

U. S. ENVIRONMENTAL PROTECTION AGENCY REGION 6
PROPOSED ADMINISTRATIVE ORDER AND INFORMATION DEMAND
In the Matter of McCann Resources, Inc., Respondent
Docket No. SDWA-06-2016-1120

FILED

2016 DEC 22 11:04 AM

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 Sections 1423(c) and 1445 of the Safe Drinking Water Act ("the Act"), 42 U.S.C. §§ 300h-2(c) and 300j-4. The authority to issue this Order has been delegated by the Administrator to the Regional Administrator of EPA Region 6, who delegated such authority to the Director of the Compliance Assurance and Enforcement Division. 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. Respondent, McCann Resources, Inc., 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 violation alleged herein, Respondent operated an injection well located in the Northeast Quarter of Section 17, Township 29 North, Range 11 East, Hickory Creek District Field, Osage County, Oklahoma, designated as Well Mullendore 9 and EPA Inventory Number OS5437 ("the 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. EPA regulations require the operator of an "injection well," as defined at 40 C.F.R. § 147.2902, to maintain its injection wells in a manner which will prevent the movement of fluid into underground sources of drinking water ("USDWs"), pursuant to 40 C.F.R. §§ 2920 and 2923.

5. File review indicates the well has been inactive since September 14, 2010, and authorization to inject was terminated on March 15, 2006.

6. A February 28, 2006 inspection report shows the well failed a mechanical integrity test ("MIT"). A July 15, 2015 inspection shows the well was inactive with a high fluid level in the tubing and a packer wedged in the well.

7. EPA's August 13, 2015, and September 23, 2015 approvals of corrective actions required Respondent to pump and maintain static fluid level in the well below 480' subsurface.

8. Respondent's October 8, 2015 correspondence indicated that corrective action was not completed on the well. EPA's November 5, 2015 letter notified Respondent it was not compliant with the terms of the corrective action.

9. Therefore, Respondent violated the regulations set forth at 40 C.F.R. §§ 147.2920 and 147.2923.

SECTION 1423(c) COMPLIANCE ORDER

10. Based on the foregoing findings and under the authority of Section 1423(c) of the Act, it is hereby ordered that Respondent shall complete corrective action to ensure there is no significant fluid movement into zones of USDWs adjacent to the well bore. Corrective action may include but is not limited to:

- a. Plugging the well;
- b. Converting the well to production use;
- c. Reducing and maintaining fluid level in the well tubing and annulus to 480' subsurface; or
- d. Other tests deemed acceptable by the Administrator.

SECTION 1445 INFORMATION DEMAND

11. Based on these findings and pursuant to the authority of Section 1445 of the Act, Respondent is required to do the following as applied to your chosen corrective action:

- a. Submit work requests to Bureau of Indian Affairs Osage Office and send copies to EPA and Osage UIC Office.
- b. Submit copies of BIA approved work requests to EPA and Osage UIC Office.
- c. Submit completed plugging reports or corrective action reports to EPA and Osage UIC Office.

NOTICE OF OPPORTUNITY TO REQUEST A HEARING

12. 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). Submit the hearing request to the Regional Hearing Clerk (6RC-D); U.S. EPA Region 6; 1445 Ross Avenue, Suite 1200; Dallas, Texas 75202 within thirty (30) days of the date of receipt of this Proposed Administrative Order.

13. A request for hearing should be included in any response to this Order. Respondent must file a response in order to preserve the right to a hearing or to pursue other relief.

14. Should a hearing be requested, members of the public who commented on the issuance of this 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

15. This Section 1423(c) Compliance Order and the Section 1445 Information Demand do not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. Part 147, Subpart GGG, which remain in full force and effect.

16. Issuance of this Section 1423(c) Compliance Order and the Section 1445 Information Demand is not an election by EPA to forego any civil or criminal action otherwise authorized under the Act.

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

SETTLEMENT

18. 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 Order, please contact Mr. David Aguinaga, of my staff, at (214) 665-6439.

19. If this action is settled without a formal hearing, it will be concluded by issuance of a Final Order.

EFFECTIVE DATE

20. This 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).

12.15.15

Date



John Blevins

Director

Compliance Assurance and
Enforcement 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:

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
return receipt requested: Mr. Mark McCann
McCann Resources
1613 West 6th Street
Bartlesville, OK 74003

Mr. Mark McCann, Registered Agent
McCann Resources, Inc.
120 North Sherman
Sedan, KS 67361-1331

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

Dated:

December 22, 2015 