



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

MAY 23 2017

CERTIFIED MAIL-RETURN RECEIPT REQUESTED: 7014 0150 0000 2454 2636

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

Re: Notice of Proposed Administrative Order and Opportunity to Request a Hearing
Docket Number: SDWA-06-2017-1106

Dear Mr. Summers:

Enclosed is a Proposed Administrative Order (Order) issued to Diamond 3S, LLC, for violation of the Safe Drinking Water Act (SDWA). The violation was identified during our review of files that we maintain on the referenced well. The violation was for maintaining Well No. 5 in a manner which could allow contaminants to flow through the well bore into underground sources of drinking water. The enclosed Order does not assess a monetary penalty; however, it does require compliance with SDWA requirements. You would be required to complete appropriate corrective actions on the well.

You have the right to request a hearing regarding the violations alleged in the Order. Please refer to the enclosed Part 22, "Consolidated Rules of Practice," for information regarding hearing and settlement procedures. Note that should you fail to request a hearing within thirty (30) days of your receipt of this Order, you will waive your right to such a hearing, and may be subject to the compliance terms without further proceedings. Whether or not you request a hearing, we invite you to confer with us informally. If you choose not to request a hearing, we will review any comments on the proposed Order received from you and the public and determine whether the Order will become final. In the event you fail to request a hearing within thirty (30) days of your receipt of this Order, and no public comments are received, the Order will become final. Should this occur, the Environmental Protection Agency (EPA) will send you a letter memorializing the finalization of the Order.

Also enclosed is an "Information Sheet" relating to the Small Business Regulatory Enforcement Fairness Act and a "Notice of Registrant's Duty to Disclose" relating to the disclosure of environmental legal proceedings to the Securities and Exchange Commission. EPA is committed to ensuring compliance with the requirements of the Underground Injection Control program and my staff will assist you in any way possible.

Re: Diamond 3S, LLC
SDWA-06-2017-1106

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If you have any questions, or wish to discuss the possibility of a settlement of this matter, please contact Mr. Matthew Rudolph, of my staff, at (214) 665-6434.

Sincerely,



Cheryl T. Seager
Director
Compliance Assurance and
Enforcement Division

Enclosures

cc: BIA, Minerals Branch

Osage Nation ENR Department

U. S. ENVIRONMENTAL PROTECTION AGENCY-REGION 6
PROPOSED ADMINISTRATIVE ORDER
In the Matter of Diamond 3S, LLC, Respondent
Docket No. SDWA-06-2017-1106

FILED
2017 MAY 23 PM 3:14
REGIONAL HEARING CLERK
EPA REGION VI

STATUTORY AUTHORITY

The following findings are made, and Order issued, under the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 1423(c) of the Safe Drinking Water Act ("the Act"), 42 U.S.C. §§ 300h-2(c). The authority to issue this Order has been delegated by the Administrator to the Regional Administrator of EPA Region 6 who delegated such authority to the Director of the Compliance Assurance and Enforcement Division. EPA has primary enforcement responsibility for underground injection within the meaning of Section 1422(c) of the Act, 42 U.S.C. § 300h-1(c), to ensure that owners or operators of Class II injection wells within Osage County, Oklahoma, comply with the requirements of the Act.

FINDINGS

1. Diamond 3S, LLC ("Respondent") is a company doing business in the State of Oklahoma and, therefore, is a "person," within the meaning of Section 1401(12) of the Act, 42 U.S.C. § 300f(12).

2. At all times relevant to the violation alleged herein, Respondent operated an injection well located in the Northeast Quarter of Section 1, Township 24 North, Range 7 East, Osage County, Oklahoma, designated as Well Number Kennedy 5 and EPA Inventory Number OS4348 ("the well").

3. Respondent is subject to underground injection control ("UIC") program requirements set forth at 40 C.F.R. Part 147, Subpart GGG, which are authorized under Section 1421 of the Act, 42 U.S.C. § 300h.

4. EPA regulations require the operator of an "injection well," as defined at 40 C.F.R. § 147.2902, maintain its injection wells to prevent fluids from moving through the well bore into underground sources of drinking water ("USDWs"), pursuant to 40 C.F.R. §§ 147.2003(b) and 147.2916.

5. Inspection by an Osage Nation representative on March 18, 2016, showed the static fluid level in the well's tubing to be at the surface. This is above the base of USDWs in the well. A static fluid level above the base of USDWs indicates that fluids could be moving through the well into USDWs.

6. Respondent violated the regulations cited above by maintaining the well in a manner that could allow fluids containing contaminants to move through the well bore into the USDWs.

7. Therefore, Respondent violated the regulations set forth at 40 C.F.R. §§ 147.2903(b) and 147.2916.

SECTION 1423(c) COMPLIANCE ORDER

8. Based on the foregoing findings and under the authority of Section 1423(c) of the Act, it is hereby ordered that Respondent shall, within ninety (90) days from the effective date of this Order, complete appropriate corrective actions to prevent contaminated fluids from moving through the well bore into the USDWs. Such corrective actions may include, but are not limited to: a) reducing the static fluid level in the well to at least 405 feet subsurface; b) demonstrating that the well has mechanical integrity; c) plugging the well, or d) converting the well to production use.

9. Based on these findings and pursuant to the authority of the Act, Respondent is required to submit a report to the following address showing corrective actions completed to comply with this Order. Such report shall be submitted within ninety (90) days of completion of corrective actions to the following address:

Matthew Rudolph (6EN-WR)
U.S. Environmental Protection Agency
1445 Ross Avenue, Suite 1200
Dallas, TX 74202

NOTICE OF OPPORTUNITY TO REQUEST A HEARING

10. Respondent may request a hearing to contest the issuance of this Section 1423(c) Compliance Order, pursuant to Section 1423(c)(3)(A) of the Act, 42 U.S.C. § 300h-2(c)(3)(A). Submit the hearing request to the Regional Hearing Clerk (6RC-D); U.S. EPA, Region 6; 1445 Ross Avenue, Suite 1200; Dallas, Texas 75202 within thirty (30) days of the date of receipt of this Proposed Administrative Order.

11. A request for hearing should be included in any response to this Order. Respondent must file a response in order to preserve the right to a hearing or to pursue other relief.

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

GENERAL PROVISIONS

13. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. Parts 144, 146, and 147, Subpart III, which remain in full force and effect.

14. Issuance of this Order is not an election by EPA to forego any civil or criminal action otherwise authorized under the Act.

15. Violation of the terms of this Order after its effective date or date of final judgment as described in Section 1423(c)(6) of the Act, 42 U.S.C. § 300h-2(c)(6), may subject Respondent to further enforcement action, including a civil action for enforcement of this Order under Section 1423(b) of the Act, 42 U.S.C. § 300h-2(b), and civil and criminal penalties for violations of the compliance terms of this Order under Section 1423(b)(1) and (2) of the Act, 42 U.S.C. § 300h-2(b)(1) and (2).

SETTLEMENT

16. EPA encourages all parties against whom an administrative order is 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. 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 Order, please contact Mr. Matthew Rudolph, of my staff, at (214) 665-6434.

17. If this action is settled without a formal hearing, it will be concluded by issuance of a Final Order.

EFFECTIVE DATE

18. This Order becomes effective thirty (30) days after issuance unless an appeal is taken pursuant to Section 1423(c)(6) of the Act, 42 U.S.C. § 300h-2(c)(6).

5/23/17
Date



Cheryl T. Seager
Director
Compliance Assurance and
Enforcement Division

CERTIFICATE OF SERVICE

I certify that the foregoing Proposed Administrative Order 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 Mr. Joel Summers
return receipt requested: Diamond 3S, LLC
 20102 West Coyote Trail
 Sand Springs, OK 74063

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

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

Dated: 23 MAY 2017


