

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6

FILED

2014 JUL 10 PM 2:02

IN THE MATTER OF

James R. Miller d/b/a Eagle One Oil
Shidler, Oklahoma

Respondent

Proceedings under Section
1423(c) of the Safe Drinking
Water Act, 42 U.S.C. § 300h-2(c)

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Docket No. SDWA-06-2014-01407

CONSENT AGREEMENT
AND
FINAL ORDER

FILED
HEARING CLERK
EPA REGION VI

I. STATUTORY AUTHORITY

This Consent Agreement and Final Order (“CAFO”) is issued under the authority vested in the Administrator of the United States Environmental Protection Agency (“EPA”) pursuant to Section 1423, of the Safe Drinking Water Act (“the Act”), 42 U.S.C. § 300h-2. This CAFO is issued in accordance with 40 C.F.R. § 22.18, as set forth in 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.

II. CONSENT AGREEMENT

1. EPA and James R. Miller, doing business as Eagle One Oil (“Respondent”) (collectively, “Parties”), agree that settlement of this matter without litigation will save time and resources, that it is in the public interest, and that the entry of this CAFO is the most appropriate means of resolving this matter. Compliance with all terms of this CAFO resolves only those violations alleged by EPA in the administrative complaint (“Complaint”) issued on December 18, 2013.

2. Respondent admits the jurisdictional allegations herein; however, Respondent neither admits nor denies the specific factual allegations and conclusions of law contained in the Complaint or this CAFO. This CAFO states a claim upon which relief may be granted.

3. Respondent expressly waives any right to a hearing regarding penalty assessment or any other issue of law or fact relevant to this proceeding. Respondent further waives all defenses which have been or could have been raised to the claims set out in the previously issued Complaint and waives the right to judicial review of this administrative penalty assessment.

4. Before the taking of any testimony, and without adjudication of any issue of law or fact, the Parties agree to the terms of this CAFO and to its issuance. Respondent consents to the assessment and payment of a civil penalty in the amount and by the method stated below.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

5. At all times relevant to the violations alleged in the Complaint and herein (“all relevant times”), Respondent was doing business in the State of Oklahoma, and as such is a “person,” within the meaning of Section 1401(12) of the Act, 42 U.S.C. § 300f(12).

6. 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 D1 (“Well No. D1”). Well No. D1 is also identified by EPA inventory number OS0801, and is located in the Northeast Quarter of Section 20, Township 29 North, Range 6 East, Frankfort Field, Osage County, Oklahoma.

7. 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. The injection wells are located in Osage County, Oklahoma. Respondent’s new Class II wells included in this Administrative Order (collectively, “new wells”) are described below:

Well Inventory		Location				Field	Hereinafter Referred to as
No.	No.	Quarter	Section	Township	Range		
7	OS5549	Northwest	21	28 North	7 East	Foraker	“Well No. 7”
1-B	OS5109	Southeast	17	29 North	6 East	Frankfort	“Well No. 1-B”
6	OS5247	Northwest	21	29 North	6 East	Frankfort	“Well No. 6”

8. Regulations at 40 C.F.R. §§ 147.2916 and 147.2925(a) and condition II.B of the permits 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 the Complaint.

9. Regulations at 40 C.F.R. §§ 147.2916, 147.2922(b) and each UIC permit require the owner or operator of a well to monitor injection rate and pressure monthly and to report monitoring results to the EPA annually. An approved plan for future use of Well No. 6 requires Respondent to monitor the static fluid level in Well No. 6 and to report monitoring results to the EPA annually.

10. Respondent did not submit annual operations reports for the new wells for the period April 2012 through March 2013.

11. Therefore, Respondent violated regulations at 40 C.F.R. §§ 147.2916, 147.2922(b), and 147.2925(a) by failing to submit annual operations reports for the new wells for the period April 2012 through March 2013.

Wells Authorized by Rule

12. 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.

13. Well No. D1 is authorized by rule in accordance with 40 C.F.R. § 147.2909.

14. Regulations at 40 C.F.R. §§ 147.2909 and 147.2913(b) require the operator of a well authorized by rule to monitor the injection pressure and rate at least monthly with results reported to EPA annually. Approved plans for future use for Well No. D1 require Respondent to monitor the static fluid level in Well No. D1 and to report monitoring results to EPA annually.

15. Respondent did not submit an annual operations report for Well No. D1 for the period April 2012 through March 2013.

16. On December 18, 2013, EPA issued a Complaint against Respondent pursuant to Section 1423(c) of the Act, 42 U.S.C. § 300h-2(c), setting forth findings of fact and conclusions of law hereby incorporated by reference, and proposing to assess a civil penalty against Respondent. The Complaint provided notice of Respondent's opportunity to request a hearing on the proposed administrative penalty assessment.

17. The Complaint alleges that Respondent violated regulations at 40 C.F.R. §§ 147.2909 and 147.2913(b) by failing to submit an annual operations report for Well No. D1 for the period April 2012 through March 2013.

18. EPA notified the public of the complaint and afforded the public thirty (30) days to comment on the Complaint and proposed penalty. At the expiration of the notice period, EPA received no comments from the public.

IV. PENALTY ORDER

19. Based on the foregoing stipulations, EPA, Region 6, having taken into account the factors used for assessment of civil penalties found in Section 1423(c) of the Act, 42 U.S.C. § 300h-2(c), hereby orders, and Respondent agrees, that Respondent shall pay to the United States a civil penalty in the amount of nine-hundred dollars (\$900.00) to settle the violations alleged in the Complaint. Payment shall be made within thirty (30) days of the effective date of this CAFO by one of the following methods:

- a. By mailing a bank check, cashier's check, or certified check payable to "Treasurer, United States," to the following address:

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

- b. By wire transfer to:

Federal Reserve Bank of New York
ABA: 021030004
Account Number: 68010727
SWIFT address: FRNYUS33
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency"

c. By overnight mail (Express, FedEx, DHL, etc.) to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2GL
St. Louis, MO 63101
Phone: 314-418-1028

d. By credit card payments to <https://www.pay.gov/paygov/>

(Insert SFO 1.1 in the search field)

“In the Matter of Mr. James R. Miller, d/b/a Eagle One Oil, Docket No. SDWA-06-2014-1107”
should be clearly marked on the check, or other remittance, to ensure proper credit is given when
payment is received.

20. Respondent shall send simultaneous notices of payment, including copies of the
check or instrument of payment, to each of the following:

- a. Regional Hearing Clerk (6RC-D)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733
- b. Chief, Water Legal Branch (6RC-EW)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

21. Respondent agrees not to claim or attempt to claim a federal income tax deduction or
credit covering all or any part of the civil penalty paid to the United States Treasurer.

22. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, unless otherwise prohibited by
law, EPA will assess interest and late payment penalties on outstanding debts owed to the
United States that are not paid by the due date and a charge to cover the costs of processing and
handling a delinquent claim. Interest on the civil penalty assessed in this CAFO will begin to

accrue thirty (30) days after the effective date of the CAFO and will be recovered by EPA on any amount of the civil penalty that is not paid by the respective due date. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a). Moreover, the costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. See 40 C.F.R. § 13.11(b).

23. If all or part of a payment is overdue, EPA will impose a late-payment handling charge of fifteen dollars (\$15.00), with an additional delinquent notice charge of fifteen dollars (\$15.00) for each subsequent thirty (30)-day period. EPA will also apply a six percent (6%) per annum penalty on any principal amount not paid within ninety (90) days of the due date. Penalties under other Federal statutes for failure to make timely payment may also apply.

24. Failure by Respondent to pay the penalty assessed according to the terms of this CAFO in full, by its due date, may subject Respondent to a civil action to collect the assessed penalty and any accrued interest or penalties.

25. In the event a collection action is necessary, Respondent shall pay, in addition to any applicable penalty, fees, and interest described herein, all reasonable costs and expenses, including legal expenses and court costs, incurred by the United States for enforcement and collection proceedings for nonpayment of the amounts agreed hereunder. In any such collection action, the validity, amount, and appropriateness of the penalty, and the terms of this CAFO, shall not be subject to review.

V. GENERAL PROVISIONS

26. To execute this Agreement, Respondent shall sign and forward a copy of this CAFO, with original signature, to:

Mr. Rusty Herbert
Office of Regional Counsel (6RC-EW)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

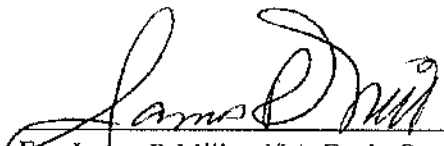
27. Issuance of this CAFO does not relieve Respondent from responsibility to comply with all requirements of the Act and the requirements of any permits issued thereunder, nor does it constitute a waiver by EPA of its right to enforce compliance with the requirements of any applicable permits or other requirements of the Act by actions under the authority of the Act, except as to any requirement to pay any penalty or perform any corrective action not described herein for the violations alleged in the Complaint.

28. The provisions of this CAFO shall be binding upon Respondent, its officers, directors, managers, agents, representatives, employees, successors and assignees.

Each party agrees to bear its own costs and attorneys' fees in this matter, except to the extent that Respondent may be responsible for reasonable costs and expenses of enforcement and collection proceedings for failure to comply with the terms of this CAFO.

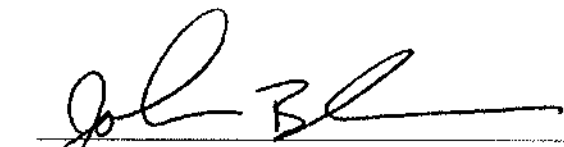
29. Each undersigned representative of the Parties to this agreement certifies that he or she is fully authorized by the party represented to enter into the terms of this agreement and legally bind that party.

In recognition and acceptance of the foregoing:



For James R Miller d/b/a Eagle One Oil
(Return signed original to EPA)

4-27-14
Date



John Blevins
Director
Compliance Assurance and
Enforcement Division

5-28-14
Date

FINAL ORDER

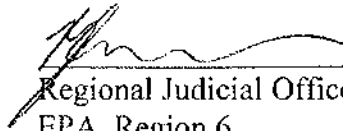
Pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the foregoing Consent Agreement is hereby ratified.

This CAFO shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

This CAFO shall resolve only those causes of action alleged in the complaint. Nothing in this CAFO shall be construed to waive, extinguish, or otherwise affect Respondent's (or its officers', agents', servants', employees', successors', or assigns') obligation to comply with all applicable Federal, State, and local statutes and regulations, including the regulations subject to this action.

The Respondent is ordered to comply with the terms of settlement and the civil penalty payment instructions as set forth in the CAFO. This CAFO shall become effective thirty (30) days after the issuance date specified below pursuant to Section 1423(c) of the Safe Drinking Water Act.

Issuance Date: 7/10/14



Regional Judicial Officer
EPA, Region 6

CERTIFICATE OF SERVICE

I hereby certify that on the 10th day of July, 2014, the original of the foregoing CAFO was hand-delivered to the Regional Hearing Clerk (6RC-D), EPA Region 6, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733, and that true and correct copies were placed in the United States mail, first class, postage prepaid, addressed to each of the following:

Copy by certified mail return receipt requested: Mr. James R. Miller d/b/a Eagle One Oil
P.O. Box 67
Shidler, OK 74652

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

Osage Nation ENR Department
100 West Main St., Suite 304
Pawhuska, OK 74056

Copy hand-delivered: Mr. Rusty Herbert
Office of Regional Counsel
U.S. EPA, Region 6
10625 Fallstone Road
Houston, TX 77099

Date: 7/10/14

