

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6

FILED
2013 MAY -8 AM 9:54

IN THE MATTER OF

Chaparral Energy, LLC
Oklahoma City, Oklahoma

Respondent

§ DOCKET NO. SDWA-06-2013-1114
§
§
§ Proceeding to Assess a
§ Civil Penalty under Section 1423(e)
§ of the Safe Drinking Water Act
§
§ ADMINISTRATIVE COMPLAINT

I. STATUTORY AUTHORITY

This Complaint is issued under the authority vested in the Administrator of the United States Environmental Protection Agency (“EPA”) pursuant to Section 1423(c) of the Safe Drinking Water Act (“the Act”), 42 U.S.C. § 300h-2(c). The Administrator of EPA delegated the authority to issue this Complaint to the Regional Administrator of EPA Region 6 (herein “RA”), who further delegated the authority to the Director of the Compliance Assurance and Enforcement Division of EPA Region 6 (“Complainant”). This Complaint is issued in accordance with the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits,” 40 C.F.R. §§ 22.1 through 22.52, including Rules related to administrative proceedings not governed by Section 554 of the Administrative Procedure Act, 40 C.F.R. §§ 22.50 through 22.52.

The EPA has primary enforcement responsibility for underground injection within the meaning of Section 1422(e) of the Act, 42 U.S.C. § 300h-1(e), to ensure that owners or operators of Class II injection wells within Osage County, Oklahoma comply with the requirements of the Act.

Based on the following Findings of Fact and Conclusions of Law (“Findings”), Complainant finds that Chaparral Energy, LLC (“Respondent”) violated the Act and the regulations promulgated under the Act and should be ordered to pay a civil penalty.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Respondent is a domestic limited liability company doing business in the State of Oklahoma, and as such, Respondent is a “person,” as that term is defined at Section 1401(12) of the Act, 42 U.S.C. § 300f(12).

2. Because Respondent owned or operated injection wells, Respondent is subject to underground injection control (“UIC”) program requirements at 40 C.F.R. Part 147, Subpart GGG, which are authorized under Section 1421 of the Act, 42 U.S.C. § 300h.

3. Regulations at 40 C.F.R. § 147.2903(a) require that any underground injection is prohibited except as authorized by rule or authorized by a permit issued under the UIC program. The construction or operation of any well required to have a permit is prohibited until the permit has been issued. The term “permit” is defined at 40 C.F.R. § 147.2902.

WELL AUTHORIZED BY RULE

4. At all relevant times, Respondent owned or operated an “injection well” which is an “existing Class II well” as those terms are defined at 40 C.F.R. § 147.2902. The injection well is identified as well number J-W9 (“Well No. J-W9”). Well No. J-W9 is also identified by EPA inventory number OS0731, and is located in the Southwest Quarter of Section 3, Township 25 North, Range 6 East, Burbank Field, Osage County, Oklahoma.

5. Regulations at 40 C.F.R. § 147.2909 provide that existing injection wells (wells authorized by the Bureau of Indian Affairs and constructed or completed on or before the effective date of the Osage UIC program) are authorized by rule. Owners or operators of wells authorized by rule must comply with provisions of 40 C.F.R. §§ 147.2903, 147.2905, 147.2907, and 147.2910 through 147.2915.

6. Well No. J-W9 is authorized by rule in accordance with 40 C.F.R. § 147.2909.

Operation of Well No. J-W9 Without Mechanical Integrity

7. Regulations at 40 C.F.R. § 147.2912(a) require each well authorized by rule to have mechanical integrity. A well has mechanical integrity if there are no significant leaks in the casing, tubing, or packer and there is no significant fluid movement into an “Underground Source of Drinking Water” (“USDW”) through vertical channels adjacent to the well bore. The term USDW is defined at 40 C.F.R. §147.2902.

8. On October 24, 2012, Respondent tested mechanical integrity of the casing, tubing, and packer of Well No. J-W9 according to procedures at 40 C.F.R. § 147.2912(a)(1)(i). The test indicated that Well No. J-W9 did not have mechanical integrity of the casing, tubing, or packer.

9. On January 23, 2013, a representative of the Osage Nation observed that Respondent was operating Well No. J-W9 for underground injection of fluids.

10. Therefore, Respondent violated regulations at 40 C.F.R. §§ 147.2909 and 147.2912(a)(1) by operating Well No. J-W9 without mechanical integrity of the casing, tubing, or packer.

WELLS AUTHORIZED BY PERMIT

11. At all relevant times, Respondent owned or operated “injection wells” which are “new Class II wells” as those terms are defined at 40 C.F.R. § 147.2902.

12. Regulations at 40 C.F.R. § 147.2916 require the owner or operator of a new Class II injection well, or any other Class II well required to have a permit in the Osage Mineral Reserve, to comply with the requirements of 40 C.F.R. §§ 147.2903, 147.2907, and 147.2918 through 147.2928.

13. The new Class II wells are identified as well number 6 (“Well No. 6”) and well number 17-W41 (“Well No. 17-W41”). Well No. 6 is also identified by EPA inventory number OS5152, and is located in the Northwest Quarter of Section 8, Township 25 North, Range 6 East, Burbank Field, Osage County, Oklahoma. Well No. 17-W41 is also identified by EPA inventory number OS6273022, and is located in the Southwest Quarter of Section 12, Township 27 North, Range 5 East, Burbank Field, Osage County, Oklahoma.

14. Regulations at 40 C.F.R. §§ 147.2916 and 147.2925(a) require the permittee to comply with all permit conditions, except as authorized by an emergency permit (described at 40 C.F.R. § 147.2906). Respondent did not have an emergency permit for violations described in this Complaint.

Operation of Well No. 6 Without Mechanical Integrity and Authorization to Inject

15. On November 25, 1986, the EPA issued UIC permit number 06S1261P5152 (“permit”) to Calumet Oil Company to convert Well No. 6 from production to injection use. The permit was transferred to Respondent on September 4, 2008. The permit requires Respondent to maintain mechanical integrity of Well No. 6 and to operate Well No. 6 only after receiving written authorization to inject from the EPA.

16. On November 2, 2012, the EPA terminated Respondent’s written “Authorization to Inject” for Well No. 6.

17. On December 13, 2012, a representative of the Osage Nation observed that Well No. 6 was being used for underground injection of fluids.

18. Therefore, Respondent violated regulations at 40 C.F.R. §§ 147.2916 and 147.2925(a) and the permit by using Well No. 6 for underground injection of fluids without written “Authorization to Inject” from the EPA.

19. Regulations at 40 C.F.R. § 147.2920(b) and Condition II.E.1 of the permit require that each well authorized by permit have mechanical integrity. A well has mechanical integrity if there are no significant leaks in the casing, tubing, or packer and there is no significant fluid movement into a USDW through vertical channels adjacent to the well bore.

20. On October 24, 2012, Respondent tested mechanical integrity of the casing, tubing, and packer of Well No. 6 according to procedures at 40 C.F.R. § 147.2920(b)(1)(i). The test indicated that Well No. 6 did not have mechanical integrity of the casing, tubing, or packer.

21. On December 13, 2012, a representative of the Osage Nation observed that Well No. 6 was being used for underground injection of fluids.

22. Therefore, Respondent violated regulations at 40 C.F.R. §§ 147.2916, 147.2920(b) and 147.2925(a), and Condition II.E.1 of the permit by operating Well No. 6 without mechanical integrity of the casing, tubing, or packer.

Operation of Well No. 17-W41 Without Authorization to Inject

23. On April 3, 2012, the EPA issued permit number 06S1264P6273 (“area permit”) to Respondent for conversion or construction of wells within the included area to injection wells. The area permit requires Respondent to receive written authorization to inject from the EPA before operating any well within the permit area for fluid injection.

24. Well No. 17-W41 is within the area included in the area permit.

25. On April 3, 2013, a representative of the Osage Nation observed that Well No. 17-W41 was being used for underground injection of fluids. On that date, Respondent did not have authorization to inject for Well No. 17-W41 from the EPA.

26. Therefore, Respondent violated regulations at 40 C.F.R. §§ 147.2916 and 147.2925(a) and the area permit by using Well No. 17-W41 for underground injection of fluids without written "Authorization to Inject" from the EPA.

27. EPA has notified the public of the filing of this Complaint and has afforded the public thirty (30) days in which to comment on the Complaint and on the proposed penalty as required by Section 1423(c)(3)(B) of the Act, 42 U.S.C. § 300h-2(c)(3)(B). At the expiration of the notice period, EPA will consider any comments filed by the public.

III. PROPOSED PENALTY

28. Based on the foregoing findings, and pursuant to the authority of Section 1423(c) of the Act, 42 U.S.C. § 300h-2(c), EPA Region 6 hereby proposes to assess against Respondent a penalty of thirty thousand dollars (\$30,000.00).

29. The proposed penalty amount has been determined based on the statutory factors specified in Section 1423(c)(4)(B) of the Act, 42 U.S.C. § 300h-2(c)(4)(B), which include such factors as the seriousness of the violation; the economic benefit resulting from the violation; any history of such violations; any good-faith efforts to comply with the applicable requirements; the economic impact of the penalty on the violator; and such other matters as justice may require.

IV. FAILURE TO FILE AN ANSWER

30. If Respondent wishes to deny or explain any material allegation listed in the above Findings or to contest the amount of the penalty proposed, Respondent must file an Answer to this Complaint within thirty (30) days after service of this Complaint whether or not Respondent requests a hearing as discussed below.

31. The requirements for such an Answer are set forth at 40 C.F.R. § 22.15 (copy enclosed). Failure to file an Answer to this Complaint within thirty (30) days of service of the Complaint shall constitute an admission of all facts alleged in the Complaint and a waiver of the right to a hearing. Failure to deny or contest any individual material allegation contained in the Complaint will constitute an admission as to that finding or conclusion under 40 C.F.R. § 22.15(d).

32. If Respondent does not file an Answer to this Complaint within thirty (30) days after service of this Complaint, a Default Order may be issued against Respondent pursuant to 40 C.F.R. § 22.17. A Default Order, if issued, would constitute a finding of liability, and could make the full amount of the penalty proposed in this Complaint due and payable by Respondent without further proceedings thirty (30) days after a final Default Order is issued.

33. Respondent must send its Answer to this Complaint, including any request for hearing, and all other pleadings to:

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

34. The Answer must be signed by Respondent, Respondent's counsel, or other representative on behalf of Respondent and must contain all information required by 40 C.F.R. §§ 22.05 and 22.15, including the name, address, and telephone number of Respondent and Respondent's counsel. All other pleadings must be similarly signed and filed.

35. Complainant has specified that the administrative procedures specified in 40 C.F.R. Part 22, Subpart I, shall apply to this matter, and the administrative proceedings shall not be governed by Section 554 of the Administrative Practice Act.

V. NOTICE OF OPPORTUNITY TO REQUEST A HEARING

36. Respondent may request a hearing to contest the issuance of this Complaint or to contest the appropriateness of the amount of the penalty, pursuant to Section 1423(c)(3)(A) of the Act, 42 U.S.C. § 300h-2(c)(3)(A). The procedures for hearings are set out at 40 C.F.R. Part 22 (copy enclosed), including 40 C.F.R. §§ 22.50 through 22.52.

37. Any request for hearing should be included in an Answer to this Complaint; however, as discussed above, Respondent must file an Answer meeting the requirements of 40 C.F.R. § 22.15 in order to preserve the right to a hearing or to pursue other relief.

38. Should a hearing be requested, members of the public who commented on the issuance of this Complaint during the public comment period would have a right to be heard and to present evidence at a hearing under Section 1423(c)(3)(C) of the Act, 42 U.S.C. § 300h-2(c)(3)(C).

VI. SETTLEMENT

39. EPA encourages all parties against whom civil penalties are proposed 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 or the amount of the proposed penalty. Respondent may wish to appear at any informal conference or formal hearing personally, by counsel or other representative, or both. To request an informal conference on the matters described in this Complaint, please contact Mr. Ronald Van Wyk, of my staff, at 214-665-6459.


40. If this action is settled without a formal hearing and issuance of an opinion by the Presiding Officer pursuant to 40 C.F.R. § 22.27, this action will be concluded by issuance of a Consent Agreement and Final Order ("CAFO") pursuant to 40 C.F.R. § 22.18(b). The issuance

of a CAFO would waive the Respondent's right to a hearing on any matter stipulated to therein or alleged in the Complaint. Any person who commented regarding this Complaint would be notified and given an additional thirty (30) days to petition EPA to set aside any such CAFO and to hold a hearing on the issues raised in the Complaint. Such a petition would be granted and a hearing held only if the evidence presented by the petitioner's comment is material and was not considered by EPA in the issuance of the CAFO.

41. Neither assessment nor payment of a penalty in resolution of this action will affect Respondent's continuing obligation to comply with all requirements of the Act, the applicable regulations and permits, and any separate Compliance Order issued under Section 1423(e) of the Act, 42 U.S.C. § 300h-2(e), including one relating to the violations alleged herein.

5.7.13

Date



John Blevins
Director
Compliance Assurance and
Enforcement Division

CERTIFICATE OF SERVICE

I certify that the foregoing Complaint 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
return receipt requested: Mr. Erwin Pinot
Chaparral Energy, LLC
701 Cedar Lake Boulevard
Oklahoma City, OK 73114

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

Osage Nation Environmental and
Natural Resources Department
P.O. Box 1495
Pawhuska, OK 74056

Copy hand-delivered: Efren Ordoñez, Office of Regional Counsel
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

Dated: _____

MAY 08 2013