



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960
MAY 16 2005

CERTIFIED MAIL 7001 0360 0003 1582 2912
RETURN RECEIPT REQUESTED

Mr. Gene A. Wilson
101 Madison Street
P.O. Box 702
Louisa, KY 41230

SUBJ: Administrative Complaint
Docket No. SDWA-04-2005-1016

Dear Mr. Wilson:

Enclosed is a document entitled "Administrative Complaint" ("Complaint"). The U. S. Environmental Protection Agency ("EPA"), Region 4 has filed this Complaint against Gene A. Wilson under the authority of Section 1423(c) of the Safe Drinking Water Act ("SDWA"), 42 U.S.C. § 300h-2(c), and the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits" ("Part 22") published at 64 Fed. Reg. 40138 (July 23, 1999). In the Complaint, EPA alleges that Gene A. Wilson has violated various provisions of the SDWA and its implementing regulations. The violations that EPA alleges are specifically set out in the Complaint. Subpart I of Part 22 applies to this proceeding, and a copy is enclosed.

To contest the allegations in the Complaint, you must send an Answer drafted in compliance with Part 22, Subpart I, and a request for a hearing within 30 days of receipt of the enclosed Complaint to the Regional Hearing Clerk at the following address:

Regional Hearing Clerk
U.S. EPA, Region 4
61 Forsyth Street, S.W.
Atlanta, GA 30303-8960

A copy of the Answer and request for a hearing should also be sent to:

Internet Address (URL) • <http://www.epa.gov>

Recycled/Recyclable • Printed with Vegetable Oil Based Inks on Recycled Paper (Minimum: 30% Postconsumer)

Ms. Zylpha Pryor
Associate Regional Counsel
U.S. EPA, Region 4
61 Forsyth Street, S.W.
Atlanta, GA 30303-8960

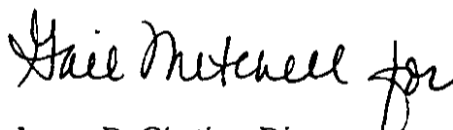
If you fail to request a hearing and file an Answer within 30 days of receipt of the Complaint, you will have waived the right to a hearing and the proposed Compliance Order may be issued without further proceedings. You have the right to be represented by an attorney or to represent yourself at any stage of these proceedings.

It is EPA's policy to encourage all parties against whom it files a complaint to pursue the possibility of settlement. Pursuant to this policy, an informal conference may be scheduled between you and EPA regarding the matters set forth in the enclosed Complaint. Please note that any informal conference does not extend the 30-day period within which you must file an Answer and request a hearing on the matters raised in the Complaint. The two (2) procedures can be pursued simultaneously.

To further assist you in your decision regarding settlement of this matter, also enclosed is a copy of the "EPA Supplemental Environmental Projects (SEP)" Policy, dated May 1, 1998. Where it is appropriate, EPA encourages parties to consider implementing significant environmental or public health protection and improvements which will mitigate assessed penalties. The Policy sets forth types of projects that qualify as SEPs, the penalty mitigation appropriate for a particular SEP and the terms and conditions under which they may become part of a settlement. Consistent with the Pollution Prevention Act of 1990, 42 U.S.C. § 13101 et seq., SEPs involving pollution prevention techniques are preferred and given more consideration over other types of reduction or control strategies.

We urge your prompt attention to this matter. If you have any questions with regard to the above, please contact Mr. Randy Vaughn, Enforcement Officer, at (404) 562-9793, or have your attorney contact Ms. Zylpha Pryor, Associate Regional Counsel, at (404) 562-9535.

Sincerely,



James D. Giattina, Director
Water Management Division

Enclosures

cc: Regional Hearing Clerk

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the date noted below, the original and one (1) copy of the foregoing Administrative Complaint were delivered by hand to the Regional Hearing Clerk, Region 4, United States Environmental Protection Agency, and that a true and correct copy of the Administrative Complaint and a copy of the applicable rules of procedure were sent to the following person(s), in the manner specified, on the date below:

Randy Vaughn, UIC Enforcement Officer
EPA, Region 4

(Via EPA internal Mail)

Ms. Zylpha Pryor, Associate Regional Counsel
EPA, Region 4

(Via EPA internal Mail)

Mr. Gene A. Wilson, Owner
101 Madison Street
P.O. Box 702
Louisa, KY 41230

(Via Certified Mail - Return Receipt Requested)

Dated: MAY 16 2005



M. Annette Jones, Staff Assistant
United States Environmental Protection Agency, Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, GA 30303-8960
(404) 562-9737

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

IN THE MATTER OF

Mr. Gene A. Wilson
101 Madison Street
P.O. Box 702
Louisa, KY 41230

Respondent

Proceeding for Issuance of a
Penalty and Compliance Order
under Section 1423(c) of the
Safe Drinking Water Act

Docket No. SDWA-04-2005-1016

RECEIVED
EPA REGION 4
2006 MAY 16 PM 2:53
REGISTRATION CLERK

ADMINISTRATIVE COMPLAINT

1. This Administrative Complaint is issued under the authority of the Administrator of the U.S. Environmental Protection Agency ("EPA") pursuant to Section 1423(c) of the Safe Drinking Water Act ("SDWA" or "the Act"), 42 U.S.C. §300h-2(c). The Administrator has delegated this authority to the Regional Administrator of EPA Region 4, who has delegated the authority to the Director of the Water Management Division of EPA Region 4 ("Complainant").

2. Pursuant to Section 1423(c) of the SDWA, and in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits," 64 Fed. Reg. 40138 (July 23, 1999) ("Part 22"), Complainant hereby requests that the Regional Administrator assess a penalty and issue a Compliance Order against Gene A. Wilson ("Respondent") for violation of Part C of the SDWA and the regulations promulgated under its authority. These violations are more fully described in the following paragraphs. Subpart I of Part 22 applies to this proceeding.

ALLEGATIONS OF FACT AND VIOLATIONS

Complainant alleges that:

3. Respondent is an individual doing business under the laws of Kentucky with a principal place of business at 101 Madison Street, P.O. Box 702, Louisa, Kentucky 41230. Respondent is a "person" as that term is defined in Section 1401(12) of the SDWA, 42 U.S.C. Section 300f(12) and 40 CFR §144.3.

4. Respondent owns and/or operates at least one (1) class II injection well as that term is defined at 40 CFR §§144.3, 144.6, 146.3, and 146.5. The well is located on the Gene A. Wilson lease in Lawrence County, Kentucky, and is identified as follows:

<u>EPA ID No.</u>	<u>Permit #</u>	<u>Well</u>	<u>Status</u>
KYS1270250	KYI0376	Gene A. Wilson #1	Plugged

5. The Gene A. Wilson #1 (hereinafter, subject well) constitutes a facility as that term is defined in 40 CFR §144.3.

6. The subject well was authorized under Underground Injection Control (UIC) Permit # KYI0376, in accordance with 40 CFR §146.21. The permit was issued and became effective on January 12, 1990.

7. The SDWA, 42 U.S.C. §300f, et seq., and 40 CFR §144.51(a) require that the permittee comply with all conditions of the permit. Noncompliance constitutes a violation of the SDWA and the implementing regulations and is grounds for an enforcement action.

8. 40 CFR §144.52(a)(6) and Part II, Section F, Paragraph 3 of Respondent's permit, require that mechanical integrity be demonstrated at least once every two (2) years for a temporarily abandoned injection well or that the well be plugged and abandoned in accordance with an EPA-approved plugging and abandonment plan.

9. The subject well was tested for mechanical integrity on October 15, 1993.

10. The subject well was temporarily abandoned from October 15, 1995 through the date that it was plugged on June 10, 2005.

11. The subject well was not tested for mechanical integrity from the date of the initial test on October 15, 1993, through the date that it was plugged on June 10, 2005.

12. Therefore, Respondent violated the SDWA, 40 CFR §§ 144.51(a), 144.52(a)(6), and permit # KYI0376 by failing to demonstrate the mechanical integrity of the subject well at least once every two (2) years or to timely plug and abandon the subject well .

13. Part I, Section D, Paragraph 2 of Respondent's permit requires annual submittal of monthly injection monitoring reports.

14. Respondent never submitted annual monitoring reports during the life of the well.

15. Therefore, Respondent violated the SDWA, 40 CFR §144.51(a) and permit # KYI0376 by failing to submit annual monitoring reports as required by the permit.

16. Pursuant to Section 1423(c) of the Act, 42 U.S.C. §300h-2(c), the Debt Collection Improvement Act of 1996, and 40 CFR §19, Respondent may be liable for

civil penalties of not more than \$5,500 for each day of violation for violations that occurred on or after January 30, 1997, and for civil penalties of not more than \$6,500 for each day of violation for violations that occurred on or after March 15, 2004, or may be ordered to comply with regulations or other requirements, or both.

PROPOSED ORDER

17. Based upon the foregoing Allegations, and pursuant to the authority of Section 1423(c) of the SDWA, 42 U.S.C. §300h-2(c), Complainant proposes that a final order be issued assessing a civil penalty.

18. Complainant proposes assessing against Respondent a penalty of up to \$6,500 per day, per violation, which represents the maximum per day penalty allowed in an administrative action pursuant to the SDWA.

19. Failure to test the mechanical integrity of a temporarily abandoned injection well is a very severe violation because it potentially poses a direct threat of contamination to underground sources of drinking water.

20. Failure to submit annual monitoring reports is a moderately severe violation. The information contained in the reports enables EPA to determine the status of the well and whether the injection pressure may have affected the integrity of the confinement zone.

21. The period for both violations begins five (5) years back from the date of the filing of this complaint and ends on June 10, 2005, the date on which the well was plugged.

OPPORTUNITY TO REQUEST HEARING

22. Pursuant to Part 22, Subpart I, Respondent may request a hearing regarding any material fact alleged in the Administrative Complaint. The procedures for the hearing, if one is requested, are set out in Part 22, Subpart I, a copy of which is enclosed with this Administrative Complaint.

23. In order to be entitled to a hearing, Respondent must file a written Answer to the Administrative Complaint, including a request for a hearing, within thirty (30) days of receipt of the Administrative Complaint, at the following address: Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, S.W., Atlanta, GA 30303-8960.

24. The Answer shall clearly and directly admit, deny, or explain each of the factual allegations contained in the Administrative Complaint. Where Respondent has no knowledge of a particular factual allegation, Respondent shall so state and the

disputes; and (3) whether Respondent requests a hearing.

26. If Respondent fails to submit an Answer within thirty (30) days of receipt of this Administrative Complaint, and the case is not otherwise disposed of through settlement, Respondent may be found in default. For purposes of this action, default constitutes an admission of all facts alleged in the Administrative Complaint and a waiver of Respondent's right to a hearing on such factual allegations. In that case, the civil penalty proposed in the Administrative Complaint may become due and payable without further proceedings after an order of default is issued pursuant to 40 CFR §22.17.

INFORMAL CONFERENCE

27. Respondent may request an informal conference with Complainant concerning the alleged violations and the amount of any proposed penalty. A request for an informal conference does not extend the thirty (30) day period in which to submit an Answer in order to preserve Respondent's right to a hearing. Any settlement reached as a result of the informal conference will be finalized by the issuance of a written Consent Agreement and Final Order.

Date: MAY 16 2006

 Gail Mitchell for
James D. Giattina, Director
Water Management Division