

U. S. ENVIRONMENTAL PROTECTION AGENCY REGION 6
PROPOSED ADMINISTRATIVE ORDER AND INFORMATION DEMAND
In the Matter of Steven & Shelly Cornelius, Respondent
Docket No. SDWA-06-2015-1125

FILED

STATUTORY AUTHORITY

2015 JUL -8 PM 1:32

The following findings are made and Order issued under the authority vested in the Administrator of the Environmental Protection Agency ("EPA") by Sections 1423(c) and 1445 of the Safe Drinking Water Act ("the Act"), 42 U.S.C. §§ 300h-2(c) and 300j-4. 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.

7. By letter dated May 6, 2013, EPA required Respondents to plug Well No. Breene 7. On August 6, 2013, an Osage Nation representative inspected Well No. Breene 7 and observed that the well was not plugged and fluid level in the well tubing and annulus was 20 feet and 145 feet subsurface, respectively. These fluid levels were above the base of USDWs at the well, which is 200 feet subsurface.

8. Therefore, Respondents violated the regulations set forth at 40 C.F.R. §147.2903 by operating Well No. Breene 2 without a current MIT. Respondents also violated 40 C.F.R. §147.2912(a) and § 147.2914 by failing to complete corrective action and maintaining Well Nos. Breene 6 and Breene 7 in a manner which may allow contaminants to move through the well bores into USDWs.

FINDINGS

1. Respondents, Steven & Shelly Cornelius, are "persons" 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, Respondents operated the following injection wells located in Osage County, Oklahoma ("the wells").

| EPA Inventory | Well No. | Location |
|---------------|----------|---------------------------|
| OS1327 | Breene 6 | NE/4, Sec. 22, T21N, R10E |
| OS1329 | Breene 2 | SE/4, Sec. 22, T21N, R10E |
| OS3849 | Breene 7 | SW/4, Sec. 14, T21N, R10E |

3. Respondents are subject to underground injection control ("UIC") 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 prohibit unauthorized injection and require the operator of an "injection well," as defined at 40 C.F.R. § 147.2902, to have mechanical integrity to maintain its injection wells in a manner which will prevent contaminants from moving through the well bore into underground sources of drinking water ("USDWs") pursuant to 40 C.F.R. §§ 147.2903(b), 147.2912(a) and 147.2914.

5. By letter dated May 14, 2013, EPA required Respondents to complete a mechanical integrity test ("MIT") on Well No. Breene 2. Respondents failed to make an appearance for scheduled MITs on September 9, and October 6, 2014. Respondents' 2014 Annual Report shows Well No. Breene 2 was active and injecting throughout 2014.

6. By letter dated January 1, 2008, Respondents notified EPA of a corrective action plan to convert Well No. Breene 6 to production. On May 23, 2012, an Osage Nation representative inspected Well No. Breene 6 and observed that it had not been converted to production. On March 25, 2015, an Osage Nation representative inspected Well No. Breene 6 and observed that it still had not been converted to production and fluid was discharging from the tubing and casing at the surface.

SECTION 1423(c) COMPLIANCE ORDER

9. Based on the foregoing findings and under the authority of Section 1423(c) of the Act, it is hereby ordered that Respondent shall:

- cease injection, disconnect all piping from Well No. Breene 2 and complete a successful MIT;
- complete corrective action on Well Nos. Breene 6 and Breene 7, by plugging the wells, converting them to production or reducing and maintaining the static fluid level to 341 feet subsurface in Breene 6, and 250 feet subsurface in Breene 7.

SECTION 1445 INFORMATION DEMAND

10. Based on these findings and pursuant to the authority of Section 1445 of the Act, Respondent is required to do the following:

- Submit a copy of a completed MIT report for Well No. Breene 2 within sixty (60) days of the issuance date of this Order.
- Submit copies of completed corrective action reports for Well Nos. Breene 6 and Breene 7 within sixty (60) days of the issuance date of this Order.
- Submit copies of 2013 and 2014 Annual Production Reports for the Breene Water flood area in NE/4, Sec. 22, T21, R 10E.

NOTICE OF OPPORTUNITY TO REQUEST A HEARING

11. Respondent may request a hearing to contest the issuance of this Section 1423(c) Compliance 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.

12. 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.

13. 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

14. This Section 1423(c) Compliance Order and the Section 1445 Information Demand 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.

15. Issuance of this Section 1423(c) Compliance Order and the Section 1445 Information Demand is not an election by EPA to forego any civil or criminal action otherwise authorized under the Act.

16. Violation of the terms of this Section 1423(c) Compliance 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

17. 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. David Aguinaga, of my staff, at (214) 665-6439.

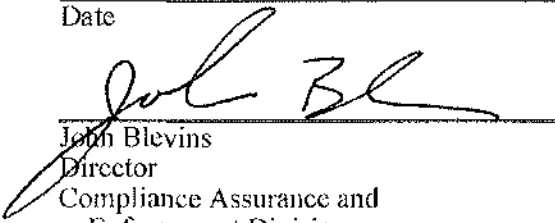
18. If this action is settled without a formal hearing, it will be concluded by issuance of a Final Order.

EFFECTIVE DATE

19. 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).

7.7.15

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 Steven & Shelly Cornelius
P.O. Box 31
Collinsville, OK 74021

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: JUL 08 2015

Jackie Allen