



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
1201 ELM STREET, SUITE 500  
DALLAS, TEXAS 75270-2102

October 28, 2022

TRANSMITTED VIA EMAIL

Ms. Nicole Payne  
CapturePoint LLC  
373 Phillips Road  
Shidler, OK 74652  
[npayne@capturepointllc.com](mailto:npayne@capturepointllc.com)

Re: Notice of Proposed Administrative Order and Opportunity to Request a Hearing  
Well Number: 49-W32  
EPA Inventory ID: OS6067000  
Docket Number: SDWA-06-2023-1105

Dear Ms. Payne:

Enclosed is a Proposed Administrative Order (Order) issued to CapturePoint LLC for a violation of the Safe Drinking Water Act (SDWA). The violation was identified based on a review of records that are maintained on the referenced well. The violation was for failing to comply with conditions of the permit. The enclosed Order does not assess a monetary penalty; however, it does require compliance with SDWA requirements. The enclosed Order requires the referenced well to comply with certain permit conditions.

You have the right to request a hearing regarding the violations alleged in the Order. Please refer to the enclosed Part 22, "Consolidated Rules of Practice", for information regarding hearing and settlement procedures. Note that should you fail to request a hearing within thirty (30) days of your receipt of this Order, you will waive your right to such a hearing, and may be subject to the compliance terms without further proceedings. Whether or not you request a hearing, we invite you to confer with us informally. If you choose not to request a hearing, we will review any comments on the proposed Order received from you and the public and determine whether the Order will become final. In the event you fail to request a hearing within thirty (30) days of your receipt of this Order, and no public comments are received, the Order will become final with the issuance of a Final Administrative Order.

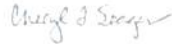
Also enclosed is an "Information Sheet" relating to the Small Business Regulatory Enforcement Fairness Act and a "Notice of Registrant's Duty to Disclose" relating to the disclosure of environmental legal proceedings to the Securities and Exchange Commission. The EPA is committed to ensuring compliance with the requirements of the Underground Injection Control program, and my staff will assist you in any way possible.

Re: CapturePoint LLC  
SDWA-06-2023-1105

2

If you have any questions or wish to discuss the possibility of a settlement of this matter, please contact Mr. Matthew Rudolph, of my staff, at (214) 665-6434.

Sincerely,



Digitally signed by CHERYL SEAGER  
Date: 2022.10.28 13:48:03 -0500'

Cheryl T. Seager, Director  
Enforcement and  
Compliance Assurance Division

Enclosures

ec: Mr. Jeff Marcell, CapturePoint LLC  
[jmarcel@capturepointllc.com](mailto:jmarcel@capturepointllc.com)

Ms. Jann Hayman, Osage Nation DNR Director  
[jannhayman@osagenation-nsn.gov](mailto:jannhayman@osagenation-nsn.gov)

Mr. Richard Winlock, BIA Osage Agency Superintendent  
[richard.winlock@bia.gov](mailto:richard.winlock@bia.gov)

FILED

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6

Dallas, Texas 75270

22 OCT 31 AM 10:53

REGIONAL HEARING CLERK  
EPA REGION VI

In the Matter of

CapturePoint LLC

Respondent.

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Docket No. SDWA-06-2023-1105

**PROPOSED ADMINISTRATIVE ORDER**

**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 (the 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 further delegated such authority to the Director of the Enforcement and Compliance Assurance 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. CapturePoint LLC (Respondent) is a 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 violations alleged herein, Respondent owned or operated an "injection well" which is a "Class II well" as those terms are defined at 40 C.F.R § 147.2902. The injection well is located in the SE Quarter of Section 23, Township 27 North, Range 05 East,

Osage County, Oklahoma, designated as Well No. 49-W32 and EPA Inventory Number OS6067000 (the injection 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. Regulations at 40 C.F.R. § 147.2903(a) require that any underground injection is prohibited except as authorized by rule or authorized by a permit issued under the UIC program. The construction or operation of any well required to have a permit is prohibited until the permit has been issued. The term “permit” is defined at 40 C.F.R. § 147.2902.

5. Regulations at 40 C.F.R. § 147.2916 require the owner or operator of a new Class II injection well, or any other Class II well required to have an EPA UIC permit in the Osage Mineral Reserve, to comply with the requirements of 40 C.F.R. §§ 147.2903, 147.2907, and 147.2918 through 147.2928.

6. On March 19, 2006, EPA issued UIC permit number 06S1262P6067 (the permit) for the well.

7. On March 19, 2006, the permit became effective. On May 30, 2006, the injection well was authorized to inject.

8. Regulations at 40 C.F.R. § 147.2922(b) and each UIC permit require the operator of an injection well to monitor injection rate and pressure monthly and to report monitoring results to EPA annually.

9. Regulations at 40 C.F.R. § 147.2925(a) require the permittee to comply with all permit conditions, except as authorized by an emergency permit (described in 40 C.F.R. § 147.2906). Noncompliance is grounds for permit modification, permit termination, or enforcement action.

10. The permit contains the following permit condition:

- a. Pursuant to permit condition I.B.2, the injection pressure at the wellhead shall not exceed 600 pounds per square inch in gauge (psig).

11. During a review of records for the permit conducted by representatives of EPA on October 4, 2022, the following violations were observed:

- a. An annual report for the period of April 2021 to March 2022, was submitted by the Respondent which was signed and dated on April 21, 2022. On the annual report, the Respondent submitted pressures in excess of 600 psig. The table below summarizes the pressures reported:

Month	Year	Avg Pressure (PSIG)	Max Pressure (PSIG)
April	2021	619	760
May	2021	672	840
June	2021	704	850
July	2021	736	840
August	2021	717	840
September	2021	711	760
October	2021	736	780
November	2021	669	780
December	2021	679	780
January	2022	703	760
February	2022	685	740
March	2022	605	780

12. Therefore, Respondent violated regulations at 40 C.F.R. § 147.2925(a) by failing to comply with the permit.

#### **SECTION 1423(c) PROPOSED COMPLIANCE ORDER**

13. Based on the foregoing findings, and pursuant to the authority of Section 1423(c) of the Act, 42 U.S.C. § 300h-2(c), EPA Region 6 hereby orders Respondent to perform the following within thirty (30) days of the effective date of a Final Order:

- a. Limit the injection pressure at the wellhead to a pressure no greater than 600 psig.

- b. Submit a corrective action plan along with written certification on how condition I.B.2 of the permit will be complied with.

14. Submit the required information to the EPA at [rudolph.matthew@epa.gov](mailto:rudolph.matthew@epa.gov) within thirty (30) days after the effective date of the Final Administrative Order.

#### **NOTICE OF OPPORTUNITY TO REQUEST A HEARING**

15. 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). Such hearing shall not be subject to section 554 or 556 of Title 5, but shall provide a reasonable opportunity to be heard and to present evidence.

16. A request for a hearing must be made within thirty (30) days of the date of receipt of this Proposed Administrative Order. If you would like to request a hearing on this Proposed Administrative Order, submit the hearing request to the Regional Hearing Clerk (6ORC); U.S. Environmental Protection Agency, Region 6; 1201 Elm Street, Suite 500; Dallas, Texas 75270-2102.

17. Should a hearing be requested, members of the public who commented on the issuance of this Proposed Administrative 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**

18. Issuance of the Final Administrative Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. Parts 144, 146, and 147, Subpart GGG, which remain in full force and effect.

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

20. Violation of the terms of this the Final Administrative 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 the Final Administrative Order under Section 1423(b)(1) and (2) of the Act, 42 U.S.C. § 300h-2(b)(1) and (2).

### **TAX IDENTIFICATION**

21. For purposes of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 1.162-21(b)(2), performance of Paragraphs 13, and 14 is restitution, remediation, or required to come into compliance with the law.

### **SETTLEMENT**

22. 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 the Final Administrative Order, please contact Matthew Rudolph, of my staff, at (214) 665-6434.

23. If this action does not proceed to a formal hearing, EPA shall issue a Final Administrative Order.

**EFFECTIVE DATE**

24. The Final Administrative 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).

October 28, 2022

Date

Digitally signed by CHERYL SEAGER  
Date: 2022.10.28 13:38:45 -05'00'

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Cheryl T. Seager, Director  
Enforcement and  
Compliance Assurance 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:

Signed Original E-mailed: Regional Hearing Clerk (R6ORC)  
U.S. EPA, Region 6  
1201 Elm Street, Suite 500  
Dallas, TX 75270  
[vaughn.lorena@epa.gov](mailto:vaughn.lorena@epa.gov)

File Stamped Copy  
Transmitted via Email: Ms. Nicole Payne  
CapturePoint LLC  
373 Phillips Road  
Shidler, OK 74652  
[npayne@capturepointllc.com](mailto:npayne@capturepointllc.com)

Electronic Copy: Mr. Jeff Marcell  
CapturePoint LLC  
1101 Central Expressway South, Suite 150  
Allen, TX 75013  
[jmarcel@capturepointllc.com](mailto:jmarcel@capturepointllc.com)

Ellen Chang-Vaughan  
U.S. EPA, Region 6  
1201 Elm Street, Suite 500  
Dallas, TX 75270  
[Chang-Vaughan.Ellen@epa.gov](mailto:Chang-Vaughan.Ellen@epa.gov)

Richard Winlock, Superintendent  
Bureau of Indian Affairs, Osage Agency  
P.O. Box 1539  
Pawhuska, OK 74056  
[richard.winlock@bia.gov](mailto:richard.winlock@bia.gov)

Jann Hayman, Director  
Osage Nation Department of Natural Resources  
100 W. Main, Suite 304  
Pawhuska, OK 74056  
[jannhayman@osagenation-nsn.gov](mailto:jannhayman@osagenation-nsn.gov)

Dated: 10/31/2022

Signed: MATTHEW  
RUDOLPH

Digitally signed by MATTHEW  
RUDOLPH  
Date: 2022.10.31 09:49:39 -0500