbara Burkland, 8MO
Jay Sinnot, 8MO
Gary Carlson, 8P-W-MS
Connally Mears, 8ENF-T
Dave Carson, Dept. of Justice, 999 18th St., Suite 945 No. Tower, Denver CO 80202

IMPORTANT: This facsimile is intended only for the use of the individual or entity to which it is addressed. It may contain information that is privileged, confidential, or otherwise protected from disclosure under applicable law. If the reader of this transmission is not the intended recipient or the employee or agent responsible for delivering the transmission to the intended recipient, you are hereby notified that any dissemination, distribution, copying or use of this transmission or it's contents is strictly prohibited. If you have received this transmission in error, please notify us by telephoning and return the original transmission to us at the address given below.

FROM: Department of Justice
Environment and Natural Resources Division
Environmental Defense Section
999 18th Street, Suite 945
Denver, Colorado 80202

Fax No. (303) 312-7331
Voice No. (303) 312-7309

SENT BY: **DAVID CARSON**

TO: STEVEN MOORES (303) 312-6859; NATHAN WISER (303) 312-6409; JIM EPPERS (303) 312-6953; RICHARD WITT (202) 564-5477

FAX No.

NUMBER OF PAGES SENT (INCLUDING COVER PAGE):

SPECIAL INSTRUCTIONS:

FOGNANI GUIBORD HOMSY & ROBERTS, LLP

CHICAGO
20 N. CLARK STREET
THIRTY SECOND FLOOR
CHICAGO, ILLINOIS 60601
TELEPHONE: (312) 596-7777
FACSIMILE: (312) 596-7788

DENVER
555 SEVENTEENTH STREET
TWENTY-SIXTH FLOOR
DENVER, COLORADO 80202
TELEPHONE: (303) 382-6200
FACSIMILE: (303) 382-6210
WWW.FGHR.COM

NEW YORK
1350 AVENUE OF THE AMERICAS
THIRTY FIRST FLOOR
NEW YORK, NEW YORK 10019
TELEPHONE: (212) 974-0060
FACSIMILE: (212) 974-0648

February 21, 2002

VIA FACSIMILE AND U.S. MAIL

David A. Carson, Esq.
U.S. Department of Justice
Environment and Natural Resources Division
Suite 945 – North Tower, 999 18th Street
Denver, CO 80202

Dear Dave:

The purpose of this letter is to memorialize our telephone conversation today regarding footnote 2 of EPA's Response to Marathon's Notice of Transfer. The footnote states that Marathon, Samson, and Murphy "apparently agreed that Marathon . . . should wait until after the Samson and Murphy petitions were filed in the Third Circuit so that it could then ask for a transfer." EPA Response at 4. To reiterate, we believe this footnote makes assumptions not supported by facts.

As we discussed, Marathon would like to make it very clear that no agreement existed, either implied or expressed, that it must wait until after Samson and Murphy filed their petitions before filing a petition in the Tenth Circuit. Samson filed its first Petition for Review in the Third Circuit prior to Marathon reaching a decision concerning whether or not to file a Petition for Review, and well before our firm was retained by Marathon. Thus, any allegation of conspiracy between the parties, at least as it relates to Marathon, is inaccurate.

Although we contemplated filing a formal response, we ultimately determined it to be unnecessary. Of course, if you want to discuss this further, please let us know.

Very truly yours,

John D. Fognani
of FOGNANI GUIBORD HOMSY & ROBERTS, LLP

cc: Candance Walker, Esq.
Scott DuBoff, Esq.
Elizabeth Mack, Esq.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917
http://www.epa.gov/region08

DEC 13 2001

Ref: 8ENF-T

CERTIFIED MAIL and FACSIMILE
RETURN RECEIPT REQUESTED

Sidney W. Campbell, Manager
Onshore Operations
Murphy Exploration & Production Company
131 South Robertson Street (70112)
P.O. Box 61780
New Orleans, Louisiana 70161-1780

Re: Safe Drinking Water Act Emergency Administrative Order Docket No. SDWA-8-2001-33
Comments on the December 7, 2001 Letter
Domestic Use Homesite Water Replacement Plan

Dear Mr. Campbell:

We have received Murphy Exploration & Production Company's faxed letter, dated December 7, 2001 signed by all four Respondents. The letter addresses the Domestic Use Homesite Water Replacement requirement found in Paragraph 82 of the United States Environmental Protection Agency's (EPA's) Emergency Administrative Order, Docket No. SDWA-08-2001-33 (the Order), as amended on October 3, 2001. In the letter, the Respondents state that they prefer to build a water pipeline to deliver drinking water to the homesites described in EPA's amended Order, and intend to initiate a detailed engineering study of this pipeline project upon approval from EPA.

EPA Approval of the Pipeline Concept

EPA hereby approves in concept the water pipeline, as the preferred water replacement method, with the understanding that the water source will meet all EPA drinking water standards. EPA further assumes that the engineering study described in your December 7, 2001 letter will culminate in an acceptable Domestic Use Homesite Water Replacement Plan Respondents will submit to EPA, as required in the amended Order.

Printed on Recycled Paper

EPA Request for the Available Information

The December 7, 2001 letter also states that Respondents will send to EPA additional information supporting the pipeline option if requested. While you initiate the detailed engineering design of the water pipeline option, please provide us the pipeline option information mentioned in your letter.

EPA Comments Respondents Must Address in the Detailed Engineering Study/Domestic Use Homesite Water Replacement Plan

In order to approve the pipeline option as the Domestic Use Homesite Water Replacement Plan required in EPA's amended Order, Respondents shall address the following points during the detailed engineering study. In turn, the results of addressing these points shall be included in the Domestic Use Homesite Water Replacement Plan.

1. A description of the materials to be used in the main transmission pipeline(s) and residential pipelines, including materials to be used at pipeline joints;

2. A description of the dimensions of the pipeline to be used (i.e. pipeline diameter, thickness, etc.), including a description of the water volume capacity through each differently sized pipeline segment. It would be best to also provide an estimate of the flow velocity (in industry standard rate units) through the different pipeline segments at different water usage amounts. This would mean providing the flow velocity through pipe at convenient and common water usage volumes (e.g. 1000 gallons per day, 5000 gallons per day, 10,000 gallons per day, and so forth)

3. A description of water meters to be installed on the residential pipelines and on the main transmission pipeline(s). These meters are a primary leak detection method and can provide important water transmission information;

4. The method of pipeline emplacement;

5. A map showing the anticipated pipeline layout, including where hook ups are anticipated;

6. Evidence that the source of water for the pipeline will meet the water volume requirement in EPA's amended Order, and, if originating from the City of Poplar's public water supply, evidence that the City will not object to this pipeline hook up;

7. A description of the long term pipeline maintenance ensuring that it will continue to deliver sufficient water meeting drinking water standards to comply with the Order requirements and that there will be no charge for this maintenance to the 20 home sites named in the Order for at least five years;

8. A comparison of the proposed pipeline design to similar requirements set forth in the Dry Priarie/Fort Peck Rural Water System proposed regional pipeline;

9. Assurance that the proposed pipeline will include booster chlorination, (i.e. disinfection) or an indication that booster chlorination is not needed;

10. The Respondents' response to the comments raised by EPA in its November 28, 2001 letter regarding the Domestic Use Homesite Water Replacement Plan.

You are reminded that the amended Order requires that Respondents must submit to EPA an acceptable Domestic Use Homesite Water Replacement Plan. After EPA's approval, Respondents must replace the water at a minimum of one of the 20 home sites named in the Order within 30 days and at all remaining home sites within 90 days, unless weather precludes this schedule.

We hope this letter assists the Respondents to develop an acceptable Domestic Use Homesite Water Replacement Plan. Please respond in writing as soon as possible, but in no case later than 30 days from your receipt of this letter. If you should have any questions about this matter, please feel free to contact Nathan Wiser of my staff at (303) 312-6211.

Sincerely,

Connally E. Mears

Connally E. Mears, Director
Technical Enforcement Program

cc: Deb Madison, Fort Peck Tribes
Mayor Dallas O'Connor, City of Poplar, Montana
Lauren Buehler, Marathon Oil Company
Steve Leifer, Baker Botts LLP, representing Pioneer Natural Resources USA, Inc.
Elizabeth Mack, Lock, Liddell & Sapp, representing Samson Hydrocarbons Company

Todd Gregory → (303) 434-3960

Mike Turner
Steven Clause / Rm 602

970 748-6000

~~710 470~~

"Brian "Hickart"

(970) 845-5400

(home)
(830) 537 6367

U.S. Department of Justice

Environment and Natural Resources Division

LJG:DAC
DJ # 90-5-1-7-16208

David A. Carson
Environmental Defense Section
999 18th Street
Suite 945 North Tower
Denver, CO 80202

Telephone (303) 312-7309
Facsimile (303) 312-7331

CONFIDENTIAL SETTLEMENT COMMUNICATION

August 24, 2001

via telefax and regular mail

Elizabeth E. Mack
Locke Lidell, & Sapp, L.L.C.
2200 Ross Avenue
Suite 2200
Dallas, Texas 75201-6776

Re: Samson Investment Co. v. EPA (10th Cir.)

Dear Elizabeth:

As we agreed this past Monday during our call with David Aemmer, I have prepared a draft settlement agreement, which is enclosed. This draft has been reviewed at a staff level only and we may require language changes in the future. The entirety of any eventual settlement agreement will need to be formally approved by both EPA and the Department of Justice.

Please call me directly at (303) 312-7309 with any comments or questions.

Sincerely,

David A. Carson, Senior Trial Counsel
Environmental Defense Section

enclosure

cc: (w/enclosure)
David W. Aemmer
Steven Moores
Jim Eppers
Nathan Wiser
Richard Witt

SETTLEMENT AGREEMENT

WHEREAS, on November 30, 2000, the United States Environmental Protection Agency ("EPA") issued its Second Amended Emergency Administrative Order under Section 1431 of the Safe Drinking Water Act ("SDWA"), 42 U.S.C. § 300i, in EPA Docket No. SDWA 8-99-68 to Samson Investment Company, Samson Hydrocarbons Company (collectively "Samson") and several other respondents regarding groundwater contamination in the vicinity of the East Poplar Oil Field located within the Fort Peck Indian Reservation in Montana;

WHEREAS, the Second Amended Emergency Administrative Order requires Samson and the other respondents to provide an alternative source of water that meets EPA drinking water standards to a number of residents located within the Fort Peck Indian Reservation as specified in the Second Amended Emergency Administrative Order;

WHEREAS, the Second Amended Emergency Administrative Order also requires Samson and the other respondents to submit certain information to EPA as specified in the Second Amended Emergency Administrative Order;

WHEREAS, one of the other respondents, Murphy Exploration and Production company, has been and continues to provide an alternative source of drinking water as required by the Second Amended Emergency Administrative Order;

WHEREAS, Samson has submitted certain information to EPA as required by the Second Amended Emergency Order;

WHEREAS, Region VIII has not determined the full extent of any individual Respondent's liability for the aquifer contamination giving rise to the Second Amended Emergency Administrative Order;

WHEREAS, Samson challenged the Second Amended Administrative Order by filing a

petition for review in Samson Investment Co. v. EPA, No. 01-9500 (10th Cir.); and

WHEREAS, Samson neither admits nor denies any of EPA's findings of fact or law set forth in that order, but enters into this agreement for the purpose of settling its petition for review in Samson Investment Co. v. EPA, No. 01-9500 (10th Cir.);

NOW THEREFORE, without the admission of any question of fact or law by either party, the parties agree as follows:

1. Samson shall dismiss its petition in Samson Investment Co. v. EPA, No. 01-9500 (10th Cir.) within 10 business days of the effective date of this Settlement Agreement.

2. Samson agrees to be bound fully to all the obligations of the Second Amended Administrative Order regardless of whether any of the other respondents comply or continue to comply with the requirements of the Second Amended Administrative Order.

3. If EPA further amends the Second Amended Administrative Order to impose additional obligations upon Samson, then Samson may assert a timely challenge to the further amended order and Samson will not be deemed to have waived any factual or legal defenses or issues relevant to such additional obligations due to the dismissal of its petition in Samson Investment Co. v. EPA, No. 01-9500 (10th Cir.) pursuant to the terms of this Settlement Agreement. If Samson prevails in any challenge to any further amended order, Samson will nonetheless be bound to all the obligations of the Second Amended Administrative Order as agreed in this Settlement Agreement.

4. Each of the undersigned representatives hereby certifies that he or she is fully

authorized to enter into this Settlement Agreement on behalf of the party he or she represents and to legally bind that party to its terms.

5. This Settlement Agreement constitutes the final, complete and exclusive agreement and understanding between Samson and EPA with respect to the matters addressed in this Settlement Agreement. There are no representations, agreements or understandings relating to this Settlement Agreement other than those expressly contained in this Settlement Agreement. There shall be no modifications to this Settlement Agreement unless made in writing and signed by both parties.

6. This Settlement Agreement shall become effective when signed by both party's representatives.

7. Each party is to bear its own costs.

IT IS SO AGREED:

Date: _____

_____

DAVID A. CARSON
United States Department of Justice
Environment and Natural Resources
Division
Suite 945 - North Tower
999 18th Street
Denver, Colorado 80202
(303) 312-7309

COUNSEL FOR EPA

Date: _____

_____

ELIZABETH E. MACK
Locke, Liddle & Sapp
2200 Ross Avenue
Dallas, Texas 75201
(214) 740-8598

COUNSEL FOR SAMSON

October 1, 2001

BAKER BOTTS L.L.P

THE WARNER
1299 PENNSYLVANIA AVE. NW
WASHINGTON, DC
20004-2400
202.639.7700
FAX 202.639.7890
AUSTIN
BAKU
DALLAS
HOUSTON
LONDON
NEW YORK
RIYADH
WASHINGTON

STEVEN L. LEIFER
202-639-7723
E-Mail: sleifer@bakerbotts.com
Facsimile 202-585-1040

VIA FACSIMILE AND E-MAIL

Mr. Connelly E. Mears, Director
Technical Enforcement Program (8ENF-T)
Office of Enforcement, Compliance, and Environmental Justice
U.S. Environmental Protection Agency, Region VIII
999 18th Street, Suite 300
Denver, CO 80202-2466

Re: September 20, 2001 Safe Drinking Water Act Emergency Administrative Order Regarding the East Poplar Oil Field

Dear Mr. Mears:

I write on behalf of Marathon Oil Company, Murphy Exploration & Production Company, Pioneer Natural Resources USA, and Samson Investment/Samson Hydrocarbons -- the companies named as Respondents in the above referenced Emergency Order.

In a series of discussions with Nathan Wiser, Jim Eppers, and Steve Moores, the Respondents have expressed their concern regarding the deadlines contained in the Order and the

precise nature of the deliverables required therein. We discussed the possibility of obtaining relief from the near-term deadlines in the Order provided the Respondents made certain representations and commitments. Per our discussions with your staff, the Respondents offer the following.

The Respondents would prefer to work cooperatively with the Agency and thereby avoid the need for extended adversarial proceedings. Toward that end, Respondents will commit to provide the Agency with the following two deliverables within 14 calendar days after the effective date of a revised Order that will be issued following agreement on a revised schedule:

- A plan for conducting an assessment of alternative mechanisms for providing potable water to the residences listed in Table 1 of the Order, together with a proposed schedule for completing such a plan and a schedule for implementing the preferred water supply alternative identified in the plan; and

- A plan for conducting an assessment of the extent to which City of Poplar public water supply wells may be threatened by contaminants emanating from the East Poplar Oil Field, along with a proposed schedule.

When completed, the first of the two plans, referred to herein as the Alternative Water Supply Plan, also will include a recommendation as to which water supply option should be implemented in place of the bottled water currently being supplied to the homes at issue. Please note that implementation of the Alternative Water Supply Plan with respect to an individual residence will be contingent upon the owner/occupant's cooperation regarding the tasks necessary to provide such alternative supply (e.g., the location of any trenching that may be required incident to installation work.) The second plan, referred to herein as the Wellfield Study Plan, will evaluate existing data regarding water quality in or near the East Poplar Oil Field, and will recommend any additional investigative activities necessary to determine whether

the City of Poplar's wells are at risk.

Following submission of the two Plans, the Respondents will meet as often as necessary with the Agency to resolve any outstanding issues concerning the scope of the Plans and the timing for their completion. Assuming that agreement can be reached, Respondents will then proceed to implement the Plans. Following completion of the Alternative Water Supply Plan, the Respondents will undertake the water supply option that the parties jointly deem most appropriate per the analysis performed pursuant to the Plan. EPA would retain its rights to order the Respondents to implement its favored water supply option if agreement on the appropriate alternative could not be reached. Correspondingly, each Respondent will retain rights to appeal any such subsequent amended or new order.

EPA will issue a revised Order replacing the deadlines listed in the current Order with the process outlined above. The Respondents, in turn, will not seek to obtain an emergency stay of the Order. Furthermore, if agreement is reached on the scope, manner of implementation, and timing of the two Plans, Respondents will request a stay of proceedings in any appeals of the current Order that may have been protectively filed in the Circuit Court.

Finally, EPA will clarify in the revised Order that the documents required to be submitted under Paragraph 87(a) relate only to groundwater monitoring wells, and will work with Murphy to as to the timing of information required by Paragraph 87(c).

Please let us know if the representations and agreements identified in this letter accurately reflect the conversations we have had with your staff and provide a platform for the Agency to issue a revised Order as outlined above.

Sincerely,

Steven L. Leifer
Counsel for Pioneer Natural Resources USA, Inc.

c: Counsel for Respondents

Steve Moores

AUG 21 2001

LAW OFFICES
SONOSKY, CHAMBERS, SACHSE,
ENDRESON & PERRY
1250 EYE STREET, N.W., SUITE 1000
WASHINGTON, DC 20005
(202) 682-0240
FACSIMILE (202) 682-0249

MARVIN J. SONOSKY (1909-1997)
HARRY R. SACHSE
REID PEYTON CHAMBERS
WILLIAM R. PERRY
LLOYD BENTON MILLER (AK)
DOUGLAS B.L. ENDRESON
DONALD J. SIMON
MYRA M. MUNSON (AK)*
ANNE D. NOTO
KAY E. MAASSEN GOUWENS (AK)*
MARY J. PAVEL
DAVID C. MIELKE
JAMES E. GLAZE
GARY F. BROWNELL (NM)*

COLIN C. HAMPSON
NACOLE D. HESLEP (AK)*
JAMES T. MEGGESTO
HILARY C. TOMPKINS (NM)*
ANGELINA OKUDA-JACOBS
MARISSA K. FLANNERY (AK)*

OF COUNSEL
ARTHUR LAZARUS, JR., P.C.
ROGER W. DUBROCK (AK)*
MATTHEW S. JAFFE
JOHN P. LOWNDES (AK)

*NOT ADMITTED IN D.C.

August 16, 2001

James H. Eppers
Enforcement Attorney
United States Environmental Protection Agency
Region 8
999 18th Street, Suite 500
Denver, Colorado 80202-2466

Re: Fort Peck Indian Reservation Groundwater Contamination (B112.31)

Dear Mr. Eppers:

As the Fort Peck Tribes have discussed with EPA, the Tribes firmly believe that the persons who contaminated the groundwater in the East Poplar Oil Field should be required to clean it up, and that remediation of the existing contamination is essential to the successful implementation of the Emergency Administrative Order (EAO) Docket Number SDWA-8-99-68 for the East Poplar Field. Otherwise, the water will remain unsafe and undrinkable. When we met to discuss the status of the administration of the EAO, a question was raised as to the authority of EPA to require remediation, which prompts this letter. As set out below, we believe EPA's authority under the Safe Drinking Water Act with respect to ordering remediation of the East Poplar Field is clear.

A more recent case discussing EPA's broad authority under the SDWA, as well as other environmental statutes, is Trinity American Corp. v. E.P.A., 150 F.3d 389 (4th Cir. 1998), in which an owner of a polyurethane foam company, Trinity American Corp. ("Trinity") sought review of an emergency order issued by EPA under the Safe Drinking Water Act. The order required testing of the groundwater in the area for as long as contaminants were present, directed the company to provide drinking water to any persons in the area whose water was contaminated, and further provided that if "a well cannot consistently provide water that meets EPA standards, Trinity must provide a permanent, alternative source of safe drinking water." Id. at 394.

Trinity challenged the emergency order on a number of grounds, asserting, *inter alia*, that the emergency order improperly displaced state authority to address groundwater contamination, and that there was no rational basis for finding "imminent and substantial endangerment" because there was no evidence that anyone was actually drinking contaminated water. The Court rejected all of Trinity's arguments.

In setting out the legal framework for its discussion of the breadth of the EPA's authority, the Court relied on the oft-cited House Report that accompanied the SDWA, which specifically discusses the principles behind the SDWA's emergency order provision and EPA's power to act in this particular case. As the Court made clear:

> EPA may issue any order "as may be necessary to protect the health of persons who are or may be users" of a public drinking water system. 42 U.S.C.A. § 300i(a). "Such orders may be issued to obtain relevant information about impending or actual emergencies, to require the issuance of notice so as to alert the public to a hazard, to prevent a hazardous condition from materializing, *to treat or reduce hazardous situations once they have arisen*, or to provide alternative safe water supply sources in the event any drinking water source which is relied upon becomes hazardous or unusable. House Report, 1974 U.S.C.C.A.N. at 6487.

Id. at 395 (quoting H.R. Rep. No. 93-1185, 93rd Cong., 2d Sess. 35-36 (1974), reprinted in 1974 U.S.C.C.A.N. 6454, 6487) (emphasis added). The Court further noted that EPA's emergency powers may be exercised notwithstanding any other provision of the Act. Quoting Judge Friendly in U.S. v. Hooker Chemicals & Plastics Corp., 749 F.2d 968 (2d Cir. 1984), the case arising out of the Love Canal contamination, the Court concluded that EPA is "'authorized to overlook technological and economic feasibility and, 'unlimited by other constraints, [to] giv[e] paramount importance to the sole objective of the public health.'" 150 F.3d at 394-95.

Other cases similarly read section 1431 as providing EPA with broad authority. In fact, the Court in Hooker Chemicals found the authority granted to EPA in each of the major environmental statutes to be especially broad, particularly with regard to remedies. Judge Friendly observed:

> This broad authority granted to the Administrator extends not only to the decision to bring a suit, but also to defining what level of a given pollutant constitutes "an imminent and substantial endangerment," *and, most importantly, to deciding what the appropriate remedy should be.* See 33 U.S.C. § 1364 (CWA) (Administrator should "take such other action as may be necessary" to abate the hazard); 42 U.S.C. §300i (SDWA) (action Administrator may take "may include (but shall not be limited to)" issuing orders and filing civil actions); id. § 6973(a) (RCRA) as amended in

> 1980) (Administrator may "take other action under this section including, but not limited to, issuing such orders as may be necessary to protect public health and the environment").

749 F.2d at 988-89 (citations to the 1974 House Report omitted) (emphasis added).[1]

This is, of course, not the only time a court has considered the breadth of the power Congress granted EPA in these statutes. The Third Circuit has also observed that Congress' intent was to confer broad power upon EPA, including the power to order remediation. *See,* United States v. Rohm and Haas Company, 2 F.3d 1265 (3d Cir. 1993). In this case, the Court was discussing a particular section of CERCLA (concerning recovery costs) when it observed that:

> Congress . . . undoubtedly was aware that pursuant to CERCLA §106 as well as other statutes, EPA would be forcing numerous *private parties to conduct removal and remedial activities* and overseeing the implementation of its directives. In fact, provisions which allow EPA to force private parties to undertake corrective action at their own expense is a favorite policy tool of Congress and on that can be found in a number of environmental statutes. See, e.g., RCRA §3008(h), 42 U.S.C. § 6928(h) (1988); Federal Clean Water Act §311(e), 33 U.S.C. §1321(e) (1988); *Safe Drinking Water Act*, §1431, 42 U.S.C. §300i (1988).

Id. at 1276 & n. 18 (emphasis added).

Finally, an unpublished district court decision, United States v. Stringfellow, 1984 W.L. 3206, *7 (C.D. Cal. 1984), discusses the common law predecessors to the "imminent hazard" provision in the modern-day environmental statutes, observing that:

> Like other imminent and substantial endangerment provisions in environmental statutes, (e.g. section 504 of the Clean Water Act, section 303 of the Clean Air Act, and section 1431 of the Safe Drinking Water Act), section 7003 is essentially a codification of common law public nuisance remedies. The Congress made this intent clear as early as 1948 when, in section 2(d) of the Water Pollution Control Act (the forerunner of present-day imminent hazard provisions), it expressly declared that "[t]he pollution of interstate waters ... which endangers the health or welfare of persons ... is hereby declared to be a public nuisance and subject to abatement as

---

[1] As the Court's discussion demonstrates, although the language of the quoted provisions may vary slightly between the CWA, SDWA and RCRA, there is nothing to suggest that one statute authorizes EPA to require site remediation while another does not.

> herein provided" and authorized the appropriate Federal official to request the Attorney General to bring suit on behalf of the United States "to secure abatement of the pollution."

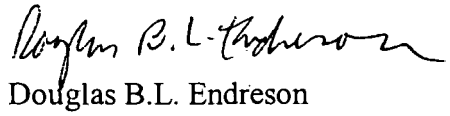
Id.

Here, too, the thrust of the court's discussion is that Congress gave very broad powers to EPA to remedy environmental dangers and hazards, whether imminent or existing. The court in Stringfellow simply observed that Congress has long recognized the problem of pollution and recognized that it had the power to confer broad authority to effect a proper remedy.

Given the above discussion, we believe it is clearly within EPA's authority to order remediation of the contamination of the East Poplar Field. As the courts have recognized, Congress intended to provide broad power to EPA to enjoin activities that cause environmental harm and to require remediation of the consequences of such harm.

We look forward to continuing our work together in this important matter for the Tribes.

Sincerely,



Douglas B.L. Endreson

cc: Arlyn Headdress, Chairman
Ms. Debbie Madison, Office of Environmental Protection

U.S. Department of Justice

Environment and Natural Resources Division

LJG:DAC
DJ # 90-5-1-7-16208

David A. Carson
Environmental Defense Section
999 18th Street
Suite 945 North Tower
Denver, CO 80202

Telephone (303) 312-7309
Facsimile (303) 312-7331

CONFIDENTIAL SETTLEMENT COMMUNICATION

August 10, 2001

via telefax and regular mail

Elizabeth E. Mack
Locke Lidell, & Sapp, L.L.C.
2200 Ross Avenue
Suite 2200
Dallas, Texas 75201-6776

Re: Samson Investment Co. v. EPA (10th Cir.)

Dear Elizabeth:

In our last settlement conference call, Steven Moores of EPA mentioned the possibility of including specific language in a settlement agreement for this case regarding the liability finding issue. EPA offers the language below for discussion purposes at this time. This language has been circulated within EPA, but it, along with the entirety of any settlement agreement, would need to be formally approved by both EPA and the Department of Justice. Accordingly, we may request changes to the language below as our discussions continue.

The proposed language is as follows:

> In accordance with its authority under 42 U.S.C. §300i and prior to issuing its Second Amended Emergency Administrative Order, Docket No. SDWA-8-99-68, EPA Region VIII determined that Respondents Samson Investment Company and Samson Hydrocarbons Company, as successors in interest to W.R. Grace & Company, and as owners or operators in their own right, have caused or contributed to contamination of the underwater source of drinking water underlying the East Poplar Oil Field, located on the Ft. Peck Indian Reservation, in Roosevelt County, Montana. EPA Region VIII has not determined the full

extent of any individual Respondent's liability for the aquifer contamination giving rise to the above-referenced order. Respondents Samson Investment Company and Samson Hydrocarbons Company neither admit nor deny any of EPA's findings of fact or law set forth in that order, but enter into this agreement for the purpose of settling Respondents' January 9, 2001, appeal of the Order to the Circuit Court of Appeals for the Tenth Circuit. (Samson Investment Co. and Samson Hydrocarbon Co. v U.S.EPA, No. 01-9500 (10th Cir.)).

We consider this letter to be subject to the strict confidentiality requirements of the Tenth Circuit Mediator's Office. We look forward to discussing this language with you at our upcoming August 13 conference call.

Sincerely,

David A. Carson, Senior Trial Counsel
Environmental Defense Section

cc: David W. Aemmer
Steven Moores
Jim Eppers
Nathan Wiser

Steven Moores - 8RC

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
http://www.epa.gov/region08

APR 24 2001

Ref: 8ENF-T

Arlyn Headdress, Chairman
Fort Peck Tribal Executive Board
P.O. Box 1027
Poplar, Montana 59255

Dear Chairman Headdress:

Thank you for your March 16, 2001 letter to our Acting Regional Administrator Jack McGraw. Your letter has been forwarded to me for a response.

In your letter you discussed the contamination in the groundwater at the East Poplar Oil Field, located within the Fort Peck Indian Reservation and asked to meet with EPA. You expressed your desire that the contaminated groundwater should be cleaned up and informed EPA that the proposed water pipeline system authorized for expenditure by the United States Congress must pass additional hurdles before it is actually constructed. You also expressed concerns about the proposed action to address this contamination.

EPA's short-term goal is to ensure that a permanent reliable water supply is available to residents in the contaminated area. As stated in the Emergency Administrative Order addressing this contamination (Docket Number SDWA-8-99-68), EPA envisions additional actions which will require the responsible companies to take such actions as necessary to address this human health threat. EPA has expressed our support for the proposed water pipeline's construction. As you are aware, we have requested that the residents in and around Poplar, including those in the East Poplar Oil Field, be provided the first deliverable high quality water. For those home sites in the oil field, this piped water would replace the bottled water currently being provided pursuant to EPA's Emergency Administrative Order.

EPA is exploring options to collect contamination data covering a wider area than that studied by the United States Geological Survey. Knowing more about the extent of the groundwater contamination at additional locations will help to determine the total scale of contamination, help locate additional specific sources of contamination, and assist in understanding the actual rate of contaminant plume migration.

Your letter accurately states that many pages of various well records were submitted to EPA in response to EPA's Emergency Administrative Order. However, more information will be

Printed on Recycled Paper

necessary to accurately identify additional sources of contamination. In fact, the contamination scenarios are so potentially varied, it may never be completely possible to specify each and every contamination event. Nonetheless, EPA will continue to aggressively pursue those parties thought to be responsible for contamination.

As a case in point, I refer you to an April 13, 2001, letter sent to Pioneer Natural Resources USA, Inc., one of the Respondents named by EPA in the East Poplar Oil Field groundwater contamination matter. A copy of that letter was sent to your Office of Environmental Programs. The letter transmits a newly proposed Emergency Administrative Order, which would require Pioneer to permanently remediate the leaking improperly plugged former oil well called the Biere 1-22 well and to monitor that remediation until it is demonstrated that it has been permanently accomplished. If Pioneer and EPA cannot reach agreement on the terms of this Order on consent, EPA maintains the right to issue this Order unilaterally.

I appreciate your request to meet with EPA. Two possibilities for this meeting with both Jack McGraw and myself are Monday, May 7, 2001 (from 2:00 pm to 4:00 pm), and Tuesday, June 5, 2001 (from 3:00 pm to 5:00 pm). I understand that our staffs are working to see if these dates would conform to your schedule. I look forward to meeting with you on this important issue.

Sincerely,

Carol Rushin
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

cc: Deb Madison, Manager
Environmental Programs
Assiniboine & Sioux Tribes
P.O. Box 1027
Poplar, Montana 59255

bcc Jack McGraw, 8RA
Connally Mears, 8ENF-T
Sadie Hoskie, 8P-TA
Jim Eppers, 8ENF-L
Steven Moores, 8RC
Barbara Burkland, 8MO

Dave Carson, Department of Justice
999 18th Street, Suite 945 North Tower
Denver, Colorado 80202

CIRCUIT MEDIATION OFFICE
UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT
BYRON WHITE UNITED STATES COURTHOUSE
1823 STOUT STREET
DENVER, COLORADO 80257

DAVID W. AEMMER
CHIEF CIRCUIT MEDIATOR

TELEPHONE 303 844-6017
FACSIMILE 303 844-6437

LANCE OLWELL
JANET RUESCH
CIRCUIT MEDIATORS

July 2, 2001

Lisa A. Schuh, Esq.
Holme, Roberts & Owen, L.L.P.
1700 Lincoln Street, Suite 4100
Denver, CO 80203

Elizabeth E. Mack, Esq.
Locke, Liddell & Sapp
2200 Ross Avenue
Dallas, TX 75201

David A. Carson, Esq.
U.S. Department of Justice
Environment & Natural Resources Division
999 18th Street, Suite 945-North Tower
Denver, CO 80202

RE: No. 01-9500 - Samson Investment Company, et al. v. U.S. Environmental Protection Agency

NOTICE OF FOLLOW-UP MEDIATION CONFERENCE AND BRIEFING EXTENSION

Dear Counsel:

This will confirm that a follow-up mediation conference has been scheduled in this case. It will be conducted by **TELEPHONE** on Monday, July 30, 2001 at 2:00 p.m. **MOUNTAIN DAYLIGHT TIME**. This office will place the conference call.

Pursuant to Rule 33.1, Rules of the Tenth Circuit, the deadline for filing of the petitioners' brief is extended 30 days. The petitioners' brief must be filed by **August 29, 2001.**

Sincerely,

DAVID W. AEMMER

Rose A. Giacinti

by: Rose A. Giacinti

DWA:rag

ATTORNEYS AT LAW
WRIGHT & TALISMAN, P.C.

1200 G Street, N.W.
Suite 600
Washington, D.C. 20005-3802
202-393-1200
FAX 202-393-1240
www.wrightlaw.com

2001

Scott M. DuBoff
duboff@wrightlaw.com

December 26, 2001

Marcia M. Waldron, Clerk
United States Court of Appeals for the Third Circuit
21400 U.S. Courthouse
601 Market Street
Philadelphia, PA 19106-1790
Attn: Lynn Caswell Lopez

Re: Murphy Exploration & Production Company v. United States Environmental Protection Agency, Case No. 01-3936

Dear Ms. Lopez:

This letter is submitted on behalf of petitioner Murphy Exploration & Production Company (Murphy) in the above-captioned case and confirms our telephone conversation earlier today regarding an extension of time to respond to the December 14 motion to transfer filed by respondent U.S. Environmental Protection Agency (EPA). More specifically, EPA's motion requests transfer of Case No. 01-3936 and two related dockets (Nos. 01-3672 and 01-4301, Samson Hydrocarbons Co. v. U.S. EPA) from this Court to the U.S. Court of Appeals for the Tenth Circuit. The transmittal letter accompanying the motion states that in recognition of the timing of the motion during the December holidays EPA would agree to an extension of up to ten days for responses (which would otherwise be due on December 27). Accordingly, in view of other previously scheduled commitments of Murphy's counsel during this period and their need to confer with regard to EPA's motion, Murphy requests an extension of time to respond to the motion to transfer. Murphy understands that the Case Manager for Nos. 01-3672 and 01-4301 has indicated that an extension to January 8, 2002 will be authorized for those dockets, and Murphy requests the same extension for Case No. 01-3936.

An original and three copies of this letter (together with a certificate showing service on all parties) are enclosed for filing with the Court. One additional copy of the letter is enclosed as well; please date-stamp that copy indicating receipt by the Court and return it to us in the accompanying self-addressed, postage prepaid envelope.

Your assistance in this matter is appreciated.

Respectfully submitted,

Scott M. DuBoff

cc: James E. Baine

IN THE
UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

MURPHY EXPLORATION & PRODUCTION COMPANY, Petitioner, v. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, Respondent	)	No. 01-3936

CERTIFICATE OF SERVICE

I hereby certify that I have this 26th day of December, 2001, caused copies of the foregoing request for extension of time to be served upon each of the persons listed below by delivering copies thereof to the U.S. Postal Service with postage prepaid and addressed as follows:

James Eppers
U.S. Environmental Protection Agency
Region 8 - 8ENF-T
999 18th Street, Suite 300
Denver, CO 80202-2466

David A. Carson
United States Department of Justice
999 18th Street, Suite 945 North Tower
Denver, CO 80202

Candace J. Walker
Marathon Oil Company
Human Resources & Environmental Group
5555 San Felipe
Houston, TX 77210-4813

Steve Leifer
Baker Botts LLP
The Warner
1299 Pennsylvania Avenue NW
Washington, DC 20004-2400

Elizabeth Mack
Locke, Liddell & Sapp
2200 Ross Avenue, Suite 2200
Dallas, TX 75201

Scott M. DuBoff

Ft. Peck Indian Reservation May 1, 2001

East Poplar Oil Field Contamination

Technical Contact: Nathan Wiser (303) 312-6211 wiser.nathan@epa.gov

Legal Contact: Jim Eppers (303) 312-6893 eppers.jim@epa.gov

ABBREVIATED CHRONOLOGY

- 1952: First oil discovered by Murphy Oil Co
- 1952-now: The field has produced about 50 million barrels (2.1 billion gallons) of crude oil and about 235 million barrels (9.9 billion gallons) of associated brine. Production continues today
- 1979: East Poplar Oil Field resident files complaint with State of Montana (first known indication of a problem)
- 1997: At Tribe's request, USGS studies area and defines extent of contamination to cover more than 12 square miles
- 1998: Tribe requests that EPA bring an action
- 1999: EPA issues SDWA §1431 Emergency Admin. Order (EAO) to order several Respondents to provide bottled water and information. 2 EAO amendments issued in 1999 and 2000
- Nov. 1999: EPA Order appealed to the 2nd Circuit (New York) by W.R. Grace. Appeal later withdrawn
- Jan. 2001: EPA Order appealed to the 10th Circuit (Denver) by Samson Investment Co. (still active)

JURISDICTION

- East Poplar Oil Field, located on Fort Peck Indian Reservation, of the Assiniboine and Sioux Tribes, in Northeast Montana
- EPA has direct implementation authority governing the injection wells. Montana or the Ft. Peck Tribes govern the oil wells, depending on the mineral ownership

GEOLOGY

- The oil field has about 115 wells, about 110 of which are oil production wells, and 5 are brine injection disposal wells. About half of the oil wells are idle.
- Brine as saline as 200,000 mg/l is produced as a waste by-product, containing benzene, toluene, ethylbenzene, and xylenes

CONTAMINATION

- 1999-2001: Unsafe levels of benzene and total dissolved solids detected in the aquifer and at people's homes (benzene detected at 14 times MCL. TDS as high as 91,000 mg/l; for reference, sea water = 35,000 mg/l)
- The aquifer contaminated is the sole source of drinking water in the area, serving the City of Poplar, Montana (pop. 1000) and about 20 homes with private water wells (some of whom are Tribal members)
- Mechanism of contamination is only partially understood. At least one poorly plugged oil production well is now contributing; and perhaps additional well breaches, surface brine spills, surface brine leaks, and brine dumping

SUPERFUND CONNECTION

- Primary oil production contamination is exempted from Superfund definition of hazardous substance. Regions 3 and 6 were both polled by Superfund and found that those Regions have not taken Superfund actions for brine contamination
- If an action were taken under Superfund, it would be limited to clean up of benzene only
- Superfund connection still being researched

WATER PIPELINE

- Oct. 2000: Independent of EPA's actions, the U.S. Congress authorized up to $175 million for construction of a Missouri River water pipeline with a treatment center near City of Poplar
- The President's budget submission for 2002 contains no money for this pipeline
- EPA supports this pipeline through NEPA comments at scoping stage of project, and letter to the Deputy Director of the Bureau of Reclamation (who would build it) to prioritize the first water to be brought to oil field residents and City of Poplar

POTENTIAL FUTURE

- Ultimate remedy to clean aquifer may cost $100 to $1000 million and 50 years or more
- Sentinel monitoring wells are needed to serve as early warning for City of Poplar