



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TEXAS 75202-2733

May 29, 2019

CERTIFIED MAIL—RETURN RECEIPT REQUESTED: 70005 1820 0003 7450 1926

Mr. Ryan Summers
Diamond 3S, LLC
20102 West Coyote Trail
Sand Springs, OK 74063

Re: Settlement of Administrative Complaint Docket Number: SDWA-06-2018-1102

<u>Inventory No.</u>	<u>Well No.</u>	<u>Location-Osage County, Oklahoma</u>
OS4348000	Kennedy #5	NE/4 Sec. 01, T 24N, R 07E

Dear Mr. Summers:

On February 29, 2016 the above referenced injection well failed a mechanical integrity test (MIT). A Notice of Violation was mailed to Diamond 3S, LLC on March 3, 2016 communicating this MIT failure and required Diamond 3S, LLC to submit to EPA plans for future use for this well.

On March 18, 2016, the above referenced well was inspected by the Environmental and Natural Resources Department of the Osage Nation and during the inspection the inspector observed a static fluid level above the underground source of drinking water (USDW). This is known as "a high fluid level". A high fluid level in a well without mechanical integrity is maintaining a well in a manner that could allow fluids containing contaminants to move through the well into a USDW. On April 1, 2016, a Notice of Violation was mailed to Diamond 3S, LLC communicating this high fluid level observation and requiring Diamond 3S, LLC to correct it.

On August 25, 2016, a letter was mailed to Diamond 3S, LLC for failing to respond to the EPA's request to correct the high fluid level.

On May 23, 2017 a proposed Administrative Order (AO), Docket Number SDWA-06-2017-1106 was mailed to Diamond 3S, LLC., which referenced the February 29, 2016 MIT failure and the March 18, 2016 high fluid level. EPA found that the Kennedy #5 well was being used in a manner that could allow for fluids to move through the well into a USDW (40 CFR §§ 147.2903(b) and 147.2916). The AO also proposed actions needing to be performed by Diamond 3S, LLC to bring the well into compliance with the Safe Drinking Water Act. No response was received from Diamond 3S, LLC on the proposed AO. The proposed AO became a final AO on September 22, 2017 giving Diamond 3S, LLC 120 days to comply and perform the corrective actions listed in the AO.

On April 18, 2018, the Kennedy # 5 well was inspected again by an EPA inspector. During the inspection, the inspector observed a static fluid level above the base of the USDW, which indicated a high fluid level.

On June 13, 2018, an Administrative Penalty Order (Complaint), Docket Number SDWA-06-2018-1102 was proposed to Diamond 3S, LLC referencing the February 29, 2016 MIT failure and the April 18, 2018 high fluid level. EPA concluded the Kennedy #5 well was being used in a manner that could allow for fluids to move through the well bore into USDWs (40 CFR §§ 147.2903(b) and 147.2916).

To date, EPA has not received any information from Diamond 3S, LLC or observed any actions performed by Diamond 3S, LLC in regards to the compliance with the final AO, Docket Number SDWA-06-2017-1106, or the proposed Complaint, Docket Number SDWA-06-2018-1102.

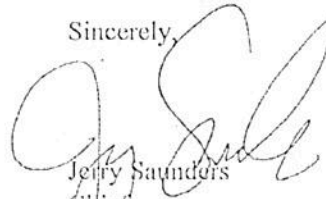
EPA is requesting to reach final settlement of the proposed Complaint with Diamond 3S, LLC within 30 days of the receiving this letter. The current terms of this settlement include:

1. Diamond 3S, LLC either repairing the Kennedy #5 well so it can pass a MIT; or plug and abandon the Kennedy #5 well;
2. And, to pay a fine, as appropriate, in the amount of \$6,000.

If a settlement cannot be reached between EPA and Diamond 3S, LLC a request will be made by EPA to seek a default judgement in favor of the EPA related to the Complaint.

If you have any questions on this matter, please contact Mr. Matthew Rudolph, of my staff, at (214) 665-6434 or Mr. Rusty Herbert, EPA attorney, at (281) 983-2218.

Sincerely,



Jerry Saunders
Chief

Water Enforcement Branch

cc: Ms. Jann Hayman, Director
Osage Nation Environmental and Natural Resources Department
100 W. Main, Suite 304
Pawhuska, Oklahoma 74056

Ms. Robin Phillips, Superintendent
Osage Agency, Bureau of Indian Affairs
P.O. Box 1539
Pawhuska, Oklahoma 74056