



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590
April 20, 2022

ECW-15J

VIA E-MAIL

Mr. Robert Scott
Trahan Petroleum, Inc.
12 Myles Standish Rd.
Weston, Massachusetts 02493

Email: robertscott2@verizon.net

Dear Mr. Scott,

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) regarding docket number SDWA-05-2022-0005. As indicated by the filing stamp on the first page of the CAFO, the CAFO was filed with the Regional Hearing Clerk on March 2, 2022.

Pursuant to the CAFO, Trahan Petroleum, Inc. must pay the civil penalty within 30 days of the effective date, April 20, 2022. The check with which you pay the civil penalty must display the case name: In the Matter of Trahan Petroleum, Inc. and the docket number SDWA-05-2022-0005.

Please direct any questions regarding this matter to Jim Adamiec of my staff at 312-886-0815 or adamiec.james@epa.gov, or your Counsel can contact Nicole Wood, Associate Regional Counsel, at 312-886-0664 or wood.nicole@epa.gov.

Sincerely,

Murphy,
Elizabeth

Digitally signed by
Murphy, Elizabeth
Date: 2022.04.08
13:16:51 -05'00'

Elizabeth Murphy
Section Supervisor
Enforcement and Compliance Assurance Branch

Enclosure

cc: Ann Coyle, Regional Judicial Officer
Jason Mailloux, MIEGLE, MaillouxJ@michigan.gov
Nicole Wood, Associate Regional Counsel, wood.nicole@epa.gov
Jim Adamiec, EPA adamiec.james@epa.gov
Gina Bozzer, Attorney, gabozzer@krlawtc.com

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter Of:) **Docket No. SDWA-05-2022-0005**
)
Trahan Petroleum, Inc.)
) **Proceeding under Section 1423(c) of the**
Respondent.) **Safe Drinking Water Act,**

) **42 U.S.C. § 300h-2(c)**

Consent Agreement and Final Order

Statutory Authority

1. This is an administrative action commenced and concluded under Section 1423(c)(2) of the Safe Drinking Water Act (SDWA), 42 U.S.C. §300h-2(c)(2), and Sections 22.1(a)(9), 22.13(b), 22.18(b)(2) and (3), and 22.45 of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (Consolidated Rules), as codified at 40 C.F.R. Part 22.
2. Complainant is, by lawful delegation, the Director of the Water Division, U.S. Environmental Protection Agency (EPA), Region 5 (Director).
3. Respondent is Trahan Petroleum, Inc., a Louisiana corporation registered to do business in Michigan as a foreign corporation.
4. Where the parties agree to settle one or more causes of action before the filing of a complaint, an administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). *See* 40 C.F.R. § 22.13(b).
5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the terms of this CAFO, including the assessment of the civil penalty specified below.

Jurisdiction and Waiver of Right to Judicial Review and Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its rights to notice of EPA's proposal to issue this CAFO, to request a hearing as provided at 40 C.F.R. § 22.15(c) and Section 1423(c)(3) of the SDWA, 42 U.S.C. § 300h-2(c)(3), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

Statutory and Regulatory Background

9. Section 1421 of SDWA, 42 U.S.C. § 300h, requires that the Administrator of EPA promulgate regulations, which shall include permitting requirements as well as inspection, monitoring, recordkeeping and reporting requirements, for state underground injection control (UIC) programs to prevent underground injection which endangers drinking water sources.

10. Section 1421(d)(1) of SDWA, 42 U.S.C. § 300h(d)(1), defines "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.

11. 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 in underground water which supplies or can reasonably be expected to supply any public water system of any contaminant, 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. Section 1422(c) of SDWA, 42 U.S.C. § 300h-1(c), provides that the Administrator for EPA shall prescribe UIC programs applicable to those states that have not obtained primary enforcement responsibility of their UIC programs (a concept called “primacy”) or do not have primacy for all types of wells.

12. Pursuant to Sections 1421 and 1422 of SDWA, 42 U.S.C. §§ 300h and 300h-1, respectively, EPA has promulgated UIC regulations at 40 C.F.R. Parts 124 and 144 through 148.

13. EPA administers and has primary enforcement responsibility of the UIC program in the State of Michigan. The UIC program for the State of Michigan is set forth at 40 C.F.R. Part 147, Subpart X- Michigan.

14. 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. Class II wells inject fluids 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; for enhanced recovery of oil or natural gas; and for storage of hydrocarbons which are liquid at standard temperature and pressure according to 40 C.F.R. § 144.6(b)(1).

15. 40 C.F.R. § 144.11 further prohibits any underground injection, except into a well authorized by rule or by permit issued under the UIC program.

16. 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.

17. 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).

18. 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 \$7,500 for each day of violation, up to a maximum administrative penalty of \$177,500 for SDWA violations occurring after January 12, 2009 through December 6, 2013; \$7,500 for each day of violation, up to a maximum administrative penalty of \$187,500 for SDWA violations occurring after December 6, 2013 through November 2, 2015; \$11,803 for each day of violation, up to a maximum administrative penalty of \$295,088 for SDWA violations occurring after November 2, 2015.

Factual Allegations and Alleged Violations

19. Respondent is a company incorporated in Louisiana and has an office mailing address of 12 Myles Standish Road, Weston, Massachusetts 02493.

20. Respondent is a corporation, and as such, Respondent is a “person” as that term is defined at Section 1401(12) of SDWA, 42 U.S.C. § 300f(12), and 40 C.F.R. § 144.3.

21. At all times relevant to this CAFO, Respondent was authorized to operate the following wells (the “Wells” and “the Permits”) in Clare County, Michigan:

EPA Permit Number MI-035-2D-0009	"L G Fell B4"
EPA Permit Number MI-035-2D-0010	"AE Van Horn 8"
EPA Permit Number MI-035-2D-0019	"Alford State 3"
EPA Permit Number MI-035-2D-0022	"Ida 8 New Comber 7"

EPA Permit Number MI-035-2D-0023 "State Winterfield A-6"
EPA Permit Number MI-035-2D-0024 "Van Horn 2"

22. The Wells identified in paragraph 22 are "Class II Wells" as defined in 40 C.F.R. §144.6.

23. The Permits authorize the underground injection of oil field brines or those fluids used in the enhancement of oil and gas production into the Wells, subject to the terms and conditions set forth in the Permit.

24. The subsurface emplacement of brine through the Wells is a "well injection." 40 C.F.R. § 144.3.

25. At all times relevant to this CAFO, Respondent owned wells injecting in the State of Michigan and was thus subject to the UIC program requirements set forth at 40 C.F.R. Parts 124, 144, 146, 147 (Subpart X), and 148.

26. At all times relevant to this CAFO, Respondent did not apply and obtain emergency permits pursuant 40 C.F.R. § 144.34.

27. On May 6, 2020, EPA issued an information request (EPA's Information Request) to Respondent 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 Part I(E)(6) of the Permits, to gather information related to the Permits and historic operations and maintenance of The Wells.

28. On July 7, 2020, EPA received Respondent's response to its Information Request with the requested information (Respondent's Response).

29. Under 40 C.F.R. § 144.51(a) and Part I(E)(1) of the Permits, Respondent is required to comply with all conditions of the Permits and any noncompliance constitutes a violation of SDWA and is grounds for enforcement action, permit termination, revocation and reissuing or modification.

Count 1 – Failure to Properly Monitor Well Annulus Pressure

30. The statements in Paragraphs 1 through 29 of this CAFO are hereby incorporated by reference as if set forth in full.

31. For each of the Respondent's wells identified in paragraph 22 above, Part II(B)(2)(d) of each of the Permits require the company to record injection pressure, annulus pressure, and cumulative volume on a weekly basis by using a calibrated gauge. All gauges used in monitoring shall be calibrated in accordance with Permit Condition (E)(17)(e), which requires gauges to be calibrated on an annual basis.

32. Trahan did not monitor the weekly injection pressure, annulus pressure (i.e. backside pressure), and cumulative volume in the manner prescribed by the permit. In the Respondent's Response, Trahan indicated that prior to 2018, annulus pressure was bled off prior to recording the pressure. Pressure was then reported as 0 psig.

33. The Respondent's Response indicated that gauges were calibrated as needed and that gauge calibration records are not available prior to March 2018.

34. The monthly monitoring reports Trahan submitted from November 2015 to March 2018 primarily report the annulus pressure data at all wells as "0 psig." The data Trahan submitted on monthly monitoring reports to EPA did not include actual measurements taken with a calibrated gauge. Failing to record weekly measurements of injection pressure, annulus pressure, and cumulative volume is a violation of Part II(B)(2)(d) the Permit.

35. Each week Respondent failed to properly monitor well annulus pressure at each of the Wells constitutes a violation of the Safe Drinking Water Act, the Permits, and the UIC regulations at 40 C.F.R. §144.51(a).

Count 2 – Failure to Properly Monitor Cumulative Volume and Flow Rate

36. The statements in Paragraphs 1 through 29 of this CAFO are hereby incorporated by reference as if set forth in full.

37. Part II(B)(2)(d) of each of the Permits requires cumulative volume and flow rate to be monitored with a calibrated gauge on a weekly basis.

38. Between November 2015 and March 2018, Respondent used what it considered a reliable methodology to measure cumulative volume by estimating same but did not actually measure the cumulative volume and flow rate of fluid injected into the Wells listed in paragraph 21, and reported estimates on monthly reports submitted to EPA. The estimation method consisted of gauging the brine tank at a low level then filling the brine tank from the production well and recording the time taken for the tank to reach a high level. Documentation for cumulative volume calculations is not available prior to March 2018.

39. The Respondent's Response indicated that monitoring cumulative volume occurred "periodically" rather than "weekly," and that flow meters were not installed until March 2018.

40. Thus, each week Respondent failed to monitor cumulative volume and flow rate constitutes a violation of the Safe Drinking Water Act, Permit, and the UIC regulations at 40 C.F.R. §144.51(a).

Count 3 – Failure to Maintain Records and Report

41. The statements in Paragraphs 1 through 29 of this CAFO are hereby incorporated by reference as if set forth in full.

42. 40 C.F.R. §144.51 of the UIC regulations state that all permits are subject to the condition that the permittee must report monitoring results at the intervals specified in the permit.

43. Part II (B)(3)(a) of each of the Permits require monthly reports to be submitted to EPA. Reports submitted each month must include a minimum of weekly measurements taken with a calibrated gauge of injection pressure, annulus pressure, flow rate and cumulative volume as required in Part II (B)(2)(d) and Part III (A) of each of the Permits.

44. Part I(E)(8) of each of the Permits require the Respondent to retain records of all monitoring information and copies of records of all monitoring information, including all calibration and maintenance records for a period of at least three years from the date of the measurement or report.

45. The Respondent's Response indicated that monitoring information and copies of records of all monitoring information including calibration records were not available prior to March 2018.

46. Each day Respondent failed to maintain records and submit accurate reporting results constitutes a violation of the Safe Drinking Water Act, Permit, and the UIC regulations at 40 C.F.R. §144.51(a).

Civil Penalty

47. Based upon the facts alleged in this CAFO, the factors listed in Section 1423(c)(4)(B) of the SDWA, 42 U.S.C. 300h-2(c)(4)(B), EPA's UIC Program Judicial and Administrative Order Settlement Penalty Policy (September 1993) (EPA's UIC Penalty Policy), and Respondent's good faith and cooperation in resolving this matter, EPA has determined that an appropriate civil penalty to settle this action is \$15,915.

48. Within 30 days of the effective date of this CAFO, Respondent must pay a \$15,915 civil penalty by sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines and Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, Missouri 63101

The check must note Respondent's name and the docket number of this CAFO.

49. When Respondent pays the penalty or any portion thereof, Respondent must send a notice of payment that states Respondent's name and the docket number of this CAFO to EPA electronically, to the extent possible. Electronic submissions must be sent to the following addresses: r5weca@epa.gov, adamiec.james@epa.gov, and wood.nicole@epa.gov. If electronic submittal is not possible, the submissions must be made by certified mail (return receipt requested) and mailed to the following addresses:

James Adamiec (ECW-15J)
Underground Injection Control Branch
Water Division
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Nicole Wood (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

Regional Hearing Clerk (E-19J)
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

50. This civil penalty is not deductible for federal tax purposes.

51. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, Respondent must pay the following on any amount overdue under this CAFO: interest accrued on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury pursuant to

26 U.S.C. § 6621(a)(2); the United States' enforcement expenses, including but not limited to attorneys' fees and costs incurred by the United States for collection proceedings; a \$15 handling charge fee each month that any portion of the penalty is more than 30 days past due; and 6% per year penalty on any principal amount 90 days past due.

52. If Respondent does not pay timely the civil penalty, EPA may request the United States Department of Justice bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties, and the United States' enforcement expenses for the collection action under Section 1423(c)(7) of SDWA, 42 U.S.C. § 300h-2(c)(7). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

General Provisions

53. Respondent operated its Wells as per historical practice and believed that it was complying with all of the terms of the Permits.

54. The parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: wood.nicole@epa.gov (for Complainant) and gabozzer@krlawtc.com (for Respondent).

55. Submissions required by this CAFO shall be deemed submitted on the date they are sent electronically or on the date postmarked if sent by U.S. mail.

56. EPA may use any information submitted in accordance with this CAFO in support of an administrative, civil, or criminal action against Respondent.

57. This CAFO resolves Respondent's liability for federal civil penalties for the violations alleged in this CAFO. Violation of this CAFO shall be deemed a violation of the SDWA for purposes of Section 1423(b) of the SDWA, 42 U.S.C. § 300h-2(b).

58. This CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

59. This CAFO does not affect Respondent's responsibility to comply with the SDWA and other applicable federal, state, or local laws and permits. Except as provided in paragraph 64, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal law administered by EPA.

60. Respondent certifies that it is complying with the SDWA, its implementing regulations, and the Permits.

61. This CAFO constitutes a "previous violation" as that term is used in EPA's UIC Penalty Policy and to determine Respondent's "history of such violations" under Section 1423(c)(4)(B) of the SDWA, 42 U.S.C. § 300h-2(c)(4)(B).

62. The terms of this CAFO bind Respondent and its successors and assigns.

63. Each person signing this CAFO certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to the terms of this CAFO.

64. Each party agrees to bear its own costs and attorneys' fees in this action.

65. This CAFO constitutes the entire agreement between the parties.

66. The parties acknowledge and agree that final approval by EPA of this CAFO is subject to 40 C.F.R. § 22.45(c)(4) which sets forth requirements under which a person not a party to this proceeding may petition to set aside a consent agreement and final order on the basis that material evidence was not considered.

67. Unless an appeal for judicial review is filed in accordance with Section 1423(c)(6) of the SDWA, 42 U.S.C. § 300h-2(c)(6), and 40 C.F.R. § 22.45 or a petition is received pursuant to 40 C.F.R. § 22.45(c)(4)(ii), this CAFO shall become effective 30 days after the date of

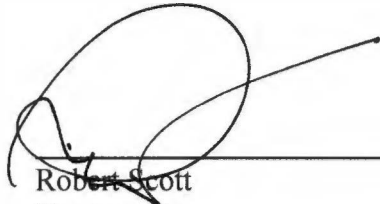
issuance, which is the date that the Final Order contained in this CAFO is signed by the Regional Judicial Officer or Regional Administrator.

68. This CAFO will terminate after Respondent has complied with all terms of the CAFO.

**Consent Agreement and Final Order
In the Matter of: Trahan Petroleum Inc.
Docket Number. SDWA-05-2022-0005**

Robert Scott, Respondent

February 8, 2022
Date



Robert Scott
Treasurer
Trahan Petroleum Inc.

United States Environmental Protection Agency, Complainant

X MICHAEL HARRIS

Michael D. Harris
Director, Enforcement and Compliance Assurance Division

Digitally signed by
MICHAEL HARRIS
Date: 2022.02.28
13:05:26 -06'00'

**Consent Agreement and Final Order
In the Matter of: Trahan Petroleum Inc.
Docket No. SDWA-05-2022-0005**

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective 30 days after issuance, unless an appeal for judicial review is filed in accordance with Section 1423(c)(6) of the SDWA, 42 U.S.C. § 300h-2(c)(6), and 40 C.F.R. § 22.45(c)(4)(iii) or a petition is received pursuant to 40 C.F.R. § 22.45(c)(4)(ii). This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18, 22.31. and, 22.31. and 22.45.45. IT IS SO ORDERED.

By: ANN COYLE Digitally signed by ANN
COYLE
Date: 2022.04.15
10:18:44 -05'00' Date: _____
Ann Coyle
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 5

**Consent Agreement and Final Order
In the Matter of: Trahan Petroleum Inc.
Docket Number. SDWA-05-2022-0005**

Certificate of Service

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, docket number SDWA-05-2022-0005, which was filed on April 20, 2022, in the following manner to the following addresses:

Copy by e-mail to Respondent: Robert Scott
robertscott2@verizon.net

Copy by e-mail to Attorney for Complainant: Nicole Wood
wood.nicole@epa.gov

Copy by e-mail to Attorney for Respondent: Gina Bozzer
gabozzerkrlawtc.com

Copy by e-mail to Regional Judicial Officer: Ann Coyle
coyle.ann@epa.gov

Dated: _____
Isidra Martinez
Acting Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5

CERTIFIED MAIL RECEIPT NUMBER(S): Return receipt email will be filed.