UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS TX 75202-2733

NOV 2 5 2011

CERTIFIED MAIL - RETURN RECEIPT REQUESTED: (7005 1820 0003 7453 9158)

Mr. J. Scott DuCharme
Performance Energy Resources, LLC
P.O. Box 628
Barnsdall, OK 74002

Re: Transmittal of Final Administrative Order
Docket Number: SDWA-06-2012-1102 (Proposed as SDWA-06-2011-1113)

Dear Mr. DuCharme:

Enclosed is a final Administrative Order (Order) issued to Performance Energy Resources, LLC, for violation of the Safe Drinking Water Act (SDWA). The violation was identified through our review of files that we maintain on the referenced wells. The violation was for failure to maintain Well Nos. 87-5 and 93 in a manner to prevent fluids from moving through the wells into underground sources of drinking water. The enclosed Order does not assess a monetary penalty; however, it does require compliance with SDWA requirements. Performance Energy Resources, LLC is required to complete appropriate corrective actions on the wells referenced in the Order.

We issued a proposed Order, Docket Number SDWA-06-2011-1113, on August 9, 2011, for review and comment by Performance Energy Resources, LLC and the public. We did not receive any comments on the proposed Order from the public. The proposed Order included Well No. 1 located in the SE/4, Sec. 26, T25N, R11E. That well is now compliant with SDWA requirements. Therefore, we are not including that well in the final Order.

The SDWA provides that you, or any person who commented on the proposed Order, may file an appeal of the final Order with the United States District Court for the District of Columbia or the district in which the violation occurred. Such appeal must be filed within thirty (30) days after the final Order is issued. If you file an appeal, you must simultaneously send a copy of the appeal by certified mail to the Administrator of the Environmental Protection Agency and to the U.S. Attorney General.

If you have any questions concerning this final Order, please contact Mr. Ronald Van Wyk, of my staff, at (214) 665-6459.

Sincerely,

FOR

John Blevins
Director
Compliance Assurance and
Enforcement Division

Enclosure

cc: w/enclosure:

Osage Nation Department of Environmental
and Natural Resources

BIA, Minerals Branch

U.S. ENVIRONMENTAL PROTECTION AGENCY - REGION 6
ADMINISTRATIVE ORDER
In the Matter of Performance Energy Resources, LLC, Respondent
Docket No. SDWA-06-2012-1102

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 Section 1423(c) of the Safe Drinking Water Act ("Act"), 42 U.S.C. § 300h-2(c). 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. The 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, Performance Energy Resources, LLC, 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 injection wells located in the Woolaroc Field, Osage County, Oklahoma ("the wells"). The wells are described below:

Inventory Number	Well Number	Location Quarter	Section	Township	Range	Referred to as:
OS5433	87-5	Southeast	26	25 North	11 East	"Well 87-5"
OS5463	93	Southwest	2	25 North	11 East	"Well 93"

3. Respondent is subject to underground injection control 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 that prevents movement of contaminants through the well bore into underground sources of drinking water ("USDWs"), pursuant to 40 C.F.R. § 147.2903(b).

5. Inspections by EPA representatives show the static fluid level in each of the wells to be above the base of the USDWs. This indicates that fluids containing contaminants could move through the wells into USDWs.

6. Therefore, Respondent violated the regulations set forth at 40 C.F.R. § 147.2903(b).

ORDER

7. 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 actions to prevent fluids from moving through the wells into USDWs within thirty (30) days after the effective date of a Final Order. Corrective actions may include the following:

a. Convert the well to production use;
b. Plug the well; or
c. Pump and maintain the static fluid level in the well to at least 50 feet below the base of the USDW.

GENERAL PROVISIONS

8. This Order does 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.

9. Issuance of this Order is not an election by EPA to forego any civil or criminal action otherwise authorized under the Act.

10. Violation of the terms of this 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).

EFFECTIVE DATE

11. 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).

11-25-11
Date

FOR
John Blevins
Director
Compliance Assurance and
Enforcement Division

CERTIFICATE OF SERVICE

I certify that the foregoing 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. J. Scott DuCharme
Performance Energy Resources, LLC
P.O. Box 628
Barnsdall, OK 74002

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: _____ _____