



January 6, 2012

**VIA OVERNIGHT MAIL**

Dr. Paul Anastas  
Assistant Administrator  
Office of Research & Development  
USEPA Headquarters  
USEPA Ronald Reagan Building (RRB)  
1300 Pennsylvania Avenue N.W.  
Room 41209  
Washington, DC 20004

Re: ORD Draft Research Report: "Investigation of Ground Water Contamination near Pavillion, Wyoming" ("Pavillion Report" or "Report")

Dear Dr. Anastas:

I am writing this letter to raise certain key concerns and questions related to the December 14, 2011 Notice of Public Comment Period on the Pavillion Report. As explained in this letter, the EPA is moving too quickly with its pre-dissemination public comment and peer review process on the Pavillion Report. For the reasons set forth below, ORD should suspend the public comment period until the Agency's plans are better explained and additional critical data can be disseminated by the EPA.

By way of background, the Pavillion Field has a long history of oil and particularly gas production activities. Encana Oil & Gas (USA) Inc. ("Encana") acquired its interests in the field in 2004 and has been the major producer in the field since that time. Given these interests, Encana has been working closely with the EPA Region VIII and the State of Wyoming to address the concerns raised by certain Pavillion Field residents about the palatability of their domestic well water. Encana also has been active in the Pavillion Field Working Group, which was formed in 2010 in light of the EPA Region VIII's earlier data collection efforts, to further investigate and evaluate the palatability concerns. Throughout this process, Encana has championed the importance of maximizing the quality, objectivity and utility of all the data brought to bear to address these water-quality concerns.

Against this backdrop, let me turn to the concerns and questions about ORD's request for public comments on the Pavillion Report.

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First, we are concerned that the December 14, 2011 Federal Register notice (“Notice”) is not sufficiently clear on the topics and questions public comment is to cover. The Notice obviously was initiated by ORD. However, the notice and the Report itself also make it clear that ORD worked in close collaboration with Region VIII on the groundwater investigation activities addressed in the Report. The confusion about the topics on which ORD is requesting comment arises because of differences between ORD and Region VIII’s respective mandates and missions and because the Notice only vaguely describes the purpose of the report as “to better understand the groundwater hydrology and how the constituents of concern may be occurring in the aquifer.” The question then becomes whether the purpose of this comment period is limited solely to the methodological and data quality issues clearly within ORD’s purview related to those topics or is the purpose related to an unstated Region VIII agenda driven by site-specific or other considerations?<sup>1</sup> Until this question is answered with some specificity, the public does not know where to focus its comments relative to the charge to be provided to the external peer review panel.

Encana therefore requests clarification as to the scope of the comments ORD is seeking on the Pavillion Report. Encana also requests that ORD make available to the public the charge it intends to provide to the peer review panel to ensure that public comments relate directly to the questions and evaluations for which peer review is to be sought.

Second, the EPA has made available only certain select data supporting the Report, and related information, publicly available. Encana asked the EPA for that data, informally, in early November 2011, to no avail. As a result, in mid-December, Encana submitted a series of Freedom of Information Act requests to the EPA, including to ORD. (A copy of the ORD FOIA request is attached to this letter.) While the request has multiple parts, what Encana essentially seeks is the same information, and all of it, that the EPA had in hand when it went to prepare the Pavillion Report. Certain of this information is absolutely essential to any meaningful evaluation of the Report. This critical information would include all the Report-related raw data, including instrument printouts (e.g., chromatograms, mass spectra, integration reports) for calibrations, investigative samples and QC measures, especially for the organic compounds, the glycol compounds, and the isotopic analysis. Without a thorough review of the supporting raw data, data users and interested parties cannot have confidence that analytical results are qualitatively or quantitatively valid (or properly identified) as reported or that the values presented in summary tables are even correctly transcribed. In addition, all compositional and analytical data (including the raw data) pertaining to the materials used in drilling, completion, development and sampling of the EPA’s deep monitoring wells must be made public, as there are serious questions as to whether poor or inappropriate methods were employed that account for the constituents the EPA tentatively attributes to fracturing. It should come as no surprise to ORD that

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<sup>1</sup> Section 2.2.14 of the EPA’s “Peer Review Handbook” (3<sup>rd</sup> Ed.) states, “A site-specific decision itself is not subject to peer review . . .” (emphasis added).

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this type of review is of critical importance, if ORD is seriously interested in informed public and peer review input on the correctness and overall quality of the data collected for the Report.

Encana has yet to receive any information in response to its FOIA requests and has been told that a complete response will take some time.<sup>2</sup> Given this, and the previously noted issues with the Notice, ORD should suspend its request for comment until: (1) the scope of the comments being requested is defined; (2) the proposed charge to the peer review panel is made available to the public; and (3) the EPA provides the public with all of the information that is relevant to a meaningful evaluation of the EPA's draft report. At that time, the EPA should provide the public with a 90-day comment period to ensure that the considerable amount of raw data and other information requested can be thoroughly reviewed and that informed and helpful comments can be developed to support the subsequent peer review process.

Encana does not believe the data currently available establish a connection between hydraulic fracturing and chronic, water palatability concerns in Pavillion Field. There are serious issues with the EPA's well construction methods, sampling techniques and data analysis. Presumably you also understand the importance to Encana and the natural gas industry in ensuring any final conclusions related to Pavillion Field as absolutely correct. In this circumstance, it is critical that all the relevant information be put to a public viewing to support an open and balanced dialogue on the data, the Report and its conclusions.

Given the current January 27, 2012 comment deadline, a response is obviously needed in the very near term to this request for a clearer notice and for additional time to comment on the Pavillion Report.

Sincerely yours,

John Schopp

JS/gob

cc: James B. Martin, EPA Region 8

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<sup>2</sup> The State of Wyoming also has submitted a four-page list of questions and concerns to the EPA, related to the Report and the supporting data, with no meaningful response from the EPA.