



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

January 24, 2023

TRANSMITTED VIA E-MAIL

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

Re: Final Administrative Order  
Well Number: 49-W32  
EPA Inventory ID: OS6067000  
Docket Number: SDWA-06-2023-1105

Dear Ms. Payne:

Attached is a Final Administrative Order (Final Order) issued by the United States Environmental Protection Agency (EPA) to CapturePoint LLC (Respondent) for violation of the Safe Drinking Water Act (SDWA). The Final Order requires the Respondent to comply with the regulatory requirements specified in the Final Order. EPA requests that the Respondent immediately confirm receipt of this e-mail and the attached Final Order by a response e-mail to [rudolph.matthew@epa.gov](mailto:rudolph.matthew@epa.gov).

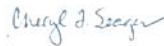
The violation of the SDWA was identified through a review of files that EPA maintains on the referenced injection well. The violation was for failing to comply with conditions of the permit. The Final Order does not assess a monetary penalty; however, it does require compliance with SDWA requirements and specifies deadlines for compliance. The Final Order requires the Respondent to comply with certain SDWA regulatory requirements. Please be aware that failure to comply with the Final Order may subject the Respondent to additional enforcement action by EPA, including the initiation of legal proceedings to seek monetary penalties. The effective date of the Final Order is 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).

The SDWA provides that you may file an appeal of the Final Order with the United States District Court for the District of Columbia or the district in which the violations occurred. Such appeal must be filed within 30 days after the Final Order is issued. If you file an appeal, you must simultaneously send a copy of the appeal by certified mail to the Administrator of the Environmental Protection Agency and to the United States Attorney General.

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.

If you have any questions regarding this matter, please contact Matthew Rudolph at (214) 665-6434.

Sincerely,



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Cheryl  
Date: 2023.01.24 15:40:15  
-06'00'

Cheryl T. Seager, Director  
Enforcement and  
Compliance Assurance Division

Attachments

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

Mr. Craig Walker, Osage Nation, Department of Natural Resources (DNR), Environmental  
Supervisor  
[cmwalker@osagenation-nsn.gov](mailto:cmwalker@osagenation-nsn.gov)

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

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
Dallas, Texas 75270

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REGIONAL HEARING CLERK  
EPA REGION VI

In the Matter of

CapturePoint LLC

Respondent.

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Docket No. SDWA-06-2023-1105

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**FINAL 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:

<b>Month</b>	<b>Year</b>	<b>Avg Pressure (PSIG)</b>	<b>Max Pressure (PSIG)</b>
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.

13. Pursuant to Section 1423(c)(3)(A) of the Act, 42 U.S.C. § 300h-2(c)(3)(A), on October 31, 2022, EPA issued a Proposed Administrative Order to Respondent and provided Respondent an opportunity to request a hearing on the Proposed Administrative Order.

14. On October 31, 2022, EPA provided public notice of its proposal to issue an order for compliance in this matter in accordance with Section 1423(c)(3)(B) of the Act, 42 U.S.C. § 300h-2(c)(3)(B).

15. Respondent did not request a hearing and EPA did not receive any public comments on the Proposed Administrative Order.

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

16. 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.

17. 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.

#### **GENERAL PROVISIONS**

18. Respondent may appeal this Final Administrative Order to Federal District Court pursuant to Section 1423(c)(6) of the Act, 42 U.S.C. § 300h-2(c)(6).

19. This 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.

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

21. 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**

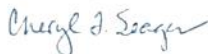
22. For purposes of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 1.162-21(b)(2), performance of Paragraphs 16, and 17 is restitution, remediation, or required to come into compliance with the law.

#### **EFFECTIVE DATE**

23. 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).

January 24, 2023

Date



Digitally signed by  
Seager, Cheryl  
Date: 2023.01.24  
15:39:19 -06'00'

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Cheryl T. Seager, Director  
Enforcement and  
Compliance Assurance Division

**CERTIFICATE OF SERVICE**

I certify that the foregoing Final 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.loreana@epa.gov](mailto:vaughn.loreana@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)

Mr. Craig Walker, Environmental Supervisor  
Osage Nation Department of Natural Resources  
100 W. Main, Suite 304  
Pawhuska, OK 74056  
[cmwalker@osagenation-nsn.gov](mailto:cmwalker@osagenation-nsn.gov)

Dated: 1/25/2023

Signed: MATTHEW  
RUDOLPH

Digitally signed by  
MATTHEW RUDOLPH  
Date: 2023.01.25 07:56:51  
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