



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
SAM NUNN
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA GEORGIA 30303-8960

OCT 14 2010

CERTIFIED MAIL 7007 2680 0000 9621 4523
RETURN RECEIPT REQUESTED

Craig Kendall
Hydrocarbon Investments, Inc.
7235 North Green River Road
Evansville, Indiana 47725

Re: Consent Agreement and Final Order (CA/FO)
Docket No. SDWA-04-2011-1001(b)

Dear Mr. Kendall:

Enclosed is a copy of the Consent Agreement and Final Order (CA/FO) in this matter that has been filed with the Regional Hearing Clerk and served on the parties as required by 40 C.F.R. §22.6. This CA/FO was effective upon the date filed with the Regional Hearing Clerk and you are hereby ordered to comply immediately with the terms of the subject Order.

Thank you for your cooperation in settling this matter. Should you have any questions or concerns, please contact Ms. Carol Chen, Underground Injection Control Enforcement, at (404) 562-9415.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Giattina".

James D. Giattina
Director
Water Protection Division

Enclosure

cc: Regional Hearing Clerk

Internet Address (URL) • <http://www.epa.gov>

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

HEATHER GLENN

2019 OCT 14 PM 3:37

EPA REGION 4

IN THE MATTER OF

Hydrocarbon Investments, Inc.
7235 North Green River Road
Evansville, Indiana 47725

Respondent

Consent Agreement and Final Order

Docket No. SDWA-04-2011-1001(b)

STATUTORY AUTHORITY

1. Pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (Consolidated Rules of Practice or Part 22), specifically Subpart I, published at 64 Fed. Reg. 40138 (July 23, 1999) and the delegated authority of the Administrator of the U.S. Environmental Protection Agency (EPA or Complainant) under Part C of the Safe Drinking Water Act (SDWA or the Act), 42 U.S.C. § 1421, *et seq.*, the EPA, as Complainant, hereby enters into the following Consent Agreement and Final Order ("CA/FO") with Hydrocarbon Investments, Inc. (Respondent).

2. Section 1450 of the SDWA authorizes the Administrator to prescribe such regulations as are necessary or appropriate to carry out her functions under the SDWA. These regulations are found at 40 CFR Parts 124, 144, 146, 147, and 148, and set forth requirements for the Underground Injection Control (UIC) program promulgated under Part C of the SDWA, 42 U.S.C. § 300h, *et seq.*

3. Injection well owners and operators are required to comply with the UIC program requirements. The UIC program for the Commonwealth of Kentucky, including all Indian lands, is administered by EPA. See 40 CFR § 147.901(a).

ALLEGATIONS

4. Respondent is a corporation doing business in the Commonwealth of Kentucky, with a business address of 7235 North Green River Road, Evansville, Indiana 47725.

5. Respondent is a person as that term is defined in Section 1401(12) of the SDWA, 42 U.S.C. Section 300f(12) and 40 CFR §144.3.

6. Respondent owns and/or operates the following rule-authorized Class II underground injection wells (subject wells). These wells were in existence on June 25, 1984, the effective date of the UIC program in Kentucky.

| <u>EPA ID No.</u> | <u>Well</u> | <u>Status</u> | <u>County</u> |
|-------------------|------------------|---------------|----------------------------|
| KYS1010376 | Tom Denton #2 | Inactive | Henderson County, Kentucky |
| KYS1070011 | North Hanson #14 | Active | Hopkins County, Kentucky |
| KYS1070021 | North Hanson #38 | Active | Hopkins County, Kentucky |

7. Each of these wells constitutes a "facility" as that term is defined in 40 CFR §144.3, and is subject to the requirements of the SDWA and the UIC regulations.

8. Requirements found at 40 CFR §144.28(g)(2)(iv)(A), state that a demonstration of mechanical integrity, pursuant to §146.8, shall occur at least once every five years for active wells. These active subject wells are overdue for mechanical integrity demonstration requirements as follows.

| <u>EPA ID No.</u> | <u>Well</u> | <u>Previous MIT</u> | <u>MIT Due</u> | <u>MIT Done</u> |
|-------------------|------------------|---------------------|----------------|-----------------|
| KYS1070011 | North Hanson #14 | 7/29/04 | 7/29/09 | 5/11/10 |
| KYS1070021 | North Hanson #38 | 5/09/04 | 5/09/09 | 5/11/10 |

9. Therefore, Respondent violated 40 CFR §144.28(g)(2)(iv)(A) and the SDWA by failing to timely demonstrate the mechanical integrity of the active subject wells.

10. In accordance with 40 CFR §144.28(c)(2)(iv), EPA requires that after a cessation of injection for two years, the owner or operator of a rule-authorized underground injection well shall demonstrate the mechanical integrity or plug and abandon the well.

11. The following inactive subject well is overdue for mechanical integrity demonstration requirements as follows.

| <u>EPA ID No.</u> | <u>Well</u> | <u>Previous MIT</u> | <u>MIT Due</u> | <u>MIT Done</u> |
|-------------------|---------------|---------------------|----------------|-----------------|
| KYS1010376 | Tom Denton #2 | 9/21/06 | 9/21/08 | 4/22/10 |

12. Therefore, Respondent violated 40 CFR §144.28(c)(2)(iv) and the SDWA by failing to timely demonstrate the mechanical integrity, or properly close, plug and abandon, the inactive subject well.

13. Respondent owns and/or operates the following permitted Class II underground injection well (subject well):

| <u>Permit No.</u> | <u>EPA ID No.</u> | <u>Well</u> | <u>County</u> |
|-------------------|-------------------|--------------------|----------------------------|
| KYI0200 | KYS1010212 | Jones (Trigg) #1-A | Henderson County, Kentucky |

14. This well constitutes a "facility" as that term is defined in 40 CFR §144.3, and is subject to the requirements of the SDWA and the UIC regulations.

15. The subject well is permitted in accordance with 40 CFR § 144.31.

16. The SDWA, 42 U.S.C. §300f, *et seq.*, and 40 CFR §144.51(a) require the permittee to comply with all conditions of the permit. Noncompliance constitutes a violation of the SDWA and is grounds for an enforcement action. In accordance with Part II, Section F, Paragraph 3, of the permit EPA requires that after a cessation of injection for two years, the permittee shall demonstrate mechanical integrity or plug and abandon the well.

17. The following inactive subject well is overdue for mechanical integrity demonstration requirements as follows.

| <u>Permit No.</u> | <u>EPA ID No.</u> | <u>Well</u> | <u>Last MIT</u> | <u>MIT Due</u> | <u>MIT Done</u> |
|-------------------|-------------------|--------------------|-----------------|----------------|-----------------|
| KYI0200 | KYS1010212 | Jones (Trigg) #1-A | 11/13/07 | 11/13/09 | 5/26/10 |

18. Therefore, Respondent violated 40 CFR §144.51 (a), its permit, and the SDWA by failing to timely demonstrate the mechanical integrity of the subject inactive well.

19. On April 27, 2010, and May 25, 2010, Respondent participated in show cause hearings with EPA representatives to discuss its permit violations, the SDWA, and the implementing regulations.

20. Respondent and Complainant have negotiated a settlement of the foregoing violations and Respondent has agreed to pay a penalty.

STIPULATIONS AND FINDINGS

21. Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the facts and findings of violation as alleged herein. Respondent waives any right to a hearing and waives any right to appeal a final order in this matter, and consents to the issuance of a final order without further adjudication.

22. Complainant and Respondent have conferred for the purpose of settlement, pursuant to 40 CFR § 22.18, and desire to resolve this matter and settle the violations described herein without resort to a formal hearing. Therefore, without the taking of any evidence or testimony, the making of an argument, or the adjudication of any issue in this matter, and in accordance with 40 CFR § 22.13(b), this CA/FO will simultaneously commence and conclude this matter.

PENALTY

Based upon the foregoing findings, the parties hereby agree and consent to entry of the following Order:

23. Respondent shall pay a civil penalty of **\$3,500.00 (Three Thousand Five Hundred Dollars)** in accordance with the terms set forth below.

24. Within thirty (30) days of receipt of a fully-executed copy of this CA/FO, Respondent shall submit a cashiers or certified check in the amount of **\$875.00 (Eight Hundred Seventy-five Dollars)**, as the initial installment of the penalty payment, with equal amounts due every ninety (90) days thereafter, for a total of four payments. The penalty payments as set forth shall be made payable to the Treasurer, United States of America at the following address:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

Respondent shall note the title and docket number of the case on the penalty payment certified or cashiers check.

25. Respondent shall submit copies of the check to the following persons:

Regional Hearing Clerk
U.S. EPA - Region 4
61 Forsyth Street SW
Atlanta, GA 30303-8960

Fred McManus, Chief
Ground Water and SDWA Enforcement Section
U. S. EPA - Region 4
61 Forsyth Street SW
Atlanta, GA 30303-8960

26. Pursuant to Section 1423(c)(7) of the SDWA, 42 U.S.C. § 300h-2(c)(7), failure by Respondent to pay the penalty assessed by this CA/FO in full by its due date may subject Respondent to a civil action in an appropriate district court to recover the amount assessed (plus costs, attorneys fees, and interest at currently prevailing rates from the date the order is effective). In such an action, the validity, amount and appropriateness of the penalty shall not be subject to review.

27. Pursuant to 40 CFR Part 13 and 31 U.S.C. §3717 et seq., if EPA does not receive payment of the penalty assessed by this CA/FO in full by its due date, interest shall accrue on the unpaid balance from the due date through date of payment at an annual rate equal to the rate of the current value of funds to the United States Treasury as prescribed and published by the Secretary of the Treasury. If all or part of the payment is overdue, EPA will assess an administrative fee of \$15 for each subsequent thirty (30) day period. EPA will also assess, on a monthly basis, a six per cent (6%) per annum penalty on any principal amount not paid within ninety (90) days of the due date.

28. A copy of the check shall be sent to the Ground Water and SDWA Enforcement Section, Safe Drinking Water Branch, U. S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303-8960. Respondent shall state the docket number of this CA/FO on the face of any such check.

29. The names, addresses and telephone numbers of the individuals authorized to receive service relating to the proceeding are listed below.

For Respondent: Craig Kendall, President
Hydrocarbon Investments, Inc.
7235 North Green River Road
Evansville, Indiana 47725
812-867-8011

For EPA: Wilda Cobb, Attorney
U.S. EPA - Region 4
61 Forsyth Street SW
Atlanta, GA 30303-8960
404-562-9530

GENERAL PROVISIONS

30. The provisions of this CA/FO shall be binding upon Respondent, and its officers, directors, agents, servants, employees, and successors or assigns. Notice of this CA/FO shall be given to any successors in interest prior to transfer of the ownership or operational control of the facility.

33. If any event beyond the control of Respondent, its successors or assigns, occurs which causes or may cause a delay in the achievement of any requirement of this CA/FO, Respondent shall notify EPA orally within four (4) days of the time it has knowledge of the occurrence of such event. A written report of said event shall be submitted by certified mail to EPA within ten (10) days of the date Respondent received knowledge of the event. Said report shall describe the violation or failure, its cause and all attendant circumstances, and the measures taken or to be taken to prevent or minimize any such violation or failure and to comply with the pertinent requirements of this CA/FO as soon as possible, and the timetable by which those measures are proposed to be implemented.

34. The burden of proving that any violation or failure is caused by circumstances beyond the control of and without fault of Respondent and the length of the delay attributable to such circumstances shall rest with Respondent. Financial, economic, or business conditions or changes in same, unanticipated or increased costs or expenses, or problems relating to reasonably foreseeable technological infeasibility associated with the implementation of actions called for by this CA/FO, shall not relieve Respondent of any obligation imposed under the terms of this CA/FO, nor from payment of any penalty set forth in this CA/FO. EPA will notify Respondent of its determination that certain circumstances are considered to be beyond Respondent's control and the extension of time, if any, for completion of the affected requirements. Respondent shall waive this right to any extension for failure to provide EPA with written notice as provided herein or for failure to provide adequate proof for the cause of the delay.

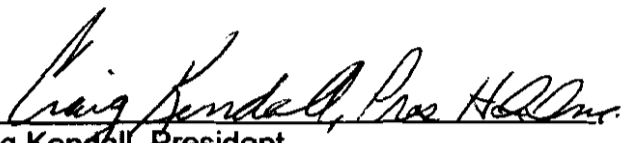
35. The parties acknowledge and agree that final approval by EPA of this CA/FO is subject to 40 C.F.R. 22.45(c)(4) which sets forth requirements under which a person not a party to this proceeding may petition to set aside a consent agreement and final order on the basis that material evidence was not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

36. Each party shall bear its own costs and attorneys fees in connection with this action.

37. This CA/FO shall become effective upon the date that it is filed with the Regional Hearing Clerk.

38. The undersigned representative of Respondent certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Agreement and to execute and legally bind the Party he or she represents to this Agreement.

RESPONDENT

Date: 8/10/2010 
Craig Kendall, President
Hydrocarbon Investments, Inc.

COMPLAINANT

Date: 12/12/10 
James D. Giattina, Director
Water Protection Division

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: Oct. 14, 2010

Susan B. Schub
Susan Schub
Regional Judicial Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served a true and correct copy of the foregoing Consent Agreement and Final Order, in the Matter of Hydrocarbon Investments, Inc.; Docket No. SDWA-04-2011-1001(b), on the parties listed below in the manner indicated:

Carol Chen

Via EPA Internal Mail

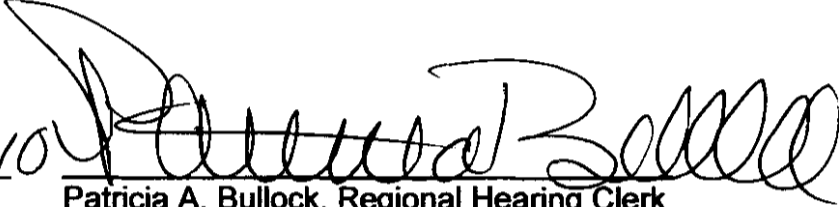
Wilda Cobb

Via EPA Internal Mail

**Craig Kendall, President
Hydrocarbon Investments, Inc.
7235 North Green River Road
Evansville, Indiana 47725**

Via Certified Mail/ Return Receipt
Requested

Date: 10-14-10



Patricia A. Bullock, Regional Hearing Clerk
United States EPA - Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, GA 30303-8960
(404) 562-9511