

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
Dallas, Texas 75270

FILED

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REGIONAL HEARING CLERK
EPA REGION VI

In the Matter of

SM Oil & Gas, Inc.

Respondent

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Docket No. SDWA-06-2021-1122

PROPOSED ADMINISTRATIVE ORDER

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 further delegated such authority to the Director of the Enforcement and Compliance Assurance 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. SM Oil & Gas, Inc. (Respondent) is a corporation 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 violations alleged herein, Respondent owned or operated an "injection well" which is a "Class II well" as those terms are defined at 40 C.F.R § 147.2902. The injection well is located in the NE Quarter of Section 14, Township 26 North, Range 11

East, Osage County, Oklahoma, designated as Well No. 16B and EPA Inventory Number OS5602018 (the injection 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. 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.

5. 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.

6. On September 19, 1997, EPA issued UIC Area Permit number 06S1264P5602 (the permit).

7. On September 19, 1997, the permit became effective.

8. On May 9, 2014, the permit was modified to add the injection well.

9. Regulations at 40 C.F.R. § 147.2922(b) and each UIC permit require the operator of an injection well to monitor injection rate and pressure monthly and to report monitoring results to EPA annually.

10. On July 30, 2019, EPA emailed Respondent a letter notifying Respondent that EPA had not received an annual report for the injection well for the periods of April 2017 through March 2018, April 2018 through March 2019, and April 2019 through March 2020. The letter informed Respondent of the potential violations of the Act and the UIC program and that EPA can pursue

enforcement actions in response to these violations. The letter also provided the Respondent an opportunity to confer with the EPA in regard to this matter.

11. During a review of records for the permit conducted by representatives of EPA on July 1, 2021, it was observed that the Respondent has not submitted annual reports for the injection well for the periods of April 2017 through March 2018, April 2018 through March 2019, and April 2019 through March 2020.

12. Therefore, Respondent violated regulations at 40 C.F.R. § 147.2922(b) by failing to submit annual operation reports for the injection well for the periods of April 2017 through March 2018, April 2018 through March 2019, and April 2019 through March 2020.

SECTION 1423(c) PROPOSED COMPLIANCE ORDER

13. 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 order Respondent to submit required annual operations reports for the injection well for the periods of April 2017 through March 2018, April 2018 through March 2019, and April 2019 through March 2020. The required reports shall be submitted to the EPA at the address shown below within thirty (30) days after the effective date of a Final Administrative Order. Report forms are included in Attachment A, which is incorporated herein by reference.

14. Submit the required information to the EPA at eckhart.jeanne@epa.gov within thirty (30) days after the effective date of a Final Administrative Order.

NOTICE OF OPPORTUNITY TO REQUEST A HEARING

15. Respondent may request a hearing to contest the issuance of the Final Administrative Order, pursuant to Section 1423(c)(3)(A) of the Act, 42 U.S.C. § 300h-2(c)(3)(A). Such hearing

shall not be subject to section 554 or 556 of Title 5 but shall provide a reasonable opportunity to be heard and to present evidence.

16. A request for a hearing must be made within thirty (30) days of the date of receipt of this Proposed Administrative Order. If you would like to request a hearing on this Proposed Administrative Order, submit the hearing request to the Regional Hearing Clerk (6ORC); U.S. Environmental Protection Agency, Region 6; 1201 Elm Street, Suite 500; Dallas, Texas 75270-2102.

17. Should a hearing be requested, members of the public who commented on the issuance of this Proposed Administrative 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

18. Issuance of the Final Administrative Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. Parts 144, 146, and 147, Subpart GGG, which remain in full force and effect.

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

20. Violation of the terms of the Final Administrative 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 the Final Administrative 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).

TAX IDENTIFICATION

21. For purposes of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 1.162-21(b)(2), performance of Paragraphs 13 and 14 is restitution, remediation, or required to come into compliance with the law.

SETTLEMENT

22. 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 Proposed Administrative Order, please contact Jeanne Eckhart, of my staff, at (214) 665-8174.

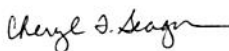
23. If this action does not proceed to a formal hearing, EPA shall issue a Final Administrative Order.

EFFECTIVE DATE

24. The Final Administrative 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).

August 3, 2021

Date



Digitally signed by CHERYL SEAGER
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Cheryl T. Seager, Director
Enforcement and
Compliance Assurance 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:

Signed Original E-mailed: Regional Hearing Clerk (R6ORC)
U.S. EPA, Region 6
1201 Elm Street, Suite 500
Dallas, TX 75270
vaughn.lorena@epa.gov

File Stamped Copy
Transmitted via Email: Mr Skyler Miller
SM Oil & Gas, Inc.
PO Box 189
Skiatook, Oklahoma 74070
semiller@smoilandgas.net

Electronic Copy: Mr. Efren Ordonez
Ms. Jeanne Eckhart
U.S. EPA, Region 6
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eckhart.jeanne@epa.gov

Ms. Robin Phillips, Superintendent
Bureau of Indian Affairs
Osage Agency
P.O. Box 1539
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Ms. Jann Hayman, Director
Osage Nation Department of Natural Resources
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**JEANNE
ECKHART**

Digitally signed by JEANNE ECKHART
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Dated: 8/4/2021