



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

JUL 25 2011

Ref: 8ENF-UFO

CERTIFIED MAIL – 7009-3410-0000-2594-1689
RETURN RECEIPT REQUESTED

CT Corporation System, Registered Agent
Marathon Oil Company
1720 Carey Avenue
Suite 200
Cheyenne, WY 82001

Re: Proposed Penalty Complaint
And Notice Of Opportunity for Hearing
Docket No. **SDWA-08-2011-0051**

CT Corporation System,

Enclosed is a Proposed Penalty Complaint and Notice Of Opportunity For Hearing (complaint) issued by the Environmental Protection Agency (EPA) as authorized by the Safe Drinking Water Act (SDWA), 42 U.S.C. § 300h-2. The document alleges that Marathon Oil Company has violated the SDWA and proposes both compliance requirements and the assessment of a civil penalty. Please note that there are deadlines in the complaint that must be met. The complaint is effective upon the receipt date and the company has thirty (30) calendar days to file an answer to dispute the contents of the complaint.

Also note that under the Rules of Practice, you may just send in a check for that amount to settle the proceeding, without the need for a settlement agreement, once the required public notice period has occurred. 40 C.F.R. §§ 22.18; 22.45. A sheet with payment instructions is enclosed.

If you have any technical questions, contact Sarah Roberts at the above address (with the mail code 8ENF-UFO) or by phone at (303) 312-7056. For legal questions, the attorney assigned to this matter is Brenda Morris, who can be reached at the above address (with the mail code 8ENF-L) or by phone at (303) 312-6891. We urge your prompt attention to this matter.

Sincerely,

for Andrew M. Gaydosh
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

Enclosures:

Proposed Penalty Complaint
and Notice of Opportunity for Hearing
Part 22 Rules of Practice
Public Notice

cc: The Honorable Mike LaJeunesse, Chairman
Eastern Shoshone Business Council
P.O. Box 538
Ft. Washakie, WY 82514-0538

The Honorable Kim Harjo, Chairman
Northern Arapahoe Business Council
P.O. Box 396
Fort Washakie, Wyoming 82514-0217

Don Aragon, Environmental Director
Wind River Environmental Quality Commission
P.O. Box 217
Ft. Washakie, WY 82514-0217

Janie Nelson
Wyoming Oil & Gas Conservation Commission
P.O. Box 2640
Casper, Wyoming 82602

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

REGION 8

Docket No. SDWA-08-2011-0051

2011 JUL 25 AM 8:54

In the Matter of:

Marathon Oil Company

Respondent.

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**PROPOSED PENALTY
COMPLAINT AND NOTICE OF
OPPORTUNITY FOR HEARING**

EPA REGION VIII
HEARING CLERK

INTRODUCTION

1. This Proposed Compliance Order, Penalty Complaint, and Notice of Opportunity for Hearing (complaint) is authorized by Congress in section 1423 of the Public Health Service Act, commonly known as the Safe Drinking Water Act (the Act). 42 U.S.C. § 300h-2. The Environmental Protection Agency (EPA) regulations authorized by the statute are set out in part 144 of title 40 of the Code of Federal Regulations (C.F.R.), and violations of the statute, permits or EPA regulations constitute violations of the Act. The rules for this proceeding are the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders and the Revocation, Termination or Suspension of Permits ("Rules of Practice")," 40 C.F.R. Part 22, a copy of which is enclosed.

2. The undersigned EPA official has been properly delegated the authority to issue this complaint.

3. EPA alleges that Marathon Oil Company (Respondent) has violated the regulations and therefore the Act, as more fully explained below.

NOTICE OF OPPORTUNITY FOR A HEARING

4. Respondent has the right to a public hearing before a presiding officer within the Agency to (1) disagree with any fact alleged by EPA in the complaint, (2) state the grounds for any legal defense or (3) disagree with the appropriateness of the proposed penalty.

5. To disagree with the complaint and assert Respondent's right to a hearing, Respondent must file a written answer (and one copy) with the Regional Hearing Clerk (1595 Wynkoop Street (8RC); Denver, Colorado 80202) within thirty (30) calendar days of receiving this complaint. The answer must clearly admit, deny or explain the factual allegations of the complaint, the grounds for any defense, the facts Respondent may dispute, and Respondent's specific request for a public hearing. Please see section 22.15 of the Rules of Practice for a complete description of what must be in the answer.

FAILURE TO FILE AN ANSWER AND REQUEST A HEARING WITHIN THIRTY (30) CALENDAR DAYS MAY WAIVE RESPONDENT'S RIGHT TO DISAGREE WITH THE ALLEGATIONS OR PROPOSED PENALTY, AND RESULT IN A DEFAULT JUDGMENT AND ASSESSMENT OF PENALTY UP TO THE MAXIMUM AUTHORIZED BY THE ACT.

SETTLEMENT NEGOTIATIONS

6. EPA encourages discussing whether cases can be settled through informal settlement conferences. If Respondent wants to pursue the possibility of settling this matter, or has any other questions, contact the attorney listed at the end of this complaint. **Please note that calling the attorney or requesting a settlement conference does NOT delay the running of the thirty (30) day period for filing an answer and requesting a hearing.**

GENERAL ALLEGATIONS

The following general allegations apply to all times relevant to this action and to each violation alleged in this complaint:

7. Respondent, Marathon Oil Company, is a company doing business in the State of Wyoming.
8. Respondent is a "person" as defined in the Act, and is therefore subject to the requirements of the statute and regulations. 42 U.S.C. § 300f (12), 40 C.F.R. §§124, 144 and 146.
9. Respondent owns and/or operates eleven (11) injection wells described in Table 1.
10. The wells listed in Table 1 are "Class II Injection Wells" as defined by 40 C.F.R. §§144.80 and 146.5.
11. Respondent is subject to applicable requirements of 40 C.F.R. §§124, 144 and 146.
12. The Shoshone 65-28, Shoshone 65-70, Tribal E-26, Tribal E-28, and Tribal C-28 wells are authorized to operate by EPA permit numbers WY20710-02172, WY20708-02176, WY20839-02129, WY20836-04403, and WY20825-04382 as listed in Table 1. Respondent is required to comply with all conditions in the permits.
13. The Shoshone 65-12, Shoshone 65-26, Shoshone 65-40, Shoshone 65-29, Shoshone 63-44, and Brinkerhoff 4 wells are authorized to operate by rule authorization under EPA identification numbers WY20000-02167, WY20000-20171, WY20000-02178, WY20000-02173, WY20000-02155, and WY20000-02133 as listed in Table 1. Respondent is required to comply with requirements for the Class II rule authorized wells in 40 C.F.R §§144 Subpart C.
14. Monthly measurements of injection pressure, flow rate, and cumulative volume for a rule authorized well are required by 42 U.S.C. § 300h-2 (c)(1); 40 C.F.R §§ 144.28(g)(2)(ii).
15. Respondent violated EPA regulations and therefore the statute by failing to take monthly measurements of the Brinkerhoff 4 well.
16. The mechanical integrity of rule authorized wells must be established and maintained as required by 42 U.S.C. § 300h-2 (c)(1); 40 C.F.R §§ 144.28(f).

17. Respondent learned that the Shoshone 65-40 well lost mechanical integrity during a mechanical integrity test conducted on October 25, 2010. EPA received a letter from Respondent on November 18, 2010, where Respondent stated that Shoshone 65-40 was shut-in and a rework plan would be submitted to EPA before rework. As of June 1, 2011, EPA has not received any additional information from Respondent regarding this well. Respondent violated EPA regulations and therefore the statute by failing to maintain mechanical integrity for the Shoshone 65-40 well.

18. Testing of mechanical integrity of active rule authorized wells every five years is required by 42 U.S.C. § 300h-2 (c)(1); 40 C.F.R § 144.28(g)(2)(iv). Testing of mechanical integrity of temporarily abandoned rule authorized wells every two years is required by 42 U.S.C. § 300h-2 (c)(1); 40 C.F.R § 144.28(c)(2)(iv)(B). Testing of mechanical integrity of active permitted wells every five years is required by 42 U.S.C. § 300h-2 (c)(1); 40 C.F.R §§ 146.23(b)(3).

19. Respondent violated EPA regulations and therefore the statute by failing to timely conduct mechanical integrity tests for the Tribal E-26, Tribal C-28, Shoshone 65-12, Shoshone 65-26, Shoshone 65-40, Shoshone 65-29, Shoshone 65-28, Shoshone 65-70, Shoshone 63-44 as listed in Table 1.

20. From February of 2010, through at least April of 2010, the maximum allowable injection pressure (MAIP) authorized by the permit for the Tribal E-28 well was 300 pounds per square inch gauge (psig).

21. According to annual monitoring reports submitted by Respondent, Respondent injected into the Tribal E-28 well at a pressure of 313 psig in February 2010, at 333 psig in March 2010, and at 350 in April 2010.

22. Respondent violated EPA regulations and therefore the statute by operating a Class II injection well at pressures greater than the permitted maximum. 42 U.S.C. § 300h-2 (c)(1); 40 C.F.R. §§ 144.51(a) and 144.52(a)(3), and 146.23.

PROPOSED CIVIL PENALTY

23. For an administrative proceeding, the Act authorizes a civil penalty assessment of up to \$7,500 per day, for each violation of the Act, up to a maximum of \$177,500. 42 U.S.C. § 300h-2(c)(1). The Act requires EPA to take into account appropriate factors in assessing a civil penalty, including the seriousness of the violations, the economic benefit resulting from the violations, any history of such violations, any good-faith efforts to comply with the requirements, the economic impact on the violator, and such other matters as justice may require. Taking such factors into account, EPA proposes the assessment of a civil penalty of \$2,150 for violations described in paragraph 15, \$13,200 for violations described in paragraph 17, \$10,500 for violations described in paragraph 19, and \$19,700 for violations described in paragraph 22 for total civil penalty of \$45,550 for the violations alleged in this complaint.

24. As required by the Act, prior to the assessment of a civil penalty, EPA will provide public notice of the proposed penalty, and reasonable opportunity for the public to comment on the matter and present evidence in the event a hearing is held 42 U.S.C. § 300h-2 (c)(3)(B).

25. Respondent's payment of the penalty shall be made by money order or certified check made payable to "Treasurer, United States of America" and mailed to the following address:

U.S. EPA - Region 8
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

A copy of the check shall be sent simultaneously to the following address:

Technical Enforcement Program
ATTN: Sarah Roberts (8ENF-UFO)
U.S. EPA - Region 8
1595 Wynkoop Street
Denver, Colorado 80202-1129

and

Tina Artemis
Regional Hearing Clerk (8RC)
U.S. EPA Region 8
1595 Wynkoop Street
Denver, CO 80202-1129

26. To discuss settlement or ask any questions you may have about this case or process, please contact Brenda Morris, Senior Enforcement Attorney, at (303) 312-6891, or the address below.

United States Environmental Protection Agency
Region 8, Office of Enforcement, Compliance and
Environmental Justice
1595 Wynkoop Street (ENF-L)
Denver, CO 80202

Date: 7/20/11

By: 

Andrew M. Gaydosh
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

Table 1.

Well Name	EPA Identification Number	API Number	Status	Violation	Previous MI Demonstration Date	Due Date for MI Demonstration	Most Recent MI Demonstration Date
Tribal E-26	WY20839-02129	49-013-06411	Active	Failure to Timely Conduct MIT	7/13/2005	7/13/2010	10/27/2010
Tribal C-28	WY20825-04382	49-013-21081	Active	Failure to Timely Conduct MIT	7/13/2005	7/13/2010	10/28/2010
Shoshone 65-12	WY20000-02167	49-013-06837	Active	Failure to Timely Conduct MIT	7/14/2005	7/14/2010	10/28/2010
Shoshone 65-26	WY20000-02171	49-013-06844	Active	Failure to Timely Conduct MIT	7/14/2005	7/14/2010	10/29/2010
Shoshone 65-40	WY20000-02178	49-013-06846	Active	Failure to Timely Conduct MIT Failure to Address Loss of MI	7/14/2005	7/14/2010	On Going
Shoshone 65-29	WY20000-02173	49-013-06852	Temporarily Abandoned	Failure to Timely Conduct MIT	8/22/2008	8/22/2010	10/28/2010
Shoshone 65-28	WY20710-02172	49-013-08102	Active	Failure to Timely Conduct MIT	7/14/2005	7/14/2010	10/28/2010
Shoshone 65-70	WY20708-02176	49-013-21498	Active	Failure to Timely Conduct MIT	7/14/2005	7/14/2010	10/29/2010
Shoshone 63-44	WY20000-02155	49-013-20829	Temporarily Abandoned	Failure to Timely Conduct MIT	8/21/2008	8/21/2010	10/28/2010
Brinkerhoff 4	WY20000-02133	49-013-06364	Temporarily Abandoned	Failure to Monitor			
Tribal E-28	WY20836-04403	43-013-06987	Active	Injection at Pressure Greater than MAIP			

In the Matter of: **Marathon Oil Company**
Docket No.: **SDWA-08-2011-0051**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the original and one copy of the Proposed Compliance Order, Penalty Complaint, Notice of Opportunity for Hearing and Public Notice were hand-carried to the Regional Hearing Clerk, EPA Region 8, 1595 Wynkoop Street; Denver, Colorado 80202-1129, and that a true copy of the same with the Consolidated Rules of Practice (40 C.F.R. Part 22) and was sent via Certified Mail to:

CT Corporation System, Registered Agent
Marathon Oil Company
1720 Carey Avenue
Suite 200
Cheyenne, WY 82001

7/25/2011
Date

Judith M. McTernan

**U.S. ENVIRONMENTAL PROTECTION AGENCY
PUBLIC NOTICE
OPPORTUNITY FOR PUBLIC COMMENT ON
PROPOSED PENALTY COMPLAINT
AND
NOTICE OF OPPORTUNITY FOR HEARING
AGAINST
MARATHON OIL COMPANY
FOR FAILURE TO COMPLY WITH
UNDERGROUND INJECTION CONTROL REGULATIONS**

PURPOSE OF PUBLIC NOTICE

The purpose of this notice is to solicit written comments on a Proposed Penalty Complaint and Notice of Opportunity for Hearing (complaint) [Docket No. **SDWA-08-2011-0051**] that Region 8 of the United States Environmental Protection Agency (EPA) has issued to Marathon Oil Company for alleged violations at eleven (11) injection wells in the Steamboat Butte and Circle Ridge oilfields in Fremont County, Wyoming. The complaint alleges violations of the Safe Drinking Water Act (SDWA) and the regulations detailing the requirements of the SDWA's Underground Injection Control (UIC) program. These regulations govern the injection of fluids that may endanger an underground source of drinking water (USDW). The complaint alleges that the company injected fluids in one (1) well above the allowed pressure and failed to timely comply with monitoring and testing requirements for other injection wells. The complaint proposes a civil penalty of \$45,550 for the alleged violations.

EPA desires to receive written comments from any interested party having knowledge of the alleged violations or who can provide any information useful to ensure that the complaint is appropriate. EPA will review and consider all comments received, and will thereafter determine whether the comments, if any, justify the modification or withdrawal of the complaint.

BACKGROUND

Part C of the SDWA (40 U.S.C. §300h *et seq*) requires EPA to regulate underground injection of fluid through wells to assure that underground sources of drinking water (USDWs) are not endangered. Section 1421 of the SDWA (40 U.S.C. §300h) requires EPA to administer UIC programs in States or Indian Reservations that do not have approved UIC programs. Regulation of the UIC Class II Program has not been delegated to the Eastern Shoshone and Northern Arapahoe Indian Tribes, therefore, EPA administers the program in accordance with title 40 of the Code of Federal Regulations (40 C.F.R.) parts 124, 144, 146, 147, and 148.

The eleven (11) Class II enhanced recovery injection wells, which are the subject of this complaint, are located in the Steamboat Butte and Circle Ridge oilfields in Fremont County, Wyoming. A Class II injection well, pursuant to 40 C.F.R. § 146.5, is a well that injects fluids which are brought to the surface in connection with conventional oil or natural gas production.

The complaint alleges that Marathon Oil Company is in violation of UIC regulations and is subject to appropriate penalties for failing to meet the requirements of the 40 C.F.R. parts 144 through 146.

PUBLIC COMMENTS

Written comments on the complaint are encouraged and will be accepted at the address listed below for a period of thirty (30) calendar days after the publication of this notice. Written comments submitted by the public, as well as information submitted by Marathon Oil Company will be available for public review as part of the Administrative Record, subject to the provisions of law restricting the disclosure of confidential information. Marathon Oil Company may request a hearing. Any person submitting written comments will be notified of and has a right to participate in such a hearing. The complaint and the Administrative Record are available for review between 9:00 a.m. and 4:00 p.m. at the address listed below. Any person wishing to view the Administrative Record or receive a copy of this public notice should call Sarah Roberts in the Technical Enforcement Program, EPA Region 8, at (303) 312-7056 before visiting EPA Region 8 offices. Please submit written comments to:

Tina Artemis (8RC)
Regional Hearing Clerk
U.S. EPA, Region 8
1595 Wynkoop Street
Denver, Colorado 80202

THE DECISION

EPA will review and consider all public comments received on the public notice and will thereafter determine whether the comments, if any, justify the modification or withdrawal of the complaint. If the complaint is revised, copies shall be provided to all parties and to all members of the public who have commented.



Sandra A. Stavnes, Director
UIC/FIFRA/OPA Technical Enforcement Program
Office of Enforcement, Compliance and Environmental Justice
U.S. EPA, Region 8
1595 Wynkoop Street
Denver, CO 80202

§21.13

40 CFR Ch. I (7-1-08 Edition)

approve or disapprove the State issued statement, in accordance with the requirements of §21.5.

(2) The Regional Administrator will periodically review State program performance. In the event of State program deficiencies the Regional Administrator will notify the State of such deficiencies.

(3) During that period that any State's program is classified as deficient, statements issued by a State shall also be sent to the Regional Administrator for review. The Regional Administrator shall notify the State, the applicant, and the SBA of any determination subsequently made, in accordance with §21.5, on any such statement.

(i) If within 60 days after notice of such deficiencies has been provided, the State has not taken corrective efforts, and if the deficiencies significantly affect the conduct of the program, the Regional Administrator, after sufficient notice has been provided to the Regional Director of SBA, shall withdraw the approval of the State program.

(ii) Any State whose program is withdrawn and whose deficiencies have been corrected may later reapply as provided in §21.12(a).

(g) Funds appropriated under section 106 of the Act may be utilized by a State agency authorized to receive such funds in conducting this program.

§21.13 Effect of certification upon authority to enforce applicable standards.

The certification by EPA or a State for SBA Loan purposes in no way constitutes a determination by EPA or the State that the facilities certified (a) will be constructed within the time specified by an applicable standard or (b) will be constructed and installed in accordance with the plans and specifications submitted in the application, will be operated and maintained properly, or will be applied to process wastes which are the same as described in the application. The certification in no way constitutes a waiver by EPA or a State of its authority to take appropriate enforcement action against the owner or operator of such facilities for violations of an applicable standard.

PART 22—CONSOLIDATED RULES OF PRACTICE GOVERNING THE ADMINISTRATIVE ASSESSMENT OF CIVIL PENALTIES AND THE REVOCATION/TERMINATION OR SUSPENSION OF PERMITS

Subpart A—General

Sec.

- 22.1 Scope of this part.
- 22.2 Use of number and gender.
- 22.3 Definitions.
- 22.4 Powers and duties of the Environmental Appeals Board, Regional Judicial Officer and Presiding Officer; disqualification, withdrawal, and reassignment.
- 22.5 Filing, service, and form of all filed documents; business confidentiality claims.
- 22.6 Filing and service of rulings, orders and decisions.
- 22.7 Computation and extension of time.
- 22.8 *Ex parte* discussion of proceeding.
- 22.9 Examination of documents filed.

Subpart B—Parties and Appearances

- 22.10 Appearances.
- 22.11 Intervention and non-party briefs.
- 22.12 Consolidation and severance.

Subpart C—Prehearing Procedures

- 22.13 Commencement of a proceeding.
- 22.14 Complaint.
- 22.15 Answer to the complaint.
- 22.16 Motions.
- 22.17 Default.
- 22.18 Quick resolution; settlement; alternative dispute resolution.
- 22.19 Prehearing information exchange; prehearing conference; other discovery.
- 22.20 Accelerated decision; decision to dismiss.

Subpart D—Hearing Procedures

- 22.21 Assignment of Presiding Officer; scheduling the hearing.
- 22.22 Evidence.
- 22.23 Objections and offers of proof.
- 22.24 Burden of presentation; burden of persuasion; preponderance of the evidence standard.
- 22.25 Filing the transcript.
- 22.26 Proposed findings, conclusions, and order.

Subpart E—Initial Decision and Motion to Reopen a Hearing

- 22.27 Initial decision.
- 22.28 Motion to reopen a hearing.