

UNITED STATES

ENVIRONMENTAL PROTECTION AGENCY

2011 JAN 12 PM 12:23

REGION 8

Docket No. CAA-08-2010-0020

FILED
EPA REGION VIII
HEARING CLERK

IN THE MATTER OF:)	
Encana Oil & Gas (USA) Inc.)	
(Fort Lupton Gas Processing Plant))	ORDER
16157 Weld County Road 22)	
Fort Lupton, CO 80621)	
Respondent.)	
_____)	

On November 18, 2010, Complainant filed a Motion to Withdraw Attachment to Complaint and Consent Agreement. In its motion, Complainant requests that the document "Determination of the Gravity Component" attached to the settlement agreement, and approved in the Final Order in this matter, be removed so that "it is no longer part of the case and/or final order." (See, Motion to Withdraw). The reason provided for the withdrawal was the parties did not intend for the document to be included in the filing.

Unfortunately, when the Consolidated Complaint and Consent Agreement and Final Order were filed on September 29, 2010, these documents were shortly thereafter placed on the Region 8 website. Once on the website, the documents are in the public domain. Furthermore, a filed document is a public record that can be obtained pursuant to the Freedom of Information Act ("FOIA"), 40 C.F.R. part 2 unless it meets one of the stated exemptions. Furthermore, there is nothing in the record that indicates the parties claim any privileged information is contained in the "Determination of the Gravity Component." If the parties wish to file a Motion to Show Cause as to why the document is either privileged and/or meets one of the stated FOIA exemptions found at 40 C.F.R. 2.105, this court will entertain such motion.

Based on the information before me at this juncture, the Motion to Withdraw Attachment to Complaint and Consent Agreement is, **DENIED**.

SO ORDERED THIS 12th DAY OF January, 2011



 Elyana R. Şutin
 Regional Judicial Officer

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached, **ORDER** in the matter of **ENCANA OIL & GAS (USA), INC.; DOCKET NO.: CAA-08-2010-0020** was filed with the Regional Hearing Clerk on January 12, 2011.

Further, the undersigned certifies that a true and correct copy of the documents were delivered to, David J. Janik, Senior Enforcement Attorney, U. S. EPA – Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. True and correct copies of the aforementioned documents were placed in the United States mail certified/return receipt requested on January 12, 2011 to:

Matthew H. Baskind
Counsel for Respondent
Encana Oil & Gas (USA) Inc.
370 17th Street, Suite 1700
Denver, CO 80202

E-mailed to:

Honorable Elyana R. Sutin
Regional Judicial Officer
U. S. EPA Region 8 (8RC)
1595 Wynkoop Street
Denver, CO 80202-2466

January 12, 2011



Tina Artemis
Paralegal/Regional Hearing Clerk

