

U.S. ENVIRONMENTAL PROTECTION AGENCY - REGION 6
PROPOSED ADMINISTRATIVE ORDER AND INFORMATION DEMAND
In the Matter of Sullivan and Company, LLC, Respondent
Docket No. SDWA-06-2013-1107

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 Sections 1423(c) and 1445 of the Safe Drinking Water Act ("the Act"), 42 U.S.C. §§ 300h-2(c) and 300j-4. The authority to issue this Order has been delegated by the Administrator to the Regional Administrator of EPA Region 6 who further delegated such authority to the Director of the Compliance Assurance and Enforcement Division. The 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. Respondent, Sullivan and Company, LLC, 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 Southwest Quarter of Section 2, Township 24 North, Range 6 East, Grayhorse District, Osage County, Oklahoma, designated as Well Number SWD-1 and EPA Inventory Number OS4523 ("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 to maintain the well in a manner so contaminants could not flow through the well into underground sources of drinking water ("USDWs"), as defined at 40 C.F.R. § 147.2902, pursuant to 40 C.F.R. §§ 147.2903(b) and 147.2909.

5. Inspections by a representative of the Osage Nation between May 11, 2011, and June 22, 2012, showed the well to have a static fluid level above the base of USDWs. A static fluid level above the base of USDWs indicates that fluids could be moving through the well bore into USDWs.

6. Respondent violated the regulations cited above by maintaining the well in a manner which could allow contaminants to flow through the well bore into USDWs.

7. Therefore, Respondent violated the regulations set forth at 40 C.F.R. §§ 147.2903(b) and 147.2909.

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 within thirty (30) days from the effective date of the Order, Respondent shall complete appropriate corrective actions to prevent fluids from moving through the well into USDWs. Such corrective actions may be to plug the well, demonstrate that the well has mechanical integrity, reduce the static fluid level in the well to at least 618 feet subsurface, or any other actions to prevent contaminants from moving through the well into USDWs.

SECTION 1445 INFORMATION DEMAND

9. Based on these findings and pursuant to the authority of Section 1445 of the Act, Respondent is required to submit a report of work completed to comply with this Order to the following address within sixty (60) days after the effective date of the Order:

Water Resources Section (6EN-WR)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202

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. Respondent may seek federal judicial review of the Order pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706. Section 706, which is set forth <http://uscode.house.gov/download/pls/05C7.txt>, states the scope of such review.

14. This Section 1423(c) Compliance Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. Part 147, Subpart GGG, which remain in full force and effect.

15. Issuance of this Section 1423(c) Compliance Order and the Section 1445 Information Demand is not an election by EPA to forego any civil or criminal action otherwise authorized under the Act.

16. Violation of the terms of this Section 1423(c) Compliance 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

17. 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. Ronald Van Wyk, of my staff, at (214) 665-6459.

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

EFFECTIVE DATE

19. 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).

11.6.12

Date



John Blevins
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

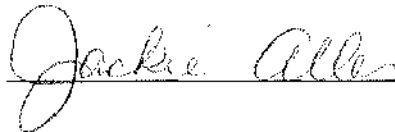
Copy by certified mail Mr. Edward J. Chesny, Jr.
return receipt requested: Sullivan and Company, LLC
 1437 South Boulder, Suite 1200
 Tulsa, OK 74119

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

Dated: _____

NOV 08 2012

 Jackie Allen