

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
Dallas, Texas 75270

FILED
21 SEP 20 PM 12:54

In the Matter of

Jones & Buck Development, LLC

Respondent

§
§
§
§
§

REGIONAL HEARING CLERK
EPA REGION VI
Docket No. SDWA-06-2021-1129

FINAL ADMINISTRATIVE ORDER
STATUTORY AUTHORITY

The following findings are made, and Final Administrative 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 Final Administrative 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. Jones & Buck Development, 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 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 Southwest Quarter of Section 6, Township 28 North, Range 11 East, Osage County, Oklahoma, designated as injection Well No. HOODOO 11 and EPA Inventory Number OS6395000 (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 injection 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. § 147.2903(b) provide that no owner or operator shall construct, operate, maintain, convert, plug, or abandon any injection well, or conduct any other injection activity, in a manner that allows the movement of fluid containing any contaminant into underground sources of drinking water, if the presence of that contaminant may cause the violation of any primary drinking water regulation under 40 C.F.R. Part 142 or may otherwise adversely affect the health of persons.
6. 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 injection 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.
7. On October 31, 2013, EPA issued UIC permit number 06S1262P6395 (the permit) for the well.
8. On October 31, 2013, the permit became effective.
9. Regulations at 40 C.F.R. § 147.2925(a) require the permittee to comply with all permit conditions, except as authorized by an emergency permit (described at 40 C.F.R. § 147.2906).
10. Regulations at 40 C.F.R. § 147.2920(b) and Part I.B.1. of the UIC permit require that the injection well have mechanical integrity and demonstrate mechanical integrity every three years.

11. On April 10, 2016, the injection well was due for its mechanical integrity test and the Respondent failed to conduct it.
12. On April 11, 2018, EPA mailed a letter to Respondent notifying Respondent that the injection well was overdue for a mechanical integrity test. 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 EPA in regard to this matter.
13. On April 18, 2018, Respondent replied to EPA's April 11, 2018 letter and indicated that Respondent intended to convert the injection well to production. To date, the Respondent has not converted the injection well to production and the injection well has not demonstrated mechanical integrity.
14. Therefore, Respondent violated regulations set forth at 40 C.F.R. §§ 147.2903(b), 147.2920(b) and Part I.B.1. of the permit by maintaining the injection well in a manner that could allow the movement of fluid that contains contaminants into an underground source of drinking water (USDW) and by failing to successfully demonstrate mechanical integrity.
15. Pursuant to Section 1423(c)(3)(A) of the Act, 42 U.S.C. § 300h-2(c)(3)(A), on August 11, 2021, EPA issued a Proposed Administrative Order to Respondent and provided Respondent an opportunity to request a hearing on the Proposed Administrative Order.
16. On August 11, 2021, EPA provided public notice of its proposal to issue an order for compliance in this matter in accordance with Section 1423(c)(3)(B) of the Act, 42 U.S.C. § 300h-2(c)(3)(B).
17. Respondent did not request a hearing and EPA did not receive any public comments on the Proposed Administrative Order.

SECTION 1423(c) COMPLIANCE ORDER

18. 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 orders Respondent to:

- a. Cease use of the injection well for the unauthorized underground injection of fluids, and
- b. Take one of the following actions:
 - i. Repair the injection well and successfully demonstrate mechanical integrity according to regulations at 40 C.F.R. § 147.2920 and Part I.B.1. of the permit within ninety (90) days after the effective date of this Final Administrative Order; or
 - ii. Complete proper plugging and abandonment in accordance with 40 C.F.R. § 147.2905, within ninety (90) days after the effective date of this Final Administrative Order; or
 - iii. Convert the injection well to production use within ninety (90) days after the effective date of this Final Administrative Order.

19. Submit copies of completed plugging reports or completed work reports showing conversion to production and BIA Osage Agency Forms 139 within 120 days after the effective date of this Final Administrative Order to:

Damon McElroy
mcelroy.damon@epa.gov
U.S. Environmental Protection Agency
Water Enforcement Branch (ECDWE)
1201 Elm Street, Suite 500
Dallas, TX 75270-2102

GENERAL PROVISIONS

20. Respondent may appeal this Final Administrative Order to Federal District Court pursuant to Section 1423(c)(6) of the Act, 42 U.S.C. § 300h-2(c)(6).

21. This 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.

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

23. Violation of the terms of this 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 this 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 Final Administrative Order under Section 1423(b)(1) and (2) of the Act, 42 U.S.C. § 300h-2(b)(1) and (2).

TAX IDENTIFICATION

24. 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 18 and 19 is restitution, remediation, or required to come into compliance with the law.

EFFECTIVE DATE

25. This 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).

September 16, 2021

Date



Digitally signed by CHERYL SEAGER
DN: c=US, o=U.S. Government, ou=Environmental Protection Agency,
cn=CHERYL SEAGER, 0.9.2342.19200300.100.1.1=68001003651793
Date: 2021.09.16 16:03:53 -05'00'

Cheryl T. Seager, Director
Enforcement and
Compliance Assurance Division

CERTIFICATE OF SERVICE

I certify that the foregoing Final 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. Paul Buck
Jones & Buck Development, LLC
P.O. Box 68
Sedan, Kansas 67361
jonesbuck103@yahoo.com
tdotoil@yahoo.com

Electronic Copy: Kristine Talbot
Damon McElroy
U.S. EPA, Region 6
1201 Elm Street, Suite 500
Dallas, TX 75270
talbot.kristine@epa.gov
mcelroy.damon@epa.gov

Ms. Robin Phillips, Superintendent
Bureau of Indian Affairs
Osage Agency
P.O. Box 1539
Pawhuska, OK 74056
robin.phillips@bia.gov

Ms. Jann Hayman, Director
Osage Nation Department of Natural Resources
100 W. Main, Suite 304
Pawhuska, OK 74056
jannhayman@osagenation-nsn.gov

Dated: September 21, 2021

Signed: **DAMON
MCELROY**

Digitally signed by DAMON MCELROY
DN: cn=US, o=U.S. Government,
ou=Environmental Protection Agency,
cn=DAMON MCELROY,
0.9.2342.19200300.100.1.1=680010036556
53
Date: 2021.09.20 12:30:43 -0500'