

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:)	
)	Docket No. SDWA- 05-2020-0004
Ranch Production, LLC)	
Pentwater, Michigan)	Proceeding under Section 1423(c)
)	of the Safe Drinking Water Act,
Respondent.)	42 U.S.C. § 300h-2(c)
_____)	

Consent Agreement and Final Order

Statutory Authority

1. This is an administrative action commenced and concluded under Section 1423(c) of the Safe Drinking Water Act (SDWA), 42 U.S.C. § 300h-2(c), and Sections 22.13(b), 22.18(b)(2) and (3), and 22.45 of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (Consolidated Rules), as codified at 40 C.F.R. Part 22.
2. Complainant is, by lawful delegation, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency (EPA), Region 5.
3. The Respondent is Ranch Production, LLC (hereinafter "Respondent,"), a corporation doing business in the State of Michigan.
4. Where the parties agree to settle one or more causes of action before the filing of a complaint, an administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). *See* 40 C.F.R. § 22.13(b).
5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the terms of this CAFO, including the assessment of the civil penalty specified below.

Jurisdiction and Waiver of Right to Judicial Review and Hearing

7. Respondent admits the jurisdictional allegations and factual allegations in this CAFO.

8. Respondent waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this CAFO including, but not limited to, its right to request a hearing under 40 C.F.R. § 22.15(c) and Section 1423(c)(3) of SDWA, 42 U.S.C. § 300h-2(c)(3); its right to seek federal judicial review of the CAFO pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-06; any right to contest the allegations in this CAFO; and its right to appeal this CAFO under Section 1423(c)(6) of SDWA, 42 U.S.C. § 300h-2(c)(6). Respondent also consents to the issuance of this CAFO without further adjudication.

Statutory and Regulatory Background

9. Section 1421 of SDWA, 42 U.S.C. § 300h, requires that the Administrator of EPA promulgate regulations, which shall include permitting requirements as well as inspection, monitoring, recordkeeping and reporting requirements, for state underground injection control (UIC) programs to prevent underground injection which endangers drinking water sources.

10. Section 1421(d)(1) of SDWA, 42 U.S.C. § 300h(d)(1), defines “underground injection” as the subsurface emplacement of fluids by well injection and excludes the underground injection of natural gas for purposes of storage and the underground injection of

fluids or propping agents (other than diesel fuels) pursuant to hydraulic fracturing operations related to oil, gas, or geothermal production activities.

11. Section 1422(c) of SDWA, 42 U.S.C. § 300h-1(c), provides that the Administrator for EPA shall prescribe UIC programs applicable to those states that have not obtained primary enforcement responsibility of their UIC programs (a concept called “primacy”) or do not have primacy for all types of wells.

12. Pursuant to Sections 1421 and 1422 of SDWA, 42 U.S.C. §§ 300h and 300h-1, respectively, EPA has promulgated UIC regulations at 40 C.F.R. Parts 124 and 144 through 148.

13. EPA administers and has primary enforcement responsibility of the UIC program in the State of Michigan. The UIC program for the State of Michigan is set forth at 40 C.F.R. Part 147, Subpart X.

14. 40 C.F.R. § 144.1(g) provides that the UIC programs regulate underground injection by six classes of wells and all owners or operators of these injection wells must be authorized either by permit or rule.

15. 40 C.F.R. § 144.1(g) provides that the UIC programs regulate underground injection by six classes of wells and all owners or operators of these injection wells must be authorized either by permit or rule. Class II wells are used to inject fluids associated with oil and natural gas production.

16. 40 C.F.R. § 144.11 further prohibits any underground injection, except into a well authorized by rule or by permit issued under the UIC program.

17. 40 C.F.R. § 144.51(a) provides that any UIC permittee must comply with all conditions of its permit. Any permit noncompliance constitutes a violation of SDWA and is

grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application; except that the permittee need not comply with the provisions of this permit to the extent and for the duration such noncompliance is authorized in an emergency permit under 40 C.F.R. § 144.34.

18. 40 C.F.R. § 144.3 defines “fluid” as any material or substance which flows or moves whether in a semisolid, liquid, sludge, gas or any other form or state.

19. 40 C.F.R. § 144.3 defines “injection well” as a “well” into which “fluids” are being injected.

20. 40 C.F.R. § 144.3 defines “permit” as an authorization, license, or equivalent control document issued by EPA or an approved State to implement the requirements of 40 C.F.R. Parts 144, 145, 146 and 124.

21. Section 1401(12) of SDWA, 42 U.S.C. § 300f(12), defines “person” as an individual, corporation, company, association, partnership, State, municipality, or Federal agency (and includes officers, employees, and agents of any corporation, company, association, State, municipality, or Federal agency). *See also*, 40 C.F.R. § 144.3.

22. 40 C.F.R. § 144.3 defines “underground injection” as a “well injection.”

23. 40 C.F.R. § 144.3 defines “well” as a bored, drilled, or driven shaft whose depth is greater than the largest surface dimension; or, a dug hole whose depth is greater than the largest surface dimension; or, an improved sinkhole; or, a subsurface fluid distribution system.

24. 40 C.F.R. § 144.3 defines “well injection” as the subsurface emplacement of fluids through a well.

25. Under Section 1423(c)(2) of SDWA, 42 U.S.C. § 300h-2(c)(2), and 40 C.F.R. Part 19, EPA may assess a civil penalty of not more than \$11,463 for each day of violation, up

to a maximum administrative penalty of \$286,586, for certain SDWA violations occurring after November 2, 2015.

Factual Allegations and Alleged Violations

26. Respondent is a ‘person,’ as that term is defined at Section 1401(12) of SDWA, 42 U.S.C. § 300f(12), and 40 C.F.R. §144.3.

Respondent’s relevant wells

27. At all times relevant to this CAFO, the following wells (collectively, “Respondent’s wells”) existed in Michigan:

EPA UIC Permit	Well name	County
MI-011-2D-0008	E. Klenk 3	Arenac
MI-011-2D-0010	Panasiuk 1	Arenac
MI-085-2D-0004	Van Latigue 1	Lake
MI-105-2D-0002	Lawrence Lundberg 2	Mason
MI-127-2D-0002	Henry Cox 1	Oceana

28. At all times relevant to this CAFO, each of Respondent’s wells was a bored, drilled, or driven shaft whose depth was greater than the largest surface dimension.

29. At all times relevant to this CAFO, each of Respondent’s wells was a “well,” as that term is defined at 40 C.F.R. § 144.3.

30. At all times relevant to this CAFO, each of Respondent's wells was a well which injected fluids which are brought to the surface in connection with conventional oil or natural gas production.

31. At all times relevant to this CAFO, each of Respondent's wells was a Class II UIC well, as that term is defined at 40 C.F.R. §§ 144.6(b), 146.5(b).

32. At all times relevant to this CAFO, Respondent was the permittee for each of Respondent's wells.

33. At all times relevant to this CAFO, Respondent operated each of Respondent's wells.

Relevant permit requirements

34. At all times relevant to this Complaint, Part (E)(1) of the Cox permit 1) required Respondent to comply with all conditions of the Cox permit; and 2) stated that any permit noncompliance constitutes a violation of SDWA and is grounds for enforcement action, permit termination, revocation and re-issuance or modification.

35. At all times relevant to this Complaint, Part I(E)(1) of the E. Klenk, Lundberg, Panasiuk and Van Latigue permits 1) required Respondent to comply with all conditions of the respective permits; and 2) stated that any permit noncompliance constitutes a violation of SDWA and is grounds for enforcement action, permit termination, revocation and re-issuance or modification.

36. At all times relevant to this Complaint, Part (E)(21)(b) of the Cox permit required Respondent to demonstrate mechanical integrity of the Cox well in accordance with 40 C.F.R. § 146.8, every five years from the date of the last approved demonstration.

37. At all times relevant to this Complaint, Part I(E)(17)(b) of the Lundberg permit required Respondent to demonstrate mechanical integrity of the Lundberg well in accordance with 40 C.F.R. § 146.8, at least every five years from the date of the last approved demonstration.

38. At all times relevant to this Complaint, Part I(E)(11) of the Lundberg permit required all reports or other information requested by the Director to be signed and certified according to 40 C.F.R. § 144.32.

39. At all times relevant to this Complaint, Part G(2)(d) of the Cox permit required at least weekly recording of the Cox well's injection pressure, annulus pressure, flow rate and cumulative volume.

40. At all times relevant to this Complaint, Parts II(B)(2)(d) and III(A) of the E. Klenk, Lundberg, Panasiuk and Van Latigue permits required at least weekly recording of their respective wells' injection pressure, annulus pressure, flow rate and cumulative volume.

41. At all times relevant to this Complaint, Part G(3)(a) of the Cox permit required that weekly monitoring results for the Cox well be recorded on a form and submitted at the end of each month, postmarked no later than the 10th day of the month following the sampling period.

42. At all times relevant to this Complaint, Part II(B)(3)(a) of the E. Klenk, Lundberg and Panasiuk permits required that weekly monitoring results for their respective wells be recorded on a form and submitted at the end of each month, postmarked no later than the 10th day of the month following the sampling period.

43. At all times relevant to this Complaint, Part II(B)(3)(a) of the Van Latigue permit required that weekly monitoring results for the Van Latigue well be recorded on a form

and submitted at the end of each month, postmarked no later than the 10th day of the month following the reporting period.

44. At all times relevant to this Complaint, Parts II(B)(2)(d) and III(A) of the E. Klenk, Lundberg, Panasiuk and Van Latigue permits required at least quarterly recording of their respective wells' annulus liquid loss.

45. At all times relevant to this Complaint, Part II(B)(3)(b) of the E. Klenk, Lundberg, Panasiuk and Van Latigue permits required that quarterly monitoring results for their respective wells be submitted at the end of each quarter, postmarked no later than the 10th day of the first month of the following quarter.

46. At all times relevant to this Complaint, Part III(A) of the E. Klenk, Lundberg, Panasiuk and Van Latigue permits required at least annual sampling and recording of the chemical composition of the injected fluid in their respective wells.

47. At all times relevant to this Complaint, Part II(B)(3)(c) of the E. Klenk and Panasiuk permits required that annual monitoring results for their respective wells be submitted at the end of each year, postmarked no later than the 10th day of the first month of the following year.

48. At all times relevant to this Complaint, Part II(B)(3)(c) of the Lundberg and Van Latigue permits required that annual monitoring results for their respective wells be submitted at the end of each anniversary year, postmarked no later than the 10th day of the first month of the following year.

Count I

Failure to Perform Mechanical Integrity Test

Cox Well

49. The statements in Paragraphs 1 through 48 of this CAFO are hereby incorporated by reference as if set forth in full.

50. On or about October 18, 2011, Respondent demonstrated mechanical integrity of the Cox well in accordance with 40 C.F.R. § 146.8.

51. Pursuant to Part (E)(21)(b) of the Cox permit, Respondent had to again demonstrate mechanical integrity of the Cox well in accordance with 40 C.F.R. § 146.8 on or before October 18, 2016.

52. On or about October 26, 2017, Respondent demonstrated mechanical integrity of the Cox well in accordance with 40 C.F.R. § 146.8.

53. Respondent's failure set forth in paragraphs 51 and 52, above, violated Parts (E)(1) and (E)(21)(b) of the Cox permit.

54. Respondent's failure set forth in paragraphs 51 and 52, above, violated 40 C.F.R. §§ 144.51, 144.51(a).

55. Respondent is subject to the assessment of a civil penalty of up to \$286,586 for the unlawful acts set forth in this Count I, pursuant to Section 1423(c)(2) of SDWA, 42 U.S.C. § 300h-2(c)(2), and 40 C.F.R. Part 19.

Count II

Failure to Perform Mechanical Integrity Test **Lundberg Well**

56. Paragraphs 1-48 of this CAFO are incorporated by reference.

57. On or about September 10, 2007, Respondent demonstrated mechanical integrity of the Lundberg well in accordance with 40 C.F.R. § 146.8.

58. Pursuant to Part I(E)(17)(b) of the Lundberg permit, Respondent had to again demonstrate mechanical integrity of the Lundberg well in accordance with 40 C.F.R. § 146.8 on or before September 10, 2012.

59. On or about August 9, 2016, Respondent demonstrated mechanical integrity of the Lundberg well in accordance with 40 C.F.R. § 146.8.

60. Respondent's failures set forth in paragraphs 58 and 59, above, violated Parts I(E)(1) and I(E)(17)(b) of the Lundberg permit.

61. Respondent's failures set forth in paragraphs 58 and 59, above, violated 40 C.F.R. §§ 144.51, 144.51(a).

62. Respondent is subject to the assessment of a civil penalty of up to \$286,586 for the unlawful acts set forth in this Count II, pursuant to Section 1423(c)(2) of SDWA, 42 U.S.C. § 300h-2(c)(2), and 40 C.F.R. Part 19.

Count III

Failure to Certify Truthfulness, Accuracy and Completeness Lundberg Well

63. Paragraphs 1-48 of this CAFO are incorporated by reference.

64. On or about August 19, 2016, EPA received a letter transmitting the alleged results of Respondent's August 9, 2016 demonstration of mechanical integrity for the Lundberg well (report).

65. The August 19, 2016 report was not signed by a responsible corporate officer, or by a duly authorized representative of same.

66. Respondent's failure set forth in paragraph 64-65, above, violated 40 C.F.R. §§ 144.32(a)(1), 144.32(b).

67. The original report did not include the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

68. On or about October 26, 2017, Respondent provided EPA with the certification set forth at paragraph 67, above, relating to the report.

69. Respondent's failures set forth in paragraphs 67 and 68, above, violated 40 C.F.R. § 144.32(d).

70. Each of Respondent's failures set forth in paragraphs 64-65 and 67-68, above, violated Parts I(E)(1) and I(E)(11) of the Lundberg permit.

71. Each of Respondent's failures set forth in paragraphs 64-65 and 67-68, above, violated 40 C.F.R. §§ 144.51, 144.51(a).

72. Respondent is subject to the assessment of a civil penalty of up to \$286,586 for the unlawful acts set forth in this Count III, pursuant to Section 1423(c)(2) of SDWA, 42 U.S.C. § 300h-2(c)(2), and 40 C.F.R. Part 19.

Count IV

Failure to Submit Monthly Monitoring Reports
Cox, E. Klenk, Lundberg, Panasiuk and Van Latigue Wells

73. Paragraphs 1-48 of this CAFO are incorporated by reference.

Cox Permit Violations

74. As of the date of this CAFO, Respondent has not submitted monthly monitoring reports for the Cox well for the months of September 2014 through July 2017.

75. Respondent alleges that it no longer has monthly monitoring reports for the Cox well from before calendar year 2018.

76. Each of Respondent's failures set forth in paragraph 74, above, violated Parts (E)(1) and G(3)(a) of the Cox permit.

77. Each of Respondent's failures set forth in paragraph 74, above, violated 40 C.F.R. §§ 144.51, 144.51(a).

E. Klenk Permit Violations

78. As of the date of this CAFO, Respondent has not submitted monthly monitoring reports for the E. Klenk well for the months of September 2014 through July 2017.

79. Respondent alleges that it no longer has monthly monitoring reports for the E. Klenk well from before calendar year 2018.

80. Each of Respondent's failures set forth in paragraph 78, above, violated Parts I(E)(1) and II(B)(3)(a) of the E. Klenk permit.

81. Each of Respondent's failures set forth in paragraph 78, above, violated 40 C.F.R. §§ 144.51, 144.51(a).

Lundberg Permit Violations

82. As of the date of this CAFO, Respondent has not submitted monthly monitoring reports for the Lundberg well for the months of September 2014 through July 2017.

83. Respondent alleges that it no longer has monthly monitoring reports for the Lundberg well from before calendar year 2018.

84. Each of Respondent's failures set forth in paragraph 82, above, violated Parts I(E)(1) and II(B)(3)(a) of the Lundberg permit.

85. Each of Respondent's failures set forth in paragraph 82, above, violated 40 C.F.R. §§ 144.51, 144.51(a).

Panasiuk Permit Violations

86. As of the date of this CAFO, Respondent has not submitted monthly monitoring reports for the Panasiuk well for the months of September 2014 through July 2017.

87. Respondent alleges that it no longer has monthly monitoring reports for the Panasiuk well from before calendar year 2018.

88. Each of Respondent's failures set forth in paragraph 86, above, violated Parts I(E)(1) and II(B)(3)(a) of the Panasiuk permit.

89. Each of Respondent's failures set forth in paragraph 86, above, violated 40 C.F.R. §§ 144.51, 144.51(a).

Van Latigue Permit Violations

90. As of the date of this Complaint, Respondent has not submitted monthly monitoring reports for the Van Latigue well for the months of September 2014 through July 2017.

91. Respondent alleges that it no longer has monthly monitoring reports for the Van Latigue well from before calendar year 2018.

92. Each of Respondent's failures set forth in paragraph 90, above, violated Parts I(E)(1) and II(B)(3)(a) of the Van Latigue permit.

93. Each of Respondent's failures set forth in paragraph 90, above, violated 40 C.F.R. §§ 144.51, 144.51(a).

Conclusion

94. Respondent is subject to the assessment of a civil penalty of up to \$286,586 for each of the unlawful acts set forth in this Count IV, pursuant to Section 1423(c)(2) of SDWA, 42 U.S.C. § 300h-2(c)(2), and 40 C.F.R. Part 19.

Count V

Failure to Submit Timely Quarterly Monitoring Reports E. Klenk, Lundberg, Panasiuk and Van Latigue Wells

E. Klenk Permit Violations

95. Respondent submitted quarterly monitoring reports for the E. Klenk well for all quarters of 2014, 2015, 2016 and 2017 late.

96. Each of Respondent's failures set forth in paragraph 95, above, violated Parts I(E)(1) and II(B)(3)(b) of the E. Klenk permit.

97. Each of Respondent's failures set forth in paragraph 95, above, violated 40 C.F.R. §§ 144.51, 144.51(a).

Lunderg Permit Violations

98. Respondent submitted quarterly monitoring reports for the Lundberg well for all quarters of 2014, 2015, 2016 and 2017 late.

99. Each of Respondent's failures set forth in paragraph 98, above, violated Parts I(E)(1) and II(B)(3)(b) of the Lundberg permit.

100. Each of Respondent's failures set forth in paragraph 98, above, violated 40 C.F.R. §§ 144.51, 144.51(a).

Panasiuk Permit Violations

101. Respondent submitted quarterly monitoring reports for the Panasiuk well for all quarters of 2014, 2015, 2016 and 2017 late.

102. Each of Respondent's failures set forth in paragraph 101, above, violated Parts I(E)(1) and II(B)(3)(b) of the Panasiuk permit.

103. Each of Respondent's failures set forth in paragraph 101, above, violated 40 C.F.R. §§ 144.51, and 144.51(a).

Van Latigue Permit Violations

104. Respondent submitted quarterly monitoring reports for the Van Latigue well for all quarters of 2014, 2015, 2016 and 2017 late.

105. Each of Respondent's failures set forth in paragraph 104, above, violated Parts I(E)(1) and II(B)(3)(b) of the Van Latigue permit.

106. Each of Respondent's failures set forth in paragraph 104, above, violated 40 C.F.R. §§ 144.51, 144.51(a).

Conclusion

107. Respondent is subject to the assessment of a civil penalty of up to \$286,586 for each of the unlawful acts set forth in this Count V, pursuant to Section 1423(c)(2) of SDWA, 42 U.S.C. § 300h-2(c)(2), and 40 C.F.R. Part 19.

Count VI

Failure to Submit Annual Monitoring Reports
E. Klenk, Lundberg, Panasiuk and Van Latigue Wells

108. Paragraphs 1-48 of this CAFO are incorporated by reference.
109. Respondent has not submitted annual monitoring reports for the E. Klenk well, for any of calendar years 2014, 2015, 2016 and 2017.
110. Each of Respondent's failures set forth in paragraph 109, above, violated Parts I(E)(1) and II(B)(3)(c) of the E. Klenk permit.
111. Each of Respondent's failures set forth in paragraph 109, above, violated 40 C.F.R. §§ 144.51, 144.51(a).
112. Respondent has not submitted annual monitoring reports for the Lundberg well, for any of calendar years 2014, 2015, 2016 and 2017.
113. Each of Respondent's failures set forth in paragraph 112, above, violated Parts I(E)(1) and II(B)(3)(c) of the Lundberg permit.
114. Each of Respondent's failures set forth in paragraph 112, above, violated 40 C.F.R. §§ 144.51, 144.51(a).
115. Respondent has not submitted annual monitoring reports for the Panasiuk well, for any of calendar years 2014, 2015, 2016 and 2017.
116. Each of Respondent's failures set forth in paragraph 115, above, violated Parts I(E)(1) and II(B)(3)(c) of the Panasiuk permit.
117. Each of Respondent's failures set forth in paragraph 115, above, violated 40 C.F.R. §§ 144.51, 144.51(a).

118. Respondent has not submitted annual monitoring reports for the Van Latigue well, for any of calendar years 2014, 2015, 2016 and 2017.

119. Each of Respondent's failures set forth in paragraph 118, above, violated Parts I(E)(1) and II(B)(3)(c) of the Van Latigue permit.

120. Each of Respondent's failures set forth in paragraph 118, above, violated 40 C.F.R. §§ 144.51, 144.51(a).

121. Respondent is subject to the assessment of a civil penalty of up to \$286,586 for each of the unlawful acts set forth in this Counts I to VI, pursuant to Section 1423(c)(2) of SDWA, 42 U.S.C. § 300h-2(c)(2), and 40 C.F.R. Part 19.

Civil Penalty

122. Section 1423(c)(4)(B) of SDWA, 42 U.S.C. 300h-2(c)(4)(B), requires the Administrator to take into account the seriousness of the violation, the economic benefit (if any) 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, when assessing a civil penalty for violations of SDWA.

123. Based upon the facts alleged in this CAFO, the factors listed in Section 1423(c)(4)(B) of SDWA, 42 U.S.C. 300h-2(c)(4)(B), EPA's UIC Program Judicial and Administrative Order Settlement Penalty Policy (September 1993) (EPA's UIC Penalty Policy), and Respondent's good faith and cooperation in resolving this matter, EPA has determined that an appropriate civil penalty to settle this action is \$5,000.00.

124. Within 30 days of the effective date of this CAFO, Respondent must pay a \$5,000.00 civil penalty by sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

125. A transmittal letter, stating Respondent's name, complete address, and the case docket number must accompany the payment.

126. At the time of payment, Respondent must also send copies of the notice of payment and transmittal letter to the following addresses:

Ray Urchel (ECW-15J)
Water Enforcement and Compliance Assurance
Branch
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

Kris P. Vezner (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

Regional Hearing Clerk (E-19J)
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

127. This civil penalty is not deductible for federal tax purposes.

128. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, Respondent must pay the following on any amount overdue under this CAFO: interest accrued on any overdue amount

from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621(a)(2); the United States' enforcement expenses, including but not limited to attorneys' fees and costs incurred by the United States for collection proceedings; a \$15 handling charge fee each month that any portion of the penalty is more than 30 days past due; and 6% per year penalty on any principal amount 90 days past due.

129. If Respondent does not pay timely the civil penalty, EPA may request the United States Department of Justice bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties, and the United States' enforcement expenses for the collection action under Section 1423(c)(7) of SDWA, 42 U.S.C. § 300h-2(c)(7). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

Stipulated Penalties

130. Respondent shall be liable to EPA for stipulated penalties in the amounts set forth in Paragraph 131 and its subparagraphs for failure to comply with the requirements of this Order specified below. "Comply" as used in the previous sentence, includes compliance by Respondent with all applicable requirements of this Order, within the deadlines established under this Order. If an initially submitted or resubmitted deliverable contains a material defect, then the material defect constitutes a lack of compliance for purposes of this paragraph 130.

131. Stipulated Penalty Amounts:

a. The following stipulated penalties shall accrue per violation per day, for any noncompliance with requirements identified in Paragraph 131.b and its subparagraphs:

Period of Noncompliance	Penalty Per Violation Per Day
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1 st through 14 th day	\$100.00
15 th through 30 th day	\$250.00
31 st day and beyond	\$500.00

b. Obligations: This Order requires Respondent to comply with the following requirements:

- i. Timely demonstrate mechanical integrity of each of Respondent's wells, in accordance with 40 C.F.R. § 146.8 and the respective applicable terms of each well's permit.
- ii. Submit each applicable report to EPA with both the proper signatory and certification required at 40 C.F.R. §§ 144.32(b)-144.32(d).
- iii. Timely submit a monthly monitoring report for each of Respondent's wells, in accordance with the respective applicable terms of each well's permit.
- iv. Timely submit a quarterly monitoring report for each of Respondent's wells, in accordance with the respective applicable terms of each well's permit.
- v. Timely submit an annual monitoring report for each of Respondent's wells, in accordance with the respective applicable terms of each well's permit.
- vi. Within 30 days of the effective date of this CAFO, establish and implement a record keeping system capable of properly preserving and retaining records required by each well's permit.
- vii. Beginning within 30 days of the effective date of this CAFO, and for 12 months after the effective date of this CAFO, whenever you submit a well's

monthly report to EPA, also include copies of all results of monitoring that well during that monthly reporting period.

132. All penalties shall begin to accrue on the day after the complete performance is due or the day a violation occurs and shall continue to accrue through the final day of the correction of the noncompliance or completion of the activity. Nothing in this Order shall prevent the simultaneous accrual of separate penalties for separate violations of this Order.

133. Following EPA's determination that Respondent has failed to comply with a requirement of this Order, EPA may give Respondent written notification of such noncompliance. EPA may send Respondent a written demand for payment of the penalties. However, penalties shall accrue as provided in paragraph 132 regardless of whether EPA has notified Respondent of a violation.

134. All penalties accruing under this Stipulated Penalties Section shall be due and payable to EPA within 30 days after Respondent's receipt from EPA of a demand for payment of the penalties.

135. If Respondent fails to pay stipulated penalties when due, Respondent shall pay interest on the unpaid stipulated penalties as follows: interest shall begin to accrue on any unpaid stipulated penalty balance beginning on the 31st day after Respondent's receipt of EPA's demand. Interest shall accrue at the Current Value of Funds Rate established by the Secretary of the Treasury. Pursuant to 31 U.S.C. § 3717, an additional penalty of 6% per annum on any unpaid principal shall be assessed for any stipulated penalty payment which is overdue for 90 or more days. In addition, a handling fee of \$15 or \$30 per month as applicable shall be assessed beginning on the thirty-first day after Respondent's receipt of EPA's demand.

136. All payments to EPA under this Section shall indicate that the payment is for stipulated penalties and shall be paid to "Treasurer, United States" by Automated Clearinghouse (ACH) to:

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

Payments shall include a reference to the name of the Facility, Respondent's name and address, and the EPA docket number of this action. A copy of the transmittal request shall be sent simultaneously to the individuals set forth at paragraph 126 and to the EPA Cincinnati Finance Office by email at cinwd_acctsreceivable@epa.gov, or by mail to:

EPA Cincinnati Finance Office
26 W. Martin Luther King Drive
Cincinnati, Ohio 45268

137. The payment of penalties and interest, if any, shall not alter in any way Respondent's obligation to comply with the obligations set forth in this Order.

138. Nothing in this Order shall be construed as prohibiting, altering or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondent's violation of this Order or of the statutes and regulations upon which it is based, including but not limited to 42 U.S.C. § 300h-2(c); however, EPA shall not seek civil penalties pursuant to 42 U.S.C. § 300h-2(c) for any violation for which a stipulated penalty is provided in this Order, except in the case of a willful violation of this Order.

139. Notwithstanding any other provision of this Stipulated Penalties Section, EPA may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this Order.

General Provisions

140. All reports, notifications, documentation, and submissions required by this CAFO shall be signed by a duly authorized representative of Respondent and shall include the following statement consistent with 40 C.F.R. § 144.32(d):

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

141. Respondent may not withhold information based on a claim that it is confidential. However, pursuant to 40 C.F.R. Part 2, Subpart B, Respondent may assert a claim of business confidentiality regarding any portion of the information submitted in response to this CAFO, as provided in 40 C.F.R. § 2.302(a)(2). The manner of asserting such claims is specified in 40 C.F.R. § 2.203(b). The name and address of any permit applicant or permittee and information which deals with the existence, absence, or level or contaminants in drinking water is not entitled to confidential treatment. 40 C.F.R. § 144.5. Information subject to a business confidentiality claim is available to the public only to the extent, and by means of the procedures, set forth in 40 C.F.R. Part 2, Subpart B. If Respondent does not assert a claim of business confidentiality when it submits the information, EPA may make the information available to the public without further notice.

142. If Respondent finds at any time after submitting information that any portion of that information is false or incorrect, the signatory must notify EPA immediately. Knowingly submitting false information to EPA in response to this CAFO may subject Respondent to criminal prosecution under Section 1423(b) of SDWA, 42 U.S.C. § 300h-2(b), as well as 18 U.S.C. §§ 1001 and 1341.

143. Submissions required by this CAFO shall be deemed submitted on the date they are sent electronically or on the date postmarked if sent by U.S. mail.

144. EPA may use any information submitted in accordance with this CAFO in support of an administrative, civil, or criminal action against Respondent.

145. The information required to be submitted pursuant to this CAFO is not subject to the approval requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. § 3501 et seq.

146. If Respondent fails to comply with the requirements of this CAFO, EPA may request the United States Department of Justice bring an action to seek penalties for violating this CAFO under Section 1423(b) of SDWA, 42 U.S.C. § 300h-2(b).

147. The parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: vezner.kris@epa.gov (for Complainant) and [e-mail provided by Respondent] (for Respondent).

148. Full payment of the penalty as described in paragraphs 124-126, above, and full compliance with this CAFO shall only resolve Respondent's liability for federal civil penalties for the violations and facts alleged in this CAFO. Violation of this CAFO shall be deemed a violation of SDWA for purposes of Section 1423(b) of SDWA, 42 U.S.C. § 300h-2(b).

149. Full compliance with this CAFO shall not in any case affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

150. This CAFO does not affect Respondent's responsibility to comply with SDWA and other applicable federal, state, or local laws and permits.

151. Respondent certifies that it is complying with SDWA, its implementing regulations, and the Permit.

152. This CAFO constitutes a "previous violation" as that term is used in EPA's UIC Penalty Policy and to determine Respondent's "history of such violations" under Section 1423(c)(4)(B) of SDWA, 42 U.S.C. § 300h-2(c)(4)(B).

153. The terms of this CAFO bind Respondent and its successors and assigns.

154. Each person signing this CAFO certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to the terms of this CAFO.

155. Each party agrees to bear its own costs and attorney fees in this action.

156. This CAFO *constitutes* the entire agreement between the parties.

157. The parties acknowledge and agree that final approval by EPA of this CAFO is subject to 40 C.F.R. § 22.45(c)(4) which sets forth requirements under which a person not a party to this proceeding may petition to set aside a consent agreement and final order on the basis that material evidence was not considered.

158. In accordance with Section 1423(c)(3)(d) of SDWA and 40 C.F.R. § 22.18(b)(3), 22.31(b), and 22.45, this CAFO shall be effective 30 days after the date that the final order contained in this CAFO, having been approved and issued by either the Regional Judicial Officer or the Regional Administrator, is filed with the Regional Hearing Clerk.

Ranch Production, LLC, Respondent

1-31, 2020
Date

Bobby Adams
Name Bobby Adams

member
Job Title

United States Environmental Protection Agency, Complainant

3/06/, 2020
Date

Michael D. Harris
Michael D. Harris
Division Director
Enforcement and Compliance Assurance Division

**Consent Agreement and Final Order
In the Matter of: Ranch Production LLC**

Docket No. [#] SDWA-05-2020-0004

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective 30 days after filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18, 22.31 and 22.45. IT IS SO ORDERED.

By: **ANN COYLE**
Ann Coyle
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 5

Digitally signed by ANN
COYLE
Date: 2020.05.27 10:38:27
-05'00'

Date: **5/27/20**