

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

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| In the Matter Of: |) | Docket No. SDWA-05-2023-0002 |
| |) | |
| Team Disposal Systems, LLC |) | Proceeding under Section 1423(c) of the Safe |
| P.O. Box 1104 |) | Drinking Water Act, |
| Kalkaska, Michigan 49646 |) | 42 U.S.C. § 300h-2(c) |
| |) | |
| Respondent. |) | |

Consent Agreement and Final Order

Preliminary Statement

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 22.1(a)(9), 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. Complainant is the Director of the Enforcement and Compliance Assurance Division (Director), U.S. Environmental Protection Agency (EPA), Region 5.
3. Respondent is Team Disposal Systems, LLC (TDS), a limited liability company 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). 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 assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

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

8. Respondent waives its rights to notice of EPA's proposal to issue this CAFO, to request a hearing as provided at 40 C.F.R. § 22.15(c) and Section 1423(c)(3) of the SDWA, 42 U.S.C. § 300h-2(c)(3), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

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 the 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 the 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. Pursuant to Section 1422(b) of the SDWA, 42 U.S.C. § 300h-1(b), designated states shall apply to obtain primary enforcement responsibility of their UIC programs (a concept called “primacy”).

13. Section 1422(c) of the SDWA, 42 U.S.C. § 300h-1(c), provides that the Administrator for EPA shall by regulation prescribe UIC programs applicable to those states that have not obtained primacy for their UIC programs or do not have primacy for all types of wells.

14. Pursuant to Sections 1421 and 1422 of the 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.

15. The SDWA and its regulations prohibit all underground injections unless authorized by a permit or a rule. 42 U.S.C. § 300h(b)(1)(A); 40 C.F.R. § 144.11.

16. Prior to August 29, 2022, EPA administered and had primary enforcement responsibility of the Class II UIC program in the State of Michigan pursuant to Section 1422 of SDWA, 42 U.S.C § 300h-1, and EPA’s regulations at 40 C.F.R § 147.1151 to ensure that owners or operators of the injection wells within Michigan comply with the requirements of SDWA effective June 25, 1984. On August 29, 2022, the State of Michigan received responsibility for administering and serving as the primary enforcement authority for the regulation of Class II wells; however, EPA retains primary enforcement authority for Class II wells on tribal lands and wells subject to “ongoing EPA enforcement” from prior to the State of Michigan receiving this responsibility, including the Permits subject to this Order, as outlined in the October 2019 UIC Program MOU between Michigan and EPA.

17. Pursuant to 40 C.F.R. § 144.1(g), the UIC programs regulate 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. 40 C.F.R. § 144.6(b)(1).

18. In accordance with 40 C.F.R. § 144.51(a) any UIC permittee must comply with all conditions of its permit. Any permit noncompliance constitutes a violation of the SDWA, except that the permittee need not comply with the provisions of its permit to the extent and for the duration such noncompliance is authorized in an emergency permit under 40 C.F.R. § 144.34.

19. Section 1423(a)(2) of the SDWA, 42 U.S.C. § 300h-2(a)(2), authorizes EPA to assess a civil penalty to any person found to be in violation of any requirement of an applicable UIC program in a state that does not have primacy and order compliance with such requirement or regulation pursuant to Section 1423(c)(2) of the SDWA, 42 U.S.C. § 300h-2(c)(2).

20. 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, and/or issue an order requiring compliance.

Factual Allegations and Alleged Violations

21. Respondent is a limited liability company, and as such, Respondent is a “person” as that term is defined at Section 1401(12) of the SDWA, 42 U.S.C. § 300f(12), and 40 C.F.R.

§ 144.3.

22. EPA issued three permits (the Permits) to Respondent to drill, construct, and operate underground injection wells, located in Grand Traverse and Manistee counties, Michigan in accordance with the Permits. The Permits and their common names are listed below:

- a. “Weber #4-8”, EPA No. MI-055-2D-C034
- b. “State Blair Ryder #2-15”, EPA No. MI-055-2D-C013
- c. “Fauble-Meyers 1-3”, EPA No. MI-101-2D-C013

23. EPA Permits No. MI-055-2D-C034 and EPA No. MI-101-2D-C013 were first signed on January 23, 2004 and were last modified on July 9, 2014. EPA No. MI-055-2DC013 was first signed on January 21, 2003 and was last modified on July 9, 2014.

24. The Permits authorize the commercial disposal of fluids related to the production of oil and gas as approved by the Director via underground injection into Weber #4-8, State Blair Ryder #2-15, and Fauble-Meyers 1-3 (the Wells), subject to the terms and conditions set forth in the Permits.

25. Oil field brine is a “fluid” because it is a material or substance that flows or moves whether in a semisolid, liquid, sludge, gas, or any other form or state. 40 C.F.R. § 144.3.

26. The subsurface emplacement of oil field brine through the Wells is a “well injection.” 40 C.F.R. § 144.3.

27. Respondent’s facilities located at T26N, R1 1 W, Section 15, 1/4 Section SW and T25N, R1 1 W, Section 8, ¼ Section SE in Grand Traverse County, MI, and T23N, R15W, Section 3, 1/4 Section NE in Manistee County, MI are facilities or activities as defined by 40 C.F.R. § 144.3 because they are UIC “injection wells,” or another facility or activity that is subject to regulation under the UIC program.

28. At all times relevant to this CAFO, Respondent owned three injection wells 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 (Subpart X), and 148.

29. At all times relevant to this CAFO, Respondent did not apply for and obtain an emergency permit pursuant 40 C.F.R. § 144.34.

30. On September 23, 2015, pursuant to Section 1445(b) of the SDWA, 42 U.S.C. § 300j-4(b) and 40 C.F.R. § 144.51(i) as reflected in Part I (E)(7) of the Permits, EPA inspected Respondent's facilities located at T26N, R1 1 W, Section 15, 1/4 Section SW and T25N, R1 1 W, Section 8, ¼ Section SE in Grand Traverse County, MI, and T23N, R15W, Section 3, 1/4 Section NE in Manistee County, MI.

31. On April 23, 2019, EPA issued an Inspection Report to the Respondent that was generated as a result of the September 23, 2015 inspections.

32. On May 8, 2019, EPA issued a Notice of Noncompliance Letter (NNL) to Respondent. The NNL listed the Respondent's:

- a. Failure to submit monthly, quarterly, or annual reports for the Permits from April 2017 through April 2019, pursuant to reporting requirements detailed in Part II (B)(3)(a) Monthly Reports, Part II (B)(2)(d), and Part III (A) of the Permits;
- b. Failure to provide weekly measurements of injection pressure as required by Part II (B)(3)(a) of the Permits from January 2014 through November 2015;

- c. Failure to provide quarterly reports for Weber #4-8 and Fauble-Meyers 1-3 as required by Parts II (B)(3)(b) and III (A) of the Weber #4-8 and Fauble-Meyers 1-3 Permits from Q1 2017 through Q1 2019;
- d. Failure to submit complete brine manifest records for Weber #4-8 and Fauble-Meyers 1-3, including the source identification number, as required by Part II (B)(3)(b)(ii) of the Weber #4-8 and Fauble-Meyers 1-3 Permits from 2014-2017; and
- e. Failure to submit annual reports for Weber #4-8 and Fauble-Meyers 1-3 as required by Part II (B)(3)(c) of the Permits from 2015 - 2018.

33. The NNL required the Respondent to provide within forty-five (45) days, a written explanation of: 1) the full extent of any known noncompliance, including exact dates, 2) all records of all monitoring information in accordance with Part I (E)(8)(a) and (c) of the Permits, including all raw data or field notes, and maintenance records for the injection wells since June 1, 2016 (not reports previously submitted to EPA), 3) what action Respondent would take to remedy the noncompliance and any steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance with the Permits, 4) notification of when Respondent would begin measuring injection pressure, annulus pressure, flow rate, and cumulative volume with calibrated gauges on a weekly basis, 5) a monthly report when monitoring resumed, and 6) the field name, location (i.e. township, range, and section), formation name, and volumes of all injected fluid from sources other than those listed in Part III (D) of the Permits.

34. Timothy Elkins of EPA and Ron Hornbaker of Team Disposal Systems, LLC spoke on May 14, 2019, to discuss the NNL. Ron Hornbaker confirmed via an email on May 14, 2019, that “all the required monitoring through the vacancy of submitted reports timeframe was

completed, and the records are held in house, and as promised will be delivered to you as well as EGLE no later than the close of business this Friday the 17th.”

35. Between May 14, 2019, and March 4, 2020, Ron Hornbaker, President of TDS sent many of the missing monitoring reports to Timothy Elkins as email attachments. However, TDS did not submit answers to the other required submissions listed in the NNL and in Paragraph 33, above.

36. On November 17, 2020, EPA issued a request for information via email (Information Request) to Respondent pursuant to Section 1445(a) of the SDWA, 42 U.S.C. § 300j-4(a), 40 C.F.R. §§ 144.17 and 144.51(h), and Part I (E)(6) of the Permits, to gather and submit to EPA information related to the Permits and operations and maintenance of the Wells. The response to the Information Request was initially due on December 24, 2020. Respondent failed to meet that deadline. On January 4, 2021, the deadline was extended to February 1, 2021. On January 12, 2021, the deadline was further extended to February 15, 2021.

37. On January 28, 2021, the Respondent was notified that the Information Request responses, which originally asked for records and information from November 1, 2015, would only be required to cover the time period of February 2016-February 2021.

38. On February 9, 2021, the Respondent was notified of a deadline extension for certain information needed from their service provider and management company, Taplin Group, to answer the Information Request, including brine manifests, until March 1, 2021.

39. On February 17, 2021, and March 2, 2021, EPA received Respondent’s response to its Information Request (Respondent’s Response).

40. On April 8, 2021, EPA and Respondent discussed the Respondent’s Response via a teleconference, including incomplete or unclear answers to Questions 6(l)(ii), 6(j), 11, 16, 20,

and 24. EPA followed up with an email asking for further clarification to Questions 6, 11, and 20. On April 22, 2021, Hornbaker of TDS submitted answers. However, EPA still considered Respondent's answer to Question 11 to be incomplete.

41. On November 29, 2021, EPA issued a Notice of Intent (NOI) to Respondent.

42. On March 7, 2022, Respondent provided a response to EPA's NOI.

43. On April 8, 2022, EPA discussed the Respondent's response to the NOI via a teleconference.

44. On August 17, 2022, Respondent provided a counter response to EPA's proposed penalty.

45. On August 18, 2022, EPA and Respondent discussed the Respondent's response to the proposed penalty via a teleconference.

46. On September 7, 2022, EPA provided a counter response to Respondent's proposal.

47. On September 22, 2022, Respondent provided a counter response to EPA's proposed penalty.

48. On September 27, 2022, EPA provided a counter response to Respondent's proposal.

49. On November 7, 2022, Respondent provided a counter response to EPA's proposed penalty.

50. On November 11 and November 15, 2022, Respondent provided a counter response to EPA's proposed penalty.

51. On December 8, 2022 EPA and Respondent's representatives discussed the Respondent's November 11 and November 15, 2022 responses via a teleconference.

52. Under 40 C.F.R. § 144.51(a) and Part I(E)(1) of the Permit, Respondent is required to comply with all conditions of the Permit and any noncompliance constitutes a violation of the SDWA.

COUNT 1: Failure to Submit Timely Monthly Monitoring Reports

53. At all times relevant to this CAFO, Respondent's Permits at Part II (B)(2)(d), Part II (B)(3)(a), and Part III (A) require Respondent to monthly report accurate weekly measurements of injection and annulus pressure, flow rate, and cumulative volume. The Permits require that monthly reports shall be postmarked no later than the 10th day of the month following the reporting period.

54. Respondent submitted 33 monthly monitoring reports late. The May 2019, January 2020, and March through November 2020 monthly monitoring reports for the Wells were all submitted late in the Respondent's Response on February 17, 2021.

55. Each month Respondent failed to submit timely or complete monthly monitoring reports constitutes a violation of Part II (B)(2)(d), Part II (B)(3)(a), and Part III(A) of the Permits, the UIC regulations at 40 C.F.R. §§ 144.51(l), and Section 1423 of the SDWA; 42 U.S.C. § 300h-2.

COUNT 2: Failure to Submit Monthly Monitoring Report

56. At all times relevant to this CAFO, Respondent's Permits at Part II (B)(2)(d), Part II (B)(3)(a), and Part III (A) require Respondent to monthly report accurate weekly measurements of injection and annulus pressure, flow rate, and cumulative volume. The Permits require that monthly reports shall be postmarked no later than the 10th day of the month following the reporting period.

57. Respondent failed to submit the Weber #4-8 June 2018 monthly monitoring report.

58. Each month Respondent failed to submit monthly monitoring reports constitutes a violation of Part II (B)(2)(d), Part II (B)(3)(a), and Part III(A) of the Permits, the UIC regulations at 40 C.F.R. §§ 144.51(1), and Section 1423 of the SDWA; 42 U.S.C. § 300h-2.

COUNT 3: Failure to Report Annulus Liquid Loss

59. At all times relevant to this CAFO, Respondent's Permit Nos. MI-101-2D-C013 (Fauble-Meyers 1-3) and MI-055-2D-C013 (State Blair Ryder #2-15) at Part II (B)(2)(d), Part II (B)(3)(a), and Part III (A) require Respondent to monthly report monthly measurements of annulus liquid loss.

60. At all times relevant to this CAFO, Respondent's Permit No. MI-055-2D-C034 (Weber #4-8) at Part II (B)(2)(d), Part II (B)(3)(b), and Part III (A) requires Respondent to quarterly report accurate quarterly measurements of annulus liquid loss.

61. Respondent failed to report annulus liquid loss for all three wells from at least January 2018 through January 2022. Respondent did not amend its quarterly reports, even after receiving the NOI.

62. Each month Respondent failed to report annulus liquid loss constitutes a violation of Part II (B)(2)(d), Part III (A), and Part II (B)(3)(a) or Part II (B)(3)(b) of the Permits, the UIC regulations at 40 C.F.R. §§ 144.51(1)(4), and Section 1423 of the SDWA; 42 U.S.C. § 300h-2.

COUNT 4: Failure to Submit Quarterly Reports

63. At all times relevant to this CAFO, Respondent's Permits at Part II (B)(3)(b) and Part III (A) require Respondent to submit quarterly reports including brine manifest records and

chemical composition of injected fluid for all three Wells, and annulus liquid loss measurements for Permit No. MI-055-2D-C034 (Weber #4-8).

64. Respondent failed to submit reports for all three wells for Quarter 3, 2018 and Quarter 1, 2020.

65. Each quarter Respondent failed to submit quarterly reports constitutes a violation of Part II (B)(3)(b) and Part III (A) of the Permits, the UIC regulations at 144.51(l)(4), and Section 1423 of the SDWA; 42 U.S.C. § 300h-2.

COUNT 5: Injection of Unauthorized Fluids

66. At all times relevant to this CAFO, the MI-055-2D-C034 (Weber #4-8) Permit at Part I(E)(18), and Part III(D); and Permit Nos. MI-101-2D-C013 (Fauble-Meyers 1-3) and MI-055-2D-C013 (State Blair Ryder #2-15) at Part I(E)(17), Part II(A)(7), and Part III(D) limit the injection of fluids. Part III(D) of the Permits states that “no fluids other than those from sources noted in Part III(D) of the permit shall be injected.”

67. On April 22, 2021, Respondent transmitted in an email correspondence a spreadsheet titled “Additional Sources Not Listed on Permit” listing 76 instances of fluids not specifically listed as approved sources for injection on the Permits for the Wells. Subsequently, Respondent provided additional information that showed nearly all instances involved the disposal of fresh water, and/or involved the storage of fluids and was able to link some instances to approved sources.

68. Each day Respondent injected fluids from unapproved sources constitutes a violation of the Permits at Part III(D), of the MI-055-2D-C034 (Weber #4-8) Permit at Part I(E)(18), and Permit Nos. MI-101-2D-C013 (Fauble-Meyers 1-3) and MI-055-2D-C013 (State

Blair Ryder #2-15) at Part I(E)(17), Part II(A)(7); the UIC regulations at 40 C.F.R. §§ 144.11 and 144.51(a), and Section 1423 of the SDWA; 42 U.S.C. § 300h-2.

COUNT 6: Failure to Submit Annual Reports

69. Respondent failed to submit complete annual reports for Permit Nos. MI-101-2D-C013 (Fauble-Meyers 1-3) and MI-055-2D-C034 (Weber #4-8), for the purposes of this CAFO, for 2016 through 2020.

70. At all times relevant to this CAFO, Respondent's Permit Nos. MI-101-2D-C013 (Fauble-Meyers 1-3) and MI-055-2D-C034 (Weber #4-8) at Part II (B)(3)(c) and Part III (D) require that "all sources which contribute brine during each year shall be listed in the annual report by field name and source identification number as listed in Attachment D of this permit."

71. Each year Respondent failed to submit annual reports constituted a violation of Respondent's Permit Nos. MI-101-2D-C013 (Fauble-Meyers 1-3) and MI-055-2D-C034 (Weber #4-8) at Part II (B)(3)(c) and Part III (D), the UIC regulations at 40 C.F.R. §§ 144.51(l)(4), and Section 1423 of the SDWA; 42 U.S.C. § 300h-2.

COUNT 7: Failure to Submit Information

72. At all times relevant to this CAFO, Respondent's Permits at Part I (E)(6) require that "the permittee shall furnish to the Director... any information which the Director may request...to determine compliance with this permit,," within thirty (30) days of the request.

73. In the Information Request issued to Respondent on November 17, 2020, Question 11 asked:

"11. For all injected fluid sources not owned by Team Services, LLC since November 1, 2015, identify:

a. The source's name, the production well name and location, and the type of

fluid;

- b. The owner and operator of the source well;
- c. The number of barrels or gallons of fluid injected from the source well;
- d. The dates of injection;
- e. The dates upon which EPA was notified of the addition of the source (e.g., as by a permit modification request), or state that EPA was not notified;
- f. For instances where flow entering the wells or tank battery was metered, the volume of fluid received at each facility;
- g. For instances where flow was not metered, an estimate of the volume of fluids transported to and injected into the wells.”

74. The response to the Information Request was initially due on December 24, 2020. On January 4, 2021, the deadline was extended to February 1, 2021. On January 12, 2021, the deadline was further extended to February 15, 2021.

75. On April 8, 2021, EPA Staff Shonnard and Turner met with Hornbaker of TDS via teleconference to discuss the Respondent’s Response. Shonnard asked TDS to submit a complete response to Question 11 during the teleconference and via an email sent on April 8, 2021, after the meeting.

76. On April 22, 2021, Hornbaker sent an email with several attachments in response to answering Question 11. The attachments were:

- a. An Excel spreadsheet titled “EPA – Additional Sources Not Listed on Permit” listing “Source Name,” “Source/Well Name,” “Field Name,” “Location,” and “Notes;”

- b. Brine manifests from TDS, including 42 manifests for St. Blair Ryder spanning from April 2017 through December 2018, 52 manifests for Fauble-Meyers 1-3 spanning from April 2017 through December 2020, and 104 manifests for Weber #4-8 spanning from May 2016 through March 2021. The manifests list the “Disposal Date,” “Waste Generator,” “USEPA Source ID,” “Waste Generator Phone Number,” “Location From,” “Location To,” “Waste Hauler,” “Waste Hauler USEPA ID,” “Type,” “BBL,” and “Weekly.”

The field tickets satisfy Question 12, which asks for “all records relied on to prepare answers to Request 11, including all field tickets, receipts, invoices, delivery records, brine manifests, or other documentation of fluids transported to, or received for injection into, the well, and all notices provided to EPA.” The response to Question 11 remained incomplete, as the Question asked for information about all injected fluid sources not owned by Team Services, LLC and the spreadsheet only listed “Additional Sources Not Listed on Permit.” The spreadsheet did not list the type of fluid, the owner and operator of the source well, the number of barrels or gallons of fluid injected from the source well, the dates of injection, the volume of fluid received at each facility, or an estimate of the volume of fluids transported to and injected into wells. Additionally, the brine manifests do not list the full source well name and/or included unauthorized sources, making it unfeasible to accurately assess whether injected sources are approved by the Permits.

77. EPA determined that Respondent failed to properly and completely answer question number 11 of the Information Request.

78. Each day Respondent fails to submit information requested by the Director constitutes a violation of Part I (E)(6) of the Permits, the UIC regulations at 40 C.F.R.

§§ 144.51(h), and Section 1423 of the SDWA; 42 U.S.C. § 300h-2.

COUNT 8: Failure to Monitor Annulus Liquid Loss

79. At all times relevant to this CAFO, Respondent's Permits at Part II (B)(1)(d), Part II (B)(2)(d), Part II (B)(3)(b), and Part III (A) require that the annulus be kept filled with a liquid to inhibit corrosion, that annulus liquid loss shall be recorded and reported at least quarterly.

80. On April 22, 2021, Hornbaker sent an email to Shonnard and Turner, stating: "As previously discussed, we were unaware of the annulus liquid loss report until this question came up and was clarified on our call (4/8/21). After some communication with a former employee, it was discovered that the annulus liquid loss was monitored on a regular basis and documented through at least February 2020. The logs were kept in an office and not electronically. We have not been able to locate the logs and we were unaware that these logs were being done, as that information was not passed along when key employees left. Going forward, as of April 2021, the annulus fluid loss will be monitored, documented, and submitted, per the respective permit's submission guidelines."

81. From March of 2020 through April of 2021, Respondent failed to monitor annulus liquid loss as required by the Permits.

82. Each quarter that Respondent failed to monitor annulus liquid loss constitutes a violation of Part II (B)(1)(d), Part II (B)(2)(d), Part II(B)(3)(b), and Part III (A) of the Permits, and Section 1423 of the SDWA; 42 U.S.C. § 300h-2.

Civil Penalty

83. Based upon the facts alleged in this CAFO, the factors listed in Section 1423(c)(4)(B) of the 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), EPA has determined that an appropriate civil penalty to settle this action is \$176,804.63.

84. Within 30 days after the effective date of this CAFO, Respondent must pay a \$176,804.63 civil penalty by sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

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

85. When Respondent pays the penalty or any portion thereof, Respondent must send a notice of payment that states Respondent's name and the docket number of this CAFO to EPA electronically. Electronic submissions must be sent to the following addresses:

jerger.taylor.m@epa.gov, R5WECA@epa.gov and Turner.Thomas@epa.gov. If electronic submittal is not possible, the submissions must be made by certified mail (return receipt requested) and mailed to the following addresses:

Taylor Jerger (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

Thomas Turner (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

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

87. 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 handling charge fee each month that any portion of the penalty is more than 30 days past due; and up to 6% per year penalty on any principal amount 90 days past due.

88. If Respondent does not pay timely the civil penalty and/or any stipulated penalties due under Paragraph 106 below, 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 the 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.

89. This CAFO resolves Respondent's liability for federal civil penalties for only the violations alleged in this CAFO.

90. 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 the SDWA, 42 U.S.C. § 300h-2(c)(4)(B).

91. Each party agrees to bear its own costs and attorneys' fees in this action.

92. Except as provided in Paragraph 89, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal law administered by EPA.

Compliance Requirements

93. As provided by Section 1423(c)(2) of the SDWA, 42 U.S.C. § 300h-2(c)(2), Respondent shall, from the effective date of this Order:

- a) Immediately cease injection of fluids other than from sources approved by EPA under the current Permits.
- b) If, in the future, Respondent desires to seek approval to accept fluids from sources other than those then approved under the Permits, Respondent shall submit to EPA (Region 5) UIC Permitting Section a written request to the Director for approval and analysis of all such injection fluids from production wells owned or operated by Respondent which were not previously approved by EPA under the Permits. Respondent shall copy ECAD Staff Scientist Taylor Jerger (jerger.taylor.m@epa.gov) on any such request.

If EPA disapproves Respondent's request to add additional sources, Respondent must continue to cease injection of unauthorized fluids as outlined in Paragraph 93(a).

- c) Immediately and for the life of the Wells, measure and report the annulus liquid loss in accordance with the Permits.
- d) Within 60 days of the effective date of this CAFO, ensure that all gauges at the Wells read negative pressures. Submit to the addresses listed in Paragraph 85, proof that all gauges at each of the Wells read negative pressure (dated photos of the gauges at the wellheads and receipts of purchase).
- e) Within 30 days of the effective date of this CAFO, submit monthly, quarterly and annual reports required under the permits with required monitoring information postmarked or emailed no later than the 10th day of the month following the reporting period to the addresses listed in Paragraph 85. Complete for 12 consecutive months from the effective date of this CAFO or until this CAFO is terminated;
- f) Within 90 days of the effective date of this CAFO, submit to the addresses listed in Paragraph 85, for review and approval, and upon approval, implement a standard operating procedure ("SOP") for use in providing adequate direction to all staff or contractors in monitoring, recording, and reporting practices required

by the Permits. The SOP must account for differences between the Permits' conditions. The SOP must address:

- i. Procedures for measuring and reporting injection pressure, annulus pressure, flow rate and cumulative volume with calibrated gauges and flow meters or totalizers according to each Permit requirement.
- ii. Procedures for measuring and reporting annulus liquid loss according to each Permit requirement.
- iii. Procedures for collecting and reporting the chemical composition of injection fluids according to each Permit requirement.
- iv. Procedures for how Respondent will generate brine manifests, including accurate field names, and that the USEPA Source ID numbers match the numbers listed in Part III (D) of the Permits.
- v. Procedures to properly preserve and retain records required by the Permits. The SOP must address how all monitoring information will be maintained in accordance with the Permits and 40 C.F.R. § 144.51(j), including copies of all records from the date of the sample, measurement, or report.

94. To the extent possible, Respondent must electronically submit all reports, notifications, documentation, submissions, and other correspondence required to be submitted by Paragraph 93 to EPA. If electronic submittal is not possible, the submissions must be made by certified mail (return receipt requested) to the enforcement officer whose name and address are identified in Paragraph 85, above.

95. Respondent must provide all electronic documents submitted pursuant to Paragraph 93 in unsecured, accessible, searchable, format as a Portable Document Format (PDF) or electronic spreadsheet. Respondent must create a document index that clearly identifies any single electronic document that has been separated into multiple electronic files (because of size limitation or otherwise) and each component file that comprises the full document.

96. 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.

97. 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 Paragraph 93, as provided in 40 C.F.R. § 2.203 by placing on (or attaching to) the information, at the time it is submitted to EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as trade secret, proprietary, or company confidential. Allegedly confidential portions of otherwise non-confidential documents should be clearly identified by the business and may be submitted separately to facilitate identification and handling by EPA. If the business desires confidential treatment only until a certain date or until the occurrence of a certain event, the notice should so state. The failure to furnish a confidentiality claim with your response may result in the information being made available to the public without further notice to you. EPA's confidential business information (CBI) regulations are at 40 C.F.R. Part 2, Subpart B.

98. Respondent should segregate any personnel, medical, and similar files from their responses and include that information on a separate sheet(s) marked as "Personal Privacy

Information.” Disclosure of such information to the general public may constitute an invasion of privacy.

99. 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 Order may subject Respondent to criminal prosecution under Section 1423(b) of the SDWA, 42 U.S.C. § 300h-2(b), as well as 18 U.S.C. §§ 1001 and 1341.

100. Submissions required by Paragraph 93 shall be deemed submitted on the date they are sent electronically or on the date postmarked if sent by U.S. mail.

101. The information required to be submitted pursuant to Paragraph 93 is not subject to the approval requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. § 3501 et seq because it seeks the collection of information by an agency from specific individuals or entities as part of an administrative action.

102. 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 Paragraph 93 and the amount paid pursuant to Paragraph 83 are restitution, remediation, or required to come into compliance with the law.

103. EPA may use any information submitted in accordance with Paragraph 93 in support of an administrative, civil, or criminal action against Respondent.

104. EPA may terminate this Order at any time by written notice to Respondent.

105. Absent the notice described in Paragraph 104, 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 the compliance program in Paragraph 93. Respondent must include the certification language required under Paragraph 96. In response to the request for termination and written final report, EPA may require additional information, actions, or evidence from Respondent to show completion of the compliance requirements; EPA may pursue appropriate administrative or judicial action to require compliance with this Order; or EPA may accept the request for termination. This Order shall terminate on the date that EPA notifies Respondent in writing that EPA agrees with Respondent's request for termination.

Stipulated Penalties

106. If Respondent violates any requirement of Paragraph 93, Respondent must pay stipulated penalties to the United States in the following amounts per day for each day of violation of each requirement of Paragraph 93:

| <u>Penalty per violation per day</u> | <u>Period of violation</u> |
|--------------------------------------|--|
| \$1000 | 1 st through 14 th day |
| \$1500 | 15 through 30 th day |
| \$2500 | 31 st day and beyond |

107. EPA agrees to provide timely guidance and assistance to Respondent in meeting the Compliance Requirements set forth herein.

108. EPA's determinations of whether Respondent violated Paragraph 93 will bind Respondent, unless the delay in complying with the subject requirement is determined to be caused by a force majeure event in accordance with Paragraph 109.

109. If an event occurs which causes or may cause a delay in complying with the requirements of Paragraph 93:

- a. Respondent must notify EPA in writing within ten days after learning of an event which caused or may cause a delay in completing the subject requirement. The notice must describe the anticipated length of the delay, its cause(s), Respondent's past, current and proposed actions to prevent or minimize the delay, and a schedule to carry out those actions. Respondent must

take all reasonable actions to avoid or minimize any delay. If Respondent fails to notify EPA according to this paragraph, Respondent will not receive an extension of time to complete the subject requirement.

- b. If the parties agree that circumstances beyond the control of Respondent caused or may cause a delay in completing the requirement, the parties will stipulate to an extension of time no longer than the period of delay.
- c. If EPA does not agree that circumstances beyond the control of Respondent caused or may cause a delay in completing the subject requirement, EPA will notify Respondent in writing of its decision and any delay in completing the requirement will not be excused.
- d. Respondent has the burden of proving that circumstances beyond its control caused or may cause a delay in completing the subject requirement. Increased costs for completing the subject requirement will not be a basis for an extension of time under subparagraph b, above.

General Provisions

110. The parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: Turner.Thomas@epa.gov (for Complainant), and RonH@goteamservices.com, (for Respondent).

111. Violation of this CAFO shall be deemed a violation of the SDWA for purposes of Section 1423(b) of the SDWA, 42 U.S.C. § 300h-2(b).

112. This CAFO does not 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.

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

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

115. 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.

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

117. Pursuant to 40 C.F.R. § 22.18(b)(3), this Consent Agreement does not dispose of this proceeding without execution of the Final Order. The Final Order will not be issued until after completion of the requirements of Section 1423(c)(3) of the SDWA, 42 U.S.C. § 300h-2(c), and 40 C.F.R. § 22.45(b), which require, among other things, public notice and a reasonable opportunity to comment on any proposed penalty order. Further, under 40 C.F.R. § 22.45, this Consent Agreement may be withdrawn before execution of the Final Order.

118. Unless an appeal for judicial review is filed in accordance with Section 1423(c)(6) of the SDWA, 42 U.S.C. § 300h-2(c)(6) or 40 C.F.R. § 22.45, this CAFO shall become effective 30 days after the date of issuance, which is the date that the Final Order contained in this CAFO is signed by the Regional Judicial Officer or Regional Administrator.

**Consent Agreement and Final Order
In the Matter of: Team Disposal Systems, LLC
Docket Number. SDWA-05-2023-0002**

Team Disposal Systems, LLC, Respondent

 

Ron Hornbaker Date
President

United States Environmental Protection Agency, Complainant

MICHAEL HARRIS Digitally signed by MICHAEL HARRIS
Date: 2023.04.24 12:43:23 -05'00'

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

**Consent Agreement and Final Order
In the Matter of: Team Disposal Systems, LLC
Docket No. SDWA-05-2023-0002**

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective 30 days after issuance, unless an appeal for judicial review is filed in accordance with Section 1423(c)(6) of the SDWA, 42 U.S.C. § 300h-2(c)(6), or 40 C.F.R. § 22.45(c)(4)(viii). When final and effective, this Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18, 22.31, and 22.45. IT IS SO ORDERED.

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