



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1201 ELM STREET, SUITE 500
DALLAS, TEXAS 75270-2102

June 4, 2020

VIA E-MAIL

Mr. Leonard Reitz
Allen and Allen Oil Company
P.O. Box 702097
Tulsa, OK 74170
nseplr@cox.net

Re: Proposed Administrative Order and Opportunity to Request a Hearing
EPA Inventory ID: OS5326000
Docket Number: SDWA-06-2020-1108

Dear Mr. Reitz:

Enclosed is a Proposed Administrative Order (Order) issued to Allen and Allen Oil Company for violations of the Safe Drinking Water Act (SDWA). The violations were identified based on our review of files that we maintain on the referenced injection well. The violations are for failing to repair and maintain the well in accordance with the Environmental Protection Agency (EPA) Underground Injection Control (UIC) Program and EPA UIC Permit. The enclosed Order does not assess a monetary penalty; however, it does require compliance with SDWA requirements. You will be required to plug the well in accordance with the EPA UIC Program. The EPA requests that you immediately confirm receipt of this e-mail and the attached Order by a response e-mail to Aguinaga.david@epa.gov.

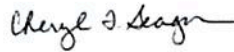
You have the right to request a hearing regarding the violations alleged in the Order. Please refer to the enclosed Part 22, "Consolidated Rules of Practice", for information regarding hearing and settlement procedures. Note that should you fail to request a hearing within thirty (30) days of your receipt of this Order, you will waive your right to such a hearing, and may be subject to the compliance terms without further proceedings. Whether or not you request a hearing, we invite you to confer with us informally. If you choose not to request a hearing, we will review any comments on the proposed Order received from you and the public and determine whether the Order will become final. In the event you fail to request a hearing within thirty (30) days of your receipt of this Order, and no public comments are received, the Order will become final. Should this occur, the Environmental Protection Agency (EPA) will send you a letter memorializing the finalization of the Order.

The EPA acknowledges that the COVID-19 pandemic may impact your business. If that is the case, please contact us regarding any specific issues you need to discuss.

Also enclosed is an "Information Sheet" relating to the Small Business Regulatory Enforcement Fairness Act and a "Notice of Registrant's Duty to Disclose" relating to the disclosure of environmental legal proceedings to the Securities and Exchange Commission. The EPA is committed to ensuring compliance with the requirements of the Underground Injection Control program, and my staff will assist

you in any way possible. If you have any questions regarding this matter, please contact David Aguinaga at (214) 665-6439.

Sincerely,



Digitally signed by CHERYL SEAGER
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Protection Agency, cn=CHERYL SEAGER,
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Date: 2020.06.04 09:06:43 -0500

Cheryl T. Seager, Director
Enforcement and
Compliance Assurance Division

Enclosure: Administrative Compliance Order–Docket Number SDWA-06-2020-1108

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

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

**U. S. ENVIRONMENTAL PROTECTION AGENCY-REGION 6
PROPOSED ADMINISTRATIVE ORDER
(NOT A FINAL ORDER)**

In the Matter of Allen and Allen Oil Company, Respondent
Docket No. SDWA-06-2020-1108

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 Compliance Assurance and Enforcement Division. The EPA has primary enforcement responsibility for underground injection within the meaning of Section 1422(e) of the Act, 42 U.S.C. § 300h-1(e), to ensure that owners or operators of Class II injection wells within Osage County, Oklahoma, comply with the requirements of the Act.

FINDINGS

1. Allen and Allen Oil Company ("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 16, Township 26 North, Range 12 East, in Osage County, Oklahoma, designated as Well No. O-4, EPA Inventory ID Number OS5326000 and is authorized under EPA Underground Injection Control (UIC) Permit No. 06S1261P5326.

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) state that any underground injection is prohibited except as authorized by rule ("ABR") 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 "ABR" is defined at 40 C.F.R. § 147.2902.

5. Regulations at 40 C.F.R. § 147.2903(b) state 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 an underground source of drinking water ("USDW").

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 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 or about October 3, 2007, the Bureau of Indian

Affairs (BIA) Osage Office issued, and Respondent signed for, an Osage Mining Lease at Southwest Quarter of Section 16, Township 26 North, Range 12 East, in Osage County, Oklahoma.

8. On or about September 27, 1988, EPA UIC Permit No. 06S1261P5326 was made final. Written "Authorization to Inject" was issued on or about December 16, 2009.

9. On December 6, 2017, an Inspection and Mechanical Integrity Test (MIT) Report shows that the well failed a MIT. Respondent choose to repair the well for future use.

10. An April 11, 2018, EPA letter notified Respondent that the well did not have mechanical integrity and the written "Authorization to Inject" was terminated.

11. MIT Reports show the well failed MITs on May 2, 2018, June 18, 2018 and July 20, 2018.

12. On June 29, 2019, EPA issued a Notice of Violation informing Respondent of the failure to comply with the April 11, 2018, MIT injection termination letter.

13. A September 30, 2019, email correspondence from Respondent indicated that his intention was to convert the well to production use.

14. An October 11, 2019, a Bureau of Indian Affairs (BIA) Osage memo denied Respondent's application for conversion to a production well.

15. Therefore, Respondent violated regulations set forth at 40 C.F.R. §§ 147.2905, 147.2912, and 147.2920 by maintaining the well in a manner that could allow the movement of fluid that contains contaminants into a USDW.

SECTION 1423(c) COMPLIANCE ORDER

16. Based on the foregoing findings and under the authority of Section 1423(c) of the Act, it is hereby ordered that Respondent complete corrective actions to prevent fluids from moving through the well into a USDW by Permanently Plugging and Abandoning the well in accordance with 40 C.F.R. § 147.2905 by:

- a. Transmitting plugging plans to aguinaga.david@epa.gov for review by EPA Region 6;
- b. Receiving plugging plan approval letter from EPA Region 6 Water Division;
- c. Upon receipt of approval, submitting Osage Form 139 work request and the EPA-approved plugging plan to the BIA Osage Agency in Pawhuska, OK;
- d. Receiving work approval from the BIA Osage Agency;
- e. Contacting the Osage Environmental and Natural Resources Department (ENRD) at least

5 days prior to plugging to make arrangements for witnessing the plugging; and

- f. Submitting all completed plugging reports to the EPA Region 6 Water Division in Dallas TX, the BIA Osage Agency in Pawhuska, OK and the Osage ENRD in Pawhuska, OK.

17. Respondent shall submit a report of the progress of corrective actions to the address below, within sixty (60) days after the effective date of this Order:

David Aguinaga
Aguinaga.david@epa.gov
U.S. Environmental Protection Agency
Water Enforcement Branch (ECDWE)
1201 Elm Street, Suite500
Dallas, TX 75270-2102

NOTICE OF OPPORTUNITY TO REQUEST A HEARING

18. 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. § 300 h-2(c)(3)(A). This is done by submitting a hearing request to the Regional Hearing Clerk (6RC-D); U.S. EPA; Region 6; 1201 Elm Street, Suite 500, Dallas, Texas 75270-2102 within thirty (30) days of the date of receipt of this Proposed Administrative Order.

19. 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.

20. 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

21. 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.

22. Issuance of this Section 1423(c) Compliance 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 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

24. 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. David Aguinaga, of my staff, at (214) 665-6439.

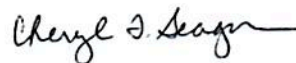
25. If this action is settled without a formal hearing, it will be concluded by issuance of a Final Order.

EFFECTIVE DATE

26. This Order becomes a Final Order that is 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).

June 4, 2020

Date



Digitally signed by CHERYL SEAGER
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Protection Agency, cn=CHERYL SEAGER,
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Cheryl T. Seager
Director
Enforcement and
Compliance Assurance Division

CERTIFICATE OF SERVICE

The EPA and Respondent agree to the use of electronic signatures for this matter. The EPA and Respondent further agree to electronic service of this Administrative Order, pursuant to 40 C.F.R. § 22.6, by email to the following addresses:

Copy via Email to Complainant:
herbert.rusty@epa.gov

Copy via Email to Respondent:
nseplr@cox.net

I certify that that a true and correct copy of the foregoing Administrative Order was delivered to the Regional Hearing Clerk, U.S. EPA, Region 6, 1201 Elm Street, Dallas, Texas 75270-2102, and that a true and correct copy was sent this day in the following manner to the addressees:

Original hand-delivered: Regional Hearing Clerk (6RC-D)
 U.S. EPA, Region 6
 1201 Elm Street, Suite 500
 Dallas, TX 75270

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

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



Dated: 6/15/2020 David Aguinaga