

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter Of:) Docket No. SDWA-05-2021-0002
)
Bruce Alan Enterprises, Inc.) Proceeding under Section 1423(c) of the
Byron Center, Michigan) Safe Drinking Water Act,
) 42 U.S.C. § 300h-2(c)
Respondent.)
)

Consent Agreement and Final Order

Statutory Authority

1. This is an administrative action commenced and concluded under Section 1423(c)(2) of the Safe Drinking Water Act (SDWA), 42 U.S.C. §300h-2(c)(2), and Sections 22.13(b), 22.18(b)(2) and (3), and 22.45 of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (Consolidated Rules), as codified at 40 C.F.R. Part 22.
2. The Administrator has delegated the authority to issue this Consent Agreement and Final Order (CAFO) to the Regional Administrator of EPA Region 5, who re delegated the authority to the Director of the Enforcement and Compliance Assurance Division (Director).
3. Respondent is Bruce Alan Enterprises, Inc., a corporation doing business in Michigan.
4. Where the parties agree to settle one or more causes of action before the filing of a complaint, an administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). *See* 40 C.F.R. § 22.13(b).
5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the terms of this CAFO, including the assessment of the civil penalty and the compliance requirements specified below.

Jurisdiction and Waiver of Right to Judicial Review and Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this CAFO including, but not limited to, its right to request a hearing under 40 C.F.R. § 22.15(c) and Section 1423(c)(3) of SDWA, 42 U.S.C. § 300h-2(c)(3); its right to seek federal judicial review of the CAFO pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-06; any right to contest the allegations in this CAFO; and its right to appeal this CAFO under Section 1423(c)(6) of SDWA, 42 U.S.C. § 300h-2(c)(6). Respondent also consents to the issuance of this CAFO without further adjudication.

Statutory and Regulatory Background

9. Section 1421 of SDWA, 42 U.S.C. § 300h, requires 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.

10. 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.

11. Section 1421(d)(2) of SDWA, 42 U.S.C. § 300h(d)(2), provides that underground injection endangers drinking water sources if such injection may result in the presence in underground water which supplies or can reasonably be expected to supply any public water system of any contaminant, and if the presence of such contaminant may result in such system not complying with any national primary drinking water regulation or may otherwise adversely affect the health of persons.

12. 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.

13. 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.

14. 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.

15. 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).

16. 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.

17. 40 C.F.R. § 144.51(a) provides that any UIC permittee must comply with all conditions of its permit. Any permit noncompliance constitutes a violation of SDWA and is grounds for 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.

18. Section 1401(6) of SDWA, 42 U.S.C. § 300f(6), and 40 C.F.R. § 144.3 define “contaminant” as any physical, chemical, biological, or radiological substance or matter in water.

19. 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.

20. 40 C.F.R. § 144.3 defines “injection well” as a “well” into which “fluids” are being injected.

21. 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.

22. Section 1401(12) of SDWA, 42 U.S.C. § 300f(12), defines “person” as an individual, corporation, company, association, partnership, State, municipality, or Federal agency (and includes officers, employees, and agents of any corporation, company, association, State, municipality, or Federal agency). *See also*, 40 C.F.R. § 144.3.

23. 40 C.F.R. § 144.3 defines “underground injection” as a “well injection.”

24. 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.

25. 40 C.F.R. § 144.3 defines “well injection” as the subsurface emplacement of fluids through a well.

26. 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 assessed a civil penalty and/or be subject to an order requiring compliance pursuant to Section 1423(c)(2) of SDWA, 42 U.S.C. § 300h-2(c)(2).

27. Under Section 1423(c)(2) of the SDWA, 42 U.S.C. § 300h-2(c)(2), and 40 C.F.R. Part 19, EPA may assess a civil penalty of not more than \$11,803 for each day of violation, up to a maximum administrative penalty of \$295,088 for SDWA violations occurring after November 2, 2015, where penalties are assessed on or after December 23, 2020 and/or issue an order requiring compliance.

Factual Allegations and Alleged Violations

28. Respondent is a corporation incorporated in Michigan with an office located at 4590 284th Street S.W., Byron Center, Michigan, 49305.

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

30. At all times relevant to this CAFO, Respondent was authorized to operate a Class II injection well in Allegan County, Michigan pursuant to the following permit (the Permit):
William M. Miller #2, MI-005-2R-0002.

31. The Permit authorizes the underground injection of saltwater from production wells owned or operated by Bruce Alan Enterprise, Inc. in the immediate area into the William M. Miller #2 well, subject to the terms and conditions set forth in the Permit.

32. Saltwater is a “fluid” and the subsurface emplacement of saltwater through the William M. Miller #2 well is a “well injection.” 40 C.F.R. § 144.3.

33. At all times relevant to this CAFO, Respondent owned and operated a well in the State of Michigan and was thus subject to the UIC program requirements set forth at 40 C.F.R. Parts 124, 144, 146, 147 Subparts A and X, and 148.

34. At all times relevant to this CAFO, Part I (E)(1) of the Permit requires the Respondent to comply with all conditions of the Permit (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).

35. 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

36. On July 26, 2019, EPA spoke to the Respondent on the phone regarding an upcoming compliance inspection of the injection well and its current status.

37. On July 31, 2019, pursuant to Section 1445(b) of SDWA, 42 U.S.C. § 300j-4(b) and Part I (E)(6) of the Permit, an EPA credentialed inspector inspected Respondent’s facility.

38. On August 10, 2019, EPA provided its report of the July 31, 2019, inspection to Respondent.

39. On January 8, 2020, EPA sent Respondent a noncompliance notification based on the findings of the inspection and a review of records. This notification requested a written response from Respondent within 30 days of receipt.

40. On February 7, 2020, EPA received a written response from Respondent to the July 2020 noncompliance notification.

41. On April 22, 2020, EPA issued the Respondent an Information Request pursuant to Section 1445 of the Safe Drinking Water Act. This document requested a written response from Respondent within 45 days of receipt.

42. On April 28, 2020, Respondent called the EPA to discuss the Information Request and Permit.

43. On June 8, 2020, EPA called the Respondent regarding the status of the Information Request Response.

44. On June 8, 2020, EPA spoke to the Respondent on the phone regarding the status of the Information Request Response.

45. On June 12, June 15, and June 16 of 2020, Respondent submitted its response to the Information Request and the documents requested by the EPA.

46. As of October 23, 2020, Bruce Alan has completed the following:

- a. Immediately stopped injecting unauthorized sources of injection fluids.
- b. Closed off the annulus to ensure that the space between the tubing and the long string casing is filled with a fluid capable of inhibiting corrosion.
- c. Began using calibrated gauges for all monitoring and will replace with new gauges as needed.
- d. Began measuring and recording injection pressure, annulus pressure, flow rate and cumulative volume weekly at the well site.

Count 1 –Failure to Accurately Monitor and Record Pressure

47. At all times relevant to this CAFO, Parts II (B)(2)(d) and III (A) of the Permit required Respondent to monitor and record annulus and injection pressure at least weekly using calibrated gauges. Part II (B)(3)(a) of the Permit requires Respondent to include weekly measurements of annulus pressure and injection pressure in monthly reports submitted to EPA.

48. 40 C.F.R. § 144.51(j) requires that samples and measurements taken for the purpose of monitoring be representative of the monitored activity.

49. During the July 31, 2019 inspection, Respondent stated that injection pressure and annulus pressure are not measured by a gauge and that the Respondent does not regularly use a gauge for weekly monitoring.

50. In the response to the Information Request issued on April 22, 2020, Respondent stated that pressure measurements were not taken with gauges at the well.

51. Respondent's failure to record annulus pressure and injection pressure measurements with a calibrated gauge is a violation with Parts II (B)(2)(d) and III (A) of the Permit, the UIC regulations at 40 C.F.R. § 144.51, and SDWA.

Count 2 - Submission of Inaccurate Reports

52. At all times relevant to this CAFO, Part II (B)(3)(a) and Part II (B)(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.

53. During the July 31, 2019 inspection, Respondent stated that injection pressure and annulus pressure are not measured by a gauge.

54. In the response to the Information Request issued on April 22, 2020, Respondent stated that pressure measurements were not taken with gauges and never have used gauges to

take pressure measurement at the well. However, Respondent submitted reports to EPA with values for the injection pressure and annulus pressure data.

55. From February of 2016 through September of 2019, Respondent failed to submit accurate monthly reports to EPA.

56. Respondent's failure to accurately report weekly annulus pressure and injection pressure measurements is a violation with Part II (B)(3)(a) and Part II (B)(2)(d) and Part III (A) of the Permit, the UIC regulations at 40 C.F.R. § 144.51(a), and SDWA.

Count 3 – Failure to Maintain Mechanical Integrity

57. At all times relevant to this CAFO, Part I (E)(17)(a) of the Permit requires that the Respondent must establish and shall maintain mechanical integrity of the well.

58. On July 26, 2019 call with the EPA, Respondent stated that the well head and length of casing has been removed and the well is not operating while undergoing repairs.

59. On July 26, 2019, Respondent was issued a cease injection notice for loss of mechanical integrity and for failure to notify EPA of the event. This required the company to cease injection immediately until repairs were made and the EPA approves it has passed a mechanical integrity test.

60. During the July 31, 2019 inspection, EPA observed that the well head of the injection had been removed, a portion of the casing had been removed, and was undergoing repairs.

61. Part I (17)(f) of the Permit requires when mechanical integrity of the well is lost the permittee must stop injecting and cannot resume activity until gaining approval to recommence injection.

62. In September of 2019, EPA witnessed a mechanical integrity test of the Respondent's injection well and approved the Respondent to resume injection.

63. In the response to the noncompliance notification which EPA received on February 5, 2019, Respondent stated that the well quit working on February 2, 2019 and upon further investigation it was found that a portion of the pipe was crushed. Respondent further stated that the damaged pipe was pulled from the well and repaired in July of 2019.

64. Based on the Respondent's response to the noncompliance notification, Information Request and the inspector's observation made at the inspection, the Respondent failed to maintain mechanical integrity of the well from July of 2019 to September of 2019.

65. Respondent's failure to maintain mechanical integrity is a violation with Part I (E)(17)(a) of the Permit, the UIC regulations at 40 C.F.R. § 144.51(a), and SDWA.

Count 4 – Failure to Make Required Notification

66. At all times relevant to this CAFO, Parts II (B)(3)(d) and I (E)(9)(e) requires the company to notify the EPA of loss of mechanical integrity.

67. During the July 31, 2019 inspection and in the response to the Information Request issued on April 22, 2020, Respondent's representatives stated that it did not notify EPA of the loss of mechanical integrity.

68. Respondent's failure to make required notification is in violation with Parts II (B)(3)(d) and I (E)(9)(e) of the Permit, the UIC regulations at 40 C.F.R. § 144.51(a), and SDWA.

69. At all times relevant to this CAFO, Part I (E)(9)(f) requires the company to notify the EPA of all instances of noncompliance.

70. Respondent's failure to make required notification is in violation with Part I (E)(9)(f) of the Permit, the UIC regulations at 40 C.F.R. § 144.51(a), and SDWA.

Count 5 – Failure to Properly Operate

71. At all times relevant to this CAFO, Part II (B)(iv) of the Permit requires the annulus between the tubing and the long string casing to be filled with a liquid designed to inhibit corrosion and monitored in accordance with Parts II (B)(2)(d) and (B)(3)(b) of the Permit.

72. During the July 26, 2019 phone call and July 31, 2019 inspection, Respondent stated the annulus of the well is kept open and vented to the atmosphere.

73. In the response to a question, in the Information Request issued on April 22, 2020, which referenced the timeframe from April 2015 to the date of the information request and asked about the frequency of venting annulus pressure Respondent stated that it has always left the annulus open to the atmosphere and to vent.

74. Allowing the annulus to vent or be open continuously to the atmosphere is in violation with Part II (B)(iv) of the Permit.

75. Respondent failed to properly operate the well from February of 2016 to June of 2020.

76. Respondent's failure to keep the annulus closed is in violation with Part II (B)(iv) of the Permit, the UIC regulations at 40 C.F.R. § 144.51(a), and SDWA.

Count 6 – Injection of Unauthorized Fluids

77. At all times relevant to this CAFO, Part I (E)(18) restricts the permittee to only allow the injection of oil field brines or those fluids used in the enhancement of oil and gas production as specified in 40 CFR 146.5(b). Further, no fluids other than those from sources noted in the administrative record and approved by the Director shall be injected.

78. Part II(A)(7) prohibits any underground injection except as authorized by permit or rule issued under the UIC program.

79. During the July 31, 2019 inspection, Respondent's representative stated that the company does accept fluids from other companies but is not operating on a commercial basis. Respondent's representative stated that they do haul and inject waste from Christian Oil Company and Goodale Enterprises. Respondent's representative also stated that Respondent has an on-call agreement with Fisher McCaul to haul their waste and inject it into the well intermittently throughout the year.

80. In the response to the Information Request issued on April 22, 2020, Respondent stated that they have a verbal agreement with Fisher McCall Oil and Gas for contaminated oil and brine. The Respondent stated that this agreement was "okayed" by Bill Mitchell at the Michigan EGLE. The Respondent also provided volumes of the brine accepted from each outside source and the dates they were accepted and injected.

81. Since the issuance of the Information Request this activity has ceased.

82. Respondent's injection of unauthorized fluids is in violation with Part I (E)(18) and Part II(A)(7) of the Permit, the UIC regulations at 40 C.F.R. § 144.51(a), and SDWA.

Civil Penalty

83. Section 1423(c)(4)(B) of SDWA, 42 U.S.C. § 300h-2(c)(4)(B), requires the Administrator to take into account the seriousness of the violation, the economic benefit (if any) resulting from the violation, any history of such violations, any good faith efforts to comply with the applicable requirements, the economic impact of the penalty on the violator, and such other matters as justice may require, when assessing a civil penalty for violations of SDWA.

84. Based upon the facts alleged in this CAFO, the factors listed in Section 1423(c)(4)(B) of SDWA, 42 U.S.C. 300h-2(c)(4)(B), EPA's UIC Program Judicial and Administrative Order Settlement Penalty Policy (September 1993) (EPA's UIC Penalty Policy),

and Respondent's good faith and cooperation in resolving this matter, EPA has determined that an appropriate civil penalty to settle this action is \$5,000.

85. Within 30 days of the effective date of this CAFO, Respondent must pay the civil penalty in Paragraph 84 by sending a cashier's or certified check, payable to "Treasurer, United States of America," by U.S. Postal Service mail to:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

The check must note Respondent's name and the docket number of this CAFO.

86. A transmittal letter, stating Respondent's name, complete address, and the case docket number must accompany the payment.

87. A transmittal letter, stating Respondent's name, complete address, and the case docket number must accompany the payment.

88. 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: girouard.taylor@epa.gov, R5WECA@epa.gov and bending.padmavati@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:

Taylor Girouard (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

Padmavati Bending (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

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

89. At the time of penalty payment, Respondent must also send copies of the notice of payment and transmittal letter to the addresses specified in Paragraph 88.

90. This civil penalty is not deductible for federal tax purposes.

91. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, Respondent must pay the following on any amount overdue under this CAFO: interest accrued on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621(a)(2); the United States' enforcement expenses, including but not limited to attorneys' fees and costs incurred by the United States for collection proceedings; a \$15 handling charge fee each month that any portion of the penalty is more than 30 days past due; and 6% per year penalty on any principal amount 90 days past due.

92. If Respondent does not pay timely the civil penalty, EPA may request the United States Department of Justice bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties, and the United States' enforcement expenses

for the collection action under Section 1423(c)(7) of SDWA, 42 U.S.C. § 300h-2(c)(7). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

Compliance Requirements

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

Respondent shall:

- a. Within 30 days of the effective date of this CAFO, submit to EPA copies of all monthly, quarterly and annual monitoring reports for 12 months. Reports shall be postmarked no later than the 10th day of the month following the reporting period.
- b. Within 90 days of the effective date of this CAFO, submit to EPA for review and approval, and upon approval shall implement, a standard operating procedure (SOP) for use in providing adequate direction to all staff in monitoring, recording, and reporting practices required by the Permit. The SOP must address procedures for measuring injection pressure, annulus pressure, flow rate and cumulative volume with calibrated gauges and flow meters or totalizers. The SOP must include procedures for quarterly monitoring and reporting practices required by the Permit. The SOP must include procedures for annual monitoring and reporting practices required by the Permit. The SOP must also address how all monitoring information will be maintained, in accordance with the Permit and 40 C.F.R. § 144.51(j) including calibration and maintenance records and copies of all records from the date of sample, measurement or report.

94. All monitoring reports and documents described required by this CAFO in Paragraph 93, shall be sent to the following EPA addresses: girouard.taylor@epa.gov and armstrong-lynn.michelle@epa.gov. These reports, notifications, documentation, and submissions must be signed by a 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.”

95. 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 CAFO, 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 or 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.

96. 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 CAFO 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.

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

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

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

100. If Respondent fails to comply with the requirements set forth in Paragraph 93, above, EPA may request the United States Department of Justice bring an action to seek penalties for violating this CAFO under Section 1423(b) of SDWA, 42 U.S.C. § 300h-2(b).

General Provisions

101. The parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: bending.padmavati@epa.gov (for Complainant) and mbeugster@varnumlaw.com (for Respondent).

102. Full payment of the penalty as described in Paragraph 84, above, and full compliance with this CAFO shall only resolve Respondent's liability for federal civil penalties for the violations alleged in this CAFO. Violation of this CAFO shall be deemed a violation of SDWA for purposes of Section 1423(b) of SDWA, 42 U.S.C. § 300h-2(b).

103. Full compliance with this CAFO 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.

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

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

106. This CAFO 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).

107. The terms of this CAFO bind Respondent and its successors and assigns.

108. Each person signing this CAFO 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 CAFO.

109. Each party agrees to bear its own costs and attorney fees in this action.

110. This CAFO constitutes the entire agreement between the parties.

111. The parties acknowledge and agree that final approval by EPA of this CAFO 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.

112. In accordance with 1423(c)(3)(D) of SDWA, 42 U.S.C. § 300h-2(c)(3)(D), and 40 C.F.R. §§ 22.18(b)(3), 22.31(b), and 22.45, this CAFO shall become effective 30 days after the date that the Final Order contained in this CAFO, having been approved and issued by the Regional Judicial Officer, is filed with the Regional Hearing Clerk.

113. EPA may terminate this CAFO at any time by written notice to Respondent.

114. Absent the notice described in Paragraph 113 and within 30 days after Respondent concludes that it has achieved compliance with all requirements of this CAFO, Respondent may request in writing that EPA terminate this CAFO. With this request for termination, Respondent must submit to the EPA enforcement officer a written final report and certification of completion describing all actions taken to comply with all requirements of this CAFO. Respondent must include the certification language required under Paragraph 94. In response to the request for termination and written final report, EPA may require additional information, actions, or evidence from Respondent to show compliance with this CAFO; EPA may pursue appropriate administrative or judicial action to require compliance with this CAFO;

or EPA may accept the request for termination. This CAFO shall terminate on the date that EPA notifies Respondent in writing that EPA agrees with Respondent's request for termination.

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In the Matter of: Bruce Alan Enterprises, Inc.
Docket No. SDWA-05-2021-0002

Bruce Alan Enterprises, Inc., Respondent

3/5/2021
Date

Bruce Breuker
Bruce Breuker
President

United States Environmental Protection Agency, Complainant

MICHAEL HARRIS Digitally signed by MICHAEL HARRIS
Date: 2021.03.16 16:00:55 -05'00'

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

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Docket No. SDWA-05-2021-0002

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective 30 days after filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18, 22.31. and, 22.31. and 22.45. IT IS SO ORDERED.

Ann Coyle *(signature and date)*
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 5

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Certificate of Service

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, docket number SDWA-05-2021-0002, which was filed on _____, in the following manner to the following addresses:

Copy by e-mail to Respondent: Bruce Breuker
Bruce@brucealanent.com

Copy by e-mail to Attorney for Complainant: Padma Bending
bending.padmavati@epa.gov

Copy by e-mail to Attorney for Respondent: Matthew Eugster
mbeugster@varnumlaw.com

Copy by e-mail to Regional Judicial Officer: Ann Coyle
coyle.ann@epa.gov

LaDawn Whitehead (signature and date)
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5