

AFFIDAVIT OF PUBLICATION

STATE OF NORTH DAKOTA)
) SS
COUNTY OF Mountrail)

I SHELLEY CHASE, being first duly sworn, on my own oath, say, that I am the bookkeeper of the New Town News, a weekly newspaper of general circulation, published in the city of New Town, that the advertisement headed:

US ENVIRONMENTAL PROT AGENCY NT-PURPOSE OF PUBLIC NOTICE/LEGAL

a printed copy of which is here annexed, was published in the regular and entire issue of said newspaper during the period and time of publication, and that the notice was published in the newspaper proper, and not in a supplement,

for 1 consecutive week 12/23/2004 to wit:

Straight Matter Lines 126 \$0.57 \$71.82 12/23/2004

Notary Fee \$1.00 Total Cost of Legal \$72.82

Shelley Chase

Subscribed and sworn to before me this 28th day of December A.D. 2004

(Seal) Darla J. Mautz

Notary Public, State of North Dakota

My Commission Expires

DARLA J MAUTZ
Notary Public
State of North Dakota
My commission expires July 22, 2010

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EPA

**U.S. ENVIRONMENTAL PROTECTION AGENCY
PUBLIC NOTICE OF NPDES NEW SOURCE DETERMINATION
PURPOSE OF PUBLIC NOTICE**

THE PURPOSE OF THIS NOTICE IS TO STATE EPA'S NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) NEW SOURCE DETERMINATION FOR THE PROPOSED MHA NATION CLEAN FUELS REFINERY FACILITY WITHIN THE EXTERNAL BOUNDARIES OF THE FORT BERTHOLD INDIAN RESERVATION NEAR MAKOTI, NORTH DAKOTA.

FACILITY INFORMATION

The Mandan, Hidatsa, and Arikara Nation (MHA Nation) is proposing to construct a new petroleum refinery within the external boundaries of the Fort Berthold Indian Reservation near Makoti, North Dakota. It is expected that the proposed refinery will process 10,000 barrels per stream day (BPSD) of synthetic crude oil and 3,000 BPSD of field butane into gasoline and distillate blending fuels. The proposed refinery will utilize synthetic crude oil produced in northern Alberta, Canada, which will be transported to the facility via an already existing pipeline nearby, in conjunction with locally available butane and natural gas sources as feedstocks. The proposed facility will include atmospheric distillation, hydrotreating, and hydrocracking processing units for the synthetic crude, a hydrogen plant, and butane processing units. Other areas of the proposed refinery include: rail and truck loading and unloading facilities, a tank farm, blending facilities, office and maintenance buildings, fire suppression, and wastewater treatment systems.

The proposed refinery will use well water as a source of fresh water for use in the refining operations and for sanitary purposes. The facility anticipates that water use will be minimized through treatment and recycling of some wastewater. Process wastewaters will be either treated and recycled or discharged after further treatment. Stormwater from process areas will be collected and treated, if necessary, prior to discharge. Stormwater from non-process areas will be collected and stored in ponds for use in the fire suppression system and discharged. All wastewater discharges will enter an unnamed tributary of the East Fork of Shell Creek.

EPA TENTATIVE DETERMINA-

TIONS

Based on information submitted by the MHA Nation and in accordance with the Clean Water Act implementing regulations at 40 CFR § 122.21(l)(2)(ii), EPA has initially determined that the proposed MHA Nation Clean Fuels Refinery will be a new source. The proposed facility meets the definition of a new source at 40 CFR § 122.2. Accordingly, wastewater discharges from the proposed refinery will be subject to New Source Performance Standards for the Petroleum Refining Point Source Category under 40 CFR Part 419.

ENVIRONMENTAL REVIEW REQUIREMENTS

Since the proposed MHA Nation Clean Fuels Refinery will be a new source, the MHA Nation is required to comply with EPA environmental review procedures for the New Source NPDES Program at 40 CFR §§ 6.600-6.607. In accordance with these environmental review procedures, the Bureau of Indian Affairs, in cooperation with the MHA Nation and EPA, is developing an Environmental Impact Statement (EIS).

PUBLIC COMMENTS

Pursuant to 40 CFR § 122.21(l)(4), any interested party may challenge EPA's initial new source determination by requesting review of the determination in accordance with the procedures at 40 CFR § 124.19. Any challenges to the initial determination must be received by EPA and the Environmental Appeals Board prior to **January 2005**. Correspondence to EPA may be directed to: Bruce Kent, Mail Code P-W-P, U.S. Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, CO 80202-2466. Correspondence intended for the Environmental Appeals Board should be directed to: U.S. Environmental Protection Agency, Clerk of the Board, Environmental Appeals Board (MC 1103B) Ariel Rios Building, 1200 Pennsylvania Avenue N.W., Washington D.C. 20460-0001.

FURTHER INFORMATION

Additional information may be obtained upon request by calling Bruce Kent at (303) 312-6133 or by writing to the address listed above. All related documents regarding EPA's determination are available for review and reproduction at the address listed above.

(Dec. 23, 2004)