

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
Philadelphia, Pennsylvania 19103



In the Matter of: :
:
BEAR LAKE PROPERTIES, LLC :
1889 CORNISH HILL ROAD :
BEAR LAKE, PA 16402 :
Respondent. :
: U.S. EPA Docket No. SDWA-03-2023-0005
BITTINGER #4 :
PERMIT PAS2D215BWAR : Proceeding under Section 1423(c) of the Safe
: Drinking Water Act, 42 U.S.C. § 300h-2(c)
BITTINGER #1 :
PERMIT PAS2D216BWAR :
:
BITTINGER #2 :
PERMIT PAS2D217BWAR :
:
BITTINGER #3 :
PERMIT PAS2D218BWAR :
:
SMITH-RAS #1 :
PERMIT PAS2D219BWAR :
:
COLUMBUS TOWNSHIP, WARREN :
COUNTY, PA :
:
Injection Well Facilities. :
:

CONSENT AGREEMENT

I. PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III (“Complainant”) and Bear Lake Properties, LLC (“Bear Lake” or “Respondent”) (collectively the “Parties”), pursuant to Section 1423 of the Safe Drinking Water Act (“SDWA”), 42 U.S.C. § 300h-2, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits (“Consolidated Rules of Practice”), 40 C.F.R. Part 22. The SDWA authorizes the Administrator of the U.S. Environmental Protection Agency to assess penalties and undertake other actions required by this Consent Agreement. The Administrator has delegated this authority to the Regional Administrator who, in turn, has

delegated the authority to enter into agreements concerning administrative penalties to the Complainant. This Consent Agreement and the attached Final Order (hereinafter jointly referred to as the “Consent Agreement and Final Order”) resolve Complainant’s civil penalty claims against Respondent under the SDWA (or the “Act”) for the violations alleged herein.

2. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

II. JURISDICTION

3. The U.S. Environmental Protection Agency (“EPA”) has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.
4. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(9) (“The assessment of any civil penalty under sections 1414(g)(3)(B), 1423(c), and 1447(b) of the Safe Drinking Water Act as amended . . . , or the issuance of any order requiring both compliance and the assessment of an administrative civil penalty under section 1423(c)”).

III. GENERAL PROVISIONS

5. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and Final Order.
6. Except as provided in Paragraph 6, above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.
7. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this Consent Agreement and Final Order.
8. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in **this Consent Agreement and Final Order** and waives its right to appeal the accompanying Final Order.
9. Respondent consents to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.
10. Respondent shall bear its own costs and attorney’s fees in connection with this proceeding.
11. Public notice of this Consent Agreement is required by 40 C.F.R. § 22.45(b)(1).

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

12. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.
13. Per Section 1421 of the SDWA, 42 U.S.C. § 300h, the Administrator of EPA is required to promulgate regulations for State underground injection control (“UIC”) programs that, among other things, “contain minimum requirements for effective programs to prevent underground injection which endangers drinking water sources.” This includes requiring any UIC wells to be authorized by permit, and to require inspection, monitoring, recordkeeping and reporting.
14. Section 1421(d)(1)(A)-(B) of SDWA, 42 U.S.C. § 300h(d)(1)(A)-(B), defines an “underground injection” as “the subsurface emplacement of fluids by well injection,” and “excludes the underground injection of natural gas for purposes of storage; and the underground injection of fluids or propping agents (other than diesel fuels) pursuant to hydraulic fracturing operations related to oil, gas, or geothermal production activities.”
15. Section 1421(d)(2) of SDWA, 42 U.S.C. § 300h(d)(2), provides that underground injection endangers drinking water sources if such injection may result in the presence of any contaminant in underground water which supplies or can reasonably be expected to supply any public water system, and if the presence of such contaminant may result in such system not complying with any national primary drinking water regulation or may otherwise adversely affect the health of persons.
16. A State may apply for primary enforcement responsibility (referred to as “primacy”) for underground water resources pursuant to Section 1422(b) of SDWA, 42 U.S.C. § 300h-1(b). If a State does not have primacy, the Administrator of EPA prescribes the UIC program applicable to that State pursuant to Section 1422(c) of SDWA, 42 U.S.C. § 300h-1(c).
17. Pursuant to Sections 1421 and 1422 of SDWA, 42 U.S.C. §§ 300h and 300h-1, EPA has promulgated UIC regulations at 40 C.F.R. Parts 124 and 144 through 148.
18. EPA administers and has primary enforcement responsibility of the UIC program in the Commonwealth of Pennsylvania. The UIC program for Pennsylvania is set forth at 40 C.F.R. Part 147, Subpart NN.
19. 40 C.F.R. § 144.1(g) provides that the UIC programs regulate underground injection by six classes of wells and all owners or operators of these injection wells must be authorized either by permit or rule.
20. 40 C.F.R. § 144.6(b)(1) defines Class II wells as wells which inject fluids:
 - (1) Which are brought to the surface in connection with natural gas storage operations, or conventional oil or natural gas production and may be

commingled with waste waters from gas plants which are an integral part of production operations, unless those waters are classified as a hazardous waste at the time of injection.

(2) For enhanced recovery of oil or natural gas; and

(3) For storage of hydrocarbons which are liquid at standard temperature and pressure.

21. 40 C.F.R. § 144.11 prohibits “Any underground injection, except into a well authorized by rule or except as authorized by permit issued under the UIC program”
22. 40 C.F.R. § 144.51(a) provides that any UIC permittee must comply with all conditions of its permit. Any permit noncompliance constitutes a violation of SDWA and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application; except that the permittee need not comply with the provisions of this permit to the extent and for the duration such noncompliance is authorized in an emergency permit under 40 C.F.R. § 144.34.
23. Section 1401(12) of SDWA, 42 U.S.C. § 300f(12), defines “person” as an individual, corporation, company, association, partnership, State, municipality, or Federal agency (and includes officers, employees, and agents of any corporation, company, association, State, municipality, or Federal agency). *See also*, 40 C.F.R. § 144.3.
24. Bear Lake is and was at the time of the violations alleged herein, a limited liability company incorporated in the State of Delaware with a mailing address at 5459 State Route 29, Springville, Pennsylvania, 18844.
25. Bear Lake is a “person” as defined in Section 1401(12) of SDWA, 42 U.S.C. § 300f(12) and 40 C.F.R. § 144.3.
26. 40 C.F.R. § 144.3 defines an “owner or operator” as “the owner or operator of any ‘facility or activity’ subject to regulation under the UIC program.”
27. 40 C.F.R. § 144.3 defines “facility or activity” as “any UIC ‘injection well,’ or another facility or activity that is subject to regulation under the UIC program.”
28. 40 C.F.R. § 144.3 defines “injection well” as “a ‘well’ into which ‘fluids’ are being injected.”
29. Bear Lake is an “owner or operator” of five “injection wells,” as those terms are defined in 40 C.F.R. § 144.3, located in Columbus Township, Warren County, Pennsylvania (“the Facility”).
30. Bear Lake is the permit-holder for five Class II-D commercial brine disposal UIC permits (“Permits”) that allow for injection into the five injection wells in the Medina Formation.

31. Bear Lake is the permittee for the Bittinger #1 well, a Class II-D commercial brine disposal Injection Well located at Latitude 41°59'37.5" and Longitude -79° 32' 27.2". The current permit for the Bittinger #1, PAS2D216BWAR, was last modified by EPA on February 23, 2021, and remains in effect until October 31, 2026. EPA authorized injection into the Bittinger #1 well in October 2013.
32. Bear Lake is the permittee for the Bittinger #2 well, a Class II-D commercial brine disposal Injection Well located at Latitude 41°59'50.2" and Longitude -79° 32' 07.5". The current permit for the Bittinger #2, PAS2D217BWAR, was last modified by EPA on February 23, 2021, and remains in effect until October 31, 2026. EPA authorized injection into the Bittinger #2 well in April 2015.
33. Bear Lake is the permittee for the Bittinger #3 well, a Class II-D commercial brine disposal Injection Well located at Latitude 41°59'45.52" and Longitude -79° 31' 42.33". The current permit for the Bittinger #3, PAS2D218BWAR, was last modified by EPA on February 23, 2021, and remains in effect until October 31, 2026. EPA authorized injection into the Bittinger #3 well on May 26, 2022.
34. Bear Lake is the permittee for the Bittinger #4 well, a Class II-D commercial brine disposal Injection Well located at Latitude 41°59'50.5" and Longitude -79° 32' 27.5". The current permit for the Bittinger #4, PAS2D215BWAR, was last modified by EPA on February 23, 2021, and remains in effect until October 31, 2026. EPA authorized injection into the Bittinger #4 well in February 2014.
35. Bear Lake is the permittee for the Smith-Ras #1 well, a Class II-D commercial brine disposal Injection Well located at Latitude 41°59'34.31" and Longitude -79° 32' 01.58". The current permit for the Smith-Ras #1, PAS2D219BWAR, was last modified by EPA on August 20, 2021, and remains in effect until October 31, 2026. EPA authorized injection into the Smith-Ras #1 well on March 23, 2021.
36. At all times relevant to this proceeding, Bear Lake was subject to the provisions its Permits, and the applicable provisions of the SDWA.
37. On August 18, 2021, EPA conducted an inspection of the Bittinger #2 well ("August 2021 Inspection").
38. On October 12, 2021, EPA conducted an inspection of all the wells at the Facility ("October 2021 Inspection").
39. On February 25, 2022, EPA sent a Request for Information pursuant to Section 1445(a) of SDWA, 42 U.S.C. § 300j-4(a), 40 C.F.R. §§ 144.17 and 144.51(h), and a Notice of Violation to Bear Lake.
40. On March 22, 2022, Bear Lake responded to EPA's Request for Information. Bear Lake followed up with additional information on April 22, 2022.

41. On April 5, 2022, EPA conducted an inspection of all wells in operation at the Facility (“April 2022 Inspection”).
42. In June, 2020 a new ownership group purchased Respondent and assumed responsibility for operations.
43. Since June 2020, the Respondent has undertaken work and incurred expenses to make important and material improvements to the five injection wells and the Facility’s operations. Those improvements include, but are not limited to, new high pressure lines, flow meters, pressure recorders, shut off controls and well head controls.
44. Since June, 2020 EPA has twice given authorization for injection at Respondent’s injection wells.
45. Section 1423(a)(2) of SDWA, 42 U.S.C. § 300h-2(a)(2), provides that any person found to be in violation of any requirement of an applicable UIC program in a state that does not have primacy may be assessed a civil penalty pursuant to Section 1423(c)(2) of SDWA, 42 U.S.C. § 300h-2(c)(2).
46. Under Section 1423(c)(2) of SDWA, 42 U.S.C. § 300h-2(c)(2), and 40 C.F.R. Part 19, EPA may assess a civil penalty of not more than \$13,508 for each day of violation, up to a maximum administrative penalty of \$337,735 for SDWA violations occurring after November 2, 2015 where penalties are assessed on or after January 6, 2023.
47. On the basis of EPA’s findings during the Inspections and the information Bear Lake provided to EPA, EPA concludes that Bear Lake has violated certain requirements and provisions of SDWA, 42 U.S.C. §§ 300h and 300h-8 and the UIC regulations promulgated thereunder at 40 C.F.R. Parts 124 and 144 through 148.

Count I
Failure to Comply with Maximum Allowable Injection Pressure
for Bittinger #2

48. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
49. Pursuant to 40 C.F.R § 146.23(a)(1), injection pressure at the wellhead shall not exceed a maximum which shall be calculated so as to assure that the pressure during injection does not initiate new fractures or propagate existing fractures in the confining zone adjacent to the underground sources of drinking water.
50. Per Part III.B.4 of the Permit for Bittinger #2, the Maximum Allowable Injection Pressure is 1,651 psi.
51. During the August 2021 Inspection, EPA observed that the Bittinger #2 well was operating at an injection pressure of 1,655 psi. This amount exceeds the maximum allowable injection pressure of 1,651 psi at Bittinger #2 for the week of August 18, 2021.

52. By exceeding the maximum allowable injection pressure for Bittering #2 for the week of August 18, 2021, Bear Lake violated Part III.B.4 of its Permit, and 40 C.F.R § 146.23(a)(1).
53. In failing to comply with the terms of its Permit and 40 C.F.R. § 146.23(a)(1), Bear Lake violated Part C (Protection of Underground Sources of Drinking Water) of the SDWA, 42 U.S.C. §§ 300h – 300h-8, and therefore is subject to the assessment of penalties under Section 1423 of the SDWA, 42 U.S.C. § 300h-2.

Count II
Failure to Comply with Maximum Allowable Injection Pressure
For Bittering #1 and Bittering #2

54. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
55. Pursuant to 40 C.F.R § 146.23(a)(1), injection pressure at the wellhead shall not exceed a maximum which shall be calculated so as to assure that the pressure during injection does not initiate new fractures or propagate existing fractures in the confining zone adjacent to the underground sources of drinking water.
56. Per Part III.B.4 of the Permit for Bittering #1, the Maximum Allowable Injection Pressure is 1,696 psi.
57. Per Part III.B.4 of the Permit for Bittering #2, the Maximum Allowable Injection Pressure is 1,651 psi.
58. During the October 2021 Inspection, EPA observed that the Bittering #1 well was operating at an injection pressure of 1,737 psi. This amount exceeds the maximum allowable injection pressure of 1,696 psi at Bittering #1 for the week of October 12, 2021.
59. During the October 2021 Inspection, EPA observed that the Bittering #2 well was operating at an injection pressure of 1,739 psi. This amount exceeds the maximum allowable injection pressure of 1,651 psi at Bittering #2 for the week of October 12, 2021.
60. By exceeding the maximum allowable injection pressure for Bittering #1, and Bittering #2, for the week of October 12, 2021, Bear Lake violated Part III.B.4 of its Permits, and 40 C.F.R § 146.23(a)(1).
61. In failing to comply with the terms of its Permits and 40 C.F.R. § 146.23(a)(1), Bear Lake violated Part C (Protection of Underground Sources of Drinking Water) of the SDWA, 42 U.S.C. §§ 300h – 300h-8, and therefore is subject to the assessment of penalties under Section 1423 of the SDWA, 42 U.S.C. § 300h-2.

Count III
Failure to Install Emergency Shutoff Devices
For Bittinger #2 and Smith-Ras #1

62. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
63. Pursuant to 40 C.F.R § 144.51(e), Respondent shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Respondent to achieve compliance with the conditions of the Permits. Proper operation and maintenance include effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process control, including appropriate quality assurance procedures.
64. Part II.C.6. of the Bittinger #2 and Smith-Ras #1 Permits require that, “. . . [t]he Permittee shall cease injection operations if a loss of mechanical integrity becomes evident or if the Permittee cannot demonstrate mechanical integrity. The Injection Well shall be equipped with an automatic shut-off device which would be activated in the event of a mechanical integrity failure.”
65. During the August 2021 Inspection, EPA observed that the Bittinger #2 well and Smith-Ras #1 well were not equipped with operational automatic shut-off devices in accordance with Part II.C.6 of the Bittinger #2 and Smith-Ras #1 Permits.
66. During the October 2021 Inspection, EPA observed that the Bittinger #2 well and Smith-Ras #1 well were not equipped with operational automatic shut-off devices in accordance with Part II.C.6 of the Bittinger #2 and Smith-Ras #1 Permits.
67. By failing to install operational automatic shut-off devices for Bittinger #2 and Smith-Ras #1, as observed on August 18, 2021 and October 12, 2021, Bear Lake violated Part II.C.6 of its Permits, and 40 C.F.R § 144.51(e).
68. In failing to comply with the terms of its Permits and 40 C.F.R. § 144.51(e), Bear Lake violated Part C (Protection of Underground Sources of Drinking Water) of the SDWA, 42 U.S.C. §§ 300h – 300h-8, and therefore is subject to the assessment of penalties under Section 1423 of the SDWA, 42 U.S.C. § 300h-2.

Count IV
Failure to Install Continuous Flow Meter
For Bittinger #1 and Bittinger #4

69. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
70. Pursuant to 40 C.F.R § 144.51(e), Respondent shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Respondent to achieve compliance with the conditions

of the Permits. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process control, including appropriate quality assurance procedures.

71. Part II.C.2 of the Bittering #1 and Bittering #4 Permits require that “Injection pressure, annular pressure, flow rate and cumulative volume shall be observed and recorded continuously beginning on the date on which the well commences operation and concluding when the well is plugged and abandoned. The permittee shall monitor and record semi-annually the fluid level of the depleted natural gas production wells located within the Bear Lake injection facility property as referenced in the Permit Application.”
72. During the October 2021 Inspection, EPA observed that the Bittering #1 and Bittering #4 wells were not equipped with continuous monitoring flow meters in accordance with Part II.C.2. of the Bittering #1 and Bittering #4 Permits.
73. By failing to install continuous monitoring flow meters for Bittering #1 and Bittering #4, as observed on October 12, 2021, Bear Lake violated Part II.C.2 of its Permits, and 40 C.F.R § 144.51(e)
74. In failing to comply with the terms of its Permits and 40 C.F.R. § 144.51(e), Bear Lake violated Part C (Protection of Underground Sources of Drinking Water) of the SDWA, 42 U.S.C. §§ 300h – 300h-8, and therefore is subject to the assessment of penalties under Section 1423 of the SDWA, 42 U.S.C. § 300h-2.

Count V
Failure to Properly Calibrate and Maintain Equipment
For Bittering #2

75. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
76. Pursuant to 40 C.F.R § 144.51(e), Respondent shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Respondent to achieve compliance with the conditions of the Permits. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process control, including appropriate quality assurance procedures.
77. Part I.D.4 titled “Proper Operation and Maintenance” of the Bittering #2 Permit requires that, “The Permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the Permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance include effective performance, adequate funding, adequate operator staffing and training, adequate security to prevent unauthorized access and operation of the Injection Well and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with

the conditions of this permit.

78. During the October 2021 Inspection, EPA observed that the surface injection pressure gauge at the Bittering #2 well was not properly calibrated and maintained in accordance with Part I.D.4. of the Permit and 40 § C.F.R 144.51(e). Specifically, EPA observed a surface injection pressure gauge that was providing incorrect readings and did not reflect the exceedance of maximum allowable injection pressure.
79. By failing to calibrate and maintain the surface injection pressure gauge for Bittering #2, as observed on October 12, 2021, Bear Lake violated Part I.D.4 of its Permit, and 40 C.F.R § 144.51(e).
80. In failing to comply with the terms of its Permit and 40 C.F.R. § 144.51(e), Bear Lake violated Part C (Protection of Underground Sources of Drinking Water) of the SDWA, 42 U.S.C. §§ 300h – 300h-8, and therefore is subject to the assessment of penalties under Section 1423 of the SDWA, 42 U.S.C. § 300h-2.

Count VI
Failure to Conduct Continuous Pressure and Flow Monitoring
For Bittering #1

81. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
82. Pursuant to 40 C.F.R § 144.51(e), Respondent shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Respondent to achieve compliance with the conditions of the Permits. Proper operation and maintenance include effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process control, including appropriate quality assurance procedures.
83. Part II.C.2 of the Bittering #1 Permit requires that “Injection pressure, annular pressure, flow rate and cumulative volume shall be observed and recorded continuously beginning on the date on which the well commences operation and concluding when the well is plugged and abandoned. The permittee shall monitor and record semi-annually the fluid level of the depleted natural gas production wells located within the Bear Lake injection facility property as referenced in the Permit Application.”
84. During the April 2022 Inspection, EPA observed that the chart recorder for continuous monitoring of both injection pressure and casing/tubing annulus pressure was not in operation for Bittering #1. Because this equipment was not properly operating, Bear Lake was not observing and recording continuously injection pressure, annular pressure, flow rate and cumulative volume for Bittering #1 as required by the Permit.
85. By failing to conduct continuous pressure and flow monitoring for Bittering #1, as observed on April 5, 2022, Bear Lake violated Part II.C.2 of its Permit, and 40 C.F.R § 144.51(e), and therefore is subject to the assessment of penalties under Section 1423 of

the SDWA.

86. In failing to comply with the terms of its Permit and 40 C.F.R. § 144.51(e), Bear Lake violated Part C (Protection of Underground Sources of Drinking Water) of the SDWA, 42 U.S.C. §§ 300h – 300h-8, and therefore is subject to the assessment of penalties under Section 1423 of the SDWA, 42 U.S.C. § 300h-2.

Count VII
Failure to Properly Train Staff
For All Operational Wells

87. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
88. Pursuant to 40 C.F.R § 144.51(e), Respondent shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the Respondent to achieve compliance with the conditions of the Permits. Proper operation and maintenance include effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process control, including appropriate quality assurance procedures.
89. Part I.D.4 of the Bittering #1, Bittering #2, Bittering #4 and Smith-Ras #1 Permits require that, “The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance include effective performance, adequate funding, adequate operator staffing and training, facility security, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facility or similar systems only when necessary to achieve compliance with the conditions of this permit.”
90. During the August 2021, October 2021, and April 2022 Inspections, EPA observed that Bear Lake staff did not have adequate operator and staff training and quality assurance procedures for any of the four operational wells, as required by the Permits. EPA’s observations included:
- a. Staff unable to properly take readings from the chart recorder and identify events when maximum allowable injection pressure is exceeded,
 - b. Staff unaware of Permit requirements for well gauges and equipment, and
 - c. Staff lack of knowledge for general injection well construction and operation.
91. By failing to provide adequate operator and staff training and quality assurance procedures for the four operational wells on August 18, 2021, October 12, 2021 and April 5, 2022, Bear Lake violated Part II.C.2 of its Permits, and 40 C.F.R § 144.51(e).
92. In failing to comply with the terms of its Permits and 40 C.F.R. § 144.51(e), Bear Lake violated Part C (Protection of Underground Sources of Drinking Water) of the SDWA, 42 U.S.C. §§ 300h – 300h-8, and therefore is subject to the assessment of penalties under

Section 1423 of the SDWA, 42 U.S.C. § 300h-2.

V. COMPLIANCE ORDER

93. Respondent shall comply at all times with any effective EPA Permit issued for the operation of any of its wells.
94. Respondent agrees to take certain additional measures to further minimize or correct any adverse impact on the environment resulting from noncompliance with the Permits:
- a. Within 7 days of the Effective Date of this Consent Agreement and Final Order, Respondent shall confirm that all electrical wiring work has been completed and is operational at all five wells on-site, including installation of automatic shutoff devices and Murphy gauges for monitoring;
 - b. Within 7 days of the Effective Date of this Consent Agreement and Final Order, confirm via e-mail to EPA that automatic shut off devices have been installed and are operational for Bittinger #2 and Smith-Ras #1;
 - c. Within 7 days of the Effective Date of this Consent Agreement and Final Order, confirm via e-mail to EPA that continuous flow monitoring devices have been installed and are operational for Bittinger #1 and Bittinger #4;
 - d. **Maximum Allowable Injection Pressure Notifications:** Respondent shall notify EPA of any exceedances of Maximum Allowable Injection Pressure observed at any operational well within 24 hours. These notifications shall be made to the EPA Region 3 UIC Hotline, 215-814-2816, and Andrea Lewis, lewis.andrea@epa.gov for one year following the Effective Date of this Order.
 - e. **Monthly Reporting:** Respondent shall send electronically Monthly Reports by the 15th day of every month for a year beginning with the month following the Effective Date of this Consent Agreement and Final Order. Monthly Reports shall include the fields in the example form attached herein at Appendix A. Monthly Reports submitted to EPA shall be signed by a responsible corporate officer or a duly authorized representative. The signatory shall make the following certification:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

These submissions are in addition to any reporting requirements already required

by the Permits and UIC regulations.

- f. Within 7 days of the Effective Date of this Consent Agreement and Final Order, Respondent shall submit a **Corrective Action Plan (“CAP”)** to EPA for review and comment that will describe all measures Bear Lake is taking to come into compliance with its Permits, including:
 - i. **Training Program:** A full description of Bear Lake’s training program for all employees, including staff operating equipment and performing monitoring functions. The training program should specify the topics of training and frequency of training for staff based on their roles, and whether they are a new employee or already on staff.
 - ii. **Standard Operating Procedure for Monitoring Active Wells and Maintaining Records:** A Standard Operating Procedure (“SOP”) that would specify procedures for monitoring all active (i.e., currently operating and injecting) wells and maintaining associated records and logs. This SOP would also specify quality assurance procedures so that operators and managers can review pressures and flows to verify adequate reporting.
 - iii. **Standard Operating Procedure for Equipment Calibration, Maintenance and Repairs:** A Standard Operating Procedure for equipment maintenance and calibration to verify proper operation, including, but not limited to, monthly pressure recorder calibration checks with annual third-party calibrations, standard procedures and checks, routing maintenance schedules, and proper documentation and records of service.

95. EPA will review the CAP and either:

- a. approve the CAP;
- b. approve the CAP in part, and request modifications to address and correct any noted deficiencies;
- c. modify the CAP to cure any deficiencies; or
- d. disapprove the CAP in writing.

96. Within twenty (20) days of receipt of any EPA request for modifications, or disapproval, of the CAP, Respondent shall address and correct all noted deficiencies and resubmit the CAP for EPA approval. EPA retains the right, if the CAP is not approved as provided herein to order compliance in accordance with a CAP developed by EPA.

97. Upon final approval by EPA of Respondent’s CAP, Respondent will implement the CAP immediately.

98. This Consent Agreement and Final Order does not supersede any other reporting requirements required by the Permits or UIC regulations.

99. Respondent shall submit any documentation, plans, reports, notifications and analyses to:

Ms. Andrea Lewis
Enforcement & Compliance Assurance Division
SDWA & Wetland Section
lewis.andrea@epa.gov

VI. CIVIL PENALTY

100. In settlement of EPA's claims for civil penalties for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of Forty-Five Thousand dollars (\$45,000), which Respondent shall be liable to pay in accordance with the terms set forth below.
101. The civil penalty is based upon EPA's consideration of a number of factors, including the penalty criteria ("statutory factors") set forth in the SDWA Section 1423(c), including the following: (i) the seriousness of the violation; (ii) the economic benefit (if any) resulting from the violation; (iii) any history of such violations; (iv) any good faith efforts to comply with the applicable requirements; (v) the economic impact of the penalty on the violator; and (vi) such other matters as justice may require. In developing a proposed penalty for the violations alleged in this Consent Agreement, EPA takes into account the particular facts and circumstances of this case with specific reference to EPA's September 1993 UIC Program Judicial and Administrative Order Settlement Penalty Policy, and the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing EPA's civil penalty policies to account for inflation.
102. Payment of the civil penalty amount, and any associated interest, administrative fees, and late payment penalties owed, shall be made by either cashier's check, certified check or electronic wire transfer, in the following manner:
- a. All payments by Respondent shall include reference to Respondent's name and address, and the Docket Number of this action, EPA Docket No. SDWA-03-2023-0005;
 - b. All checks shall be made payable to the "United States Treasury";
 - c. All payments made by check and sent by regular mail shall be addressed and mailed to:

U.S. Environmental Protection Agency
Cincinnati Finance Center
P.O. Box 979078
St. Louis, MO 63197-9000
 - d. For additional information concerning other acceptable methods of payment of

the civil penalty amount see:

<https://www.epa.gov/financial/makepayment>

- e. A copy of Respondent's check or other documentation of payment of the penalty using the method selected by Respondent for payment shall be sent simultaneously **by email** to:

Aviva H. Reinfeld
Assistant Regional Counsel
Reinfeld.aviva@epa.gov

and

U.S. EPA Region III Regional Hearing Clerk
R3_Hearing_Clerk@epa.gov.

103. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment of the penalty as specified herein shall result in the assessment of late payment charges including interest, penalties and/or administrative costs of handling delinquent debts.
104. Payment of the civil penalty is due and payable immediately upon the effective date of this Consent Agreement and Final Order. Receipt by Respondent or Respondent's legal counsel of such copy of the fully executed Consent Agreement and Final Order, with a date stamp indicating the date on which the Consent Agreement and Final Order was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a debt is owed as of the effective date of this Consent Agreement and Final Order by Respondent in accordance with 40 C.F.R. § 13.9(a).
105. INTEREST: Interest on the civil penalty assessed in this Consent Agreement and Final Order will begin to accrue on the effective date of this Consent Agreement and Final Order. However, EPA will not seek to recover interest on any amount of the civil penalties that is paid within thirty (30) calendar days after the effective date of this Consent Agreement and Final Order. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R § 13.11(a).
106. ADMINISTRATIVE COSTS: The costs of the EPA's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). If payment is not received within 30 calendar days of the effective date of this Consent Agreement, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.

107. LATE PAYMENT PENALTY: A late payment penalty of six percent per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
108. Respondent agrees not to deduct for federal tax purposes the civil penalty assessed in this Consent Agreement and Final Order.
109. For purposes of the identification requirement of Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 1.162-21(b)(2), performance of the items listed in Section V (“Compliance Order”), *supra*, is restitution or required to come into compliance with law.
110. The parties consent to service of the Final Order by e-mail at the following valid email addresses: reinfeld.aviva@epa.gov (for Complainant), and rschaub@rjglaw.com (for Respondent).

VII. GENERAL SETTLEMENT CONDITIONS

111. By signing this Consent Agreement, Respondent acknowledges that this Consent Agreement and Final Order will be available to the public and represents that, to the best of Respondent’s knowledge and belief, this Consent Agreement and Final Order does not contain any confidential business information or personally identifiable information from Respondent.
112. Respondent certifies that any information or representation it has supplied or made to EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this Consent Agreement and Final Order, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

CERTIFICATION OF COMPLIANCE

113. Respondent certifies to EPA, upon personal investigation and to the best of its knowledge and belief, that with the exception of those outstanding compliance actions that Respondent is required to implement in Section V, “Compliance Order,” above, it is

otherwise in current compliance with regard to the violations alleged in this Consent Agreement.

OTHER APPLICABLE LAWS

114. Nothing in this Consent Agreement and Final Order shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state or local permit. This Consent Agreement and Final Order does not constitute a waiver, suspension or modification of the requirements of the SDWA, or any regulations promulgated thereunder.

RESERVATION OF RIGHTS

115. This Consent Agreement and Final Order resolves only EPA's claims for civil penalties for the specific violations alleged against Respondent in this Consent Agreement and Final Order. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. This settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice, 40 C.F.R. § 22.18(c). EPA reserves any rights and remedies available to it under the SDWA the regulations promulgated thereunder and any other federal law or regulation to enforce the terms of this Consent Agreement and Final Order after its effective date.

EXECUTION /PARTIES BOUND

116. This Consent Agreement and Final Order shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents and assigns of Respondent. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and Final Order.

EFFECTIVE DATE

117. Pursuant to 40 C.F.R. § 22.45(b), this Consent Agreement and Final Order shall be issued only after a 40-day public notice and comment period is concluded. This Consent Agreement and Final Order will become final and effective thirty (30) days after having been signed by the Regional Administrator or his delegate, the Regional Judicial Officer, and filed with the Regional Hearing Clerk.

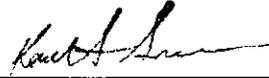
ENTIRE AGREEMENT

118. This Consent Agreement and Final Order constitutes the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the Parties other than those expressed in this Consent Agreement and Final Order.

For Respondent: Bear Lake Properties, LLC

Date: 6/27/2023

By:



Kenneth Scavone
Managing Member, Bear Lake Properties, LLC

For the Complainant:

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement & Compliance Assurance Division of the United States Environmental Protection Agency, Region III, agree to the terms and conditions of this Consent Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

By: _____
[Digital Signature and Date]
Karen Melvin, Director
Enforcement & Compliance Assurance Division
U.S. EPA – Region III
Complainant

Attorney for Complainant:

By: _____
[Digital Signature and Date]
Aviva H. Reinfeld
Assistant Regional Counsel
U.S. EPA – Region III

Appendix A

Monthly Report – [Month] [Year]

I. Well Data

Injection Well	Max Injection Pressure (pounds per square inch (psi)) in Permit	Max Injection Pressure (psi) Observed per Month	Max Annular Pressure Observed per Month (psi)	Average Injection Rate per Month (Gallons per minute)	Monthly Injection Volume (Barrels)	Cumulative Volumes (Barrels)
Bittinger 1						
Bittinger 2						
Bittinger 3						
Bittinger 4						
Smith Ras 1						

In the event of an exceedance of Maximum Injection Pressure, complete the following table:

Injection Well	Max Injection Pressure Exceeding Permitted Limit (psi)	Date of Exceedance	Actions Taken to Return to Compliance and Dates Well was Shut-In and Returned to Service, if applicable
Bittinger 1			
Bittinger 2			
Bittinger 3			
Bittinger 4			
Smith Ras 1			

II. Graph Depicting Injection Well Pressure & Flow Monitoring for the individual month of the reporting period (not a cumulative graph)

III. Equipment Failures:

- a. Description of any equipment failures:
- b. How equipment failures, if any, were discovered:
- c. Actions taken to address any equipment failures:
- d. Any outstanding items left to repair:

IV. Any calibration or training events that occurred during the month:

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
Philadelphia, Pennsylvania 19103



In the Matter of: :
: :
BEAR LAKE PROPERTIES, LLC :
1889 CORNISH HILL ROAD :
BEAR LAKE, PA 16402 :
: :
Respondent. : U.S. EPA Docket No. SDWA-03-2023-0005
: :
BITTINGER #4 : Proceeding under Section 1423(c) of the Safe
PERMIT PAS2D215BWAR : Drinking Water Act, 42 U.S.C. § 300h-2(c)
: :
BITTINGER #1 :
PERMIT PAS2D216BWAR :
: :
BITTINGER #2 :
PERMIT PAS2D217BWAR :
: :
BITTINGER #3 :
PERMIT PAS2D218BWAR :
: :
SMITH-RAS #1 :
PERMIT PAS2D219BWAR :
: :
COLUMBUS TOWNSHIP, WARREN :
COUNTY, PA :
: :
Injection Well Facilities. :

FINAL ORDER

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III, and Respondent, Bear Lake Properties, LLC, have executed a document entitled “Consent Agreement,” which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules of Practice”), 40 C.F.R. Part 22 (with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, EPA’s September 1993 UIC

Program Judicial and Administrative Order Settlement Penalty Policy, and the statutory factors set forth in Section 1423 of the SDWA, 42 U.S.C. § 300h-2(c)(2).

NOW, THEREFORE, PURSUANT TO Section 1423 of the Safe Drinking Water Act, 42 U.S.C. § 300h-2(c)(2) and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of [*e.g.*, **FORTY-FIVE THOUSAND DOLLARS (\$45,000)**], in accordance with the payment provisions set forth in the Consent Agreement and in 40 C.F.R. § 22.31(c), and comply with the terms and conditions of the Consent Agreement.

This Final Order constitutes the final Agency action in this proceeding. This Final Order shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief, or criminal sanctions for any violations of the law. This Final Order resolves only those causes of action alleged in the Consent Agreement and does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of the SDWA and the regulations promulgated thereunder.

The effective date of the attached Consent Agreement and this Final Order is thirty (30) days after having been signed by the Regional Administrator or his delegate, the Regional Judicial Officer, and filed with the Regional Hearing Clerk.

Date: _____

By: _____

Joseph J. Lisa
Regional Judicial and Presiding Officer
U.S. EPA Region III

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
Philadelphia, Pennsylvania 19103-2029

In the Matter of:	:	
	:	
BEAR LAKE PROPERTIES, LLC	:	
1889 CORNISH HILL ROAD	:	
BEAR LAKE, PA 16402	:	
	:	
Respondent.	:	U.S. EPA Docket No. SDWA-03-2023-0005
	:	
BITTINGER #4	:	Proceeding under Section 1423(c) of the Safe
PERMIT PAS2D215BWAR	:	Drinking Water Act, 42 U.S.C. § 300h-2(c)
	:	
BITTINGER #1	:	
PERMIT PAS2D216BWAR	:	
	:	
BITTINGER #2	:	
PERMIT PAS2D217BWAR	:	
	:	
BITTINGER #3	:	
PERMIT PAS2D218BWAR	:	
	:	
SMITH-RAS #1	:	
PERMIT PAS2D219BWAR	:	
	:	
COLUMBUS TOWNSHIP, WARREN	:	
COUNTY, PA	:	
	:	
Injection Well Facilities.	:	

CERTIFICATE OF SERVICE

I certify that on _____, the foregoing *Consent Agreement and Final Order*, was filed with the EPA Region III Regional Hearing Clerk on the date that has been electronically stamped on the *Consent Agreement and Final Order*. I further certify that on the date set forth below, I caused to be served a true and correct copy of the foregoing to each of the following persons, in the manner specified below, at the following addresses:

In Re: Bear Lake Properties, LLC

EPA Docket No. SDWA-03-2023-0005

Copies served via email to:

Kenneth Scavone, Managing Member
Bear Lake Properties, LLC
kenneths@kendra2.com

Robert D. Schaub, Esq.
Rosenn Jenkins & Greenwald LLP
rschaub@rjglaw.com
1065 Highway 315, Suite 200
Wilkes-Barre, PA 18702

Aviva H. Reinfeld, Esq.
Assistant Regional Counsel
U.S. EPA, Region III
Reinfeld.aviva@epa.gov

Andrea Lewis
Life Scientist (Enforcement Officer)
U.S. EPA, Region III
lewis.andrea@epa.gov

[Digital Signature and Date]
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region III