

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

IN THE MATTER OF

Mr. Gene A. Wilson
101 Madison Street
P. O. Box 702
Louisa, KY 41230

Docket No. SDWA-04-2005-1016

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Respondent

**RESPONDENT'S REPLY TO COMPLAINANT'S MOTION FOR
ACCELERATED DECISION ON LIABILITY**

Respondent states as follows:

Three (3) injection well permits were applied for back in 1989, namely, KY10344, KY10503 and KY10376. All necessary documents were submitted for the two injection wells on Cam Creek; however, Respondent withheld completing the injection well permit on Collier Creek (the permit in question) because it only allowed injection of brine from Respondents operations on Cam Creek.

A letter from E.P.A. dated October 20, 1989 stated the permit could not be issued until the withheld information E.P.A. requested was furnished and gave a telephone number to call if Respondent had any questions. See Respondent's Exhibit "4". Respondent called stating the Collier Creek permit application was to be for other operators brine since Respondent didn't produce any in that area. The permit was issued over Respondents objections.

The well on Collier Creek was never completed for injecting brine by reopening

the stratus at 941' and Respondent continually over the years requested the permit be corrected as issued to no avail. See Respondent's Exhibit "2", "3" and "14". In 2000 Respondent finally gave up on having the permit corrected and gave notice he wished to plug the well. In 2005 Plugging and Abandonment Plan Approval was received from E.P.A. See Exhibit "30".

From 1989 to 1994 the efficiency at E.P.A. had not improved as shown by Respondent's Exhibit "47" where notice was given by E.P.A. that the Financial Responsibility Documents had been released on Cam Creek since Respondent has sold the property and assigned the two (2) injections wells. Almost a year later, Respondent received Notice from E.P.A. to Demonstrate Mechanical Integrity on the Cam Creek wells. See Respondent's Exhibit "49".

E.P.A.'s attorney continually makes false allegations as shown on page 2 of her Motion stating "Secondly, Respondent alleges that E.P.A. verbally agreed to allow him to modify the permit to take fluids from other operators". Respondent has filed numerous pleadings and has fifty-one (51) exhibits in this case and know where has Respondent made such allegations and for a Judicial Officer to intentionally attempt to mislead the Regional Judicial Officer is deplorable.

E.P.A.'s attorney states on page 3 of her Motion that Respondent's former employee James Clark's Affidavit of what occurred on April 26, 1999 is "highly suspicious" because Respondent didn't mention the MIT test in a 2000 letter to E.P.A. Respondent did not know the test had been conducted until recently when lining up witnesses to establish no brine had ever been placed in the well on Collier Creek. Mr. Clark is a religious person who is well respected in his community and now E.P.A.'s

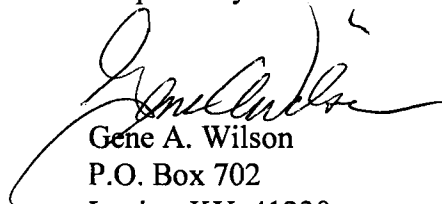
lawyer is also characterizing him as possibly lying.

The MIT test referred to on page 4 of the Complainant's Motion For Accelerated Decision On Liability is when the E.P.A. inspector did not appear for the scheduled inspection. The note on the face of the notice was by Respondent's secretary, Mrs. Patty Carter, after rescheduling the MIT test. The original date was in January and we had a terrible winter. Mrs. Carter made the arrangements for scheduling with Ms. Carol Chen and files her Affidavit to the events attached herewith as Respondent's Exhibit "52".

E.P.A.'s lawyer waited almost a year after the plugging of the well before she filed a Complaint against Respondent and after commencing this action took two (2) leaves of absence and is now demanding an accelerated decision on liability without a hearing. This is not surprising after E.P.A.'s lawyer states there are no material facts in dispute discounting Respondent's pleadings and 52 Exhibits reflecting otherwise.

Wherefore Respondent Prays that if he is not granted Summary Judgment on his Motion previously filed herein that the case be assigned to an Administrative Law Judge for full hearing in this jurisdiction as previously prayed.

Respectfully Submitted



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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the date noted below, the Motion To Require Complainant To File First was mailed as follows: the original to the Regional Hearing Clerk and one (1) copy each to Hon. Susan B. Schub, Regional Judicial Officer, Hon.

Zylpha Pryor and Mr. Nicholas N. Owens, National Ombudsman in the manner specified on the date below:

Ms. Patricia A. Bullock
Regional Hearing Clerk
U.S. EPA, Region 4
61 Forsyth Street, S.W.
Atlanta, GA 30303-8960

(Via Express Mail - Return Receipt Requested)

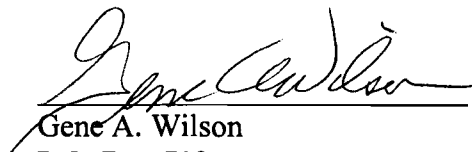
Hon. Susan B. Schub
Regional Judicial Officer
U.S. EPA, Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, GA 30303-8960

(Via Express Mail - Return Receipt Requested)

Ms. Zylpha Pryor
Associate Regional Counsel
U.S. EPA, Region 4
61 Forsyth Street, S.W.
Atlanta, GA 30303-8960

Mr. Nicholas N. Owens
National Ombudsman
U.S. Small Business Administration
409 3rd Street, SW
MC 2120
Washington, DC 20416-0005

Dated: 2/20/07


Gene A. Wilson
P.O. Box 702
Louisa, KY 41230
(606) 638-9601

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Respondent

AFFIDAVIT

Comes the Affiant, Patty Carter, after first being duly sworn states as follows:

1. That the Affiant has been Gene Wilson's secretary for some twenty plus (20+) years.

2. That my employment time frame includes, Mr. Gene Wilson's purchase of the Cam Creek Farm property at Martha, Kentucky, which had producing oil and gas wells; the attempts to make a plugged and abandoned proposed gas well on the Collier Creek Farm a producing oil well and the attempts to permit three (3) injection wells in the Martha, Kentucky area.

3. That the previous owner on Cam Creek was producing oil with gas to the house and letting the brine flow to the creek. They were in trouble with E.P.A. but not to the knowledge of Mr. Wilson.

4. That the Cam Creek farm was cleaned up by taking two (2) of the less producing oil wells and converting them to injection wells through E.P.A. Brine was re-pumped back into the weir sand after Mr. Wilson purchased the farm.

**RESPONDENT'S
EXHIBIT**

"52"


5. That Mr. Wilson re-entered the plugged well on Collier Creek with attempts to make it a producing oil well with no luck.

6. That Mr. James Clark and Mr. Cecil Lewis, employees of Mr. Wilson's performed the MIT test in 1993 on Collier Creek which passed with E.P.A.'s inspector observing the process of pressuring up, holding, etc. to his satisfaction.

7. That no brine was ever placed in the proposed injection well on Collier Creek and on January 7, 1999 another notice was received giving notice to perform another MIT test on January 21, 1999.

8. That on January 7, 1999 and January 8, 1999 Affiant attempted to call Ms. Carol Chen of E.P.A. and was unable to reach her but left a message for a return call. On January 11, 1999 Ms. Carol Chen returned the call and I explained to her that we were having extremely cold weather and ask that we reschedule the test for sometime in the spring after the weather broke. Ms. Chen changed the dated to Monday, April 26, 1999.

9. That on April 26, 1999, the day the MIT test was to be performed I received a call from Mr. Wilson's employees in the oil field and was advised that the inspector had not shown up for the test and could I try and find out what the problem was.


PATTY CARTER

STATE OF KENTUCKY

COUNTY OF LAWRENCE

I, Jennifer S. Ison, Notary Public in and for the State and County aforesaid, do hereby certify that the foregoing Affidavit was produced to me and

acknowledged, subscribed and sworn to before me by PATTY CARTER, to be her free act and deed for the purposes therein contained.

Given under my hand this 20th, day of February, 2007.

My Commission Expires:

May 20, 2009

Jennifer S. Dean
Notary Public