

U. S. ENVIRONMENTAL PROTECTION AGENCY-REGION 6  
FINAL ADMINISTRATIVE ORDER AND INFORMATION DEMAND  
In the Matter of Xutapa Properties, LLC  
Docket No. SDWA-06-2015-1130

FILED

STATUTORY AUTHORITY

The following findings are made and a Final Order issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Sections 1423(c) and 1445 of the Safe Drinking Water Act ("the Act"), 42 U.S.C. §§ 300h-2(c) and 300j-4. The authority to issue this Order has been delegated by the Administrator to the Regional Administrator of EPA, Region 6, who delegated such authority to the Director of the Compliance Assurance and Enforcement Division. EPA has primary enforcement responsibility for underground injection within the meaning of Section 1422(c) of the Act, 42 U.S.C. § 300h-1(c), to ensure that owners or operators of Class II injection wells within Osage County, Oklahoma, comply with the requirements of the Act.

FINDINGS

1. Respondent, Xutapa Properties, LLC, is a "person," within the meaning of Section 1401(12) of the Act, 42 U.S.C. § 300f(12).

2. At all times relevant to the violation alleged herein, Respondent operated the following injection wells ("the wells"):

Inventory No.	Well No.	Location- Osage County, Oklahoma
OS6169.026	Lawson 4	SE/4, Sec. 10, T 28N, R 9E
OS6169.030	Lawson 10	SE/4, Sec. 10, T 28N, R 9E
OS6169.025	Lawson 8	SE/4, Sec. 10, T28N, R 9E
OS6169.031	Lawson 15	SE/4, Sec. 10, T28N, R 9E
OS6169.017	Stingley 6	SW/4, Sec. 10, T 28N, R 9E
OS6169.018	Ebert 3	NE/4, Sec. 15, T 28N, R 9E
OS6169.027	Ebert 8	NE/4, Sec. 15, T 28N, R 9E
OS6169.021	Ebert 5	NE/4, Sec. 15, T28N, R 9E
OS6169.029	Leonard 21-X	NW/4, Sec. 15, T 28N, R 9E
OS6169.000	Leonard 8	NW/4, Sec. 15, T28N, R 9E
OS6169.024	Leonard 13	NW/4, Sec. 15, T28N, R 9E
OS6169.032	Leonard 5	NW/4, Sec. 15, T28N, R 9E
OS6169.022	Leonard 7C	SW/4, Sec. 15, T 28N, R 9E
OS6169.023	Leonard 10C	SW/4, Sec. 15, T28N, R 9E
OS6169.005	Leonard 22-X	SW/4, Sec. 15, T28N, R 9E
OS6169.006	Leonard 14C	SW/4, Sec. 15, T 28N, R 9E
OS6169.012	Leonard 8C	SW/4, Sec. 15, T28N, R 9E
OS6169.028	Leonard 2C	SW/4, Sec. 15, T28N, R 9E

3. Respondent is subject to underground injection control ("UIC") program requirements set forth at 40 C.F.R. Part 147, Subpart GGG, which are authorized under Section 1421 of the Act, 42 U.S.C. § 300h.

4. EPA regulations require the operator of "injection wells," as defined at 40 C.F.R. § 147.2902, to maintain its injection wells in a manner which will prevent contaminants from moving through the well bore into underground sources of drinking water ("USDWs") pursuant to 40 C.F.R. §§ 147.2905, 147.2920(b)(2) and 147.2923.

5. EPA's October 20, 2011 letter required Respondent to complete corrective action to prevent contaminants from moving through zones of USDWs in the area of the wells.

6. EPA's December 12, 2011 letter approved corrective action for the referenced wells and required Respondent to convert the wells to production or plug the wells. EPA agreed to terminate the permit when corrective action for each well was completed.

7. EPA's January 22, 2013 letter notified Respondent of their failure to complete corrective action. Respondent's March 25, 2013 letter informed EPA of a plan to complete corrective action by plugging the wells. EPA's April 22, 2013 letter approved Respondent's plan to plug the wells.

8. Recent inspection reports and Respondent's 2014 Annual Operations reports show corrective action has not been completed on the following wells:

Inventory No.	Well No.	Location- Osage County, Oklahoma
OS6169.026	Lawson 4	SE/4, Sec. 10, T 28N, R 9E
OS6169.030	Lawson 10	SE/4, Sec. 10, T 28N, R 9E
OS6169.025	Lawson 8	SE/4, Sec. 10, T28N, R 9E
OS6169.031	Lawson 15	SE/4, Sec. 10, T28N, R 9E
OS6169.017	Stingley 6	SW/4, Sec. 10, T 28N, R 9E
OS6169.018	Ebert 3	NE/4, Sec. 15, T 28N, R 9E
OS6169.029	Leonard 21-X	NW/4, Sec. 15, T 28N, R 9E
OS6169.000	Leonard 8	NW/4, Sec. 15, T28N, R 9E
OS6169.024	Leonard 13	NW/4, Sec. 15, T28N, R 9E
OS6169.032	Leonard 5	NW/4, Sec. 15, T28N, R 9E
OS6169.022	Leonard 7C	SW/4, Sec. 15, T 28N, R 9E
OS6169.023	Leonard 10C	SW/4, Sec. 15, T28N, R 9E
OS6169.005	Leonard 22-X	SW/4, Sec. 15, T28N, R 9E

9. Therefore, Respondent violated the regulations set forth at 40 C.F.R. §§ 147.2905, 147.2920(b)(2) and 147.2923 by failing to complete corrective action to prevent contaminants from moving through well bores into USDWs and failing to plug and abandon injection wells.

10. The Respondent indicates the following wells were converted to production:

Inventory No.	Well No.	Location- Osage County, Oklahoma
OS6169.021	Ebert 5	NE/4, Sec. 15, T28N, R 9E
OS6169.006	Leonard 14C	SW/4, Sec. 15, T 28N, R 9E
OS6169.012	Leonard 8C	SW/4, Sec. 15, T28N, R 9E
OS6169.028	Leonard 2C	SW/4, Sec. 15, T28N, R 9E
OS6169.027	Ebert 8	NE/4, Sec. 15, T 28N, R 9E

SECTION 1423(c) COMPLIANCE ORDER

11. Based on the foregoing findings and under the authority of Section 1423(c) of the Act, it is hereby ordered that Respondent shall complete the "Required Compliance Actions" according to the Compliance Schedule in Appendix A of this Order.

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SECTION 1445 INFORMATION DEMAND

12. Based on these findings and pursuant to the authority of Section 1445 of the Act, Respondent is required to do the following:

- a. Submit compliance reports including, but not limited to, Osage Form 139 for each of the completed "Required Compliance Actions" listed in Appendix A of this Final Order.

GENERAL PROVISIONS

13. This Section 1423(c) Compliance Order and the Section 1445 Information Demand do not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. Part 147, Subpart GGG, which remain in full force and effect.

14. Issuance of this Section 1423(c) Compliance Order, the Section 1445 Information Demand, or the Act is not an election by EPA to forego any civil or criminal action otherwise authorized under the Act.

15. Violation of the terms of this Section 1423(c) Compliance Order after its effective date or date of final judgment as described in Section 1423(c)(6) of the Act, 42 U.S.C. § 300h-2(c)(6), may subject Respondent to further enforcement action, including a civil action for enforcement of this Order under Section 1423(b) of the Act, 42 U.S.C. § 300h-2(b), and civil and criminal penalties for violations of the compliance terms of this Order under Section 1423(b)(1) and (2) of the Act, 42 U.S.C. § 300h-2(b)(1) and (2).

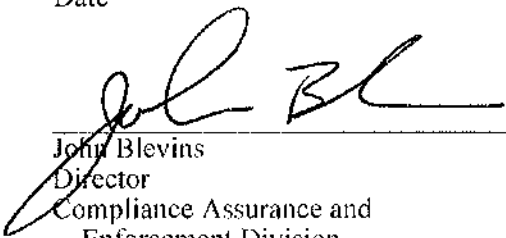
SETTLEMENT

16. EPA encourages all parties against whom an administrative order is made final to pursue the possibility of settlement through informal meetings with EPA. Regardless of whether a formal hearing is requested, Respondent may confer informally with EPA about the alleged violations. Respondent may wish to appear at any informal conference personally, by counsel or other representative, or both. To request an informal conference on the matters described in this Final Order, please contact Mr. David Aguinaga, of my staff, at (214) 665-6439.

EFFECTIVE DATE

17. This Final Order becomes effective thirty (30) days after issuance unless an appeal is taken pursuant to Section 1423(c)(6) of the Act, 42 U.S.C. § 300h-2(c)(6).

1.11.16  
Date

  
John Blevins  
Director  
Compliance Assurance and  
Enforcement Division

**CERTIFICATE OF SERVICE**

I certify that the foregoing Amended Proposed Administrative Order was sent to the following persons, in the manner specified, on the date below:

Original hand-delivered: Regional Hearing Clerk (6RC-D)  
U.S. EPA, Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, TX 75202-2733

Copy by certified mail Xutapa Properties, LLC  
6 Northeast 63<sup>rd</sup> Street, Suite 425  
Oklahoma City, OK 73105

Copy: Bureau of Indian Affairs, Osage Agency  
P.O. Box 1539  
Pawhuska, OK 74056

Osage Nation ENR Department  
P.O. Box 1495  
Pawhuska, OK 74056

Dated: January 12, 2016 Jackie Allen