

UNDERGROUND INJECTION CONTROL PROGRAM

PUBLIC NOTICE

AND

OPPORTUNITY TO COMMENT

Berry Petroleum Company

1999 Broadway, Suite 3700
Denver, CO 80202

PURPOSE OF PUBLIC NOTICE

The purpose of this notice is to solicit public comment on a proposal by the Region 8 Underground Injection Control (UIC) Program office of the U.S. Environmental Protection Agency (EPA) to issue a UIC Class II Area Permit under the authority of the Safe Drinking Water Act (SDWA) and UIC Program regulations for the portion of the Brundage Canyon Field located within the Uintah and Ouray Indian Reservation described as: T5S, R4W Sections 5, 9, 10, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 26, 27, 28, 30, 31, 32, 33, and 34; T5S, R5W Sections 12, 13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 32, 33, 34, 35, and 36 S.L.B. & M., Duchesne County, Utah.

The following areas are excluded from the area permit as they are not in Indian country:

T5S, R4W:

Section 10, S $\frac{1}{2}$ of SW $\frac{1}{4}$, NW $\frac{1}{4}$ of SW $\frac{1}{4}$, SW $\frac{1}{4}$ of SE $\frac{1}{4}$.

T5S, R5W:

Section 12, E $\frac{1}{2}$ of SE $\frac{1}{4}$

Section 16, NW $\frac{1}{4}$

Section 33, E $\frac{1}{2}$ of SE $\frac{1}{4}$

Section 34, S $\frac{1}{2}$ of NW $\frac{1}{4}$, NE $\frac{1}{4}$ of NW $\frac{1}{4}$, NW $\frac{1}{4}$ of NE $\frac{1}{4}$, NW $\frac{1}{4}$ of SW $\frac{1}{4}$.

The purpose of this notice is also to solicit public comment on the area aquifer exemption described below.

The EPA UIC Permit number is UT22195-00000 issued to Berry Petroleum Company.

BACKGROUND

The EPA currently regulates 14 enhanced oil recovery water injection wells within the permit area. These enhanced recovery wells inject water into oil-bearing formations to recover residual oil through nearby production wells. The injected fluid essentially displaces small amounts of extractable oil, which is then available for recovery. This permit action would authorize the continued injection of water into those wells and authorize the future conversion of oil production wells to water injection within the permit area. At full field development, this area permit may cover approximately 500 water injection wells.

The sources of injected water include produced Green River Formation water from the Brundage Canyon Field and fresh water from the two Berry water supply wells within Brundage Canyon.

Exempted Aquifers (40 CFR §§ 144.7 and 146.4)

Because analyses of a significant number of water samples from the injection zone have shown a total dissolved solids (TDS) content of less than 10,000 mg/l, an area-wide aquifer exemption of the injection zone is proposed in conjunction with this area UIC permit. The bases for this aquifer exemption are: (1) the injection zone is not currently used as a source of drinking water and (2) it is known to contain hydrocarbons that are economically recoverable.

The proposed interval to be exempted in conjunction with Area UIC Permit UT22195-00000 is the Green River Formation from the TGR3 Top in the Garden Gulch member to the top of the Wasatch Formation within the permit area defined as T5S, R4W Sections 5, 9, 10, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 26, 27, 28, 30, 31, 32, 33, and 34; T5S, R5W Sections 12, 13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 32, 33, 34, 35, and 36 (S.L.B. & M.), Duchesne County, Utah.

The basis for this aquifer exemption can be found at 40 CFR section 146.4(a) & (b)(1). The Permittee has demonstrated that the injection zone does not currently serve as a source of drinking water and that it cannot now and will not in the future serve as a source of drinking water because it is mineral, hydrocarbon, or geothermal energy producing, and can be demonstrated by a permit applicant as part of a permit for a Class II operation to contain minerals or hydrocarbons that, considering their quantity and location, are expected to be commercially producible.

PUBLIC COMMENTS

The proposed requirements and conditions of the Draft Permit and the proposed aquifer exemption are open to comment from any interested party. Persons wishing to comment upon or object to any aspect of proposal are invited to submit comments, IN WRITING, within 30 days of the Date of Publication, to:

Bruce Suchomel
U. S. Environmental Protection Agency
UIC Unit, 8P-W-UIC
1595 Wynkoop Street
Denver, Colorado 80202-1129

Telephone: 1-800-227-8917 ext. 312-6001, Email: suchomel.bruce@epa.gov

The Administrative Record, including the application and all data submitted by the applicant, the Draft Permit and Statement of Basis prepared by the EPA, the proposed aquifer exemption, and public comments received, is available for public inspection at the above location(s) weekdays from 8:00 a.m. to 4:00 p.m. The Draft Permit and Statement of Basis will also be available on the EPA Region 8 UIC webpage: <http://www.epa.gov/region8/water/uic>

Please note that comment opportunities on this permit include compliance under the National Historic Preservation Act (NHPA). As part of its compliance with the NHPA for this permit action, the EPA intends to consult with the Bureau of Indian Affairs, the Bureau of Land Management, the Ute Indian Tribe of the Uintah & Ouray Reservation, the Utah State Historic Preservation Office, and may enter into a Programmatic Agreement with these parties, to ensure that sites of historic or cultural significance are protected.

National Historic Preservation Act (NHPA)

The EPA is undergoing consultations with the BIA, the BLM, the Utah State Historic Preservation Office, the Ute Indian Tribe of the Uintah and Ouray Reservation, and the National Advisory Council on Historic Preservation concerning the appropriate resolution of potential effects on historic properties. The EPA understands and expects that in general, before construction of infrastructure within the Authorized

Permit Area occurs, the BIA (or, potentially, another federal agency) will have undertaken NHPA section 106 consultation concerning the impacts of that construction, in connection with its land management authorities. After construction activities covered by these NHPA reviews, there will be no additional land disturbance related to conversion of wells under the EPA's area permit. Because the other federal agency's NHPA consultation process will include an analysis of effects from building water pipelines, access roads, and well pads, and will be completed before any activity authorized by the EPA's area permit commences, the EPA is drafting and will propose to enter into a programmatic agreement with the BIA, the BLM, the Ute Indian Tribe of the Uintah and Ouray Reservation, and the Utah SHPO. The EPA expects that this agreement will reflect that the BIA's NHPA reviews will be the mechanism for identifying and addressing any adverse effects on historic properties from construction of this infrastructure and any subsequent conversion to injection under this area permit. The ACHP advised that it did not need to participate in the programmatic agreement.

Where there is no federal surface or mineral interest in a parcel, it is possible that the prior federal agency's compliance may not cover some construction activities. As noted above in part 1, this area permit only covers those wells for which the NHPA section 106 compliance process has been completed as of the time a request for authorization to construct is submitted. Wells for which the NHPA section 106 compliance process has not been completed will need to be covered under another permit, or the EPA will conduct the compliance process prior to authorizing to construct.

PUBLIC HEARING

Within the thirty (30) day period, any interested person may request a public hearing as provided by 40 CFR §124.12. A request for a hearing must be made **IN WRITING** to the above address and must state the nature of the issues proposed to be raised at the hearing. A public hearing will be held only if significant interest is shown.

FINAL PERMIT DECISION

All comments received within the thirty (30) day period will be considered in the Final decision. The decision may be to issue, modify, or deny the permit. The Final decision shall become effective thirty (30) days after issuance unless no commenters requested changes to the Draft Permit, in which case the Permit shall become effective immediately upon issuance.

APPEALS

Within thirty (30) days after a Final decision has been issued, any person who filed comments on the Draft decision or who participated in a public hearing, may petition the Administrator to review the final decision. Any person who failed to file comments or failed to participate in the public hearing may petition for administrative review only to the extent of the changes from the Draft to the Final decision. Commenters are referred to 40 CFR §§ 124.15 through 124.20 for procedural requirements of the appeal process.

DATE OF PUBLICATION

The date of publication is December 14, 2013. Comments will be accepted for 30-days until January 13, 2014.