



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
**REGION 6**  
**1201 Elm Street, SUITE 500**  
**DALLAS, TEXAS 75270-2102**

DEC 19 2019

CERTIFIED MAIL – RETURN RECEIPT REQUESTED: 7005 1820 0003 7456 1999

Mr. Ladd A. Drummond  
4D Oil and Gas, LLC  
532 Kihekah Avenue  
Pawhuska, Oklahoma 74056

Re: Consent Agreement and Final Order  
Docket Number: CWA-06-2019-1797  
Facility Numbers: OKU000871

Dear Mr. Drummond:

This is to acknowledge receipt of the signed Consent Agreement and Final Order (CAFO). As no comments were received from the public during the thirty (30) day public notice period, the Environmental Protection Agency hereby issues this CAFO. The penalty payment is due within thirty (30) days after the effective date.

If you have any questions regarding this matter, please contact Ms. Jeanne Eckhart, at (214) 665-8174.

Sincerely,

A handwritten signature in black ink, appearing to read "Cheryl T. Seager", with a long horizontal line extending to the right.

Cheryl T. Seager  
Director  
Enforcement and  
Compliance Assurance Division

Enclosure

cc: Regional Hearing Clerk (6RC-D)

Ms. Robin Phillips, Superintendent  
Osage Agency, Bureau of Indian Affairs  
P.O. Box 1539  
Pawhuska, Oklahoma 74056

Re: Consent Agreement and Final Order  
Docket Number: CWA-06-2019-1797

cc: Ms. Jann Hayman, Environmental Director  
Osage Nation, ENR Department  
100 West Main Street, Suite 304  
Pawhuska, OK 74056

Mr. Butch McComas, Business Manager  
4D Oil and Gas, LLC  
[butch.mccomas@gmail.com](mailto:butch.mccomas@gmail.com)

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 6

11/17/19  
7:04 PM

In the Matter of:

4D Oil and Gas, LLC  
Respondent

Facility Numbers: OKU000871

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DOCKET NO. CWA-06-2019-1797

CONSENT AGREEMENT AND FINAL ORDER

I. PRELIMINARY STATEMENT

1. This Consent Agreement and Final Order (“CAFO”) is issued under the authority vested in the United States Environmental Protection Agency (“EPA”) pursuant to Section 309(g) of the Clean Water Act (“the Act”), 33 U.S.C. § 1319(g). This CAFO is issued in accordance with 40 C.F.R. § 22.18, as described in the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits,” 40 C.F.R. Part 22.

2. On August 27, 2019, EPA Region 6 issued to 4D Oil and Gas, LLC (“Respondent”) an Administrative Complaint (“Complaint”) under Section 309(g) of the Act, 33 U.S.C. § 1319(g), which proposed to assess a civil penalty against Respondent, and gave notice of Respondent’s opportunity to request a hearing on the proposed administrative penalty assessment.

3. Respondent and EPA (collectively, “Parties”) agree that settlement of the relevant matters without litigation will save time and resources, that it is in the public’s interest, and that the entry of this CAFO is the most appropriate means of resolving such matters. Compliance with all the terms and conditions of this CAFO resolves only those violations alleged in the Complaint.

4. Respondent admits the jurisdictional allegations of the Complaint; however, Respondent neither admits nor denies the specific factual allegations and conclusions of law contained in the Complaint or the Findings of Fact and Conclusions of Law contained in this CAFO.

5. Respondent expressly waives any right to contest the factual allegations or conclusions of law contained in the Complaint and this CAFO and waives its right to appeal the Final Order set forth herein.

6. Before the taking of any testimony, and without adjudication of any issue of law or fact, the Parties agree to the terms of this CAFO and to its issuance. Respondent consents to the assessment and payment of a civil penalty in the amount and by the method stated below.

## II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

7. Respondent is a limited liability company incorporated under the laws of the State of Oklahoma and doing business in the State of Oklahoma, and as such, Respondent is a "person," as that term is defined at Section 502(5) of the Act, 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2.

8. At all times relevant to this action ("all relevant times"), Respondent owned or operated an oil field disposal and production facility known as the South Cedar Creek Lease located near Pawhuska, Osage County, Oklahoma ("facility") and was, therefore, an "owner or operator" within the meaning of 40 C.F.R. § 122.2.

9. The Complaint specified Findings of Fact and Conclusions of Law that are hereby incorporated by reference and alleged, among other things, that at the relevant times: Respondent was a "person" that "owned or operated" a facility that was a "point source" subject to "discharges" of "pollutants" to identified "waters of the United States" within the meaning of Section 502 of the Act, 33 U.S.C. § 1362, and 40 C.F.R. § 122.2; Respondent and the facility were subject to the

provisions of the Act, 33 U.S.C. §§ 1251–1387, and the National Pollutant Discharge Elimination System (“NPDES”) program; and Respondent violated Section 301 of the Act, 33 U.S.C. § 1311, by discharging pollutants, specifically oil field brine and produced wastewater, to waters of the United States, as specified in the Complaint.

10. With the issuance of the Complaint, the Osage Nation Environmental Department and the Bureau of Indian Affairs – Osage Agency were notified and given an opportunity to consult with EPA regarding the proposed assessment of an administrative penalty against Respondent.

11. EPA notified the public of the Complaint via the internet at <https://www.epa.gov/publicnotices> and afforded the public thirty (30) days to comment on the Complaint and proposed penalty. At the expiration of the notice period, EPA received no comments from the public.

### III. TERMS OF SETTLEMENT

#### A. PENALTY PROVISIONS

12. Based on the foregoing Findings of Fact and Conclusions of Law, EPA Region 6, considering the relevant criteria pursuant to Section 309(g)(3) of the Act, 33 U.S.C. § 1319(g)(3), and acting pursuant to the authority of Section 309(g) of the Act, 33 U.S.C. § 1319(g), hereby orders that Respondent shall pay to the United States a civil penalty in the amount of nine thousand dollars (\$9,000) to settle the violations as alleged in the Complaint, in accordance with 40 C.F.R. § 22.18(c).

13. Payment shall be made within thirty (30) days of the effective date of this CAFO by one of the below methods:

- a. Mailing a bank check, a cashier’s check or certified check, payable to “Treasurer of the United States,” to the following address:

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

b. Wire Transfer to:

Federal Reserve Bank of New York  
ABA: 021030004  
Account Number: 68010727  
SWIFT address: FRNYUS33  
33 Liberty Street  
New York, NY 10045  
Field Tag 4200 of the Fedwire message should read:  
"D68010727 Environmental Protection Agency"

c. Overnight mail (Express, FedEx, DHL, etc.) to:

U.S. Bank  
Government Lockbox 979077  
U.S. EPA Fines & Penalties  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, MO 63101  
Phone: 314-418-1028

d. ACH Payments to:

U.S. Treasury REX/Cashlink ACH Receiver  
ABA: 051036706  
Acct. Number: 310006  
Environmental Protection Agency  
CTX Format Transaction Code 22 – Checking  
Physical location of U.S. Treasury facility:  
5700 Rivertech Ct.  
Riverdale, MD 20737

e. Payment by Credit Card, Debit Card, or Checking Account (only up to \$24,999.99)

Online: [www.pay.gov](http://www.pay.gov)

Follow these steps to make a payment:

1. You do not need a user name and password or account.
2. Enter SF0 1.1 in the form search box on the top left side of the screen.
3. Open the form and follow the on-screen instructions.
4. Select type of payment from the "Type of Payment" drop down menu.
5. Based on your selection, the corresponding line will open and no longer be shaded gray.
6. Enter the docket number, invoice number or other corresponding information into the field.

**"In the Matter of 4D Oil and Gas, LLC, Docket No. CWA-06-2019-1797"** should be clearly marked on the check to ensure credit for payment.

14. Respondent shall send simultaneous notice of payment, including a copy of the check, or other remittance, to each of the following:

- (a) Regional Hearing Clerk (ORC)  
U.S. EPA, Region 6  
1201 Elm Street, Suite 500  
Dallas, TX 75270-2102
- (b) Chief, Energy Sector Compliance Section (ECDWE)  
U.S. EPA, Region 6  
1201 Elm Street, Suite 500  
Dallas, TX 75270-2102
- (c) Chief, Water Legal Branch (ORCEW)  
U.S. EPA, Region 6  
1201 Elm Street, Suite 500  
Dallas, TX 75270-2102

Respondent's adherence to these procedures will ensure proper credit when payment is received by EPA.

15. Respondent agrees not to claim or attempt to claim a federal income tax deduction or credit covering all or any part of the civil penalty paid to the United States Treasurer.

16. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, unless otherwise prohibited by law, EPA will assess interest and late payment penalties on outstanding debts owed to the United States that are not paid by the due date and a charge to cover the cost of processing and handling a delinquent claim. Interest on the civil penalty assessed in this CAFO will begin to

accrue thirty (30) days after the effective date of the CAFO and will be recovered by EPA on any amount of the civil penalty that is not paid by the respective due date. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a). Moreover, the costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b).

17. EPA will also assess a fifteen dollar (\$15.00) administrative handling charge for administrative costs on unpaid penalties for the first thirty (30)-day period after the payment is due and an additional fifteen dollars (\$15.00) for each subsequent thirty (30)-day period that the penalty remains unpaid. In addition, a penalty charge of up to six percent (6%) per year will be assessed monthly on any portion of the debt which remains delinquent more than ninety (90) days. 40 C.F.R. § 13.11(c). Should a penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d). Other penalties for failure to make a payment may also apply.

18. Pursuant to Section 309(g)(9) of the Act, 33 U.S.C. § 1319(g)(9), any person who fails to pay on a timely basis a civil penalty ordered or assessed under this section shall be required to pay, in addition to such penalty and interest, the United States' enforcement expenses including, but not limited to, attorneys' fees and costs incurred by the United States for collection proceedings, and a quarterly non-payment penalty for each quarter during which such failure to pay persists. Such non-payment penalty shall be twenty percent (20%) of the aggregate amount of such person's outstanding penalties and non-payment penalties accrued as of the beginning of each quarter.

19. Failure by Respondent to pay the penalty assessed according to the terms of this CAFO, in full, by its due date, may subject Respondent to a civil action to collect the assessed penalty and any accrued interest and penalties.



20. In the event a collection action is necessary, Respondent shall pay – in addition to any applicable penalty, fees, and interest described herein – all reasonable costs and expenses, including legal expenses and court costs, incurred by the United States for enforcement and collection proceedings for non-payment of the amounts agreed hereunder, pursuant to Section 309(g)(9) of the Act, 33 U.S.C. § 1319(g)(9). In any such collection action, the validity, amount, and appropriateness of the penalty, and the terms of this CAFO shall not be subject to review.

#### IV. GENERAL PROVISIONS

21. To execute this Agreement, Respondent shall forward this copy of the CAFO, with original signature, to:

Mr. Tucker Henson (ORCEW)  
U.S. EPA, Region 6  
1201 Elm Street, Suite 500  
Dallas, TX 75270-2102

22. Respondent shall also send a copy of the CAFO to the following EPA staff assigned to this case via mail or email:

Ms. Jeanne Eckhart (ECDWE)  
U.S. EPA, Region 6  
1201 Elm Street, Suite 500  
Dallas, TX 75270-2102  
eckhart.jeanne@epa.gov

23. Issuance of this CAFO does not relieve Respondent from responsibility to comply with all requirements of the Act and the requirements of any permits issued thereunder, as described in Section 309(g)(7) of the Act, 33 U.S.C. § 1319(g)(7), nor does it constitute a waiver by EPA of its right to enforce compliance with the requirements of Respondent's permits or other requirements of the Act by actions pursuant to Section 309 of the Act, 33 U.S.C. § 1319.


24. The provisions of this CAFO shall be binding upon Respondent, its officers or officials, managers, employees, and their successors or assigns, in their capacity on behalf of Respondent.

25. Each party agrees to bear its own costs and attorneys' fees in this matter, except to the extent that Respondent may be responsible for reasonable costs and expenses of enforcement and collection proceedings for failure to comply with the terms of this CAFO.


26. Each undersigned representative of the Parties to this agreement certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this agreement and to execute and legally bind that party to it.

27. The effective date of this CAFO is the date when the CAFO is filed with the Regional Hearing Clerk.

In recognition and acceptance of the foregoing:

  
\_\_\_\_\_  
Ladd Drummond  
Owner  
4D Oil and Gas, LLC

12/10/19  
Date

  
\_\_\_\_\_  
Cheryl T. Seager  
Director  
Enforcement and  
Compliance Assurance Division

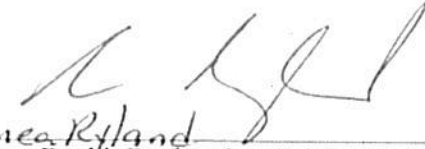
12-15-19  
Date

FINAL ORDER

Pursuant to the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the foregoing Consent Agreement is hereby ratified. This Final Order shall not in any case affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Final Order shall resolve only those causes of action alleged in the Complaint. Nothing in this Final Order shall be construed to waive, extinguish, or otherwise affect Respondent's (or its officers', agents', servants', employees', successors', or assigns') obligation to comply with all applicable federal, state, and local statutes and regulations, including the regulations that were the subject of this action. Respondent is ordered to comply with the terms of settlement and the civil penalty payment instructions as set forth in the Consent Agreement. Pursuant to 40 C.F.R. § 22.31(b), this Final Order shall become effective upon filing with the Regional Hearing Clerk.

Issuance Date:

19 DEC 2019

  
Thomas Rucki, Regional Judicial Officer  
EPA, Region 6

CERTIFICATE OF SERVICE

I hereby certify that on the 19<sup>th</sup> day of December, 2019, the original of the foregoing Consent Agreement and Final Order was hand-delivered to the Regional Hearing Clerk, U.S. EPA, Region 6 (ORC), 1201 Elm Street, Suite 500, Dallas, Texas 75270-2102, and that a true and correct copy was placed in the United States mail, by certified mail, return receipt requested, addressed to the following:

Original hand-delivered: Regional Hearing Clerk (ORC)  
U.S. EPA, Region 6  
1201 Elm Street, Suite 500  
Dallas, Texas 75270-2102

Copy by certified mail, 7005 1820 0003 7456 1999  
return receipt requested: Mr. Ladd A. Drummond  
4D Oil and Gas, LLC  
532 Kihekah Avenue  
Pawhuska, Oklahoma 74056

Copy by email or mail: Ms. Robin Phillips, Superintendent  
Osage Agency, Bureau of Indian Affairs  
P.O. Box 1539  
Pawhuska, Oklahoma 74056

Ms. Jann Hayman, Environmental Director  
Osage Nation, ENR Department  
100 West Main Street, Suite 304  
Pawhuska, OK 74056

Mr. Butch McComas, Business Manager  
4D Oil and Gas, LLC  
[butch.mccomas@gmail.com](mailto:butch.mccomas@gmail.com)

Copy hand-delivered: Mr. Tucker Henson (ORCEW)  
U.S. EPA, Region 6  
1201 Elm Street, Suite 500  
Dallas, TX 75270-2102

Dated: 12/19/2019

Kevin Jackson