

U. S. ENVIRONMENTAL PROTECTION AGENCY REGION 6
PROPOSED ADMINISTRATIVE ORDER AND INFORMATION DEMAND
In the Matter of Xutapa Properties, LLC
Docket No. SDWA-06-2015-1130

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 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. 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. Respondent, Xutapa Properties, LLC, 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 the following injection wells ("the wells"):

| Inventory No. | Well No. | Location- Osage County, Oklahoma |
|---------------|--------------|----------------------------------|
| OS6169.026 | Lawson 4 | SE/4, Sec. 10, T 28N, R 9E |
| OS6169.030 | Lawson 10 | SE/4, Sec. 10, T 28N, R 9E |
| OS6169.025 | Lawson 8 | SE/4, Sec. 10, T28N, R 9E |
| OS6169.031 | Lawson 15 | SE/4, Sec. 10, T28N, R 9E |
| OS6169.017 | Stingley 6 | SW/4, Sec. 10, T 28N, R 9E |
| OS6169.018 | Ebert 3 | NE/4, Sec. 15, T 28N, R 9E |
| OS6169.027 | Ebert 8 | NE/4, Sec. 15, T 28N, R 9E |
| OS6169.021 | Ebert 5 | NE/4, Sec. 15, T28N, R 9E |
| OS6169.029 | Leonard 21-X | NW/4, Sec. 15, T 28N, R 9E |
| OS6169.000 | Leonard 8 | NW/4, Sec. 15, T28N, R 9E |
| OS6169.024 | Leonard 13 | NW/4, Sec. 15, T28N, R 9E |
| OS6169.032 | Leonard 5 | NW/4, Sec. 15, T28N, R 9E |
| OS6169.022 | Leonard 7C | SW/4, Sec. 15, T 28N, R 9E |
| OS6169.023 | Leonard 10C | SW/4, Sec. 15, T28N, R 9E |
| OS6169.005 | Leonard 22-X | SW/4, Sec. 15, T28N, R 9E |
| OS6169.006 | Leonard 14C | SW/4, Sec. 15, T 28N, R 9E |
| OS6169.012 | Leonard 8C | SW/4, Sec. 15, T28N, R 9E |
| OS6169.028 | Leonard 2C | SW/4, Sec. 15, T28N, R 9E |

3. Respondent is 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 require the operator of "injection wells," as defined at 40 C.F.R. § 147.2902, 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. §§ 147.2905, 147.2920(b)(2) and 147.2923.

5. EPA's October 20, 2011 letter required Respondent to complete corrective action to prevent contaminants from moving through zones of USDWs in the area of the wells.

6. EPA's December 12, 2011 letter approved corrective action for the referenced wells and required Respondent to convert the wells to production or plug the wells. EPA agreed to terminate the permit when corrective action for each well was completed.

7. EPA's January 22, 2013 letter notified Respondent of failure to complete corrective action. Respondent's March 25, 2013 letter informed EPA of a plan to complete corrective action by plugging the wells. EPA's April 22, 2013 letter approved Respondent's plan to plug the wells.

8. Recent inspection reports and Respondent's 2014 Annual Operations reports show corrective action has not been completed on the following wells:

| Inventory No. | Well No. | Location- Osage County, Oklahoma |
|---------------|--------------|----------------------------------|
| OS6169.026 | Lawson 4 | SE/4, Sec. 10, T 28N, R 9E |
| OS6169.030 | Lawson 10 | SE/4, Sec. 10, T 28N, R 9E |
| OS6169.025 | Lawson 8 | SE/4, Sec. 10, T28N, R 9E |
| OS6169.031 | Lawson 15 | SE/4, Sec. 10, T28N, R 9E |
| OS6169.017 | Stingley 6 | SW/4, Sec. 10, T 28N, R 9E |
| OS6169.018 | Ebert 3 | NE/4, Sec. 15, T 28N, R 9E |
| OS6169.027 | Ebert 8 | NE/4, Sec. 15, T 28N, R 9E |
| OS6169.029 | Leonard 21-X | NW/4, Sec. 15, T 28N, R 9E |
| OS6169.000 | Leonard 8 | NW/4, Sec. 15, T28N, R 9E |
| OS6169.024 | Leonard 13 | NW/4, Sec. 15, T28N, R 9E |
| OS6169.032 | Leonard 5 | NW/4, Sec. 15, T28N, R 9E |
| OS6169.022 | Leonard 7C | SW/4, Sec. 15, T 28N, R 9E |
| OS6169.023 | Leonard 10C | SW/4, Sec. 15, T28N, R 9E |
| OS6169.005 | Leonard 22-X | SW/4, Sec. 15, T28N, R 9E |

9. Therefore, Respondent violated the regulations set forth at 40 C.F.R. §§ 147.2905, 147.2920(b)(2) and 147.2923 by failing to complete corrective action to prevent contaminants from moving through well bores into USDWs and failing to plug abandoned injection wells.

10. Inspection reports indicate the following wells were converted to production:

| Inventory No. | Well No. | Location- Osage County, Oklahoma |
|---------------|-------------|----------------------------------|
| OS6169.021 | Ebert 5 | NE/4, Sec. 15, T28N, R 9E |
| OS6169.006 | Leonard 14C | SW/4, Sec. 15, T 28N, R 9E |
| OS6169.012 | Leonard 8C | SW/4, Sec. 15, T28N, R 9E |
| OS6169.028 | Leonard 2C | SW/4, Sec. 15, T28N, R 9E |

SECTION 1423(c) COMPLIANCE ORDER

11. 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 action by plugging each of the referenced wells in paragraph 8 of this order in accordance with 40 C.F.R. § 147.2905.

SECTION 1445 INFORMATION DEMAND

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

SETTLEMENT

- a. Submit Osage form 139 for each of the referenced wells converted to production in paragraph 10 of this Order.
- b. Submit a compliance schedule to complete plugging for the wells referenced in paragraph 8 of this Order.
- c. Submit data showing plugging details of each of the wells listed in Part I.A.5 of the permit. If the wells have not been plugged, submit a compliance schedule to complete plugging of the wells referenced in Part I.A.5 of the permit.

NOTICE OF OPPORTUNITY TO REQUEST A HEARING

13. 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 issuance of this Proposed Administrative Order.

14. 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.

15. 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

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

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

18. 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).

19. 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.

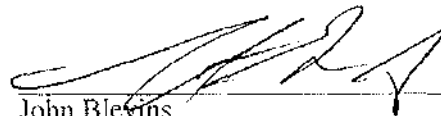
20. If this action is settled without a formal hearing, it will be concluded by issuance of a Final Order.

EFFECTIVE DATE

21. 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).

JUN 26 2015

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 Xutapa Properties, LLC
6 Northeast 63rd Street, Suite 425
Oklahoma City, OK 73105

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 14 2015

