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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY CLERK

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7 Attorneys for Complainant

8
9 **UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**
10 **REGION 9**

11 In re the Matter of:) Docket No.: UIC-09-2008-0003
12)
13 Mountain States Petroleum Company,)
Apache County, Arizona,)
14 Respondent.) MOTION TO APPROVE FINAL ORDER
AND PROOF OF COMPLIANCE WITH
15) PUBLIC NOTICE REQUIREMENTS OF 40
C.F.R. § 22.45(b)
16 UIC Class II Well (Navajo #10))
Proceedings Under Section 1423(c) of the Safe)
17 Drinking Water Act, 42 U.S.C. § 300(h)-2(c))

18 Attached for filing in the above captioned proceeding is the original and one copy of the
19 “Consent Agreement and [Proposed] Final Order”, as signed by Complainant, United States
20 Environmental Protection Agency Region 9, and Respondent, Mountain States Petroleum
21 Company.

22 As set forth in the attached Consent Agreement, the parties are seeking approval of their
23 agreement to settle this proceeding pursuant to 40 C.F.R. § 22.18(b) of the “Consolidated Rules
24 of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or
25 Suspension of Permits,” and are hereby moving for issuance of the proposed Final Order.

1 **Compliance with Public Notice Requirements.**

2 40 C.F.R. § 22.45(b)(1) requires complainant to notify the public before assessing a civil
3 penalty, and provides, in relevant part, that: “Such notice shall be provided within 30 days
4 following proof of service of the complaint on the respondent... .” Further, such notice must be
5 made to the public “by a method reasonably calculated to provide notice” and must include:

- 6 (i) The docket number of the proceeding;
- 7 (ii) The name and address of the complainant and respondent, and the person from
8 whom information on the proceeding may be obtained, and the address of the
9 Regional Hearing Clerk to whom appropriate comments shall be directed;
- 10 (iii) The location of the site or facility from which the violations are alleged, and
11 any applicable permit number;
- 12 (iv) A description of the violation alleged and the relief sought; and
- 13 (v) A notice that persons shall submit comments to the Regional Hearing Clerk,
14 and the deadline for such submissions.

15 *See* 40 C.F.R. § 22.45(b)(2).

16 The public notice required by 40 C.F.R. § 22.45(b) may be provided via the internet. *See*
17 71 Fed. Reg. 51193 (Aug. 29, 2006) (“Notice of Intent To Provide Internet Publication of
18 Proposed Penalties under the Clean Water Act and Safe Drinking Water Act”).

19 On May 5, 2008, public notice of the complaint filed in this matter was posted on
20 EPA’s Region 9 website. (Attachment 1.)

21 The public notice included the information required by 40 C.F.R. § 22.45(b)(i) through
22 (v), described above.

23 On June 4, 2008, the 30-day public notice comment period closed, and no public
24 comments were received by EPA Region 9. *See* attached Declaration of Richard T. Campbell.

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Upon this showing of sufficient proof that Complainant complied with the public notice requirements of 40 C.F.R. § 22.45(b), Complainant hereby moves to approve the final order in this matter.

Respectfully submitted this 11 day of August, 2008.

By: Richard Campbell
Richard T. Campbell
Assistant Regional Counsel

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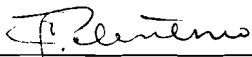
CERTIFICATE OF SERVICE

I certify that, on the date noted below, I caused to be mailed by certified mail, return receipt requested, a copy of the foregoing "Motion to Approve Final Order" and accompanying affidavit of Richard T. Campbell to the following address:

Mr. Dennis G. McLaughlin III
Chief Executive Officer
Mountain States Petroleum Corporation
3001 Knox, Suite 403
Dallas, Texas 75205

I sent by inter-office mail the original and one copy of the foregoing motion to the Regional Hearing Clerk, United States Environmental Protection Agency, Region IX.

Dated: August 11, 2008
at San Francisco, California

By: 

Title: RECEPTIONIST

ATTACHMENT 1



Region 9: Compliance and Enforcement

You are here: [EPA Home](#) [Region 9](#) [Compliance and Enforcement](#) [Current Public Notices](#)
[Public Notice Archive](#) In the Matter of Mou...

Public Notice



Note: This information is provided for reference purposes only. Although the information provided here was accurate and current when first created, it is now outdated.

Notice of Administrative Complaint and Proposed Assessment of Administrative Civil Penalty for Safe Drinking Water Act Violations and Opportunity to Comment

Publish Date: May 5, 2008 Public Comment Closes: June 4, 2008

In the Matter of In the Matter of Mountain States Petroleum Company, Docket No. UIC-09-2008-0003

EPA is authorized under section 1423(c) of the Safe Drinking Water Act (the Act), 42 U.S.C. § 300h-2(c), to issue an order that assesses a civil penalty of not more than \$6,500 for each day of violation for any past or current violation, up to a maximum administrative penalty of \$157,500, or requiring compliance with the Act's regulations or other requirement, or both, after providing public notice of, and reasonable opportunity to comment on, any proposed order in accordance with 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," 40 CFR Part 22 ("Consolidated Rules"), published at 64 FR 40138, 40177 (July 23, 1999). EPA is hereby providing public notice of, and opportunity to comment on, this Administrative Complaint and Proposed Assessment of Administrative Civil Penalty, a copy of which is included with this notice: In the Matter of: Mountain States Petroleum Company, Docket No. UIC-09-2008-0003 Complainant: Alexis Strauss, Director, Water Division, U.S. EPA, Region 9, 75 Hawthorne Street, San Francisco, CA 94105 Respondent: Mountain States Petroleum Company, 3001 Knox Street, Suite 403, Dallas, Texas 75205. Description of Business or Activity Conducted by the Respondent: Oil and gas production. Alleged Violations: (1) Failure to plug and abandon a Class II oil and gas injection well after two years of ceasing (abandoning) operation of the well, or demonstrate to EPA's satisfaction that, if the abandonment was temporary, the Class II well would not endanger underground sources of drinking water during the period of temporary abandonment, in violation of 40 C.F.R. § 144.28(c)(2)(iv); and (2) failing to notify EPA of Mountain States Petroleum Company's transfer of ownership or operational control of a Class II well to another entity at least thirty days in advance of the transfer of ownership and/or operational control, in violation of 40 C.F.R. § 144.28(l). Underground injection of fluids associated with oil and gas development is regulated by the Underground Injection Control Regulations of 40 C.F.R. Parts 124, 144, 145, 146, 147 and 148, which are promulgated pursuant to Part C of the Safe Drinking Water Act, 42 U.S.C. §§ 300h - 300(h)-8. Proposed Penalty: up to \$157,500 Date Filed with Regional Hearing Clerk: April 23, 2008

For More Information

Persons wishing to receive a copy of the Consolidated Rules, review the Consent Agreement or other documents filed in the proceeding, or comment or participate in the proceeding, should contact the Regional Hearing Clerk, U.S. EPA, Region 9, 75

Hawthorne Street, San Francisco, California 94105, (415) 972-3871, or email r9hearingclerk@epa.gov. Documents filed as part of the public record in the proceedings are available for inspection during business hours at the office of the Regional Hearing Clerk. The administrative record for this proceeding is located in the EPA Regional Office identified above, and the file will be open for public inspection during normal business hours. EPA will not issue a Final Order assessing a penalty in these proceedings prior to forty (40) days after the date of publication of this notice.

Read the [Administrative Complaint and Proposed Assessment of Administrative Civil Penalty](#) (PDF, 682 K, [About PDF](#))

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13 Mountain States Petroleum Company,)
Apache County, Arizona,)
14 Respondent.) AFFIDAVIT OF RICHARD T. CAMPBELL
15) IN SUPPORT OF COMPLAINANT'S
16 UIC Class II Well (Navajo #10)) MOTION TO APPROVE FINAL ORDER
17 Proceedings Under Section 1423(c) of the Safe) AND PROOF OF COMPLIANCE WITH
Drinking Water Act, 42 U.S.C. § 300(h)-2(c)) PUBLIC NOTICE REQUIREMENTS OF 40
C.F.R. § 22.45(b)

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19 I, Richard T. Campbell, declare:

- 20 1. I am an attorney at law, licensed to practice in the State of California and Arizona. I am
21 an attorney with Region 9 of the United States Environmental Protection Agency ("EPA").
22 2. On or about April 23, 2008, EPA issued its Complaint in this matter.
23 3. On May 5, 2008, EPA placed public notice of the Complaint in this matter on
24 EPA Region 9's website. I logged onto EPA Region 9's website on May 5, 2008 to personally
25 verify that the public notice was in fact accessible to the public from the Region 9 website. An

1 archive version of this public notice may still be viewed on EPA Region 9's website at:
2 [http://yosemite.epa.gov/r9/R9PubNot.nsf/0/CD66D85C8EE7DEA98825744000764B28?OpenD](http://yosemite.epa.gov/r9/R9PubNot.nsf/0/CD66D85C8EE7DEA98825744000764B28?OpenDocument)
3 [ocument](http://yosemite.epa.gov/r9/R9PubNot.nsf/0/CD66D85C8EE7DEA98825744000764B28?OpenDocument). (Last viewed on August 11, 2008.)

4 4. The internet public notice that I viewed on May 5, 2008, and that I viewed again
5 on August 11, 2008, contained all the information required by 40 C.F.R. § 22.45(b) and was
6 legally sufficient.

7 5. On August 11, 2008, I spoke with the Region 9 Regional Hearing Clerk to confirm that
8 no comments had been received in response to the public notice.

9 I declare under penalty of perjury, according to the laws of the State of California, that
10 the foregoing is true and correct, and is known to me of my own personal knowledge.

11 Executed this 11 day of August 2008, at San Francisco, California.

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14 Richard T. Campbell
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