



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TEXAS 75202-2733

MAR 02 2012

CERTIFIED MAIL—RETURN RECEIPT REQUESTED: 70051820 0003 7453 8755

Mr. Charlie Paulson
BOG-Osage, LLC
9420 Cedar Lake Ave.
Oklahoma City, OK 73114

Re: Notice of Proposed Assessment of Class II Civil Penalty
Docket Number: CWA-06-2012-1778
Facility Number: OKU000754

Dear Mr. Paulson:

Enclosed is an Administrative Complaint (Complaint) issued to BOG-Osage, LLC, for violation of Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a). Violations were identified as a result of multiple inspections conducted by the Environmental Protection Agency (EPA) at four of your oil production facilities located in Osage County, Oklahoma. The violations alleged are for the unauthorized discharge of a pollutant, specifically oil field brine and produced wastewater, to waters of the United States.

You, as the representative of BOG-Osage, LLC, have the right to request a hearing regarding the violations alleged in the enclosed Complaint and the proposed administrative civil penalty. Please pay particular attention to Section V of the Complaint entitled "Notice of Opportunity to Request a Hearing." Note that should you fail to request a hearing within thirty (30) days of receipt of the Complaint, you will waive your right to such a hearing, and the proposed civil penalty of \$42,000.00 may be assessed against you without further proceedings. You have the right to be represented by an attorney or to represent BOG-Osage, LLC, yourself, at any stage of these proceedings.

Whether or not you request a hearing, we invite you to confer informally with the EPA concerning the alleged violations and the amount of the proposed penalty. You may represent BOG-Osage, LLC, or be represented by an attorney at any conference, whether in person or by telephone. The EPA encourages all parties against whom it files a Complaint proposing assessment of a penalty to pursue the possibility of settlement as a result of an informal conference.

Re: Administrative Complaint
BOG-Osage, LLC

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Please also find enclosed 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 National Pollutant Discharge Elimination System program, and my staff will assist you in any way possible. If you have any questions, or wish to discuss the possibility of a settlement of this matter, please contact Mr. Matt Rudolph, of my staff, at (214) 665-6434.

Sincerely,



John Blevins
Director
Compliance Assurance and
Enforcement Division

Enclosures

cc: w/complaint Regional Hearing Clerk

Ms. Diane Daniels, Environmental Director
Osage Nation Environmental and
Natural Resources Department
P.O. Box 1495
Pawhuska, OK 74056

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6

In the Matter of	§ Docket No. CWA-06-2012-1778
	§
	§
BOG-Osage, LLC	§ Proceeding to Assess a Class II
	§ Civil Penalty under Section 309(g)
	§ of the Clean Water Act
Respondent	§
	§ ADMINISTRATIVE COMPLAINT
Facility No. OKU000754	§

I. Statutory Authority

This Complaint is issued under the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA") by Section 309(g) of the Clean Water Act ("Act"), 33 U.S.C. § 1319(g). The Administrator of EPA has delegated the authority to issue this Complaint to the Regional Administrator of EPA Region 6, who further delegated this authority to the Director of the Compliance Assurance and Enforcement Division of EPA Region 6 ("Complainant"). This Class II Administrative Complaint is issued in accordance with, and this action will be conducted under, the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits," 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.

Based on the following Findings, Complainant finds that the Respondent has 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. BOG-Osage, LLC (“Respondent”) is a limited liability company, operating under the laws of the State of Oklahoma, and as such, Respondent is a “person,” as that term is defined at Section 502(5) of the Clean Water Act, 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2.

2. At all times relevant, the Respondent owned or operated oil production facilities listed in the table below (“facilities”) and was therefore an “owner or operator” within the meaning of 40 C.F.R. § 122.2.

Description	Legal Location
Facility #1	Northeast Quarter of Section 32, Township 22 North, Range 10 East, Osage County, Oklahoma
Facility #2	Northeast Quarter of Section 05, Township 21 North, Range 10 East, Osage County, Oklahoma
Facility #3	Southeast Quarter of Section 32, Township 22 North, Range 10 East, Osage County, Oklahoma
Facility #4	Northwest Quarter of Section 33, Township 22 North, Range 10 East, Osage County, Oklahoma

3. At all relevant times, the facilities were “point sources” of “discharges” of “pollutants,” specifically oil field brine and produced wastewater, to the receiving waters of a tributary of Skiatook Lake and Wildhorse Creek, which is considered a “water of the United States” within the meaning of Section 502 of the Act, 33 U.S.C. § 1362, and 40 C.F.R. § 122.2.

4. Because the Respondent owned or operated facilities which acted as point sources of discharges of pollutants to waters of the United States, the Respondent and the facilities were subject to the Act and the National Pollutant Discharge Elimination System (“NPDES”) program.

5. Under Section 301 of the Act, 33 U.S.C. § 1311, it is unlawful for any person to discharge any pollutant from a point source to waters of the United States, except with the authorization of, and in compliance with, an NPDES permit issued pursuant to Section 402

of the Act, 33 U.S.C. § 1342. According to the NPDES program, the discharge of oil field brine and produced wastewater to "waters of the United States" is a non-permitted discharge.

6. On April 6, 2011, Facility #1 was inspected by an EPA field inspector. During the inspection, the inspector observed that oil field brine had been discharged from a flow line, located at Latitude 36° 20.560' North and Longitude 96° 15.060' West, to a tributary of Skiatook Lake. At the discharge point of entry in the tributary, located at Latitude 36° 20.834' North and Longitude 96° 15.120' West, fluids were contaminated from brine discharges and measured 17,500 parts-per-million ("ppm") total soluble salts ("TSS").

7. On May 26, 2011, Facility #2 was inspected by an EPA field inspector. During the inspection, the inspector observed that a flow line, located at Latitude 36° 19.944' North and Longitude 96° 19.796' West, discharged brine to Wildhorse Creek, located at Latitude 36° 19.948' North and Longitude 96° 19.795' West. Fluids located at the discharge point of entry into Wildhorse Creek measured 14,100 ppm TSS. The inspector also observed oil in Wildhorse Creek during the inspection.

8. On May 26, 2011, Facility #3 was inspected by an EPA field inspector. During the inspection, the inspector observed that a flow line, located at Latitude 36° 20.150' North and Longitude 96° 15.040' West, discharged brine to Wildhorse Creek, located at Latitude 36° 20.150' North and Longitude 96° 14.920' West. Fluids located at the discharge point of entry into Wildhorse Creek measured 22,000 ppm TSS.

9. On June 10, 2011, Facility #2 was inspected by an EPA field inspector. During the inspection, the inspector observed the same flow line previously referenced in paragraph 7, had discharged oil field brine to Wildhorse Creek, located at Latitude 36° 19.953' North and Longitude 96° 19.801' West. Fluids located at the discharge point of entry into Wildhorse Creek measured over 80,000 ppm TSS. The inspector also observed oil in Wildhorse Creek during the inspection.

10. On December 1, 2011, Facility #4 was inspected by an EPA field inspector. During the inspection, the inspector observed that a production well, located at Latitude 36° 20.417' North and Longitude 96° 14.737' West, discharged brine to Wildhorse Creek, located at Latitude 36° 20.408' North and Longitude 96° 14.811' West. Fluids located at the discharge point of entry into Wildhorse Creek measured 8,500 ppm TSS.

11. Each day of unauthorized discharge was a violation of Section 301 of the Act, 33 U.S.C. § 1311.

12. Under Section 309(g)(2)(B) of the Act, 33 U.S.C. § 1319(g)(2)(B), the Respondent is liable for a civil penalty in an amount not to exceed \$16,000 per day for each day during which a violation occurs or continues, up to a maximum of \$177,500.

13. EPA has notified the Osage Nation of the issuance of this Complaint and has afforded the Osage Nation an opportunity to consult with EPA regarding the assessment of an administrative penalty against the Respondent as required by Section 309(g)(1) of the Act, 33 U.S.C. § 1319(g)(1).

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 309(g)(4)(A) of the Act, 33 U.S.C. § 1319(g)(4)(A). 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 Sections 309(g)(1) and (g)(2)(B) of the Act, 33 U.S.C. §§ 1319(g)(1) and (g)(2)(B), EPA Region 6 hereby proposes to assess against the Respondent a civil penalty of forty-two thousand dollars (\$42,000.00).

16. The proposed penalty amount was determined based on the statutory factors specified in Section 309(g)(3) of the Act, 33 U.S.C. § 1319(g)(3), which includes such factors as

the nature, circumstances, extent and gravity of the violation(s), economic benefits, if any, prior history of such violations, if any, degree of culpability, and such matters as justice may require.

IV. Failure to File an Answer

17. If the Respondent wishes to deny or explain any material allegation listed in the above Findings or to contest the amount of the penalty proposed, the Respondent must file an Answer to this Complaint within thirty (30) days after service of this Complaint whether or not the Respondent requests a hearing as discussed below.

18. 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 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).

19. If the Respondent does not file an Answer to this Complaint within thirty (30) days after service, a Default Order may be issued against the 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 the Respondent without further proceedings thirty (30) days after a Final Default Order is issued.

20. The 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

21. The Respondent shall also send a copy of its Answer to this Complaint to the following EPA attorney assigned to this case:

Mr. Efren Ordoñez (6RC-EW)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

22. The Answer must be signed by the Respondent, the Respondent's counsel, or other representative on behalf of the 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 the Respondent and the Respondent's counsel. All other pleadings must be similarly signed and filed.

V. Notice of Opportunity to Request a Hearing

23. The Respondent may request a hearing to contest any material allegation contained in this Complaint, or to contest the appropriateness of the amount of the proposed penalty, pursuant to Section 309(g) of the Act, 33 U.S.C. § 1319(g). The procedures for hearings are set out at 40 C.F.R. Part 22, including 40 C.F.R. §§ 22.50 through 22.52.

24. Any request for hearing should be included in the Respondent's Answer to this Complaint; however, as discussed above, the 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 the Complaint during the public comment period will have a right to be heard and to present evidence at such hearing under Section 309(g)(4)(B) of the Act, 33 U.S.C. § 1319(g)(4)(B).

VI. Settlement

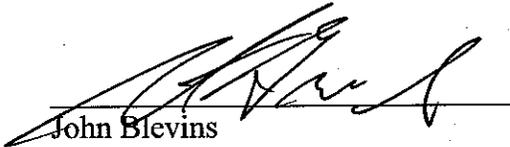
26. EPA encourages all parties against whom civil penalties are proposed to pursue the possibility of settlement through informal meetings with EPA. Regardless of whether a formal hearing is requested, the Respondent may confer informally with EPA about the alleged

violations or the amount of the proposed penalty. The 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. Matt Rudolph, of my staff, at (214) 665-6434.

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 therein or alleged in the Complaint. Any person who commented on 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 was 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 the 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 309(a) of the Act, 33 U.S.C. § 1319(a), including one relating to the violations alleged herein.

03-02-12
Date


John Blevins

Director
Compliance Assurance and
Enforcement Division

CERTIFICATE OF SERVICE

I certify that the foregoing Class II Administrative 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,
return receipt requested: Mr. Charlie Paulson
BOG-Osage, LLC
9420 Cedar Lake Ave.
Oklahoma City, OK 73114

Copy by mail: Ms. Diane Daniels, Environmental Director
Osage Nation Environmental and
Natural Resources Department
P.O. Box 1495
Pawhuska, OK 74056

Copy hand-delivered: Mr. Efren Ordoñez (6RC-EW)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

Dated: _____



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TEXAS 75202-2733

Ms. Diane Daniels, Environmental Director
Osage Nation Environmental and
Natural Resources Department
P.O. Box 1495
Pawhuska, OK 74056

Re: Notice of Proposed Administrative Penalty Assessment
Docket Number: CWA-06-2012-1778
Facility Number: OKU000754

Dear Ms. Daniels:

Enclosed is a copy of the Administrative Complaint (Complaint) which the Environmental Protection Agency (EPA) is issuing to BOG-Osage, LLC (Respondent), pursuant to Section 309(g) of the Clean Water Act (CWA), 33 U.S.C. § 1319(g). EPA is issuing the Complaint to administratively assess a Class II civil penalty of \$42,000.00 against the Respondent for violation of the CWA. Because the violation occurred in Osage County, Oklahoma, I am offering you an opportunity to confer with us regarding the proposed penalty assessment.

You may request a conference within two weeks of receipt of this letter. The conference may be in person or by telephone and may cover any matters relevant to the proposed penalty assessment. If you wish to request a conference, or if you have any comments or questions regarding the matter, please contact Mr. Matt Rudolph, of my staff, at (214) 665-6434.

Sincerely,

A handwritten signature in black ink, appearing to read "John Blevins".

John Blevins
Director
Compliance Assurance and
Enforcement Division

Enclosure