To: Moffatt, Brett[Moffatt.Brett@epa.gov]; Engelman, Alexa[ENGELMAN.ALEXA@EPA.GOV]
Cc: Dermer, Michele[Dermer.Michele@epa.gov]; Montgomery, Michael[Montgomery.Michael@epa.gov]
From: Albright, David
Sent: Tue 9/16/2014 7:42:54 PM
Subject: FW: Hathaway's UIC Steamflood Project - Edison Oil Field - "Non-Endangerment" Demonstration Pursuant to 40 CFR § 144.12(a)

Ex. 5 - Attorney Client

From: Peter Candy [mailto:pcandy@hbsb.com]
Sent: Tuesday, September 16, 2014 11:48 AM
To: Robin, George
Cc: Albright, David; chathaway@hathawayllc.com; Bill Donadio (bdonadio@hathawayllc.com); 'Ricker, Michelle'
Subject: Hathaway's UIC Steamflood Project - Edison Oil Field - "Non-Endangerment" Demonstration Pursuant to 40 CFR § 144.12(a)

Hello George,

I represent Hathaway, LLC, an oil and gas operator in Kern County. Roughly six (6) months ago, Hathaway submitted a UIC project application to DOGGR for a steamflood project in the Edison Groves Area of the Edison Oil Field. The Edison Oil Field is located in Kern County on the east-southeast side of the City of Bakersfield.

Hathaway's UIC project proposes to steamflood the Kern River-Chanac formation, a hydrocarbon-producing reservoir with a TDS of less than 10,000 mg/l. A portion of the Kern River-Chanac formation underlying the Edison Groves Area was determined "exempt" for purposes of Class II injection when DOGGR acquired primacy in 1982. However, because Hathaway's proposed project extends outside the approved aquifer exemption boundaries, Hathaway has been informed by DOGGR that an aquifer exemption will be required.

Hathaway's source water for purposes of generating steam is extremely high quality water. The steam Hathaway proposes to inject would not in any way degrade the quality of water that exists in the target injection zone. Nor would it cause the USDW to exceed any national primary drinking water regulation or other health-based standards. In fact, by removing hydrocarbons,

Hathaway's operation would be cleaning up the aquifer as a potential source of water supply assuming it ever needed to be used for drinking water purposes in the future.

Hathaway requests the opportunity to make a "non-endangerment" demonstration to EPA pursuant to 40 CFR § 144.12(a). The "non-endangerment" demonstration would be an alternative to Hathaway obtaining an aquifer exemption.

Congress specifically defined in the Safe Drinking Water Act (SDWA) what it meant by "underground injection which *endangers* drinking water sources." According to Section 1421(d)(2), "[u]nderground injection *endangers* drinking water sources if such injection may result in the presence in underground water which supplies or can reasonably be expected to supply any public water system of any contaminant, <u>and</u> if the presence of such contaminant may result in the system's not complying with any national primary drinking water regulation or may otherwise adversely affect the health of persons." (42 U.S.C. § 300h (d)(2) (emphasis added).)

40 CFR § 144.12(a) implements SDWA § 1421(d)(2) by authorizing operators to make "non-endangerment" demonstrations. 40 CFR § 144.12(a) provides:

"(a) No owner or operator shall construct, operate, maintain, convert, plug, abandon, or conduct any other injection activity in a manner that allows the movement of fluid containing any contaminant into underground sources of drinking water, if the presence of that contaminant may cause a violation of any primary drinking water regulation under 40 CFR part 142 or may otherwise adversely affect the health of persons. The applicant for a permit shall have the burden of showing that the requirements of this paragraph are met."

Hathaway's proposed injectate for its Edison steamflood project would not cause the Kern River-Chanac formation outside the approved aquifer exemption boundaries to exceed any national primary drinking water regulation or other health-based standards. As such, Hathaway requests the opportunity to make a "non-endangerment" demonstration to EPA. I would like to schedule a telephone call to discuss processing and submittal requirements at your earliest convenience.

Thank you for your attention to this matter. Feel free to call or otherwise respond to this email if you have questions or wish to discuss.

-Peter

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