

DOCKET NO. SDWA-04-2005-1016

United States Environmental
Protection Agency Region 4

Complainant

vs.

Answer and
Request for Hearing

Gene A. Wilson
P.O. Box 702
Louisa, KY 41230

Respondent

LEAH M. CLERK

2005 JUN 14 AM 7:11

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EPA REGION IV

Comes the respondent and for his answer to the complaint filed against him states as follows:

COUNTERSTATEMENT OF FACTS

1) Respondent retired from the practice of law approximately eighteen (18) years ago, and lives on the family farm. During this period Respondent has been more active in home life, raising cattle, horses, etc.

On March 9, 1984 Respondent purchased the farm on Collier Creek in Lawrence County KY that has the now plugged permitted injection well that is the subject of this litigation. The records reflect the well first started as a proposed gas well in 1974 on the Collier Creek farm but was a dry hole and plugged. In 1987 Respondent and his wife purchased an adjoining tract making a total of approximately 300 acres with the plugged well located about in the center of the farm. There was no interest in the oil and gas business.

In April 1989 Respondent purchased a 400 acre farm on Cam Creek across the hill from the Collier Creek farm for only \$40,000.00 Respondent thought it was a tremendous bargain until later it was discovered the seller, Columbine Investments LTD, a Canadian Corporation was in trouble with EPA and had been shut down for discharging brine directly into the creek. This good deal became a nightmare and continues today by this litigation.

Respondent purchased the Cam Creek farm for its large tobacco base but because of the brine problem immediately started making inquiries on how to correct the issues with EPA. With proper advise, Respondent permitted two (2) of the oil wells for injecting brine and received many compliments from the inspectors on how the system worked (apparently brine discharge into the streams had been a common practice in the area.)

Respondent also applied for and received a permit for an injection well on the Collier Creek farm (purchased in 1984) in 1990 being permit KY10376. This injection well was never to be for the brine on Cam Creek some 4 miles away by road, but was for the intent of charging other people for its use. This never happened. The permit only authorized fluids from Respondents operations and there was none on Collier Creek.. Over the next two (2) or three (3) years Respondent attempted to have the permit modified to take brine from other individuals in the area to no avail. Instead of receiving approval to take other individual operators brine, Respondent received notice to do an MIT test which was completed in October 1993. Respondent thought this was necessary to receive brine from oil producers. (Even though the well was permitted in January 1990 it was 1 ½ years later before Respondent was notified by EPA who to contact for the MIT test and it was 2 ½ years after that before Respondent could get David Oldham, EPA approved inspector, to observe the MIT test.)

Respondent continually gave notice the injection well was not in use but in January 1999, 6 ½ years after the 1st MIT test, notice was given to do another MIT test and with a test date of January 21, 1999. The weather was terrible and a Ms. Chen from EPA granted a new date of Monday April 26, 1999. Mr. David Hayes, EPA Inspector did not show up for the MIT although Respondent expended considerable funds preparing for the test. Ms. Chen of EPA was notified of the no show and she was to reschedule and get back to Respondent; which has never occurred.

In February 2005 (almost 5 years since the last correspondence from EPA) Complainant gave notice Respondent was in violation of the Safe Drinking Water Act. Respondent notified Complainant he wished to plug the injection well, that it had never been used and there was no intent in ever using it since Respondent had never received authority to take other operators brine. The well has never been an issue concerning the environment or safe drinking water since the well had 630 foot of 7" casing for the outer wall, 1003 feet of 4 ½ casing inside plus cement circulated through the 4 ½ back to the surface. Also the 4 ½ was never perforated and had a screwed on cap cover.

Respondent should have not waited on EPA giving the name of another inspector to contact and frankly Respondent had forgotten about the 15 year issue until Ms. Zylpha Pryor notified Respondent she was going to fine him \$9,253.00. Respondent has really never been an operator in the oil and gas business but merely trying to provide a safe place to put the necessary brine to produce a necessary commonly called oil with the EPA wanting to make an example out of Respondent, with a substantial fine.

Respondent is not a farmer per say but enjoys the freedom of self-employment after public service as a school teacher, Metropolitan Police Washington, DC, 11 years US Navy , and toping it off with four (4) years as prosecuting attorney for Lawrence County KY. Respondent has never considered himself in the oil and gas business as Complainant implies.

Respondent is now 68 years old, on hypertension, diabetic, high cholesterol, and triglyceride medications, with complainant threatening a possible fine of now over \$15,000,000 as specified in the complaint.

ANSWER TO ADMINISTRATIVE COMPLIANT

1) Respondent is not familiar with the rules and regulations outlined in numbered paragraphs one (1) and two (2) therefore deny the same and point out Complainant wishes to assess a penalty and not issue a compliance order since the well has been plugged for a year.

ANSWER TO ALLEGATIONS OF FACT AND VIOLATIONS

2) Respondent denies he is doing any business under the laws of Kentucky with a place of business at 101 Madison Street Louisa Kentucky but admit he receives mail at P.O. Box 702 Louisa, Kentucky. Respondent is not familiar with Section 1401(12) of SDWA, 42 U.S.C section 300f(12) and 40CRF & 144.3 therefore denies any definitions or terms.

3) Respondent denies the allegations contained in numbered paragraph 4 and 5 of the Proceeding for Issuance of a Penalty and Compliance Order under Section 1423(c) of the Safe Drinking Water Act.

4) Respondent admits numbered paragraph 6 of the complaint.

5) Respondent admits he was required to comply with all provisions of the permit which he continuously attempted to do, however Complainant was unable to furnish an EPA inspector at designated times right up to the plugging on June 10, 2005 at which time Respondent had to locate a qualified state inspector to observe the plugging.

6) Respondent is not familiar with the regulation quoted in numbered paragraph 8 therefore denies the same but for clarification it was thought the time frame was 5 years for an injection well since it was never abandoned as alleged.

7) Respondent admits to allegation in numbered paragraph 9 but denies the allegation of numbered paragraph 10 of the complaint.

8) Respondent admits the allegation in numbered paragraph 11 but only because Complainant was unable to furnish an approved EPA inspector with Respondent attempting several times to contact one for inspection. (See statement of Facts supra).

9) Respondent states numbered paragraph 12 should have been incorporated in paragraph 11 but will answer that EPA was highly contributorily negligent in working with Respondent therefore deny Paragraph 12.

10) Respondent denies the allegations contained in numbered paragraph 13, 14, 15, and 16 of the complaint except EPA had notice the well was not in service and never had been since permitted.

ANSWER TO PROPOSED ORDER

11) Respondent is not familiar with the section of Administration Regulation cited in numbered paragraph 17 therefore deny a civil penalty should be assessed since Complainant contributed to the issues herein by not furnishing inspectors after setting up designated dates, from the permitting stage to the plugging.

12) Regarding numbered paragraph 18 Respondent states that Ms. Zylpha Pryor is determined to penalize him with complete disregard to Complainant contributing to the issues at hand i.e. failure to amend permit so injection well could be used; failure to furnish EPA inspectors for MIT tests; failure to give notices to Respondent as Complainant did other permittees during this time frame etc...

13) Respondent states there is no admitting or denying numbered paragraph 19 except it is denied the well was ever abandoned. Respondent still owns the farm on Collier Creek but sold the 400 acres on Cam Creek several years ago.

14) Respondent states Complainant had to have notice the injection well was never put into service and that there was no direct threat of contamination to underground sources of drinking water or EPA would not have waited 16 years to file this complaint. Complainants allegations of noncompliance therefore in numbered paragraph 20 is denied since Complainant had notice the injection well was never put into service to require monitoring.

15) Respondent admits the well was plugged on June 10, 2005 as stated in numbered paragraph 21, however as usual the EPA inspector could not be available for the designated time for plugging, therefore EPA allowed Doug Hamilton with the State of Kentucky to be present and observe compliance for plugging. Respondent states if EPA did not violate its responsibilities neither did he.

ANSWER TO OPPORTUNITY TO REQUEST HEARING

16) Respondent request a hearing pursuant to numbered paragraphs 22, 23, 24, 25, and 26. If this hearing is before an administrative Law Judge, Respondent prays for the following:

a) Pursuant to the Freedom of Information Act Respondent be given a time to travel to Atlanta, GA to inspect and copy necessary documents for his defense and/or mitigating circumstances.

b) Respondent, has not been involved in this type litigation, therefore he be given time to contact the Office of National Ombudsman, Washington, DC for assistance.

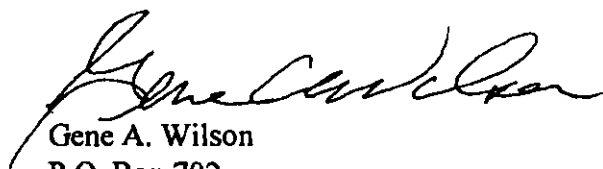
c) That the hearing be held at Louisa, Lawrence County, Kentucky since all necessary witnesses live or work in this jurisdiction. If justice is to prevail the Commonwealth of Kentucky Inspector, Doug Hamilton, EPA Inspectors David Hayes, and David Oldham need to be subpoenaed. John Clark, and Edwin Jordan who prepared for MIT tests, Monty Hay and Patty Carter who had been familiar with the well, are also necessary witnesses for subpoena. The well location itself is also in Lawrence County KY.

17) Respondent states if this matter may be resolved with an informal conference as indicated in numbered paragraph 27 of the complaint. Respondent prays for the following:

A) Ms. Zylpha Pryor threatened Respondent with this litigation over a year ago if he did not pay a fine of over \$9,253. It is requested that someone else represent the EPA rather than Ms. Pryor or it is feared the results will not be equitable. Ms. Pryor refused to hear any short coming of her agency.

Wherefore having fully answered Respondent prays that the complaint be dismissed with prejudice and if not, an informal conference be held to resolve all issues that may result in the Complaints dismissal. If this matter cannot be dismissed informally, that an Administrative Law Judge be appointed to hear all issues with Respondent give time to inspect the records and retain an Ombudsman familiar with EPA Regulations for an equitable solution.

Respectfully Submitted



Gene A. Wilson
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Louisa, KY 41230

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CERTIFICATE OF SERVICE

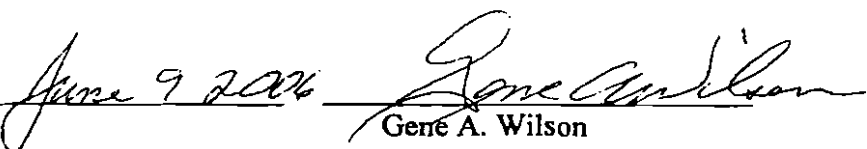
I HEREBY CERTIFY that on the date noted below, the original and one (1) copy of the Answer to the Administrative Complaint were mailed to the following person (s) in the manner specified on the date below:

Regional Hearing Clerk (Via Certified Mail - Return Receipt Requested)
U.S. EPA, Region 4
61 Forsyth Street, S.W.
Atlanta, GA 30303-8960

Randy Vaughn, UIC Enforcement Officer
EPA Region 4
61 Forsyth Street, S.W.
Atlanta, GA 30303-8960

Ms. Zylpha Pryor (Via Certified Mail - Return Receipt Requested)
Associate Regional Counsel
U.S. EPA, Region 4
61 Forsyth Street, S.W.
Atlanta, GA 30303-8960

Dated: June 9 2006


Gene A. Wilson
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