

BEFORE THE ENVIRONMENTAL APPEALS BOARD  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C.

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In re: )  
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Gene A. Wilson ) SDWA Appeal No. 08-09  
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)  
Docket No. SDWA 04-2005-1016 )

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**REPLY TO RESPONSE BRIEF OF COMPLAINANT**

Comes the Respondent, Gene A. Wilson, Replying To Complainant's Response Brief and states as follows:

Over two (2) years passed before Respondent received a reply to his Freedom Of Information Act (FOIA) Appeal, which came in the mail enclosed with the Response Brief of Complainant.

Complainant (EPA) wishes to characterize Respondent as a person in the oil and gas business and wants to set an example for others that EPA enforces its regulations. Respondent was never considered a member of the oil and gas community but a farmer in the Martha Oil Field. See Complainant's Exhibit "1" Page 8.

After cleaning up the brine water on Cam Creek in 1992-1993 Respondent had no employees related in any way with production in the oil and gas industry (well in question is on Respondent's farm of Collier Creek). The forms released with other documents through the FOIA Appeal titled Administration Action Data Sheet identified a small business as employing 100 or fewer employees. Respondent employed no one after

cleaning up Cam Creek. Respondent doesn't even come up to EPA's minimal standard in the business. Who is Respondent being made an example for! Other farmers? This is why Kentucky Oil and Gas Inspectors freely came to Respondent's defense and testified at the hearing.

EPA advised in 1989 that the UIC permit for Collier Creek would not be issued unless additional information was furnished. See Complainant's Exhibit "3". Respondent did not know how many injection wells were needed to clean up Cam Creek some four (4) miles away and considered the Collier Creek well as back up if needed. The permit was issued without furnishing additional information requested in Complainant's Exhibit "3". Through the FOIA Respondent noted other wells never put in service (as Respondent's) the permits were cancelled.

At page 8 of Complainant's Response Brief Complainant states by filing Form 7520-10 Respondent could inject fluids. Respondent had no fluids to inject. He was still attempting to correct his permit to take oil producers brine water but to no avail. Had the permit been modified, the well would have been completed to take brine water and Respondent would have created a little business on his farm disposing of operators brine water. This unfortunately never materialized.

At page 12 of the Response Brief EPA is still arguing Respondent's UIC permit was an inactive well. By definition an inactive well was one that had been placed in operation by injecting brine water requiring plugging if no injecting occurred for two (2) years. By definition a shut in well is one never placed in operation. Respondent's well was considered a shut in on all EPA forms making a destination requiring no plugging unless directed to do so by EPA. During the 2004 inspection by Mr. Randy Vaughn on

Respondent's farm the classification was wrongfully changed to a inactive well. All EPA forms make a clear distinction with the two (2) types wells. See EPA forms that are Complainant's Exhibits "12", "18" and "29".

At page 14 of the Brief Complainant makes an erroneous statement that salt water could come up from lower levels to reach USDW's. The pipe and earth was filled solid with cement below 939 feet to prevent such an occurrence. Respondent would never be stupid enough to destroy the fresh water on his farm.

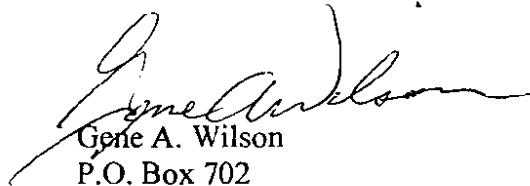
At page 18 and 19 of Complainant's Brief EPA again argues that after a cessation for two (2) years the well is classified as an inactive well (no argument from Respondent since not classified as a shut-in) requiring plugging. EPA states "the use of the "cessation" terminology can *probably* (emphasis added) be attributed to the *assumption* (emphasis added) that most entities that obtain permits for underground injection do actually inject fluids into the wells". This is not true in Respondents case and that is why it was classified as shut-in and not an inactive well.

At page 21 EPA makes reference to Complainant's Exhibit "29". This Appendix "A" to all UIC permits changed the requirement of a shut-in well owner to file form 7520-11 even if the annual report is marked "0" for injecting. This document was never received by Respondent. Through the FOIA Appeal it also reflects the document was not mailed to Respondent. See last page furnished to Respondent through FOIA Appeal. Also Respondent's Exhibits "14", "2" and "3" are not shown to have been in the file. Also issues relating to Complainant's Exhibit "14" when Respondent was on site for an MIT in 1999 and EPA's inspector, Mr. David Hayes failed to show to observe the test and EPA terminated his employment. This MIT was to be rescheduled by EPA but its

have adequately shown no MIT was conducted for a substantial period of time to prevent a non compliance issue.

Finally, at no time did Respondent ignore any notices, communications or directives from EPA as erroneously claimed at page 27 of EPA's Brief.

Respectfully Submitted



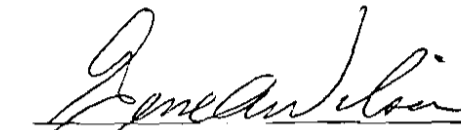
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**CERTIFICATE OF FILING AND SERVICE**

The undersigned does hereby certify that the Original of this Reply To Response Brief of Complainant was faxed and mailed for filing, Express Mail, to the U.S. Environmental Protection Agency, Clerk of the Board, Environmental Appeals Board, 1341 G Street, N.W., Suite 600, Washington, D.C. 20005; and that a copy was served by U.S. First Class Mail on (1) Ms. Patricia A. Bullock, Regional Hearing Clerk, U.S. EPA, Region 4, 61 Forsyth Street, S.W., Atlanta, GA 30303-8960; (2) USEPA Presiding Officer Susan B. Schub, Regional Judicial Officer, U.S. EPA, Region 4, Atlanta Federal Center, 61 Forsyth Street, S.W., Atlanta, GA 30303-8960; (3) Counsel Ms. Zylpha

Pryor, Associate Regional Counsel, U.S. EPA, Region 4, 61 Forsyth Street, S.W.,  
Atlanta, GA 30303-8960; (4) Counsel Mr. Paul Schwartz, Associate Regional Counsel,  
U.S. EPA, Region 4, 61 Forsyth Street, S.W., Atlanta, GA 30303-8960; and (5) Mr.  
Nicholas N. Owens, National Ombudsman, U.S. Small Business Administration, 409 3<sup>rd</sup>  
Street, SW, MC 2120, Washington, DC 20416-0005, on this 9<sup>th</sup>, day of February, 2009.

Dated: February 9, 2009

  
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