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**MEMORANDUM OF AGREEMENT
FOR RESPONSE, NOTIFICATION AND COMPLIANCE ASSURANCE
RELATIVE TO OIL PRODUCTION SITES AND GATHERING LINE SYSTEMS
Between
Illinois Environmental Protection Agency and
Illinois Department of Natural Resources**

I. PURPOSES

This Memorandum of Agreement ("MOA") is entered into between the Illinois Environmental Protection Agency ("IEPA") and the Illinois Department of Natural Resources ("IDNR") who, hereinafter, will be referred to collectively as the "Parties." IEPA and IDNR enter into this MOA for the following purposes:

- to allocate appropriate roles and responsibilities for IEPA and IDNR relative to crude oil or brine releases from oil production sites or permitted gathering lines, within a cooperative framework;
- to ensure appropriate response to all crude oil or brine releases, such that they do not constitute a threat to human health or the environment; and
- to promote education of oil producers and gathering line operators as to IEPA and IDNR expectations and criteria for spill clean-up, prevention and notification.

II. DESIGNATED REPRESENTATIVES AND ALTERNATES

The Directors of IEPA and IDNR will each designate a representative and an alternate to be the central points of contact for their respective agencies for all matters dealing with or arising under this MOA. Each Director may change a representative or alternate at any time by so notifying the other in writing.

III. APPROPRIATE ROLES AND RESPONSIBILITIES OF IEPA AND IDNR AND JOINT SPILLS HANDLING PROTOCOL

This MOA acknowledges that the Parties have appropriate roles to play with regard to releases of crude oil or brine from oil production sites or permitted gathering lines within Illinois. IEPA's role arises from its responsibilities under the Illinois Environmental Protection Act, 415 ILCS 5/1, et seq. ("IEP Act") and Title 35 of the Illinois Administrative Code to inspect and enforce against violations of the IEP Act, including, but not limited to, the causing, allowing or threatening of water pollution or the creation of a water pollution hazard. IDNR's role arises from its responsibilities under the Illinois Oil and Gas Act, 225 ILCS 725/1, et seq. ("IOG Act") and Title 62 of the Illinois Administrative Code to issue permits to oil production facilities and enforce against permit violations.

The Parties have developed a Joint Spills Handling Protocol which reflects the appropriate roles and responsibilities of each Agency relative to crude oil or brine releases from oil production sites or permitted gathering lines. This Protocol, dated October 7, 1999, is attached to and incorporated by reference into this MOA. The Protocol describes the practical division of labor agreed to between IEPA and IDNR for responding to crude oil or brine spills, notifying each other of information and activities, and assurance compliance from responsible parties.

IV. IMPLEMENTATION OF THIS MOA

- A. Each Party will take necessary steps to implement this MOA relative to oil production sites including the following:
1. The designated representatives of IEPA and IDNR and appropriate other staff will hold regular quarterly meetings to coordinate the on-going implementation of this MOA; to share data on releases of crude oil or brine; to develop practical procedures for notification; to collaborate on regulatory development relative to the subject matter of this MOA; and to coordinate educational and informational efforts to oil producers, gathering lines operators and the public.
 2. The designated representatives of IEPA and IDNR will jointly prepare an annual progress report on implementation of this MOA, with recommendations for improvement and/or enhancement of this MOA, where appropriate, for evaluation by the Directors of IEPA and IDNR.
 3. The Parties will work cooperatively to develop necessary statutory or regulatory proposals to enable IDNR to grant permits to gathering lines 6.5 inches in diameter or less (outside diameter). It is the understanding of the Parties that this MOA will apply only to those gathering lines which may be eventually permitted by IDNR, after they have received permits from IDNR.
 4. Each Party agrees to notify the other's designated representative in writing within three business days of that Party's receipt of a request under the Freedom of Information Act or a request for production under subpoena related to a release of crude oil or brine from a production site or permitted gathering line, or other information reasonably related to this MOA.
- B. The Parties will also conduct a cooperative evaluation of the appropriateness and continuing usefulness of this MOA one year after its effective date.

V. ISSUE RESOLUTION

In the event that issues arise between the Parties with regard to the subject matter of this MOA, the Parties will negotiate informally to reach a resolution of the issues, with appropriate escalation from the designated representatives of the IEPA and IDNR through the Directors of IEPA and IDNR, as necessary.

VI. RESERVATION OF RIGHTS

This MOA does not create nor shall it be construed to create any claim, right or cause of action for the benefit of any person not a Party to this MOA against either Party hereto, the State of Illinois, or any officers, agents or employees of any of them.

VII. LIMITATION

Nothing in this MOA shall be construed as obligating either Party, the State of Illinois, or any officers, agents or employees of any of them to expend any funds in excess of allocations or appropriations authorized by law.

VIII. MODIFICATION AND TERMINATION OF THIS MOA

This MOA may be modified in writing upon approval of both Parties hereto. Either Party may withdraw from and terminate this MOA at any time, following ten days advance written notice to the other Party.

Illinois Environmental Protection Agency

Thomas V. Skinner
by Thomas V. Skinner, Director

7.12.05
Date

Illinois Department of Natural Resources

Brent Manning
by Brent Manning, Director

24 July 05
Date

APPROVED FOR EXECUTION:

Date: 7-27-05

Legal Counsel: Robert T. Lamb

JOINT SPILLS HANDLING PROTOCOL FOR OIL PRODUCTION SITES AND GATHERING LINES

This protocol has been jointly developed for handling spills from oil production sites and gathering lines in accordance with applicable law. This protocol addresses roles and responsibilities for spills and the respective agencies, expectations for cleanup criteria and geographic applicability of regulatory authorities.

Effective October 7, 1999, this protocol includes the following principal components:

- I. IDNR-DO&G (Illinois Department of Natural Resources, Div. Of Oil and Gas) will respond to spills of crude oil or brine from permitted oil exploration and production sites and permitted gathering lines (less than 6.5 inches) regulated by IDNR-DO&G per this protocol document. IDNR regulations will govern at these sites as further specified below.
- II. IDNR-DO&G will also initially respond whenever spills from such regulated sites enter designated waters of the State or create an oil sheen or when a sensitive area (as defined in IV.B.2) is impacted. IDNR-DO&G shall also immediately notify the IEPA Duty Officer of the situation and the spiller's response actions thereafter.

Under this protocol, "designated waters" means those surface waters (i.e. perennial or intermittent, "blue line" waterways, ponds, lakes, and wet lowland areas) shown on current USGS topographical maps and potable and special resource groundwater as defined in 35 Ill. Ad. Code 620.

- III. IDNR-DO&G will advise IEPA when IDNR contractors are activated to achieve control of a spill at a site. This notification will occur by fax (217-524-4036) during normal business hours and by telephone (IEPA Duty Officer) during other times.
- IV. Compliance criteria for handling spill incidents from these regulated sites shall be applied as follows:
 - A. Except as provided in subsection (b), IDNR-DO&G will implement compliance criteria specified in 62 Ill. Adm. Code 240. Such criteria shall be applied, enforced and demonstrated by sampling at any spills which occur on permitted lease areas and any contiguous land areas affected by the spill, or on grass waterways and roadside ditches beyond designated waters of the State.
 - B. IEPA will implement compliance criteria specified in 35 Ill. Adm. Code 302, 620 and 742. Such criteria shall be applied, enforced and demonstrated by sampling at spills that enter:
 1. Designated waters of the State or otherwise cause a sheen; or
 2. Sensitive areas with: 200 feet of private drinking water wells, residences, playgrounds, or parks; 400 feet of community drinking water wells; 100 feet inland of where a spill enters an intermittent designated water; or 200 feet inland of where a spill enters a perennial designated water.
- V. IEPA will notify IDNR-DO&G upon receipt of citizen or local official complaints about spill situations that have not otherwise been reported to IEMA.
- VI. IEPA and IDNR-DO&G will jointly develop a user-friendly guide or workbook for spillers that clearly explains what is expected in various spill circumstances and provides explicit instructions on regulatory expectations and how to comply with the expectations including examples of acceptable practices and documentation.
- VII. IEPA and IDNR-DO&G will proceed with necessary administrative actions to initiate use of this protocol within 30 days after adoption. Longer term regulatory changes to address gathering lines will also be pursued in a timely and cooperative manner.

EMERGENCY RELEASE NOTIFICATION FACT SHEET

- A. Immediate telephone notification shall be given by the owner or operator of a facility when a release equal to or exceeding the reportable quantity of an extremely hazardous substance¹ or a CERCLA hazardous substance² occurs at the facility.

In such incidents, notifications are to be made to the following:

1. Illinois Emergency Management Agency (IEMA)/State Emergency Response Commission (SERC) at 1-800-782-7860 (within state) or (217) 782-7860 (when calling from out-of-state);
2. Local Emergency Planning Committee (LEPC) that is likely to be affected by the release. The telephone number(s) can be obtained from IEMA;
3. National Response Center (NRC) at 1-800-424-8802 (if the substance is a CERCLA hazardous substance).

Please Note: *Transportation-related incidents only require 9-1-1 notification.*

- B. Immediate telephone notification is also required if an incident or accident involving a hazardous material³ occurs which results in:

- 1) a member of the general public is killed;
- 2) a member of the general public receives injuries requiring hospitalization;
- 3) an authorized official of an emergency agency recommends an evacuation of an area by the general public;
- 4) a motor vehicle has overturned on a public highway;
- 5) Fire, breakage, release or suspected contamination occurs involving an etiologic agent;
- 6) Any release of oil that produces a sheen on water and/or threatens navigable waters. (This includes ditches)

In such incidents, notification shall be made as noted in Paragraph A, above, except no notification is required to the NRC, except item 6 (oil that impacts water).

At a minimum, notification shall include:

- 1) the chemical name or identity of any substance involved in the release;
- 2) an indication of whether the substance is an extremely hazardous substance;
- 3) an estimate of the quantity in pounds of any such substance that was released into the environment;
- 4) the time and duration of the release;
- 5) the specific location of the release;
- 6) the medium or media (air, land, water) into which the release occurred;
- 7) any known or anticipated acute or chronic health risks associated with the emergency and, where appropriate, advice regarding medical attention necessary for exposed individuals;
- 8) proper precautions to take as a result of the release, including evacuations;
- 9) the name and telephone number of the person or persons to be contacted for further information.

WRITTEN FOLLOW-UP NOTICE IS REQUIRED WITH RESPECT TO INCIDENTS AS DESCRIBED IN PARAGRAPH A, ABOVE. As soon as practicable after such release, the owner or operator shall provide a written follow-up emergency notice (or notices, as more information becomes available) to the SERC and the LEPC, updating the information provided in the immediate notification and including additional information with respect to:

- 1) Actions taken to respond to and contain the release;
- 2) Any known or anticipated acute or chronic health risks associated with the release;
- 3) Where appropriate, advice regarding medical attention necessary for exposed individuals.

¹ See 40 CFR 355 for a listing of extremely hazardous substances (EHS)

² See 40 CFR 302.4 for a listing of Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) hazardous substances

³ See 49 CFR 172.101 for a list of hazardous materials

- b) Spills of crude oil in excess of 1 barrel, or produced water in excess of 5 barrels, onto the surface of the land (if not contained by containment dikes around tanks) shall be reported immediately to the Department's District Office responsible for the county where the spill occurred. The initial report shall contain at a minimum:
- 1) the name of the permittee responsible for the spill;
 - 2) the location of the spill;
 - 3) the amount of crude oil and saltwater spilled;
 - 4) the areal extent of the spill;
 - 5) the cause of the spill;
 - 6) proposed emergency remediation action.
- c) All crude oil spills, regardless of amount, which enter streams, rivers, ponds, lakes, wetlands or other bodies of water, shall be reported immediately to the Illinois Emergency Management Agency (IEMA) and to the Department's District Office responsible for the county where the spill occurred.
- d) All spills which are not required to be reported in accordance with subsection (a) or (b) above, are subject to remediation requirements of Section 240.891 and Section 240.895 of this Part.

(Source: Amended at 25 Ill. Reg. 9045, effective July 9, 2001)

Section 240.890 Crude Oil Spill Remediation Requirements

- a) All crude oil spills that occur after November 8, 1993, regardless of amount, from wells, flowlines, tanks, concrete storage structures, pits or containment dikes are subject to this Section.
- b) The permittee is required to initiate the following emergency response procedures for all crude oil spills as soon as practical after a spill has occurred:
- 1) Contain spilled crude oil using earthen dikes, booms and other containment measures to minimize the amount of area affected by the spill.
 - 2) If a spill enters surface waters, the spill shall be contained with booms and/or underflow dams and removed as expeditiously as possible. If it is

Joint Committee on Administrative Rules

ADMINISTRATIVE CODE

TITLE 62: MINING
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
PART 240 THE ILLINOIS OIL AND GAS ACT
SECTION 240.880 INITIAL SPILL NOTIFICATION

Section 240.880 Initial Spill Notification

- a) **Applicability**
This Section covers spills of crude oil and produced water from tanks, pits, concrete storage structures, containment dikes and flowlines located within the boundaries of an oil and gas lease, unit, or underground gas storage field. Spills from flowlines beyond the lease, unit, or gas storage field boundaries are included if part of a flowline gathering system transporting produced fluids to a central collection point prior to connection or transfer to a crude oil or gas purchase pipeline. Spills from interstate pipeline or refined product pipeline are not included and are under the jurisdiction of the Illinois Environmental Protection Agency.
- b) Spills of crude oil in excess of 1 barrel, or produced water in excess of 5 barrels, onto the surface of the land (if not contained by containment dikes around tanks) shall be reported immediately to the Department's District Office responsible for the county where the spill occurred. The initial report shall contain at a minimum:
- 1) the name of the permittee responsible for the spill;
 - 2) the location of the spill;
 - 3) the amount of crude oil and saltwater spilled;
 - 4) the areal extent of the spill;
 - 5) the cause of the spill;
 - 6) proposed emergency remediation action.
- c) All crude oil spills, regardless of amount, which enter streams, rivers, ponds, lakes, wetlands or other bodies of water, shall be reported immediately to the Illinois Emergency Management Agency (IEMA) and to the Department's District Office responsible for the county where the spill occurred.

- d) All spills which are not required to be reported in accordance with subsection (a) or (b) above are subject to remediation requirements of Section 240.891 and Section 240.895 of this Part.

(Source: Amended at 25 Ill. Reg. 9045, effective July 9, 2001)