

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

<p>In the Matter Of:</p> <p>Christian Oil, Co. of Allegan, Michigan</p> <p>Respondent.</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>Docket No. SDWA-05-2021-0005</p> <p>Proceeding under Section 1423(c) of the Safe Drinking Water Act, 42 U.S.C. § 300h-2(c)</p>
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Administrative Order on Consent

I. STATUTORY AUTHORITY

1. This is an administrative action issued pursuant to Section 1423(c)(2) of the Safe Drinking Water Act (SDWA), 42 U.S.C. § 300h-2(c)(2).

2. The authority to issue an order pursuant to Section 1423(c)(2) of SDWA has been properly delegated to the Administrator of the U.S. Environmental Protection Agency (EPA). The Administrator has delegated the authority to issue this Administrative Order on Consent (AOC) to the Regional Administrator of EPA Region 5, who redelegate the authority to the Director of the Enforcement and Compliance Assurance Division (Director).

II. STATUTORY AND REGULATORY BACKGROUND

3. Part C of SDWA, 42 U.S.C. §§ 300h- 300h-8, sets forth the Underground Injection Control (UIC) program. Pursuant to the authority set forth in Sections 1421, 1422, 1445, and 1450 of SDWA, 42 U.S.C. §§ 300h, 300h-1, 300j-4, and 300j-9, EPA has promulgated regulations which delineate the requirements for the UIC program established under Part C of SDWA. These UIC regulations are set forth in Title 40 of the Code of Federal Regulations (40 C.F.R.) Part 144 through 148.

4. Section 1421(d)(1) of SDWA, 42 U.S.C. § 300h(d)(1), defines “underground injection” as the subsurface emplacement of fluids by well injection and excludes the underground injection of natural gas for purposes of storage and the underground injection of fluids or propping agents (other than diesel fuels) pursuant to hydraulic fracturing operations related to oil, gas, or geothermal production activities.

5. Sections 1421 and 1422 of SDWA, 42 U.S.C. §§ 300h and 300h-1, require that the Administrator of EPA promulgate regulations, which shall include permitting requirements as well as inspection, monitoring, recordkeeping and reporting requirements, for state underground injection control (UIC) programs to prevent underground injection which endangers drinking water sources.

6. Pursuant to Sections 1421 and 1422 of SDWA, 42 U.S.C. §§ 300h and 300h-1, respectively, EPA has promulgated UIC regulations at 40 C.F.R. Parts 124 and 144 through 148.

7. Section 1422(c) of SDWA, 42 U.S.C. § 300h-1(c), provides that the Administrator for EPA shall prescribe UIC programs applicable to those states that have not obtained primary enforcement responsibility of their UIC programs (a concept called “primacy”) or do not have primacy for all types of wells.

8. Pursuant to Section 1422 of SDWA, 42 U.S.C § 300h-1, and EPA’s regulations at 40 C.F.R § 147.1151, EPA has primary enforcement responsibility of the UIC program in the State of Michigan to ensure that owners or operators of the injection wells within Michigan comply with the requirements of SDWA effective June 25, 1984.

9. 40 C.F.R. § 144.1(g) provides that the UIC permit program regulates underground injection by six classes of wells and all owners or operators of these injection wells must be authorized either by permit or rule. Class II wells inject fluids which are brought to the

surface in connection with natural gas storage operations, or conventional oil or natural gas production and may be commingled with waste waters from gas plants which are an integral part of production operations, unless those waters are classified as a hazardous waste at the time of injection; for enhanced recovery of oil or natural gas; and for storage of hydrocarbons which are liquid at standard temperature and pressure. 40 C.F.R. § 144.6(b)(1).

10. 40 C.F.R. § 144.11 further prohibits any underground injection, except into a well authorized by rule or by permit issued under the UIC program.

11. 40 C.F.R. § 144.51(a) provides that a UIC permittee must comply with all conditions of its permit. Any permit noncompliance constitutes a violation of SDWA and is grounds for further enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application; except that the permittee need not comply with the provisions of this permit to the extent and for the duration such noncompliance is authorized in an emergency permit under 40 C.F.R. § 144.34.

III. DEFINITIONS

12. 40 C.F.R. § 144.3 defines “well” as a bored, drilled, or driven shaft whose depth is greater than the largest surface dimension; or, a dug hole whose depth is greater than the largest surface dimension; or, an improved sinkhole; or, a subsurface fluid distribution system.

13. 40 C.F.R. § 144.3 defines “permit” as an authorization, license, or equivalent control document issued by EPA or an approved State to implement the requirements of 40 C.F.R. Parts 144, 145, 146, and 124.

14. 40 C.F.R. § 144.3 defines “well injection” as the subsurface emplacement of fluids through a well.

15. 40 C.F.R. § 144.3 defines “fluid” as any material or substance which flows or moves whether in a semisolid, liquid, sludge, gas, or any other form or state.

16. 40 C.F.R. § 144.3 defines “injection well” as a “well” into which “fluids” are being injected.

17. 40 C.F.R. § 144.3 defines “underground injection” as a “well injection.”

18. Section 1401(12) of SDWA, 42 U.S.C. § 300f(12), defines a "person" as an individual, corporation, company, association, partnership, State, municipality, or Federal agency (including officers, employees and agents of same).

19. 40 C.F.R. § 144.3 defines a "person" as an individual, association, partnership, corporation, municipality, State, Federal, or Tribal agency, or an agency or employee.

20. Section 1423(a)(2) of SDWA, 42 U.S.C. § 300h-2(a)(2), provides that any person found to be in violation of any requirement of an applicable UIC program in a state that does not have primacy may be subject to an order assessing a penalty, requiring compliance with regulations or other requirements, or both pursuant to Section 1423(c)(2) of SDWA, 42 U.S.C. § 300h-2(c)(2) or may be subject to a civil action Section 1423(b) of SDWA, 42 U.S.C. § 300h-2(b).

IV. FINDINGS OF FACTS AND CONCLUSIONS OF LAW

21. Respondent is and has been at all relevant times to this matter a company registered to do business in Michigan.

22. Respondent is a “person” as defined in Section 1401(12) of SDWA, 42 U.S.C. § 300f(12) and 40 C.F.R. § 144.3.

23. At all times relevant to this AOC, Respondent owned and operated injection wells in Allegan and Van Buren Counties, Michigan, identified as Katie Stewart #9, John Klein #1, Joseph O. Schaap #4 (the Wells).

24. EPA issued permit No. MI-159-2D-0003 for the Katie Stewart #9 well on or about June 26, 1987, permit No. MI-005-2D-0013 for John Klein #1 on or about June 6, 1989, and permit No. MI-005-2D-0024 for Joseph O. Schaap #4 on or about March 21, 1989 (collectively, “the Permits”).

25. At all times relevant to this AOC, the Wells were a Class II UIC well, as that term is defined at 40 C.F.R. §§ 144.6(b), 146.5(b).

26. At all times relevant to this AOC, EPA authorized Christian Oil Co. for the underground injection of saltwater, oilfield brines, or those fluids used in the enhancement of oil and gas from the oil and gas production wells owned or operated by Christian Oil Co., subject to the terms and conditions set forth in the Permits.

27. At all times relevant to this AOC, Part I(E)(1) of the John Klein #1 and Joseph O. Schaap #4 Permits and Part(E)(1) of the Katie Stewart #9 Permit require the Respondent to comply with all conditions of the Permit for each Well(except to the extent and for the duration such non-compliance is authorized by an emergency permit pursuant to 40 C.F.R. § 144.34).

28. Under 40 C.F.R. § 144.51(a), each day of non-compliance constitutes a violation of SDWA and is grounds for enforcement action, permit termination, revocation and reissuing or modification of the Permit.

29. On July 29, 2019, pursuant to Section 1445(b) of SDWA, 42 U.S.C. § 300j-4(b) and Section (E)(6) of the Katie Stewart #9 Permit and Part I(E)(7) of the John Klein #1 and Joseph O. Schaap #4 Permits , an EPA credentialed inspector inspected Respondent's facility and later sent an inspection report to Christian Oil Co.

30. On October 22, 2019, Christian Oil Co. provided a response to the July 29, 2019 EPA inspection report.

31. On January 16, 2020, EPA sent Respondent a noncompliance notification letter (NNL). The NNL requested a written response from Respondent.

32. On January 27, 2020, EPA and Respondent conferred regarding the NNL and the progress of the Respondent to address noncompliance.

33. On March 9, 2020, Respondent responded to the NNL in writing.

Count 1 - Failure to Maintain Positive Pressure

34. Section G(1)(a)(iv) of EPA Permit # MI-159-2D-0003 for the Katie Stewart #9 Well provides the required operating and monitoring requirements and states that a positive pressure shall be maintained on the annulus.

35. According to observations made during the Inspection, as well as the monthly reports submitted by Christian, from January 2016 – October 2019 the annulus pressure was zero psig.

36. Christian stated in their NNL Reply that they were unaware of the unique requirements specific to the Katie Stewart #9 Well, namely, the requirement to maintain positive pressure.

37. Thus, the failure to meet the annulus pressure requirements as set forth in the Permit, constitutes a violation of the SDWA.

Count 2 - Failure to Accurately Record Annulus Pressure

38. At all times relevant to this AOC, Part II(B)(3)(a) and Part G(3)(a) required the Permittee to monitor annulus pressure with calibrated gauges and report weekly measurements to EPA on a monthly basis.

39. 40 C.F.R. § 144.51(j) requires that samples and measurements taken for the purpose of monitoring be representative of the monitored activity.

40. From January 2016 through October 2019, Respondent entered “0” for weekly annulus pressure on monthly monitoring reports submitted to EPA for the Permits.

41. In their NNL Response, Respondent stated that the reason for consistent “0” readings is that the annulus valve was opened every quarter to perform quarterly fill (loss) checks; however, weekly annulus readings would still be expected to see some fluctuation regardless of opening the annulus valve quarterly.

42. Respondent’s failure to record accurate and representative annulus pressure measurements with a calibrated gauge is a violation of the Permit, the UIC regulations at 40 C.F.R. § 144.51, and SDWA.

Count 3 - Submission of Inaccurate Reports

43. At all times relevant to this AOC, Section (G)(3)(a) and Section (G)(2)(d) of the Permit required Respondent to monitor annulus pressure and injection pressure with calibrated gauges and report weekly measurements to EPA on a monthly basis.

44. During the inspection, Respondent told the inspector that no monitoring activities such as annulus pressure and injection pressure were being conducted, and the inspector noted that there were no gauges present at the site. However, Respondent submitted reports to EPA with values for the injection pressure and annulus pressure data.

45. From July of 2015 to December of 2019, Respondent failed to submit accurate monthly reports to EPA.

46. Respondent's failure to accurately report weekly annulus pressure and injection pressure measurements is a violation with Section (G)(3)(a) and Attachment (E) of the Permit, the UIC regulations at 40 C.F.R. § 144.51(a), and SDWA.

Count 4 - Failure to Keep Monitoring Records

47. Part II(B)(2)(d) Part I (E)(8)(a), Part (G)(2)(d), and Part (E)(7)(a) of the Permits State that the Permittee shall retain records and all monitoring information, including all calibration and maintenance records, for a period of at least five years. The records must include monitoring results of injection pressure, annulus pressure, flow rate, and cumulative volume, recorded at least weekly and taken with a calibrated gauge.

48. During the Inspection, Christian Oil was unable to produce the required records from January 2016 – July 2019. There were no logbooks, digital files, or other record of weekly annulus pressure or weekly injection pressure readings.

49. In their NNL Response, Respondent stated that annulus pressure and injection pressure readings were not being recorded or kept prior to the July 2019 EPA inspection.

50. Respondent's failure to keep monitoring records the Wells is a violation of the Permits, the UIC regulations at 40 C.F.R 144.51(a), and SDWA.

V. ORDER FOR COMPLIANCE

51. As provided by Section 1423(c)(2) of SDWA, 42 U.S.C. § 300h-2(c)(2),

Respondent shall:

- a. Within 7 days of the effective date of this AOC, use calibrated gauges for all monitoring required by the Permits for all wells and/or replace with new gauges as needed.
- b. Within 7 days of the effective date of this AOC, measure and record injection pressure, annulus pressure, flow rate and cumulative volume at least weekly for all wells.

- c. Within 7 days of the effective date of this AOC, maintain pressure on the annulus of Katie Stewart #9 Well in accordance with the permit requirements for the well, as amended, and ensure the annulus between the tubing and the long string casing is filled with a fluid capable of inhibiting corrosion.
- d. Within 30 days of the effective date of this AOC, establish and implement a record keeping system capable of properly preserving and retaining records required by the Permits for all wells and 40 C.F.R. § 144.51(j), including the date, exact place, and time of sample or measurements, the individual(s) who performed the sampling or measurements, the methods used, the results, and all calibration certification and/or gauge replacement records from the date of the sample, measurement or report.
- e. Within 30 days of the effective date of this AOC, submit to EPA copies of all monitoring information (i.e. field records, daily sheets, notes, or data of measurements) with its monthly and annual reports for the 12 months following the effective date of this AOC. Reports shall be postmarked no later than the 10th day of the month following the reporting period.
- f. Within 60 days of the effective date of this AOC, Respondent will submit to EPA for review and approval, and upon approval shall implement a standard operating procedure (“SOP”) for all wells to ensure it is correctly conducting all monitoring, recording, and reporting practices required by the Permits. The SOP must address procedures and frequency for measuring injection pressure, annulus pressure, flow rate, and cumulative volume with calibrated gauges and flow meters or totalizers, and when Respondent needs to report this information to the EPA. This SOP must also address procedures and frequency for gauge calibration, and certification and testing of the chemical injectate to meet the Permit requirements. In addition, the SOP must address how all monitoring information collected will be maintained and retained onsite, and when Respondent needs to report this information to the EPA. This includes all calibration, gauge replacement and/or maintenance records and copies of all records from the date of the sample, measurement or report.
- g. Include documentation of gauge calibration certification with the Respondent’s annual report submission required by the Permits to be submitted to EPA.

52. These reports, notifications, documentation, and submissions must be signed by a responsible corporate officer or duly authorized representative of Respondent and shall include the following statement consistent with 40 C.F.R. § 144.32(d):

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the

person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

53. All reports, notifications, documentation, submissions, and other correspondence required to be submitted by this Order must be submitted to EPA electronically, to the extent possible. If electronic submittal is not possible, the submissions must be made by certified mail (return receipt requested). Electronic submissions must be sent to the following addresses: adamiec.james@epa.gov. The subject line of all email correspondence must include the facility name, docket number, and subject of the deliverable. All electronically-submitted materials must be in final and searchable format, such as Portable Document Format (PDF) with Optical Character Recognition (OCR) applied. Mailed submissions must be sent to the following addresses:

James Adamiec (ECW-15J)
Water Enforcement and Compliance Assurance Branch
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

54. Respondent may not withhold information based on a claim that it is confidential. However, pursuant to 40 C.F.R. Part 2, Subpart B, Respondent may assert a claim of business confidentiality regarding any portion of the information submitted in response to this Order, as provided in 40 C.F.R. § 2.302(a)(2). The manner of asserting such claims is specified in 40 C.F.R. § 2.203(b). The name and address of any permit applicant or permittee and information which deals with the existence, absence, or level of contaminants in drinking water is not entitled to confidential treatment. 40 C.F.R. § 144.5. Information subject to a business confidentiality

claim is available to the public only to the extent, and by means of the procedures, set forth in 40 C.F.R. Part 2, Subpart B. If Respondent does not assert a claim of business confidentiality when it submits the information, EPA may make the information available to the public without further notice.

55. If Respondent finds at any time after submitting information that any portion of that information is false or incorrect, the signatory must notify EPA immediately. Knowingly submitting false information to EPA in response to this AOC may subject Respondent to criminal prosecution under Section 1423(b) of SDWA, 42 U.S.C. § 300h-2(b), as well as 18 U.S.C. §§ 1001 and 1341.

56. Submissions required by this Order shall be deemed submitted on the date they are sent electronically or on the date postmarked if sent by U.S. mail.

57. EPA may use any information submitted in accordance with this Order in support of an administrative, civil, or criminal action against Respondent.

58. The information required to be submitted pursuant to this Order is not subject to the approval requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. § 3501 et seq.

59. Respondent's compliance with this AOC does not relieve Respondent of liability for any penalty, fine, remedy, or sanction authorized to be imposed pursuant to Section 1423(b) of SDWA, 42 U.S.C. § 300h-2(b), and Section 1423(c) of SDWA, 42 U.S.C. § 300h-2(c), including but not limited to any violations addressed by this Order. EPA specifically reserves the right to seek any or all of the remedies specified in Section 1423(b) of SDWA, 42 U.S.C. § 300h-2(b)(1), and Section 1423(c) of SDWA, 42 U.S.C. § 300h-2(c).

VI. GENERAL PROVISIONS

60. Full compliance with this AOC shall not in any case affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

61. This AOC does not affect Respondent's responsibility to comply with SDWA and other applicable federal, state, or local laws and permits.

62. Respondent certifies that it is complying with SDWA, its implementing regulations, and the Permit.

63. Respondent has had the opportunity to confer with and submit information to EPA concerning the validity and provisions of this Order.

64. This AOC constitutes a "previous violation" as that term is used in EPA's UIC Penalty Policy and to determine Respondent's "history of such violations" under Section 1423(c)(4)(B) of SDWA, 42 U.S.C. § 300h-2(c)(4)(B).

65. The terms of this AOC bind Respondent and its successors and assigns.

66. Each person signing this AOC certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to the terms of this AOC.

67. This AOC constitutes the entire agreement between the parties.

68. The parties acknowledge and agree that final approval by EPA of this AOC is subject to Section 1423(c)(3) of SDWA, 42 U.S.C. § 300h-2(c)(3) which provides public notice and a reasonable opportunity to comment on any proposed order.

69. In accordance with 1423(c)(3)(D) of SDWA, 42 U.S.C. § 300h-2(c)(3)(D), this AOC shall become effective 30 days after the date that the Final Order contained in this AOC is filed with the Regional Hearing Clerk and signed by EPA.

70. This AOC will terminate after Respondent has continuously complied with all terms of this AOC throughout its duration.

71. This AOC shall not relieve Respondents of their obligation to comply with all applicable provisions of federal, state or local law and ordinance, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit. This AOC does not constitute a waiver, suspension or modification of the requirements of 40 C.F.R. Parts 124, 144, 146, 147, and 148, which remain in full force and effect.

72. Violations of the AOC after its effective date or the date of final judgment in the event of an appeal under Section 1423(c)(6) of SDWA, 42 U.S.C. § 300h-2(c)(6), may subject the Respondents to a civil action in a United States District Court with (1) penalties up to \$58,328 per day of violation as authorized in Section 1423(b) of SDWA, 42 U.S.C. § 300h-2(b), and as modified by EPA's Civil Monetary Penalty Inflation Adjustment Rule, 85 Fed. Reg. 1753(January 13, 2020), codified at 40 C.F.R. § 19.4; and (2) if such violation is willful, in addition to or in lieu of a civil penalty, to imprisonment for not more than 3 years, or a fine in accordance with Title 18, or both.

73. Issuance of this AOC is not an election by the EPA to forgo any civil or judicial criminal action, or other administrative action, against Respondent for the violations set forth in this AOC, or for any other violations of SDWA, or any other laws administered by the EPA, pertaining to this and other facilities or activities owned and/or operated by Respondents.

VII. OPPORTUNITY FOR HEARING - PUBLIC NOTICE

74. Pursuant to Section 1423(c)(3)(A) and (B) of SDWA, 42 U.S.C. § 300h-2(c)(3)(A) and (B), the EPA will provide public notice and an opportunity to comment on the AOC prior to issuing the Final Order, and notifies Respondent of its opportunity to request a

hearing on the AOC. Any request for a hearing by Respondent shall be made within thirty (30) calendar days of the date this Order is received by Respondent, and must be directed to the persons and addressed specified in Paragraph 53 of this Order and

Regional Hearing Clerk (E-19J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

The request must include the facility name and docket number.


VII. EFFECTIVE DATE

75. This Order will be issued after a thirty (30) day comment period, and execution by an authorized representative of the EPA, and filing with the Regional Hearing Clerk. This Administrative Order on Consent, as agreed to by the parties, shall become effective 30 days after filing with the Regional Hearing Clerk, or on the date of final judgment in the event of an appeal under to Section 1423(c)(6) of SDWA, 42 U.S.C. § 300h-2(c)(6).

Administrative Order on Consent
In the Matter of: Christian Oil Company
Docket Number. SDWA-05-2021-0005

Aaron Hartman, President, Christian Oil Company

6-1-21
Date



Aaron Hartman
President
Christian Oil Company

**Administrative Order on Consent
In the Matter of: Christian Oil Company
Docket Number: SDWA-05-2021-0005**

United States Environmental Protection Agency

Date

Michael D. Harris
Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 5