

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2012 OCT 29 PM 12: 24

Docket No.: SDWA-08-2013-0002

FILED
EPA REGION VIII
TRAINING CLERK

IN THE MATTER OF:)
)
RIM Operating, Inc.) **COMBINED COMPLAINT AND**
5 Inverness Drive East) **CONSENT AGREEMENT**
Englewood, CO 80112)
)
Respondent.)
_____)

Complainant, United States Environmental Protection Agency, Region 8 (Complainant or EPA), and Respondent, RIM Operating, Inc. (Respondent or RIM), by their undersigned representatives, hereby consent and agree as follows:

AUTHORITY

1. This proceeding is subject to EPA's "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits," 40 C.F.R. Part 22. This Combined Complaint and Consent Agreement (Consent Agreement) is entered into by the parties for the purpose of simultaneously commencing and concluding this matter, as authorized by 40 C.F.R. § 22.13(b) and executed pursuant to 40 C.F.R. § 22.18(b)(2) and (3).
2. This Consent Agreement is authorized by Congress in section 1423(c) of the Public Health Service Act, commonly known as the Safe Drinking Water Act (the Act). 42 U.S.C. § 300h-2(c).
3. Pursuant to section 1422 of the Act, 42 U.S.C. § 300h-1, and 40 C.F.R. Part 147 subpart G, section 147.300, EPA administers the Underground Injection Control (UIC) program for Class II wells on Indian lands within the State of Utah. The effective date of the program is April 2, 1984. Class II underground injection wells under the jurisdiction of the EPA are authorized to operate either under an EPA-issued permit or under a rule.

4. RIM is authorized to operate the Duck Creek 2-15 well by EPA permit # UT20731-03797 and the Duck Creek 5-16 well by EPA permit # UT20757-04237 (permits).

GENERAL ALLEGATIONS

5. RIM is a corporation organized under the laws of the State of Delaware and authorized to do business in the State of Utah. RIM has a local office in Denver, Colorado.

6. RIM is a "person" within the meaning of section 1401 of the Act, 42 U.S.C. § 300f (12), and therefore subject to the requirements of the Act.

7. RIM owns and/or operates the active, permitted Duck Creek 2-15 and Duck Creek 5-16 enhanced recovery injection wells.

8. The Duck Creek 2-15 and Duck Creek 5-16 wells are a "Class II Injection Wells" as defined by 40 C.F.R. §§ 144.80 and 146.5.

9. The Duck Creek 2-15 and Duck Creek 5-16 wells are located in the Duck Creek Oilfield in Township 9 South, Range 20 East, Section 15 and Township 9 South, Range 20 East, Section 16, respectively, Uintah County, Utah, on Indian lands within the exterior boundaries of the Uintah and Ouray Indian Reservation.

10. RIM as owner and/or operator of the Duck Creek 2-15 and Duck Creek 5-16 wells is subject to applicable UIC Class II program requirements located at 40 C.F.R. Parts 124, 144 and 146.

11. 40 C.F.R. §146.23(b)(3) and the permit at part II require mechanical integrity testing of active permitted wells at least once every five years. Mechanical integrity is demonstrated when a well is subjected to and passes a mechanical integrity test (MIT) by pressurizing the annulus of each well for a specified amount of time with no significant leak.

12. The Duck Creek 2-15 well was tested for mechanical integrity on October 17, 2005.
13. An MIT was required for the Duck Creek 2-15 well on or before October 17, 2010, in accordance with 40 C.F.R. §146.23(b)(3) and the permit.
14. The Duck Creek 5-16 well was tested for mechanical integrity on November 3, 2003.
15. An MIT was required for the Duck Creek 5-16 well on or before November 3, 2008, in accordance with 40 C.F.R. §146.23(b)(3) and the permit.
16. The EPA notified RIM of the outstanding MIT for the Duck Creek 2-15 and Duck Creek 5-16 wells on September 14, 2011.
17. On October 6, 2011, RIM provided the EPA with copies of MITs conducted on September 27, 2011, for the Duck Creek 2-15 and Duck Creek 5-16 wells.
18. RIM's failure to perform an MIT for the Duck Creek 2-15 well on or before October 17, 2010, constitutes a violation of the regulations, the permit and the Act for the period October 17, 2010, through September 27, 2011. RIM's failure to perform an MIT for the Duck Creek 5-16 well on or before November 3, 2008, constitutes a violation of the regulations, the permit and the Act for the period of November 3, 2008, through September 27, 2011.

CONSENT AGREEMENT

19. Respondent admits the jurisdictional allegations and neither admits nor denies the factual allegations contained in this Consent Agreement.
20. Respondent waives its right to a hearing before any tribunal, to contest any issue of law or fact set forth in this Consent Agreement.
21. This Consent Agreement, upon incorporation into a final order, applies to and is binding upon the EPA, and upon Respondent, its successors and assigns. Any change in ownership or

corporate status by Respondent including, but not limited to, any transfer of assets or real or personal property, shall not alter Respondent's responsibilities under this Consent Agreement. This Consent Agreement contains all terms of the settlement agreed to by the parties.

22. For an administrative proceeding, the Act authorizes a civil penalty assessment up to \$7,500 per day for each violation of the Act, up to a maximum of \$177,500.

42 U.S.C. § 300h-2(c)(1). The Act requires the EPA to take into account appropriate factors in assessing a civil penalty, including the seriousness of the violations, the economic benefit resulting from the violations, any history of such violations, any good-faith efforts to comply with the requirements, the economic impact on the violator, and such other matters as justice may require. Taking such factors into account, the EPA proposes the assessment of a civil penalty of twelve thousand three hundred dollars (\$12,300) for the violations alleged in paragraph 18.

23. Respondent consents, for the purpose of settlement, to the issuance of a final order in this matter and agrees to pay the civil penalty cited in paragraph 22, above, as follows:

- a. Payment is due within thirty (30) calendar days from the date written on the Final Order, issued by the Regional Judicial Officer that adopts this Consent Agreement. If the due date falls on a weekend or legal federal holiday, then the due date becomes the next business day. The date the payment is made is considered to be the date processed by the bank described below. Payments received by 11:00 AM EST are processed on the same day, those received after 11:00 AM are processed on the next business day.
- b. The payment shall be made by remitting a cashier's or certified check, referencing the name and docket number of this case, for this amount, payable to "**Environmental Protection Agency**," to:

**US checks by regular
US postal service mail:**

US EPA Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

**Federal Express, Airborne,
or other commercial carrier:**

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

Wire transfers:

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

On Line Payment:

WWW.PAY.GOV
Enter sfo 1.1 in the search field
Open form and complete required fields.

- c. Copies of the check or wire transfer shall be simultaneously sent to:

Sarah Roberts
U.S. EPA Region 8 (8ENF-UFO)
1595 Wynkoop Street
Denver, CO 80202-1129

Tina Artemis, Regional Hearing Clerk
U.S. EPA Region 8 (8RC)
1595 Wynkoop Street
Denver, CO 80202-1129

- d. In the event payment is not received by the specified due date, interest accrues from the date of the Final Order, not the payment due date, at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, and will continue to accrue until the payment is received in full (i.e., on the 1st late day, 30 days of interest accrues).
- e. In addition to the accrual of interest specified in (c) above, a handling charge of fifteen dollars (\$15.00) shall be assessed on the 31st day from the date of the Final Order, and each subsequent 30-day period that the penalty, or any portion thereof, remains unpaid. In addition, a six percent (6%) per annum penalty shall be

assessed on any unpaid principal amount if the penalty payment is not received within ninety (90) days of the due date (i.e., the 121st day from the date the Final Order is signed). Payments are first applied to outstanding handling charges, 6% penalty interest, and late interest. The remainder is then applied to the outstanding principal amount.

- f. Respondent agrees that the penalty shall never be claimed as a federal or other tax deduction or credit.

PUBLIC NOTICE

24. As required by the Act, prior to the final assessment of a civil penalty, the EPA will provide public notice of the proposed penalty, and reasonable opportunity for the public to comment on the matter, and present evidence in the event a hearing is held. 42 U.S.C. § 300h-2 (c)(3)(B).

GENERAL PROVISIONS

25. Payment of the penalty in this manner does not relieve Respondent of its obligation to comply with the requirements of the Act. Payment of the penalty in this manner shall constitute consent by Respondent to the assessment of the proposed penalty and a waiver of Respondent's right to a hearing on this matter.

26. Failure by Respondent to comply with any of the terms of this Consent Agreement shall constitute a breach of the Consent Agreement and may result in referral of the matter to the Department of Justice for enforcement of this agreement and for such other relief as may be appropriate.

27. Nothing in this Consent Agreement shall be construed as a waiver by the EPA or any other federal entity of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of Respondent's failure to perform pursuant to the terms of this Consent Agreement.

28. The undersigned representative of Respondent certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Agreement and to bind Respondent to its terms and conditions.

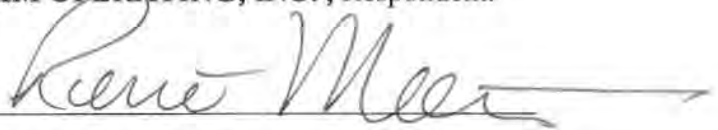
29. The parties agree to submit this Consent Agreement to the Regional Judicial Officer, with a request that it be incorporated into a final order.

30. Each party shall bear its own costs and attorney fees in connection with this matter.

31. This Consent Agreement, upon incorporation into a final order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations alleged in the civil administrative Complaint.

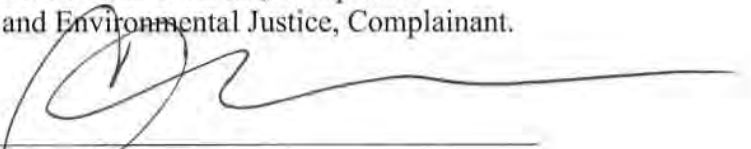
RIM OPERATING, INC., Respondent.

Date: 10/3/12



**UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 8**
Office of Enforcement, Compliance
and Environmental Justice, Complainant.

Date: 10/29/2012



Andrew M. Gaydosh,
Assistant Regional Administrator

**U.S. ENVIRONMENTAL PROTECTION AGENCY (EPA)
PUBLIC NOTICE
OPPORTUNITY FOR PUBLIC COMMENT ON
PROPOSED PENALTY COMPLAINT
AND
NOTICE OF OPPORTUNITY FOR HEARING
AGAINST
RIM OPERATING, INC
FOR FAILURE TO COMPLY WITH SAFE DRINKING WATER ACT
UNDERGROUND INJECTION CONTROL (UIC) REGULATIONS
AND IT'S EPA UIC PERMIT**

PURPOSE OF PUBLIC NOTICE

The purpose of this notice is to solicit written comments on a Proposed Penalty Complaint and Notice of Opportunity for Hearing (complaint) [Docket No. **SDWA-08-2013-0002**] that Region 8 of the United States Environmental Protection Agency (EPA) has issued to RIM Operating, Inc., for alleged violations at enhanced recovery injection wells in the Duck Creek oilfield in township 9 South, range 20 East, sections 15 and 16, in Uintah County, Utah within the exterior boundary of the Uintah and Ouray Indian Reservation. The complaint alleges violations of the Safe Drinking Water Act (SDWA), the regulations, and EPA UIC permits detailing the requirements of the SDWA's Underground Injection Control (UIC) program. These regulations govern the injection of fluids that may endanger an underground source of drinking water (USDW). The complaint alleges that the company failed to timely test for mechanical integrity. The complaint proposes a civil penalty of \$12,300 for the alleged violations.

EPA desires to receive written comments from any interested party having knowledge of the alleged violations or who can provide any information useful to ensure that the complaint is appropriate. EPA will review and consider all comments received, and will thereafter determine whether the comments, if any, justify the modification or withdrawal of the complaint.

BACKGROUND

Part C of the SDWA (40 U.S.C. §300h *et seq*) requires EPA to regulate underground injection of fluid through wells to assure that underground sources of drinking water (USDWs) are not endangered. Section 1421 of the SDWA (40 U.S.C. §300h) requires EPA to administer UIC programs in States or Indian Reservations that do not have approved UIC programs. Regulation of the UIC Class II Program has not been delegated to the Ute Indian Tribe, therefore, EPA administers the program in accordance with title 40 of the Code of Federal Regulations (40 C.F.R.) parts 124, 144, 146, 147, and 148.

The Class II enhanced recovery injection wells, named Duck Creek 2-15 and Duck Creek 5-16, which are the subject of this complaint, are located in the Duck Creek oilfield within the external boundary of the Uintah and Ouray Indian Reservation in Uintah County, Utah. A Class II injection well, pursuant to 40 C.F.R. § 146.5, is a well that injects fluids which are brought to the surface in connection with conventional oil or natural gas production.

The complaint alleges that RIM Operating, Inc. is in violation of its EPA UIC permits (UT20731-03797 and UT20757-04237) and UIC regulations, namely Title 40 of the Code of Federal Regulations, Section 144.32(b), by failing to timely test for mechanical integrity and is subject to appropriate penalties for failing to meet the requirements of the SDWA and its implementing regulations.

PUBLIC COMMENTS

Written comments on the complaint are encouraged and will be accepted at the address listed below for a period of thirty (30) calendar days after the publication of this notice. Written comments submitted by the public, as well as information submitted by RIM Operating, Inc. will be available for public review as part of the Administrative Record, subject to the provisions of law restricting the disclosure of confidential information. RIM Operating, Inc. may request a hearing. Any person submitting written comments will be notified of and has a right to participate in such a hearing. The complaint and the Administrative Record are available for review between 9:00 a.m. and 4:00 p.m. at the address listed below. Any person wishing to view the Administrative Record or receive a copy of this public notice should call Sarah Roberts in the Technical Enforcement Program, EPA Region 8, at (303) 312-7056 before visiting EPA Region 8 offices. Please submit written comments to:

Tina Artemis (8RC)
Regional Hearing Clerk
U.S. EPA, Region 8
1595 Wynkoop Street
Denver, Colorado 80202

THE DECISION

EPA will review and consider all public comments received on the public notice and will thereafter determine whether the comments, if any, justify the modification or withdrawal of the complaint. If the complaint is revised, copies shall be provided to all parties and to all members of the public who have commented.



Darcy O'Connor, Acting Director
UIC/FIFRA/OPA Technical Enforcement Program
Office of Enforcement, Compliance and Environmental Justice
U.S. EPA, Region 8
1595 Wynkoop Street
Denver, CO 80202