

U. S. ENVIRONMENTAL PROTECTION AGENCY REGION 6  
PROPOSED ADMINISTRATIVE ORDER  
In the Matter of McCann Resource, Inc., Respondent  
Docket No. SDWA-06-2012-1108

STATUTORY AUTHORITY

The following findings are made and Order issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by Section 1423(c) of the Safe Drinking Water Act ("Act"), 42 U.S.C. § 300h-2(c). The authority to issue this Order has been delegated by the Administrator to the Regional Administrator of EPA Region 6 who delegated such authority to the Director of the Compliance Assurance and Enforcement Division. The EPA has primary enforcement responsibility for underground injection within the meaning of Section 1422(c) of the Act, 42 U.S.C. § 300h-1(c), to ensure that owners or operators of Class II injection wells within Osage County, Oklahoma, comply with the requirements of the Act.

FINDINGS

1. McCann Resources, Inc. ("Respondent") is a "person," within the meaning of Section 1401(12) of the Act, 42 U.S.C. § 300f(12).

2. At all times relevant to the violation alleged herein, Respondent operated an injection well located in the Northwest Quarter of Section 21, Township 29 North, Range 11 East, Hickory Creek District, Osage County, Oklahoma, designated as Well Number 4-21 and EPA Inventory Number OS4708 ("the well").

3. Respondent is subject to underground injection control program requirements set forth at 40 C.F.R. Part 147, Subpart GGG, which are authorized under Section 1421 of the Act, 42 U.S.C. § 300h.

4. EPA regulations require the operator of an "injection well," as defined at 40 C.F.R. § 147.2902, to maintain its wells in a manner that prevents contaminants from moving through the well bore into underground sources of drinking water ("USDWs"), pursuant to 40 C.F.R. § 147.2903(b).

5. Four inspections of the well, most recently on September 20, 2011, showed that Respondent is violating the regulations cited above by maintaining the well with a static fluid level above the base of USDWs.

6. Therefore, Respondent violated the regulations set forth at 40 C.F.R. § 147.2903(b).

ORDER

7. Based on the foregoing findings and under the authority of Section 1423(c) of the Act, it is hereby ordered that Respondent shall complete corrective actions to prevent contaminated fluids from moving through the well into USDWs within thirty (30) days after the date of a Final Order. Corrective actions may include:

- 2012 JAN 12 PM 2:00  
REGIONAL HEARING CLERK
- Convert the well to a production well;
  - Plug the well or
  - Pump the static fluid level in the well down to 50 feet below the base of the USDWs.

NOTICE OF OPPORTUNITY TO REQUEST A HEARING

8. Respondent may request a hearing to contest the issuance of this Order, pursuant to Section 1423(c)(3)(A) of the Act, 42 U.S.C. § 300h-2(c)(3)(A). Submit the hearing request to the Regional Hearing Clerk (6RC-D); U.S. EPA Region 6; 1445 Ross Avenue, Suite 1200; Dallas, Texas 75202 within thirty (30) days of the date of receipt of this Proposed Administrative Order.

9. A request for hearing should be included in any response to this Order. Respondent must file a response in order to preserve the right to a hearing or to pursue other relief.

10. Should a hearing be requested, members of the public who commented on the issuance of this Order during the public comment period would have a right to be heard and present evidence at a hearing under Section 1423(c)(3)(C) of the Act, 42 U.S.C. § 300h-2(c)(3)(C).

GENERAL PROVISIONS

11. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. Part 147, Subpart GGG, which remain in full force and effect.

12. Issuance of this Order is not an election by EPA to forego any civil or criminal action otherwise authorized under the Act.

13. Violation of the terms of this Order after its effective date or date of final judgment as described in Section 1423(c)(6) of the Act, 42 U.S.C. § 300h-2(c)(6), may subject Respondent to further enforcement action, including a civil action for enforcement of this Order under Section 1423(b) of the Act, 42 U.S.C. § 300h-2(b), and civil and criminal penalties for violations of the compliance terms of this Order under Section 1423(b)(1) and (2) of the Act, 42 U.S.C. § 300h-2(b)(1) and (2).

SETTLEMENT

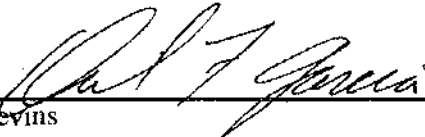
14. EPA encourages all parties against whom an administrative order is proposed to pursue the possibility of settlement through informal meetings with EPA. Regardless of whether a formal hearing is requested, Respondent may confer informally with EPA about the alleged violations. Respondent may wish to appear at any informal conference or formal hearing personally, by counsel or other representative, or both. To request an informal conference on the matters described in this Order, please contact Mr. Ronald Van Wyk, of my staff, at (214) 665-6459.

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

EFFECTIVE DATE

16. This Order becomes effective thirty (30) days after issuance unless an appeal is taken pursuant to Section 1423(c)(6) of the Act, 42 U.S.C. § 300h-2(c)(6).

12/14/11  
Date

  
John Blevins  
Director  
Compliance Assurance and  
Enforcement Division

**CERTIFICATE OF SERVICE**

I certify that the foregoing Proposed Administrative Order was sent to the following persons, in the manner specified, on the date below:

Original hand-delivered: Regional Hearing Clerk (6RC-D)  
U.S. EPA, Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, TX 75202-2733

Copy by certified mail  
return receipt requested: Mr. Mark W. McCann  
McCann Resources, Inc.  
1613 West 6<sup>th</sup> Street  
Bartlesville, OK 74003

Copy: Bureau of Indian Affairs, Osage Agency  
P.O. Box 1539  
Pawhuska, OK 74056

Osage Nation Environmental and  
Natural Resources Department  
P.O. Box 1495  
Pawhuska, OK 74056

Dated: 12-14-2011

Geri Jackson