



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

JAN 19 2011

CERTIFIED MAIL 7009 0960 0000 2366 4244  
RETURN RECEIPT REQUESTED

Robert Taylor  
Taylor Equipment Service, Inc.  
320 North Highway 1223  
Corbin, Kentucky 40701

Re: Consent Agreement and Final Order (CA/FO)  
Docket No. SDWA-04-2011-1005b)

Dear Mr. Taylor:

Enclosed is a copy of the Consent Agreement and Final Order (CA/FO) in this matter that has been filed with the Regional Hearing Clerk and served on the parties as required by 40 C.F.R. §22.6. This CA/FO was effective upon the date filed with the Regional Hearing Clerk and you are hereby ordered to comply immediately with the terms of the subject Order.

Thank you for your cooperation in settling this matter. Should you have any questions or concerns, please contact Ms. Carol Chen, Underground Injection Control Enforcement, at (404) 562-9415.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Giattina".

James D. Giattina  
Director  
Water Protection Division

Enclosure

cc: Regional Hearing Clerk

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4

IN THE MATTER OF

Taylor Equipment Service, Inc.  
320 North Highway 1223  
Corbin, Kentucky 40701

Respondent

Consent Agreement and Final Order

Docket No. SDWA-04-2011-1005(b)

STATUTORY AUTHORITY

1. Pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (Consolidated Rules of Practice or Part 22), specifically Subpart I, published at 64 Fed. Reg. 40138 (July 23, 1999) and the delegated authority of the Administrator of the U.S. Environmental Protection Agency (EPA or Complainant) under Part C of the Safe Drinking Water Act (SDWA or the Act), 42 U.S.C. § 1421, et seq., the EPA, as Complainant, hereby enters into the following Consent Agreement and Final Order ("CA/FO") with Taylor Equipment Service, Inc. (Respondent).

2. Section 1450 of the SDWA authorizes the Administrator to prescribe such regulations as are necessary or appropriate to carry out her functions under the SDWA. These regulations are found at 40 CFR Parts 124, 144, 146, 147, and 148, and set forth requirements for the Underground Injection Control (UIC) program promulgated under Part C of the SDWA, 42 U.S.C. § 300h, et seq.

3. Injection well owners and operators are required to comply with the UIC program requirements. The UIC program for the Commonwealth of Kentucky, including all Indian lands, is administered by EPA. See 40 CFR § 147.901(a).

ALLEGATIONS

4. Respondent is a corporation doing business in the Commonwealth of Kentucky, with a business address of 320 North Highway 1223, Corbin, Kentucky 40701.

5. Respondent is a person as that term is defined in Section 1401(12) of the SDWA, 42 U.S.C. Section 300f(12) and 40 CFR §144.3.

6. Respondent owns and/or operates the following Class II underground injection well (subject well) which is permitted in accordance with 40 CFR § 144.31.

<u>EPA ID No.</u>	<u>Permit No.</u>	<u>Well</u>	<u>Status</u>	<u>County</u>
KYS1250001	KYI0905	Robert Taylor #2	Active	Laurel

7. This well constitutes a "facility" as that term is defined in 40 CFR §144.3, and is subject to the requirements of the SDWA and the UIC regulations.

8. The SDWA, 42 U.S.C. §300f, et seq., and 40 CFR §144.51(a) require the permittee to comply with all conditions of the permit. Noncompliance constitutes a violation of the SDWA and is grounds for an enforcement action.

9. Part I Section C, Paragraph 2, of the permit, requires the permittee to weekly monitor the injection and annulus pressures at the wellhead, weekly monitor the flow rate of the injected fluid, and monthly monitor the cumulative volume of the injected fluid. And Part I, Section D, Paragraph 2, of the permit, contains the requirement to submit the results of all monitoring by the end of January of the following year. The first monitoring report is due for the period from the effective date of the permit, through December 31 of that year, regardless of whether injection has commenced. Respondent failed to submit any monitoring results for the subject well to cover the period beginning from the effective date of the permit, as shown below, through December 31 of that year.

<u>EPA ID No.</u>	<u>Permit No.</u>	<u>Well</u>	<u>Permit Effective Date</u>
KYS1250001	KYI0905	Robert Taylor #2	10/19/09

10. On October 28, 2010, Respondent participated in a show cause hearing with EPA representatives to discuss its violation, the SDWA, and the implementing regulations.

11. Respondent and Complainant have negotiated a settlement of the foregoing violations and Respondent has agreed to pay a penalty and perform injunctive relief.

### **STIPULATIONS AND FINDINGS**

12. Respondent admits the jurisdictional allegations set forth above and neither admits nor denies the facts and findings of violation as alleged herein. Respondent waives any right to a hearing and waives any right to appeal a final order in this matter, and consents to the issuance of a final order without further adjudication.

13. Complainant and Respondent have conferred for the purpose of settlement, pursuant to 40 CFR § 22.18, and desire to resolve this matter and settle the violations described herein without resort to a formal hearing. Therefore, without the taking of any evidence or testimony, the making of an argument, or the adjudication of any issue in this matter, and in accordance with 40 CFR § 22.13(b), this CA/FO will simultaneously commence and conclude this matter.

## PENALTY AND INJUNCTIVE RELIEF

Based upon the foregoing findings, the parties hereby agree and consent to entry of the following Order:

14. Respondent shall pay a civil penalty of **\$1,000.00 (One Thousand Dollars)** in accordance with the terms set forth below.

15. Within ninety (90) days of receipt of a fully-executed copy of this CA/FO, Respondent shall submit a cashiers or certified check in the amount of **\$500 (Five Hundred Dollars)** as the first installment of the penalty payment. The remainder **\$500 (Five Hundred Dollars)** of the penalty payment is due within ninety (90) days of the first installment, or within one hundred eighty (180) days of receipt of the fully-executed copy of this CA/FO. The penalty payments as set forth shall be made payable to the Treasurer, United States of America at the following address:

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

Respondent shall note the title and docket number of the case on the penalty payment certified or cashiers check.

16. Respondent shall submit copies of the check to the following persons:

Regional Hearing Clerk  
U.S. EPA - Region 4  
61 Forsyth Street SW  
Atlanta, GA 30303-8960

Fred McManus, Chief  
Ground Water and SDWA Enforcement Section  
U. S. EPA - Region 4  
61 Forsyth Street SW  
Atlanta, GA 30303-8960

17. Pursuant to Section 1423(c)(7) of the SDWA, 42 U.S.C. § 300h-2(c)(7), failure by Respondent to pay the penalty assessed by this CA/FO in full by its due date may subject Respondent to a civil action in an appropriate district court to recover the amount assessed (plus costs, attorneys fees, and interest at currently prevailing rates from the date the order is effective). In such an action, the validity, amount and appropriateness of the penalty shall not be subject to review.

18. In addition to payment of the penalty described above, Respondent shall perform the following injunctive relief:

- a. Respondent will provide a monitoring report for the Robert Taylor #2 injection well, to cover the period from the effective date of the permit, October 19, 2009, to December 31, 2009, within thirty (30) days of receipt of this Order.

19. Respondent agrees to pay stipulated civil penalties for violation of the condition set forth in Paragraph 18 above as follows:

20. For failure to comply with the condition described in Paragraph 18 above, Respondent shall pay a stipulated civil penalty according to the following schedule:

- a. \$300 for any portion of the first seven (7) calendar days Respondent is in violation of this Agreement; and
- b. \$200 per day for each day after the first seven (7) calendar days Respondent is in violation of this Agreement.

21. Stipulated penalties shall become due and payable no later than thirty (30) days after receipt of demand from EPA. Payment shall be in the form of a certified or cashier's check made payable to the Treasurer of the United States of America, and sent to the following address:

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

22. A copy of the check shall be sent to the Ground Water & Safe Drinking Water Act Enforcement Section, Safe Drinking Water Branch, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, S.W., Atlanta, GA 30303-8960. Respondent shall state the docket number of this Order on the face of any such check. The stipulated civil penalties set forth above shall be in addition to any other remedies or sanctions which are or may be available to EPA.

23. The names, addresses and telephone numbers of the individuals authorized to receive service relating to the proceeding are listed below.

For Respondent:

Robert Taylor  
Taylor Equipment Service, Inc.  
320 North Highway 1223  
Corbin, Kentucky 40701  
606-528-9916

For EPA:

Wilda Cobb, Attorney Advisor  
U.S. EPA - Region 4  
61 Forsyth Street SW  
Atlanta, GA 30303-8960  
404-562-9530

### GENERAL PROVISIONS

24. The provisions of this CA/FO shall be binding upon Respondent, and its officers, directors, agents, servants, employees, and successors or assigns. Notice of this CA/FO shall be given to any successors in interest prior to transfer of the ownership or operational control of the facility.

25. This CA/FO does not constitute a waiver, suspension, or modification of the requirements of Part C of the SDWA, 42 U.S.C. §1421, et seq., or any regulations promulgated thereunder. This CA/FO is not, and shall not be interpreted to be, a permit for the injection of fluids under Section 1421 of the SDWA, 42 U.S.C. §300h, nor shall it in any way relieve Respondent of any obligation imposed by any permit issued thereunder, or of Respondent's obligation to comply with any provision of the SDWA, its implementing regulations, or any other local, state or federal law. Payment of the penalty agreed to in this CA/FO shall not in any way affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any other violations of law. Full payment of the penalty and performance of the injunctive relief agreed to in this CA/FO resolves only Respondent's liability for federal civil penalties for the violations and facts stipulated herein.

26. For the purposes of state and federal income taxation, Respondent shall not be entitled to and agrees not to attempt to claim a deduction for any penalty payment made pursuant to this CA/FO. Any attempt to deduct any such penalty shall constitute a violation of this CA/FO.

27. If any event beyond the control of Respondent, its successors or assigns, occurs which causes or may cause a delay in the achievement of any requirement of this CA/FO, Respondent shall notify EPA orally within four (4) days of the time it has knowledge of the occurrence of such event. A written report of said event shall be submitted by certified mail to EPA within ten (10) days of the date Respondent received knowledge of the event. Said report shall describe the violation or failure, its cause and all attendant circumstances, and the measures taken or to be taken to prevent or minimize any such violation or failure and to comply with the pertinent requirements of this CA/FO as soon as possible, and the timetable by which those measures are proposed to be implemented.

28. The burden of proving that any violation or failure is caused by circumstances beyond the control of and without fault of Respondent and the length of the delay attributable to such circumstances shall rest with Respondent. Financial, economic, or business conditions or changes in same, unanticipated or increased costs or expenses,

or problems relating to reasonably foreseeable technological infeasibility associated with the implementation of actions called for by this CA/FO, shall not relieve Respondent of any obligation imposed under the terms of this CA/FO, nor from payment of any penalty set forth in this CA/FO. EPA will notify Respondent of its determination that certain circumstances are considered to be beyond Respondent's control and the extension of time, if any, for completion of the affected requirements. Respondent shall waive this right to any extension for failure to provide EPA with written notice as provided herein or for failure to provide adequate proof for the cause of the delay.

29. The parties acknowledge and agree that final approval by EPA of this CA/FO is subject to 40 C.F.R. 22.45(c)(4) which sets forth requirements under which a person not a party to this proceeding may petition to set aside a consent agreement and final order on the basis that material evidence was not considered.

30. Each party shall bear its own costs and attorneys fees in connection with this action.

31. This CA/FO shall become effective upon the date that it is filed with the Regional Hearing Clerk.

32. The undersigned representative of Respondent certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Agreement and to execute and legally bind the Party he or she represents to this Agreement.

**RESPONDENT**

Date: Dec. 16/10

Robert Taylor  
Robert Taylor  
Taylor Equipment Service, Inc.

**COMPLAINANT**

Date: 1/4/11

James D. Giattina  
James D. Giattina, Director  
Water Protection Division

**FINAL ORDER**

Pursuant to the Consolidated Rules of Practice and the delegated authority of the Administrator under the SDWA, the above and foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. Respondent is ordered to comply immediately with the terms of the Consent Agreement, which are fully incorporated into this Final Order.

**U.S. ENVIRONMENTAL PROTECTION AGENCY**

Date: January 19, 2011

Susan B. Schub  
Susan Schub  
Regional Judicial Officer



**CERTIFICATE OF SERVICE**

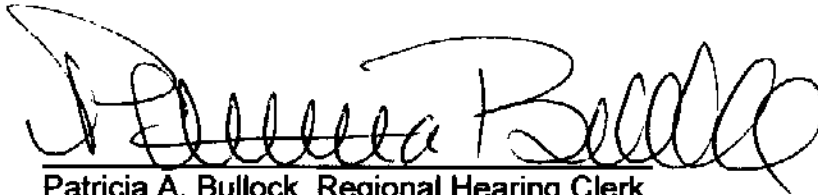
I HEREBY CERTIFY that I have this day served a true and correct copy of the foregoing Consent Agreement and Final Order, in the Matter of Taylor Equipment Service, Inc.; Docket No. SDWA-04-2011-1005(b), on the parties listed below in the manner indicated:

**Carol Chen** Via EPA Internal Mail

**Wilda Cobb** Via EPA Internal Mail

**Robert Taylor** Via Certified Mail/ Return Receipt  
**Taylor Equipment Service** Requested  
**320 North Highway 1223**  
**Corbin, Kentucky 40701**

Date: 1-19-11



Patricia A. Bullock, Regional Hearing Clerk  
United States EPA - Region 4  
Atlanta Federal Center  
61 Forsyth Street, S.W.  
Atlanta, GA 30303-8960  
(404) 562-9511