

U. S. ENVIRONMENTAL PROTECTION AGENCY REGION 6
PROPOSED ADMINISTRATIVE ORDER AND INFORMATION DEMAND
In the Matter of LBG Operating Company, Respondent
Docket No. SDWA-06-2013-1119

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 further 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. LBG Operating Company ("Respondent") is company doing business in the State of Oklahoma and, therefore, 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 8, Township 25 North, Range 4 East, Drum Creek Field, Osage County, Oklahoma, designated as Well Number 6 and EPA Inventory Number OS5468 ("the well").

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 an "injection well," as defined at 40 C.F.R. § 147.2902, maintain its injection wells to prevent fluids from moving through the well bore into underground sources of drinking water ("USDWs"), pursuant to 40 C.F.R. §§ 147.2003(b) and 147.2916.

5. Inspections by an Osage Nation representative on May 30, 2012, and December 26, 2012, showed the static fluid level in the well to be thirty (30) feet subsurface. This is above the base of Underground Sources of Drinking Water (USDWs) in the well. A static fluid level above the base of USDWs indicates that fluids could be moving through the well into USDWs.

6. Respondent violated the regulations cited above by maintaining the well in a manner that could allow fluids containing contaminants to move through the well bore into the USDWs.

7. Therefore, Respondent violated the regulations set forth at 40 C.F.R. §§ 147.2903(b) and 147.2916.

FILED

SECTION 1423(c) COMPLIANCE ORDER

8. Based on the foregoing findings and under the authority of Section 1423(c) of the Act, it is hereby ordered that Respondent shall, within thirty (30) days from the effective date of this Order, complete appropriate corrective actions to prevent contaminated fluids from moving through the well bore into the USDWs. Such corrective actions may include, but are not limited to, reducing the static fluid level in both the well annulus and tubing to at least 310 feet subsurface, demonstrating that the well has mechanical integrity, plugging the well, or converting the well to production use.

SECTION 1445 INFORMATION DEMAND

9. Based on these findings and pursuant to the authority of Section 1445 of the Act, Respondent is required to submit a report to the following address showing corrective actions completed to comply with this Order. Such report shall be submitted within thirty (30) days of completion of corrective actions.

Water Resources Section (6EN-WR)
U.S. Environmental Protection Agency
1445 Ross Avenue, Suite 1200
Dallas, TX 74202

NOTICE OF OPPORTUNITY TO REQUEST A HEARING

10. 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.

11. 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.

12. 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

13. Respondent may seek federal judicial review of the Order pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706. Section 706, which is set forth at <http://uscode.house.gov/download/pls/05C7.txt>, states the scope of such review.

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. Ronald Van Wyk, of my staff, at (214) 665-6459.


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).

4.3.13

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 Mr. George Pease, III
return receipt requested: LBG Operating Company
 P.O. Box 987
 Ponca City, OK 74602

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: _____

April 4, 2013 Jackie Allen