

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2012 FEB 24 PM 2:22

Docket No.: SDWA-08-2011-0079

FILED
EPA REGION VIII
HEARING CLERK

In the Matter of:

Maralex Disposal, LLC

Respondent.

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**MOTION TO REMOVE AND REPLACE
TWO PRE-HEARING EXCHANGE
EXHIBITS**

The United States Environmental Protection Agency, Region 8 (EPA), by its undersigned attorney, files this Motion To Remove And Replace Two Pre-Hearing Exchange Exhibits.

The exhibits in question are Complainant's Exhibits 6 and 7 which are resumes for Ms. Sarah Roberts and Mr. Nathan Wiser respectively. The original exhibits included personal, private information concerning Ms. Roberts and Mr. Wiser. The new resumes attached to this motion have eliminated that private information. It is the undersigned attorney's understanding that the entire pre-hearing exchange will be uploaded to a public website, but this has not yet occurred. It is the EPA's desire that the new resumes replace the original ones before the pre-hearing exchange is uploaded to the website.

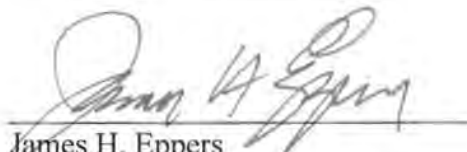
The undersigned attorney has spoken by telephone with William E. Zimsky, counsel for the Respondent. Mr. Zimsky agreed to shred the original Exhibits 6 and 7 and he does not oppose this motion.

Therefore, counsel for EPA requests that the original Exhibits 6 and 7 be removed from the record and be replaced by the new Exhibits 6 and 7 which are attached to this motion.

RESPECTFULLY SUBMITTED this 24th day of February, 2012.

United States Environmental Protection Agency, Region 8

By:


James H. Eppers
Senior Attorney
Counsel for EPA

Maralex Disposal, LLC
Docket No. SDWA-08-2011-0079


CERTIFICATE OF SERVICE

I hereby certify that the original of this MOTION TO REMOVE AND REPLACE TWO PRE-HEARING EXCHANGE EXHIBITS was hand carried on February 24, 2012 to the Regional Hearing Clerk, EPA Region 8, 1595 Wynkoop Street, Denver, Colorado, and that a true copy was hand carried to the Regional Judicial Officer and that a true copy was sent via Certified Mail; Return Receipt Requested to Respondent's counsel at the following address:

William E. Zimsky, Esq.
Abadie Schill
1099 Main Street, Suite 315
Durango, CO 81301

FEB 24 2012

Dated: _____

By:  _____
James H. Eppers

EDUCATION

M.S. – Colorado School of Mines – Hydrologic Science and Engineering (CUM GPA: 3.6) Dec 2009

Research:

"Experimental Investigation of Fate and Transport Parameters for Target Organic Wastewater Contaminants in Soil" – **Funding: WERF (USEPA)**

"Occurrence and Fate of Pharmaceutical and Personal Care Product Contaminants in the Wastewater Stream in Southern China" – **Funding: NSF, Chinese Ministry of Science and Technology**

B.S. – James Madison University – Geology (CUM GPA: 3.4; GEOL GPA: 3.7)

May 2007

Research:

"Monitoring Riparian Restoration: Quantifying the Effect of Fine Sediment on Brook Trout Incubation Habitat" – **Funding: USDA Forest Service**

"Modeling Microstructures to Evaluate the Recovery of Crystal Size Distributions from 2-Dimensional Data" – **Funding: Petroleum Research Foundation, NSF**

EXPERIENCE

U.S. Environmental Protection Agency, Environmental Scientist: Denver, CO **January 2010 to Present**

- Enforcement and compliance assistance work under the Safe Drinking Water Act and the Underground Injection Control program (deep and shallow wells) and the Oil Pollution Act

NSF EAPSI Program, Project Principal Investigator: Guangzhou, China

June to August 2009

- Use of LC/MS-MS to determine emerging organic contaminant concentrations in centralized wastewater treatment units and river water in southern China

JMU Field Camp in Ireland, Teaching Assistant: County Galway, Ireland

May to August 2007

- Experience with Trimble units and digital mapping using GIS software; extensive field mapping

National Forest Service, Field Technician: Harrisonburg, VA

May to August 2006

- Measured stream trout populations, conducted stream cross section surveys

James Madison University, Teaching Assistant: Harrisonburg, VA

Aug. 2005 to May 2007

- Physical geology, geomorphology (2 yrs), geohydrology, optical mineralogy, and structural geology (2 yrs)

Additional Projects:

- Soil treatment unit design optimization with regards to treatment of wastewater constituents 2007-2009
- Watershed scale contaminant transport modeling: Turkey Creek, CO 2008
- Vadose zone contaminant transport modeling with HYDRUS 2D/3D 2007-2009
- Treatment unit design and evaluation for acid mine drainage in Blackhawk, CO 2007
- Onsite wastewater treatment system design and cost analysis for CSM apartment complex 2007
- Groundwater surface water interactions: Water Quality Implications Assessment for Smith Creek, VA 2005

PUBLICATIONS

Roberts, S. M., J. E. McCray and K. Lowe (2009). *Evaluating site specific limitations for removal of organic wastewater contaminants in onsite wastewater system soil treatment units*. 2009 Ground Water Summit, Tucson, AZ, NGWA.

- <http://ngwa.confex.com/ngwa/2009gws/webprogram/Paper5884.html>

Roberts, S. M., J. E. McCray and K. Lowe (2009). Modeling the fate and transport of 5 organic wastewater contaminants in onsite wastewater system soil treatment units. *NOWRA Annual Conference*. Milwaukee, WI, NOWRA. 2009: pg. 1-9.

PUBLICATIONS CONTINUED

Roberts, Sarah M., May, Christine L., and Hudy, Mark. Mixing Geomorphology and Ecology: Relationships between Fish Populations and Streambed Permeability. 2006. Geological Society of America. *Abstracts with Programs*, Vol. 38, No. 7, p. 188.

Roberts, Sarah M., Wertz, Paxton D., and Amenta, Roddy V. Evaluating the Recovery of Crystal Size Distributions from Computer Generated Microstructures. 2006. Geological Society of America. *Abstracts with Programs*, Vol. 38, No. 2, p27.

Amenta, R. V., A. Ewing, A. Jensen, S. M. Roberts, K. Stevens, M. Summa, S. Weaver and P. Wertz (2007). A modeling approach to understanding the role of microstructure development on crystal-size distributions and on recovering crystal-size distributions from thin slices. *American Mineralogist* 92: 9.

Amenta, Roddy V., Roberts, Sarah M., and Wertz, Paxton. The Role of Microstructure Development on Crystal Size Distribution and on Recovering Crystal Size Distribution From Thin Slices—A Modeling Approach. 2006. *Geoinformatics 2006 Abstracts*. Scientific Investigations Report 2006–5201, p39.

- <http://pubs.usgs.gov/sir/2006/5201/2006-5201.pdf>

AWARDS

Horizon Award

2011

- EPA Region 8 award presented to a new employee that serves as a role model by demonstrating an exceptional degree of motivation, risk taking, professional growth, leadership, or dedication.

Environmental Science and Engineering Dept Outstanding Student

2009-2010

- Annual award given to student selected by faculty vote in the ESE Department at Colorado School of Mines

EAPSI NSF Research Grant: China

2009

- Awards travel cost and stipend for a graduate student to conduct a 2 month research project in China

Hydrologic Science and Engineering Program Graduate Student Fellowship

2008

- Annual award made to cover tuition, fees, and stipend of one graduate student for one semester
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Nathan M Wiser
1595 Wynkoop Street
Denver, CO 80202 US
Day Phone: 303-312-6211
Email: wiser.nathan@epa.gov

Complainant's Exhibit 7

Country of Citizenship: United States

Veterans' Preference: No

Registered for Selective Service: I am a male born on or after January 1, 1960, and I have registered for the Selective Service.

Availability: Job Type: Permanent
Work Schedule: Full-Time

Work Experience:

U.S. Environmental Protection Agency, Office of Research and Washington, DC US
Physical Scientist (This is a federal job)
Supervisor: Fred Hauchman (202-564-3151)
Okay to contact this Supervisor: Yes
Lead researcher for a team of 8, with duties to review 350 production well files, reflecting the national distribution of wells in all major shale gas plays across the country. Reviews will assess frequency and manner of hydraulically fractured wells and the associated impacts drinking water resources. Reviews involve highly specialized technical expertise in well electric log interpretation, analysis of hydraulic fracturing graphs and standards, microseismic monitoring, well construction and cementing techniques.
Regular briefings for Special Counsel to Administrator Bob Sussman providing him advice on oil and gas industry's general and specific capabilities and providing him critical judgement for different modes of interaction with oil and gas industry.

06/2011 - Present
Hours per week: 40
Pay Plan: GS Grade: 1-14

U.S. Environmental Protection Agency, Office of Research and Washington, DC US
Environmental Scientist (This is a federal job)
Supervisor: Fred Hauchman (202-564-3151)
Okay to contact this Supervisor: Yes
Provided essential technical support to the development of the draft plan to study the potential impacts of hydraulic fracturing on drinking water resources. I was a key leader in the development and conduct of four national workshops that engaged more than 100 national experts in hydraulic fracturing to discuss chemical and analytical methods, well construction and operation, fate and transport and water resource management. I have been the lead person to review data provided by nine hydraulic fracturing companies regarding the chemicals, standard operating procedures, environmental impacts and well construction and operation. To conduct this review, I led discussions with national experts at more than one hydraulic fracturing company to evaluate the completeness, accuracy and meaning of the data they provided. I led development of a new information request, the results of which will form the foundation for a major section of EPA's 2012 Report to Congress. Without my careful, thorough, timely, technically advanced and clearly communicated analysis, EPA's study would lack essential elements necessary to respond to Congress' questions. My contributions support high visibility analyses and decisions for multiple EPA offices and will uniquely inform EPA's overall evaluation of the potential impacts of hydraulic fracturing on drinking water resources. This a critical activity which has been defined to be of very high priority not only by the Assistant Administrator for the Office of Research and Development, but also by the Administrator for the Agency as a whole.

Conducted extensive review of 14 state oil and gas program regulations to determine their ability to retrieve and retain hydraulic fracturing data resulting in determination that as little as 10% of data needed by EPA to assess drinking water resource impact is available at the state level.

U.S. Environmental Protection Agency Region 8 Denver, CO US
Environmental Scientist (This is a federal job)
Supervisor: Sandra Stavnes (303-312-6117)
Okay to contact this Supervisor: Yes
Managed all aspects of the compliance and enforcement of underground injection control program for all regulated Class I, II, III and deep Class V injection wells. Duties include all planning, budgeting, inspections, compliance identification, and enforcement responses. During 12 years in UIC program: I conducted and oversaw nearly 4000 inspections at oil and gas facilities. Addressed violations at oil and gas facilities nearly 900 times. Developed nearly 40 formal enforcement cases bringing in penalties totaling \$1.4 million, including 6 highly complex enforcement actions requiring delivery of safe drinking water to 3,000 residents, studying over 12 square miles of groundwater contamination. Never lost a case. In addition to penalties, my actions resulted in \$11 million spent by the regulated community paying for and conducting supplemental environmental projects to clean up and address local pollution. Supervised enforcement actions at over 200 injection wells. Directed injection well plugging and rework approvals more than 500 times.

Participated in State and Tribal oversight of ten delegated UIC programs under the Safe Drinking Water Act, which included the lead presentation of controversial requirement they participate in a national UIC database which tracks their compliance and enforcement activities.

Conducted direct implementation by conditionally authorizing hydraulic fracturing six times at injection wells to ensure environmental protection of drinking water resources, including requiring certain monitoring and fluid disposition.

U.S. Environmental Protection Agency

07/1990 - 09/1999

Region 5

Chicago, IL US

Geologist (This is a federal job)**Supervisor:** Lisa Perenchio (312-886-6593)**Okay to contact this Supervisor:** Yes

Team Leader for Underground Injection Control program. Issued formal enforcement resulting in \$50,000 penalty; assured proper closure of 15 shallow Class V wells; conducted 10 inspections; wrote more than 173 UIC permits; reviewed permitting actions from 3-5 staff as Team Leader; 4 years experience as UIC Primacy program State oversight; Chairman of National UIC Technical Workgroup; lead land ban reviewer for 4 hazardous waste injection well sites; participant at 5 public hearings; published in Federal Register; Work Assignment Manager for UIC contract; Quality Assurance representative; EPA Remedial Action Plan Liaison for Northwest Indiana area of concern which contains 52 Superfund sites and 453 RCRA sites coordinating with local, State and Federal governments, and industry and environmental advocacy groups.

Hours per week: 40**Pay Plan:** GS Grade: 0/13

QA program representative involved writing the Region 5 QA Project Plan for the UIC program.

Oversight of all six Region 5 state UIC programs involved developing standard procedures for conducting well file reviews, reviewing scores of well files to ensure drinking water resources were being protected by state program. Also involved making presentations to State staff and managers including identification of their weaknesses, such as one program incorrectly using a technique to establish injection pressure.

Developed standard operating procedure to ensure all UIC permits issued under the Safe Drinking Water Act complied with the requirements of the Endangered Species Act, National Historic Preservation Act, Coastal Zone Management Act, Wild and Scenic Rivers Act and Wildlife Coordination Act.

Developed controversial guidance relating to fluids eligible for injection into oil and gas related injection wells and made presentations to several concerned audiences including Ground Water Protection Council (representing all oil and gas producing States) and the Michigan Oil and Gas Association.

Education:**Northwestern University** Evanston, IL US

Master's Degree 06/1990

GPA: 3.7 of a maximum 4.0**Credits Earned:** 21 Quarter hours**Major:** Geological Sciences**Relevant Coursework, Licenses and Certifications:**

4 chemistry classes and 15 geology classes

University of California, Berkeley Berkeley, CA US

Bachelor's Degree 05/1987

GPA: 3.2 of a maximum 4.0**Credits Earned:** 147.5 Quarter hours**Major:** Geology**Relevant Coursework, Licenses and Certifications:**

3 chemistry classes, 4 physics classes, 3 math classes, 13 geology classes

Job Related Training:

"Evaluating Flow Behind Pipe" July 1990

"Evaluating Cement Behind Casing in Injection Wells" September 1990

"Risk Communication" 1990

"Underground Injection Control Training" March 1991

"Cased Hole Log Interpretation" March 1991

"Principles of Ground Water Hydrology" May 1991

"U.S. EPA Basic Inspector Training" June 1991

"Hydrogeology" from Northern Illinois University Fall 1991 (Course grade A)

"Risk Assessment" 1991

"Pressure Transient Test Analysis" June 1992

"Theory and Application of Vadose Zone Monitoring, Sampling and Remediation" July 1992

"Midwest Gas Storage Well Training" May 1993

"Cased Hole Logging" May 1993

"Negotiating Techniques" June 1993

"Radiation Safety Training" June 1993

"Introduction to Wetlands" June 1993

"Open Hole Log Interpretation" July 1993

"Probability, Statistics, Geostatistics for Environmental Professionals" August 1993

"Applied Hydrogeochemistry" October 1993

"Contract Management Training" February 1994

"Pollution Prevention Training" April 1994

"Scientific and Engineering Aspects of Deep Injection Disposal of Hazardous and Industrial Wastes, an International Symposium," held at Lawrence Berkeley Laboratory, California May 1994

"Roles and Responsibilities of Team Leaders" June 1994

"Class I Injection Well Basic Training" June 1994

"Endangered Species Act Training" August 1994

"Team Training" February 1995

"Ethics in Government Training" 1994, 1995

"Administrative Hearings and Trials" March 2000

"Working Effectively with Tribal Governments" May 2000

"Compliance and Enforcement in Indian Country" May 2000

"Electronic Records Management" December 2000

"Media Training" August 2001

"Looking Glass Training" January 2002

"2nd International Underground Injection Symposium," held at Lawrence Berkeley Laboratory October 2003

"Cased Hole Log Interpretation" August 2005

"Oil and Gas Law Basics" October 2006

"Email Records Training" March 2007

"Introduction to Managing Environmental Data with Microsoft Access" April 2007

"Applied Environmental Database Design and Queries with Microsoft Access" April 2007
 "Working Effectively with Tribal Governments" October 2007
 "Advanced Negotiation Skills Training" January 2008
 Annual "Health and Safety" Refresher Trainings from 1991 through 2008
 Seven CPR and First Aid Refresher Training from 2000 through 2010
 "BEN", "ABEL", "PROJECT" trainings November 2002
 "The Media and You" taught by Norman S. Hartman, November 2009
 "Hydraulic Fracturing and Pressure Analysis" Society of Petroleum Engineers training, March 2010

Language Skills:

Language	Spoken	Written	Read
French	Novice	Novice	Novice
German	Novice	Novice	Novice

Affiliations:

American Geophysical Union - Member
 Ground Water Protection Council - Member

Professional Publications:

Wiser, Nathan M. and B.J. Wood, "Experimental Determination of Activities in Fe-Mg Olivine at 1400K," in Contributions to Mineralogy and Petrology, vol 108, pp146-153, 1991.
 Abraham Lerman, N.M. Wiser and L.N. Plummer, "Geochemical Aspects of Deep Acid Waste Injection," in Deep Injection Disposal of Hazardous and Industrial Waste: Scientific and Engineering Aspects, edited by Jahn A. Apps and Chin-Fu Tsang, Academic Press, pp 585-600, 1996.

References:

Name	Employer	Title	Phone	Email
Elisabeth Evans (*)	U.S. Environmental Protection Agency Region 8	Supervisor	303-312-6217	evans.elisabeth@epa.gov
Connally Mears (*)	U.S. Environmental Protection Agency Region 8 (retired)	Supervisor	303-972-4155	cemears@qadas.com
Lisa Perenchio (*)	U.S. Environmental Protection Agency Region 5	Supervisor, UIC Direct Implementation Section	312-886-6593	perenchio.lisa@epa.gov
Sandra Stavnes (*)	U.S. Environmental Protection Agency Region 8	Supervisor	303-312-6117	stavnes.sandra@epa.gov
Fred Hauchman (*)	U.S. Environmental Protection Agency, Office of Research and	Supervisor	202-564-3151	hauchman.fred@epa.gov
Mark Chalfant (*)	U.S. Environmental Protection Agency Region 8	Supervisor	303-312-6177	chalfant.mark@epa.gov
Jeanne Briskin (*)	U.S. Environmental Protection Agency, Office of Research and	Team Leader	202-564-4583	briskin.jeanne@epa.gov

(*) Indicates professional reference

Additional Information:**AWARDS:**

U.S.EPA Awards
 Bronze Medal: Bethlehem Steel Multi-Media Enforcement Case, 1994.
 Bronze Medal: Developing Significant Guidelines for Conducting Site Assessments at Class IV and V Injection Facilities, 1994.
 Regional Administrator's Award of Excellence: Class II UIC Program Regulations Development, 1997.
 Excellence in Communication Award, 2000.
 Enhanced State/Tribal/Community Relations Award, 2000.
 Environmental Achievement Award: Fort Peck East Poplar Oil Field Team, 2001.
 Bronze Medal: Cleanup of Oil Disposal Facilities Team, 2003.
 Bronze Medal: CamWest and BP America Oil Company Enforcement Cases, 2005.
 Bronze Medal: Fort Peck East Poplar Oil Field Enforcement Case, 2005.
 "EPA Jacket" Award Based on Intangible Benefits, 2008.
 18 cash awards ranging from \$100 to \$5,000.
 4 time off awards ranging from 8 to 20 hours.
 Silver Medal: Fort Peck East Poplar Oil Field Enforcement Case, 2010.
 Silver Medal: Pavillion Wyoming Ground Water Investigation Team, 2010.

U.S. Department of Justice Award
 Distinguished Service: East Poplar Oil Field Enforcement Case, 2004.

U.S. Department of Interior Award
 Environmental Achievement Award: City of Poplar Well Threat Plume Capture and Groundwater Remediation Team, 2008.

Relevant Teaching and Subject Expertise

"Oil and gas development and extraction methods" taught to the entire EPA Region 8 Criminal Investigation Division, 2010.
 "National UIC Inspector training" required by Executive Order with emphasis on injection well plugging and abandonment and mechanical integrity testing, taught to national representation of inspectors, 2010, 1997, and 1998.
 "Hydraulic fracturing and EPA's historic role" presented at public meeting in Glenwood Springs, Colorado, 2009.
 "How to interpret radioactive tracer surveys" a uniform method to review specialized test for injection and production wells, taught to entire Region 8 UIC program, 2009.
 "Injection well mechanical integrity program measure" wrote the UIC national measure adopted as a national annual commitment under the Safe Drinking Water Act, 2008.
 "Geochemical Aspects of Deep Acid Waste Injection" presented in 1994 at the Berkeley International Symposium of Deep Injection Disposal, attended by representative from more than 10 countries, academia, industry and regulators.

"Wellbore evaluation at Pavillion gas field" wrote two plans to address 140 natural gas wells with potential integrity problems in Wyoming, 2010 and 2011. Such site investigation plans are not standard protocols and were developed with expert understanding of wellbore construction and its interaction with the local hydrogeology.

National Leadership Experience

I chaired the National UIC Technical Workgroup from 1998 to 2000, overseeing national projects: (1) fluids eligible for injection into Class II wells, (2) area of review methods, and (3) naturally occurring radioactive material, (4) mechanical integrity test methods.

In 1993, I chaired a team that developed the Region 5 UIC program's standard approach to dealing with requirements that apply from five major statutes outside the Safe Drinking Water Act. This process continues in force today, and has now formed much of the basis for how the Region 8 UIC program complies with these other statutory requirements.

From 1995 to 1999 I was the Land Ban Team lead in Region 5, charged with tracking the approximately 20 deep injection well sites in Region 5 that inject hazardous waste. This team consisted of up to 5 individuals. I regularly prepared reports, the content of which were used by uppermost management in Region 5 and HQ, and which were used to inform Congress from time to time about the status of hazardous waste injection in the U.S. All hazardous injection well sites were controversial and public meetings in which I participated had as many as 3,000 citizens in attendance.

I am nearly daily sought by my UIC peers in all Regions and HQ for technical, regulatory, and policy assistance.

In 2004 and 2005, I initiated and hosted over a dozen UIC national compliance/enforcement teleconferences with HQ and all other Regions. Two important accomplishments came from that effort: (1) national agreement on UIC Class V well requirements including what to report as non-compliance, and (2) Regional agreement on how to escalate non-compliance to formal enforcement.

Since 2006, I have been an integral part of a national team whose focus is to establish national standards for use of a newly-created UIC database designed to house records for approximately 1 million injection wells. I formulated the first standard reports from the UIC database in Region 8, some of which will be used in national reporting from the national database. The database is designed to target injection wells for inspections and compliance monitoring to lower their risk to drinking water resources.

Since 2006 I have led the Region 8 UIC reporting effort required under by OMB and the national UIC program. I designed one of the three required national UIC measures, which is now in effect (the mechanical integrity measure for Class I, II and III wells).

Direct Leadership Experience

I have mentored several new employees, training them about the nature and operation of oil and gas extraction site standard operating procedures, how to conduct inspections of injection and production wells. I've provided direction including on-the-job training on complex assignments, high profile enforcement cases, hundreds of inspections, hundreds of written communications to the oil and gas industry, developing standard operating procedures for data entry, sampling plans, safety plans, and equipment inventory.

I have been a monitor/supervisor to five senior environmental employees (SEEs), which duties included administrative approvals for travel, purchase, and time cards. I also managed a serious episode when two SEE employees were injured in a car crash while on EPA business with "flight for life" helicopter rides to Denver area hospital. I have advised EPA management about the performance of SEEs, including to make the difficult choice not to renew under one SEE under the grant.

I have mentored at least five students directly, serving as their direct report during their tenure at EPA, both in Region 5 and Region 8.

I interviewed two candidates for employment as EPA FTE. I led interviews for SEE positions more than 10 times. I interviewed about 10 prospective student interns.