



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

JUL 07 2015

CERTIFIED MAIL 7013 2630 0000 0214 9976  
RETURN RECEIPT REQUESTED

Joel Patton  
286 Bogle Street #8  
Somerset, Kentucky 42503


Re: Consent Agreement and Final Order (CA/FO)  
Docket No. SDWA-04-2015-1000(b)

Dear Mr. Patton:

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 Mr. Tony Shelton, Underground Injection Control Enforcement at (404) 562-9636.

Sincerely,

  
for James D. Giattina  
Director  
Water Protection Division

Enclosure

cc: Regional Hearing Clerk

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4

IN THE MATTER OF

Tri Global Holdings, LLC  
22 Saddlebrook Garden  
London, Kentucky 40744

Respondent

Consent Agreement and Final Order

Docket No. SDWA-04-2015-1000(b)

RECEIVED  
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2015 JUL -7 AM 11:25  
REGIONAL OFFICE OF EPA

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 under Section 1423 of the Safe Drinking Water Act (SDWA), 42 U.S.C. § 300h-2. The Administrator has delegated this authority to the Regional Administrator, Region 4, who in turn has delegated this authority to the Director of the Water Protection Division of the EPA, Region 4 (EPA or Complainant). The EPA, as Complainant, hereby enters into the following Consent Agreement and Final Order (CA/FO) with Tri Global Holdings, LLC. (Respondent).

2. Section 1450(a)(1) of the SDWA, 42 U.S.C. § 300j-9(a)(1), 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 C.F.R. 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 is administered by the EPA. See 40 C.F.R. § 147.901(a).

ALLEGATIONS

4. Respondent is a limited liability company organized under the laws of Kentucky and doing business in the Commonwealth of Kentucky, with a business address of 22 Saddlebrook Garden, London, Kentucky 40744.

5. Respondent was the owner and/or operator of the Class II underground injection well that is subject to this Order (Subject Well), as shown below. On May 8, 2012, the Subject Well was transferred to B & J Oil Company. The Subject Well is a "facility" as that term is defined in 40 C.F.R. § 144.3 and is permitted in accordance with 40 C.F.R. § 144.31.

<u>EPA ID No.</u>	<u>Permit No.</u>	<u>Well</u>	<u>County</u>	<u>Status</u>
KYS0870051	KYI0831	Vernon Ketchum #2	Green	Active

6. The SDWA 42 U.S.C. § 300f, et seq. and 40 C.F.R. § 144.51(a) require the permittee of a permitted UIC well to comply with all conditions of the permit.

7. Part II, Section G, Paragraph 3, of the Respondent's permit requires that a demonstration of mechanical integrity in accordance with 40 C.F.R. § 146.8 be made no later than 5 years from the last approved demonstration.

8. The information contained in the EPA's records indicates Respondent failed to timely demonstrate the mechanical integrity of the Subject Well, as shown below.

<u>Permit No.</u>	<u>EPA ID No.</u>	<u>Well</u>	<u>Status</u>	<u>MIT Due</u>	<u>MIT Done</u>
KYI0831	KYS0870051	Vernon Ketchum #2	Active	10/06/11	10/23/12

9. Therefore, Respondent is in violation of the SDWA, 42 U.S.C. § 300f, et seq., 40 C.F.R. §146.8, and 40 C.F.R. §144.51(a) for failure to timely demonstrate the mechanical integrity of the Subject Well.

10. Part I, Section C, Paragraph 3, of the UIC permit, requires the permittee to conduct an injection fluid analysis at least once every 12 months and whenever changes are made to the injection fluid, in accordance with 40 C.F.R. § 146.23(b)(1). Part I, Section D, Paragraph 2, of the subject permit requires the permittee to submit the results of the injection fluid analysis to the EPA annually in accordance with 40 C.F.R. § 146.23(c).

11. Based on the EPA's records, injection fluid analysis results for the following active permitted Subject Well were not submitted, as shown below.

<u>Permit No.</u>	<u>EPA ID No.</u>	<u>Well Name</u>	<u>Last Fluid Analysis Report</u>
KYI0831	KYS0870051	Vernon Ketchum #2	07/05/06

12. Therefore, Respondent is in violation of the SDWA, 42 U.S.C. § 300f, et seq., 40 C.F.R. §§ 146.23(b)(1), 146.23(c) and 144.51(a) for failure to submit fluid analysis reports, as shown above.

13. Part I, Section C, Paragraph 2, of the UIC permit, requires the permittee to monthly monitor the injection and annulus pressures at the wellhead, the flow rate, and the cumulative volume of the injected fluid in accordance with 40 C.F.R. § 146.23(b)(2). Part I, Section D, Paragraph 2, in accordance with 40 C.F.R. § 146.23(c), contains the requirement to submit the results of all monitoring to the EPA by January 31 of the subsequent year.

14. Based on the EPA's records, annual monitoring reports for the following active permitted Subject Well is overdue, as shown below.

<u>Permit No.</u>	<u>EPA ID No.</u>	<u>Well</u>	<u>Status</u>	<u>Last Monitoring Report</u>
KYI0831	KYS0870051	Vernon Ketchum #2	Active	2008

15. Therefore, Respondent is in violation of the SDWA, 42 U.S.C. § 300f, et seq., 40 C.F.R §§ 146.23(b)(1), 146.23(c) and 144.51(a) for failure to submit annual monitoring reports, as shown above.

16. On August 19, 2014, Respondent participated in a show cause hearing with representatives of the EPA to discuss these alleged violations of the SDWA and the implementing regulations.

### STIPULATIONS AND FINDINGS

17. Respondent admits the jurisdictional allegations and facts and findings of violations 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.

18. Complainant and Respondent have conferred for the purpose of settlement, pursuant to 40 C.F.R. § 22.18 and desire to resolve this matter and settle the violations described herein without resorting 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 C.F.R. § 22.13(b), this CA/FO will simultaneously commence and conclude this matter.

### PENALTY

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

19. Respondent shall pay a civil penalty of **\$3,800 (three thousand, eight hundred dollars)** in accordance with the terms set forth below.

20. Within 60 days of receipt of a fully-executed copy of this CA/FO, Respondent shall submit a cashiers or certified check in the amount of **\$3,800 (three thousand, eight hundred dollars)**. The penalty payment 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 cashier's check.

21. 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 UIC Section  
Grants and Drinking Water Protection Branch  
U. S. EPA - Region 4  
61 Forsyth Street SW Atlanta, GA 30303-8960

22. Pursuant to Section 1423(2)(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. Additionally, pursuant to 40 C.F.R. Part 13 and 31 U.S.C. § 3717 et seq., if the EPA does not receive payment of the penalty assessed by this CA/FO in full by its due date, interest shall accrue on the unpaid balance from the due date through date of payment at an annual rate equal to the rate of the current value of funds to the United States Treasury as prescribed and published by the Secretary of the Treasury. If all or part of the payment is overdue, the EPA shall assess an administrative fee of \$15 for each subsequent 30 day period. The EPA shall assess, on a monthly basis, a 6% per annum penalty on any principal amount not paid within 90 days of the due date.

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

For Respondent: Joel Patton  
286 Bogle Street #8  
Somerset, Kentucky 42503  
606-678-2897

For the EPA: Wilda Cobb, Associate Regional Counsel  
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. § 300h, et seq. or any regulations promulgated there under. 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 there under, 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 Respondents 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. The parties acknowledge and agree that final approval by the 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.
28. Each party shall bear its own costs and attorneys fees in connection with this action.
29. This CA/FO shall become effective upon the date that it is filed with the Regional Hearing Clerk.

30. 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 3-20-15

  
\_\_\_\_\_  
Joel Patton, Manager  
Tri Global Holdings, LLC

**COMPLAINANT**

Date 6-23-15

  
\_\_\_\_\_  
for James D. Giattina, Director  
Water Protection Division

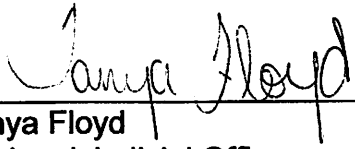
Docket No. SDWA-04-2015-1000(b)

**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: \_\_\_\_\_

July 6, 2015  
\_\_\_\_\_  
Tanya Floyd  
Regional Judicial Officer



Docket No. SDWA-04-2015-1000(b)

**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 Tri Global Holdings, LLC; Docket No. SDWA-04-2015-1000(b), on the parties listed below in the manner indicated:

Tony Shelton

Via EPA Internal Mail

Wilda Cobb

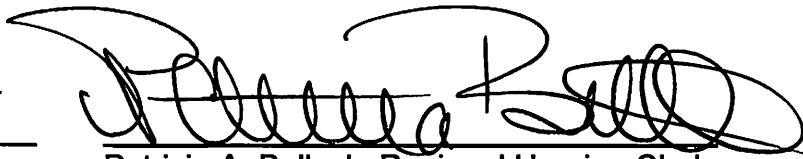
Via EPA Internal Mail

Joel Patton  
286 Bogle Street #8  
Somerset, Kentucky 42503  
606-678-2897

Via Certified Mail/ Return Receipt Requested

Date: \_\_\_\_\_

7-7-15



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