

A Briefing Regarding the EPA's Proposed Aquifer Exemption Expansion in Pondera County, Montana

1.0 Introduction: The Critical Threat to the Madison Aquifer

The U.S. Environmental Protection Agency (EPA) has proposed a significant modification to a pending permit application for two Class V injection wells in Pondera County, Montana, designated Jody Field 34-1 and 34-2.¹ This modification poses a direct and unacceptable threat to the Madison Aquifer, a vital source of water for the region. This briefing outlines the evidence-based case for rejecting the EPA's proposed expansion of the project's Aquifer Exemption and rescinding the permit application altogether. At the core of this issue is a proposal by Montalban Oil and Gas Operations (MOGO) to inject high-strength industrial wastewater from the Montana Renewables (MRL) refinery in Great Falls into these wells², which sit directly atop the Madison Formation and Aquifer. In response to significant public opposition, the EPA has not withdrawn the permit but has instead proposed an expansion of the "Aquifer Exemption" (AE) area—the designated zone of contamination—from an initial 0.25-mile radius to a massive 2.1-mile radius around the wells. This document will demonstrate that this proposal is scientifically unsound, unnecessary, and represents a dangerous precedent for water protection policy. A review of the project's timeline is therefore essential, as it reveals a pattern of shifting justifications and strategic omissions that fundamentally invalidates the premise of the EPA's current proposal.

2.0 Project Background and Timeline of Events

Understanding the history of this project is critical, as the timeline of events reveals that the fundamental basis for the injection well permits has been rendered obsolete by the applicant's own public commitments. This history underscores a persistent disregard for viable alternatives and elevates the risk associated with the EPA's proposed solution.

Key Project Milestones

| Date(s) | Event/Significance |
|----------------------------|---|
| 2010–2011 | The Jody Field 34-1 and 34-2 wells are classified as Class II Underground Injection Control (UIC) wells, designated for oil and gas industry waste fluids. |
| 2022–2023 | MOGO applies to the EPA to reclassify the wells to Class V, allowing for the injection of non-hazardous industrial wastewater from Montana Renewables (MRL). |
| Dec 2023 – Apr 2024 | The EPA holds two public hearings, in Cut Bank and Conrad, which reveal strong and organized public opposition. The initial public comment period is extended due to the high volume of concern. |
| Apr-Oct 2024 | Period of inaction from the EPA, accompanied by public relations efforts from MRL. |
| Nov 2024 | The U.S. Department of Energy (DOE) announces a \$1.66 Billion loan guarantee for MRL, which explicitly includes funds designated for the construction of an on-site water treatment facility. ³ |

¹ https://www.epa.gov/system/files/documents/2025-08/ae-expansion-rod_august2025.pdf

²

<https://www.epa.gov/uic/mogo-jody-field-34-1-34-2-disposal-well-pondera-county-montana-permit-s-mt52443-12513-mt52439>

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<https://www.energy.gov/edf/articles/doe-announces-167-billion-montana-renewables-significantly-expand-us-sustainable>

| | |
|-----------------|---|
| Jul 2025 | MRL publicly commits to building the on-site water treatment facility at its refinery in Great Falls, presenting a clear and permanent alternative to underground wastewater injection. ⁴ |
| Aug 2025 | Despite MRL's public commitment to an alternative solution, the EPA announces a proposed modification to the permits, dramatically expanding the Aquifer Exemption area based on 10,000-year modeling. ⁵ |
| Sep 2025 | EPA holds public hearing in Conrad re: expansion of Aquifer Exemption. Even more public opposition is voiced, with comment cut-off date of Oct 13. |

The relationship between the key entities is central to this issue. **MOGO** is the owner of the wells, seeking the permit. In the permit application, **Montana Renewables (MRL)**, an unrestricted subsidiary of Calumet Refinery, is the sole generator of the industrial wastewater. The **EPA** serves as the federal permitting authority. The primary opposition is a partnership between the **Golden Triangle Resource Council (GTRC)** and the **Pondera County Commissioners**, who have consistently challenged the project on behalf of local citizens and resource protection.

This historical context exposes the EPA's proposed permit modification not as a prudent safeguard, but as a concession to a now-obsolete plan, the flawed details of which warrant rigorous deconstruction.

3.0 Deconstructing the EPA's Proposed Permit Modification

The EPA's proposed solution to the widespread public and scientific concerns is not a safeguard but an administrative maneuver: redrawing the boundaries of acceptable contamination to accommodate a fundamentally risky proposal. This section deconstructs the proposed change and the flawed criteria upon which it is based.

The agency proposes to expand the Aquifer Exemption radius from the original 0.25 miles to **2.1 miles** around the injection wells. This expansion is justified by EPA modeling which projects that the injected waste plume will not migrate beyond this new boundary within a 10,000-year timeframe. In effect, the EPA is proposing to write off a vast section of a critical aquifer as a permanent waste containment zone.⁶

According to the EPA, an Aquifer Exemption can be granted if the portion of the aquifer meets specific criteria. The agency's justification for permitting these wells relies on the following three points:

- It does not currently serve as a source of drinking water.
- It is situated at a depth or location which makes recovery of water for drinking water purposes economically or technologically impractical.
- It is so contaminated [**from oil and gas operations**] that it would be economically or technologically impractical to render that water fit for human consumption.⁷

As the following analysis will show, these criteria and the modeling used to justify the exemption's expansion fail to withstand scrutiny when confronted with factual evidence and the project's own contradictory circumstances.

⁴ <https://montanarenewables.com/2025/07/montana-renewables-announces-onsite-water-treatment-plans/>, <https://www.krtv.com/news/great-falls-news/montana-renewables-announces-plans-for-on-site-water-treatment>

⁵ https://www.epa.gov/system/files/documents/2025-08/ae-expansion-rod_august2025.pdf

⁶ *Id.*, pp.4-5

⁷ *Id.*, pp.7-9

4.0 The Case for Rejection: A Five-Point Argument

The following five points present a comprehensive, evidence-based argument demonstrating that the EPA's proposed permit modification is unnecessary, scientifically unsound, and poses an unacceptable and irreversible danger to Montana's water resources. Each point reveals a fundamental flaw in the EPA's rationale for advancing this permit.

4.1 The Premise is Unnecessary: A Viable, Funded Alternative Exists

The central contradiction of this entire permit application is that a safer, permanent, and funded solution already exists. In July 2025, Montana Renewables, the sole source of the wastewater, publicly committed to building an on-site water treatment facility at its Great Falls refinery. This commitment is not an unfunded aspiration; it is directly supported by a **\$1.66 Billion loan guarantee from the U.S. Department of Energy**, a portion of which is designated for this very facility. The EPA is therefore expending federal resources to legitimize a pollution pathway that its beneficiary has already rendered unnecessary via a separate federally-backed initiative.

Despite this public commitment, MRL has pointedly refused to commit to *not* using the injection wells should the permits be approved before the treatment facility is completed. This lack of commitment undermines the credibility of their pledge and exposes the injection wells as a shortcut that prioritizes convenience over environmental responsibility. This raises a critical question: **Why is the EPA expending resources to expand an aquifer exemption area to be "written off" when MOGO's only client for this injection (MRL) has already publicly announced its intention to build an on-site water treatment facility for it, financed by a federally backed loan?**

4.2 The Risk is Unquantifiable: The Nature of the Injected Waste Remains Undisclosed

The EPA's risk assessment and 10,000-year modeling are built on a foundation of pure speculation. For two years, MRL has refused to allow any independent party—including the EPA, county officials, or independent observers—to sample the "wash water" effluent MOGO intends to inject.⁸ The actual chemical composition, toxicity, and long-term subterranean behavior of this high-strength industrial wastewater remain completely unknown. MRL contends that the content of the wash-water changes depending on the different feedstocks, so that makes it difficult to share a sample.

What is known is that the waste's high phosphorous content was already rejected by the Great Falls municipal water treatment plant as unmanageable. It is fundamentally irresponsible for a regulatory agency to permit the permanent contamination of an aquifer—a designated Underground Source of Drinking Water—with a substance of unknown and potentially hazardous composition. No modeling, regardless of its sophistication, can be considered reliable without accurate data on the material being modeled.

4.3 The Scientific Justification is Unsound: Modeling Relies on Outdated and Incomplete Data

The EPA's confidence in its modeling is misplaced, as it relies on a dangerously incomplete understanding of the local geology. The original studies from 2010-2011, upon which initial assumptions about the aquifer were based, were later found to contain inaccurate data regarding porosity and permeability.⁹

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<https://www.mtpr.org/montana-news/2024-06-04/whats-in-the-water-locals-question-plans-to-inject-biofuel-waste-underground>

⁹ https://www.epa.gov/system/files/documents/2023-12/mt52439-12514-mogo-34-2-ae-expansion-rod_v2_0.pdf, *Draft EPA Aquifer Exemption Record of Decision*, p. 2.

Furthermore, the geology of the area has been fundamentally altered in the intervening years by extensive oil and gas drilling and fracking, creating new potential pathways for contaminant migration that are not accounted for in outdated studies.

Recognizing this deficiency, the **Montana Department of Natural Resources and Conservation (DNRC) has formally requested that a new, specific hydrogeological study be conducted *before* any permitting decision is made.**¹⁰ Proceeding with the permit modification in the absence of this requested hydrogeological data constitutes a willful disregard for scientific due diligence and an unacceptable gamble with a vital public resource.

4.4 The Threat to Drinking Water is Real and Understated

The EPA's assertion that recovering drinking water from this depth of the Madison Aquifer is "economically or technologically impractical" is demonstrably false. This claim is directly contradicted by empirical evidence from the town of **Stanford, Montana, which has already successfully drilled into the Madison Aquifer for its municipal drinking water.** The town of Cascade, MT, also draws its drinking water from the Madison Aquifer. MOGO has countered that these towns are 60-90 miles away, and that the Madison Aquifer in Pondera County is "different"—but they do not show how. This real-world example proves that accessing the Madison for drinking water is neither impractical nor a distant future possibility; it is a current reality. The Madison Aquifer must be protected as a critical source of present and future drinking water for other towns across the region. As such, it should be considered off-limits to any exemption that allows for its permanent contamination.

4.5 The Proposal Sets a Dangerous Precedent and Reveals Policy Contradictions

Approving this permit would have damaging long-term policy implications. Once the Aquifer Exemption is granted, the MOGO wells could be used to import and dispose of waste from anywhere in the country, transforming Pondera County into a potential "**national dumping ground.**"

Furthermore, the proposal exposes a glaring policy contradiction. Montana Renewables was recently granted a 50% state tax exemption under the classification of a "pollution control company."¹¹ It is deeply inconsistent for a company benefiting from this designation to simultaneously seek assistance from a federal agency—the EPA—to facilitate the deliberate contamination of a critical underground aquifer with its industrial waste. These five arguments collectively demonstrate a regulatory framework that prioritizes corporate convenience over its primary mandate of environmental protection and public trust.

5.0 Conclusion and Recommendation

The proposal to expand the Aquifer Exemption for the MOGO injection wells is indefensible. The project is rendered unnecessary by MRL's own public commitment to a funded, on-site water treatment facility. The scientific justification is critically flawed, relying on speculative modeling of an unknown waste stream using outdated geological data. The project poses a clear and present danger to the Madison Aquifer, a proven source of drinking water, and sets a dangerous precedent for resource management in Montana and beyond.

¹⁰ *Injection Wells and the Madison Group - GWIP Project Proposal*, available upon request.

¹¹

<https://theelectricgf.com/2025/06/12/deq-montana-renewables-settle-50-percent-of-facility-certified-tax-exempt/>,
<https://montanafreepress.org/2025/06/12/montana-renewables-gets-67m-in-assets-qualified-as-tax-exempt-in-state-settlement/>

Therefore, we (GTRC) recommend the following course of action:

The Environmental Protection Agency must deny the proposed modification for the Aquifer exemption, and reject the permit applications for wells MT52443-12513 and MT52439-12514 in their entirety. The public should insist that Montana Renewables proceed with its publicly committed on-site water treatment facility immediately, and not even temporarily allow its waste-water to be injected into the Madison Aquifer.

This is the only responsible path forward to uphold the EPA's mission and fulfill the solemn duty to protect Montana's essential water resources for current and future generations.



www.northernplains.org/affiliates/golden-triangle-resource-council

Appendix

Although the official EPA comment period has been closed, you can still write to the EPA and to your elected officials to voice your concern. You can also let your neighbors know what is about to happen to the Madison Aquifer in Montana.

- **EPA:** VelRey Lozano, U.S. EPA Region 8, Mail Code: 8WD-SDU, 1595 Wynkoop Street Denver, CO 80202-1129
- **Well Permit Numbers:** MT52443-12513 and MT52439-12514. Reference these in any correspondence!
- **Montana Congressional Delegation** (local offices are best bets)
 - **Senator Steve Daines**
 - **Senator Tim Sheehy**
 - **Representative Troy Downing**
 - **Representative Ryan Zinke**
- **Pondera County Commissioners** (20 4th Ave SW, Conrad, MT 59425)
- **Cascade County Commissioners** (325 2nd Ave North #100, Great Falls MT 59401)

Related Links and References

Original EPA Permit Application (2023):

[Public Notice: MOGO-Jody Field 34-1 & 34-2 Disposal Well, Pondera County, Montana, Permit #'s MT52443-12513 & MT52439-12514 | US EPA](#)

Original EPA fact sheet: [mt52443-12513-mogo-34-1-fact-sheet_v4_0.pdf](#)

Revised EPA Permit with Expanded Exemption:

[Public Notice: Draft UIC Class V Aquifer Exemption Expansion and Area of Review Expansion – Montalban Oil and Gas Operations, Jody Field 34-1 & 34-2, Pondera County, Montana | US EPA](#)

Revised EPA fact sheet: [mt52439-12514-fact-sheet_august2025.pdf](#)

Supplemental Technical Analysis (for expanded exemption):

[supplemental-technical-analysis_august2025.pdf](#)

Jody Field 34-1 Well Schematic:

https://www.epa.gov/system/files/documents/2023-12/mt52443-12513-mogo-34-1-permit_0.pdf