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

AUG 0 9 2011

CERTIFIED MAIL - RETURN RECEIPT REQUESTED: 7011 0110 0001 3590 6988

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

Re: Notice of Proposed Administrative Order and Opportunity to Request a Hearing
Docket Number: SDWA-06-2011-1113

Dear Mr. DuCharme:

Enclosed is a Proposed Administrative Order (Order) issued to Performance Energy Resources, LLC, for violation of the Safe Drinking Water Act (SDWA). Violations were identified during our review of files that we maintain on the referenced wells. The violations were for maintaining Well Nos. 87-5, 1, and 93 in a manner that could allow contaminated fluids to flow through the well bores into underground sources of drinking water (USDWs). The enclosed Order does not assess a monetary penalty; however, it does require compliance with SDWA requirements. You would be required to complete corrective actions on the wells to protect USDWs from contamination.

You have the right to request a hearing regarding the violations alleged in the Order. Please refer to the enclosed Part 22, "Consolidated Rules of Practice," for information regarding hearing and settlement procedures. Note that should you fail to request a hearing within thirty (30) days of your receipt of this Order, you will waive your right to such a hearing, and may be subject to the compliance terms without further proceedings. Whether or not you request a hearing, we invite you to confer with us informally. If you choose not to request a hearing, we will review any comments on the proposed Order received from you and the public and determine whether the Order will become final.

Also enclosed is 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 Environmental Protection Agency is committed to ensuring compliance with the requirements of the Underground Injection Control 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. Ronald Van Wyk, of my staff, at (214) 665-6459.

Sincerely,

John Blevins
Director
Compliance Assurance and
Enforcement Division

Enclosures

cc: BIA, Minerals Branch

Osage Nation Environmental and
Natural Resources Department

U.S. ENVIRONMENTAL PROTECTION AGENCY - REGION 6
PROPOSED ADMINISTRATIVE ORDER
In the Matter of Performance Energy Resources, LLC, Respondent
Docket No. SDWA-06-2011-1113

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 ("the 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"
OS1604	1	Southeast	26	25 North	11 East	"Well 1"

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 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.

NOTICE OF OPPORTUNITY TO REQUEST A HEARING

8. Respondent may request a hearing to contest the issuance of this 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, TX 75202 within thirty (30) days of the date of receipt of this Proposed Administrative Order.

9. 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.

10. 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

11. 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.

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

13. 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).

SETTLEMENT

14. 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. Ronald Van Wyk, of my staff, at (214) 665-6459.

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

EFFECTIVE DATE

16. 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).

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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. 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: _____ _____