

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 6

FILED

2011 DEC 12 AM 10:55

IN THE MATTER OF  
  
Service Clearing Corporation  
Dallas, Texas  
  
Respondent

§ DOCKET NO. SDWA-06-2012-1104  
§  
§  
§ Proceeding to Assess a  
§ Civil Penalty under Section 1423(c)  
§ of the Safe Drinking Water Act  
§  
§ ADMINISTRATIVE COMPLAINT

**I. STATUTORY AUTHORITY**

This Complaint is issued under the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA") pursuant to Section 1423(c) of the Safe Drinking Water Act ("Act"), 42 U.S.C. § 300h-2(c). The Administrator of the EPA delegated the authority to issue this Complaint to the Regional Administrator of EPA Region 6 ("RA"), who further delegated the authority to the Director of the Compliance Assurance and Enforcement Division of EPA Region 6 ("Complainant"). This Complaint is issued in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits," 40 C.F.R. §§ 22.1 through 22.52, including rules related to administrative proceedings not governed by Section 554 of the Administrative Procedures Act, 40 C.F.R. §§ 22.50 through 22.52.

The EPA has primary enforcement responsibility for underground injection within the meaning of Section 1422(e) of the Act, 42 U.S.C. § 300h-1(e), to ensure that owners or operators of Class II injection wells within Osage County, Oklahoma, comply with the requirements of the Act.

Based on the following Findings of Fact and Conclusions of Law ("Findings"), Complainant finds that Service Clearing Corporation ("Respondent") violated the Act and the regulations promulgated under the Act and should be ordered to pay a civil penalty.

## II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Respondent is a company incorporated under the laws of the State of Oklahoma, and as such, Respondent is a "person," as that term is defined at Section 1401(12) of the Act.

2. At all relevant times, Respondent owned or operated "injection wells" which are "Class II wells" as those terms are defined at 40 C.F.R. § 147.2902. The injection wells are located in the Landon Field, Osage County, Oklahoma. Respondent's Class II wells included in this Administrative Complaint (collectively, "wells") are described below:

<u>Well No.</u>	<u>Inventory No.</u>	<u>Location</u>				<u>Hereinafter Referred to as</u>
		<u>Quarter</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>	
20-E	OS3381	Northwest	23	28 North	9 East	"Well No. 20-E"
12	OS5621	Northeast	10	28 North	9 East	"Well No. 12"

3. Because Respondent owned or operated injection wells, Respondent is subject to underground injection control ("UIC") program requirements 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 a 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 December 23, 1992, the EPA issued UIC permit number 06S1262P5621 ("permit") to convert Well No. 12 to an injection well. The permit was transferred to Respondent on March 8, 2004.

7. Regulations at 40 C.F.R. §§ 147.2916 and 147.2925(a) and condition II.B of the permit require the permittee to comply with all permit conditions, except as authorized by an emergency permit (described at 40 C.F.R. § 147.2906). Respondent did not have an emergency permit for violations described in this Complaint.

8. Regulations at 40 C.F.R. §§ 147.2916, 147.2922(b) and each UIC permit require the owner or operator of a well to monitor injection rate and pressure monthly and to report monitoring results to the EPA annually.

9. Regulations at 40 C.F.R. § 147.2909 provide that existing injection wells (wells authorized by the Bureau of Indian Affairs and constructed or completed on or before the effective date of the Osage UIC program) are authorized by rule. Owners or operators of wells authorized by rule must comply with provisions of 40 C.F.R. §§ 147.2903, 147.2905, 147.2907, and 147.2910 through 147.2915.

10. Well No. 20-E is authorized by rule in accordance with 40 C.F.R. § 147.2909.

11. Regulations at 40 C.F.R. §§ 147.2909 and 147.2913(b) require the operator of a well authorized by rule to monitor the injection pressure and rate at least monthly with results reported to the EPA annually.

12. Respondent has not submitted annual operations reports for the wells for the period April 2010, through March 2011.

13. Therefore, Respondent violated regulations at 40 C.F.R. §§ 147.2909, 147.2913(b), 147.2916, 147.2922(b), and 147.2925 by failing to submit annual operations reports for the wells for the period April 2010, through March 2011.

14. EPA has notified the public of the filing of this Complaint and has afforded the public thirty (30) days in which to comment on the Complaint and on the proposed penalty as

required by Section 1423(c)(3)(B) of the Act, 42 U.S.C. § 300h-2(c)(3)(B). At the expiration of the notice period, EPA will consider any comments filed by the public.

### **III. PROPOSED PENALTY**

15. 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 proposes to assess against Respondent a penalty of five hundred dollars (\$500.00).

16. The proposed penalty amount has been determined based on the statutory factors specified in Section 1423(c)(4)(B) of the Act, 42 U.S.C. § 300h-2(c)(4)(B), which include such factors as the seriousness of the violation; the economic benefit resulting from the violation; any history of such violations; any good-faith efforts to comply with the applicable requirements; the economic impact of the penalty on the violator; and such other matters as justice may require.

### **IV. COMPLIANCE ORDER**

17. 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 submit required annual operations reports for the wells for the period April 2010, through March 2011. The required reports shall be submitted to the EPA at the address shown below within thirty (30) days after the effective date of a Final Order. Report forms are included in Appendix A of this Complaint.

Environmental Protection Agency  
Water Enforcement Branch (6EN-WR)  
1445 Ross Avenue, Suite 1200  
Dallas, TX 75202

### **V. FAILURE TO FILE AN ANSWER**

18. If Respondent wishes to deny or explain any material allegation listed in the above Findings or to contest the amount of the penalty proposed, Respondent must file an Answer to

this Complaint within thirty (30) days after service of this Complaint whether or not Respondent requests a hearing as discussed below.

19. The requirements for such an Answer are set forth at 40 C.F.R. § 22.15 (copy enclosed). Failure to file an Answer to this Complaint within thirty (30) days of service of the Complaint shall constitute an admission of all facts alleged in the Complaint and a waiver of the right to a hearing. Failure to deny or contest any individual material allegation contained in the Complaint will constitute an admission as to that finding or conclusion under 40 C.F.R. § 22.15(d).

20. If Respondent does not file an Answer to this Complaint within thirty (30) days after service of this Complaint, a Default Order may be issued against Respondent pursuant to 40 C.F.R. § 22.17. A Default Order, if issued, would constitute a finding of liability, and could make the full amount of the penalty proposed in this Complaint due and payable by Respondent without further proceedings thirty (30) days after a final Default Order is issued.

21. Respondent must send its Answer to this Complaint, including any request for hearing, and all other pleadings to:

Regional Hearing Clerk (6RC-D)  
U.S. EPA, Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, TX 75202-2733

22. The Answer must be signed by Respondent, Respondent's counsel, or other representative on behalf of Respondent and must contain all information required by 40 C.F.R. §§ 22.05 and 22.15, including the name, address, and telephone number of Respondent and Respondent's counsel. All other pleadings must be similarly signed and filed.

Complainant has specified that the administrative procedures specified in 40 C.F.R.

Part 22, Subpart I, shall apply to this matter, and the administrative proceedings shall not be governed by Section 554 of the Administrative Practice Act.

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

23. Respondent may request a hearing to contest the issuance of this Complaint or to contest the appropriateness of the amount of the penalty, pursuant to Section 1423(c)(3)(A) of the Act, 42 U.S.C. § 300h-2(c)(3)(A). The procedures for hearings are set out at 40 C.F.R. Part 22 (copy enclosed), including 40 C.F.R. §§ 22.50 through 22.52.

24. Any request for hearing should be included in an Answer to this Complaint; however, as discussed above, Respondent must file an Answer meeting the requirements of 40 C.F.R. § 22.15 in order to preserve the right to a hearing or to pursue other relief.

25. Should a hearing be requested, members of the public who commented on the issuance of this Complaint during the public comment period would have a right to be heard and to present evidence at a hearing under Section 1423(c)(3)(C) of the Act, 42 U.S.C. § 300h-2(c)(3)(C).

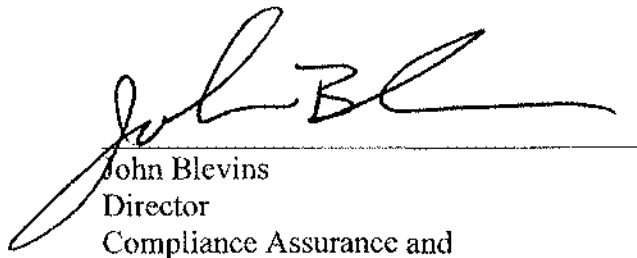
#### **VII. SETTLEMENT**

26. EPA encourages all parties against whom civil penalties are 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 or the amount of the proposed penalty. 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 Complaint, please contact Mr. Ronald Van Wyk, of my staff, at 214-665-6459.

27. If this action is settled without a formal hearing and issuance of an opinion by the Presiding Officer pursuant to 40 C.F.R. § 22.27, this action will be concluded by issuance of a Consent Agreement and Final Order (“CAFO”) pursuant to 40 C.F.R. § 22.18(b). The issuance of a CAFO would waive the Respondent's right to a hearing on any matter stipulated to therein or alleged in the Complaint. Any person who commented regarding this Complaint would be notified and given an additional thirty (30) days to petition EPA to set aside any such CAFO and to hold a hearing on the issues raised in the Complaint. Such a petition would be granted and a hearing held only if the evidence presented by the petitioner's comment is material and was not considered by EPA in the issuance of the CAFO.

28. Neither assessment nor payment of a penalty in resolution of this action will affect Respondent's continuing obligation to comply with all requirements of the Act, the applicable regulations and permits, and any separate Compliance Order issued under Section 1423(c) of the Act, 42 U.S.C. § 300h-2(c), including one relating to the violations alleged herein.

12.8.11  
Date

  
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John Blevins  
Director  
Compliance Assurance and  
Enforcement Division

**CERTIFICATE OF SERVICE**

I certify that the foregoing Complaint 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. Charles E. Gross, III  
return receipt requested:      Service Clearing Corporation  
   10247 Better Drive  
   Dallas, TX 75229-6206

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

Copy hand-delivered:      Office of Regional Counsel  
   U.S. EPA, Region 6  
   1445 Ross Avenue, Suite 1200  
   Dallas, TX 75202-2733

Dated: 12-13-2011      Kari Jackson