

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

IN THE MATTER OF

Robinson Engineering & Oil
Company, Inc.
1410 North Cullen Avenue
Evansville, Indiana 47716

Respondent

Consent Agreement and Final Order

Docket No. SDWA-04-2016-1008(b)

2016 DEC - 6 AM 7:32
HEARING CLERK
OFFICE OF REGIONAL
COUNSEL
USEPA, REGION 4

I. STATUTORY AUTHORITY

1. This is a civil proceeding pursuant to Section 1423 of the Safe Drinking Water Act (SDWA), 42 U.S.C. § 300h-2 and the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits* specifically Subpart I, published at 64 Fed. Reg. 40138 (July 23, 1999), codified at 40 Code of Federal Regulations (C.F.R.) Part 22 (Part 22). The authority to take action under Section 1423 of the SDWA, is delegated to the Administrator of the U.S. Environmental Protection Agency (EPA). The Administrator has delegated this authority to the Regional Administrator, Region 4, who in turn has delegated this authority to the Director of the Water Protection Division, of the EPA Region 4 (Complainant) pursuant to Region 4 Delegation 9-34.
2. Section 1450(a)(1) of the SDWA, 42 U.S.C. § 300j-9(a)(1), authorizes the Administrator to prescribe such regulations as are necessary or appropriate to carry out her functions under the SDWA. These regulations are found at 40 C.F.R. Parts 124, 144, 146, 147, and 148, and set forth requirements for the Underground Injection Control (UIC) program promulgated under Part C of the SDWA, 42 U.S.C. § 300h, *et seq.*
3. Injection well owners and operators are required to comply with the UIC program requirements. The UIC program for the Commonwealth of Kentucky, including all Indian lands, is administered by the EPA. *See* 40 C.F.R. § 147.901(a).

II. ALLEGATIONS

4. Respondent is a corporation organized under the laws of Indiana and doing business in the Commonwealth of Kentucky, with a principal business address of 1410 North Cullen Avenue, Evansville, Indiana 47716.
5. Respondent is a "person" as that term is defined in Section 1401(12) of the SDWA, 42 U.S.C. § 300f(12), and 40 C.F.R. § 144.3.

6. Respondent is the owner and/or operator of the following Class II UIC wells that are subject to this Order (Subject Wells), listed below.

<u>UIC Permit No.</u>	<u>EPA ID No.</u>	<u>Well</u>	<u>Status</u>	<u>County</u>
KYI0436	KYS0590325	Towery #1	Active	Daviess
KYI0248	KYS1010490	Edds #W-1	Active	Henderson
KYI0189	KYS1010518	C. T. Fields #W-1	Active	Henderson
KYI0799	KYS1010561	J. F. Powell #3-W	Active	Henderson
KYI0616	KYS2250041	Robinson #2	Inactive	Union
KYI0648	KYS2250235	Proctor #8	Active	Union
KYI0631	KYS2250229	Koch Etal #4	Inactive	Union

7. Each of the Subject Wells is a "facility" as that term is defined in 40 C.F.R. § 144.3.
8. On August 15, 1990, the EPA issued to Respondent the UIC Permit No. KYI0436, with an effective date of August 15, 1990.
9. On December 18, 2003, the EPA modified the UIC Permit No. KYI0248 to reflect the transfer from Gallagher Drilling Company to Respondent, with an effective date of December 18, 2003.
10. On April 28, 2000, the EPA modified the UIC Permit No. KYI0189 to reflect the transfer from Shamrock Oil & Gas Company to Respondent, with an effective date of April 28, 2000.
11. On October 26, 2004, the EPA issued to Respondent the UIC Permit No. KYI0799, with an effective date of October 28, 2004.
12. On October 6, 1993, the EPA issued to Respondent the UIC Permit No. KYI0616, with an effective date of October 6, 1993.
13. On October 11, 1995, the EPA issued to Respondent the UIC Permit No. KYI0648, with an effective date of October 11, 1995.
14. On April 1, 1994, the EPA issued to Respondent the UIC Permit No. KYI0631, with an effective date of April 1, 1994.
15. The Subject Wells are permitted in accordance with 40 C.F.R. § 144.31 and are subject to the requirements of the SDWA 42 U.S.C. § 300f, et seq. and the UIC regulations.
16. The SDWA 42 U.S.C. § 300f, et seq. and 40 C.F.R. § 144.51(a) require the permittee of a permitted UIC well to comply with all conditions of their permit.
17. Part II, Section G, Paragraph 3, of the UIC Permit Nos. KYI0436, KYI0248, KYI0189, KYI0799, and KYI0648, requires that a demonstration of mechanical integrity in accordance with 40 C.F.R. § 146.8 be made no later than 5 years from the last approved demonstration.

18. Respondent failed to timely demonstrate the mechanical integrity tests for the Subject Wells, as shown below.

<u>UIC Permit No.</u>	<u>EPA ID No.</u>	<u>Well</u>	<u>Status</u>	<u>Last MIT</u>	<u>MIT Due</u>	<u>MIT Done</u>
KYI0436	KYS0590325	Towery #1	Active	4/25/06	4/25/11	Not yet
KYI0248	KYS1010490	Edds #W-1	Active	3/31/09	3/31/14	Not Yet
KYI0189	KYS1010518	C. T. Frields #W-1	Active	8/27/09	8/27/14	Not Yet
KYI0648	KYS2250235	Proctor #8	Active	8/27/09	8/27/14	Not Yet
KYI0799	KYS1010561	J. F. Powell #3-W	Active	8/27/09	8/27/14	6/30/16

19. Therefore, Respondent is in violation of the SDWA, 42 U.S.C. § 300f, et seq., 40 C.F.R. § 146.8, and the UIC Permit Nos. KYI0436, KYI0248, KYI0189, KYI0799 and KYI0648, for failure to timely demonstrate the mechanical integrity of the active permitted Subject Wells, as shown above.

20. Part II, Section F, Paragraph 3, of the UIC Permit Nos. KYI0631 and KYI0616, requires the permittee after a cessation of injection for 2 years to close, plug and abandon the Subject Well.

21. Based on the EPA's records and field inspections, the following permitted Subject Wells are inactive and have not been plugged, closed and abandoned.

<u>UIC Permit No.</u>	<u>EPA ID No.</u>	<u>Well</u>	<u>Status</u>	<u>Last MIT</u>
KYI0631	KYS2250229	Koch Etal #4	Inactive	2/25/10
KYI0616	KYS2250041	Robinson #2	Inactive	2/25/10

22. Therefore, Respondent is in violation of the SDWA, 42 U.S.C. § 300f, et seq., 40 C.F.R. § 144.51(a), and the conditions of the UIC Permit Nos. KYI0631 and KYI0616, for failure to comply with the permit condition to close, plug and abandon the inactive Subject Wells, as shown above.

23. Part I, Section C, Paragraph 3, of the UIC Permit Nos. KYI0436, KYI0248, KYI0189, KYI0799, KYI0616, KYI0648 and KYI0631, require the permittee to conduct injection fluid analyses beginning within 12 months of the effective date of the permit and at least once every 12 months thereafter and whenever changes are made to the injection fluid. Part I, Section D, Paragraph 2, requires the results of these injection fluid analyses to be submitted annually to the EPA.

24. Injection fluid analysis results for the following permitted Subject Wells were not annually submitted, as shown below.

<u>Permit No.</u>	<u>EPA ID No.</u>	<u>Well</u>	<u>Status</u>	<u>Permit Effective</u>	<u>Fluid Analyses</u>
KYI0436	KYS0590325	Towery #1	Active	8/15/90	None
KYI0248	KYS1010490	Edds #W-1	Active	12/18/03	None
KYI0189	KYS1010518	C. T. Frields #W-1	Active	4/28/00	None
KYI0799	KYS1010561	J. F. Powell #3-W	Active	10/28/04	None
KYI0616	KYS2250041	Robinson #2	Inactive	10/06/93	09/15/99
KYI0648	KYS2250235	Proctor #8	Active	10/11/95	None
KYI0631	KYS2250229	Koch Etal #4	Inactive	4/01/94	None

25. Therefore, Respondent is in violation of SDWA, 42 U.S.C. § 300f, et seq., 40 C.F.R. § 144.51(a), and the UIC Permit Nos. KYI0436, KYI0248, KYI0189, KYI0799, KYI0616, KYI0648 and KYI0631, for failure to submit results of injection fluid analyses, as shown above.

26. Respondent is the owner and/or operator of the following Class II UIC wells that are subject to this Order (Subject Wells), listed below.

<u>EPA ID No.</u>	<u>Well</u>	<u>Status</u>	<u>County</u>
KYS1010301	Clarence Wood #5	Active	Henderson
KYS2250128	Agnes Proctor #5	Active	Union
KYS2250132	Verona Coal #C-1	Active	Union
KYS2250133	Verona Coal #A-2	Active	Union
KYS2250179	Zimmerman Kuesta #2	Active	Union

27. Each of the Subject Wells is a "facility" as that term is defined in 40 C.F.R. § 144.3.

28. The Subject Wells were in existence on June 25, 1984, the effective date of the UIC program in Kentucky as implemented by the EPA and are authorized by rule as that term is defined in 40 C.F.R. § 144.21(a).

29. The SDWA 42 U.S.C. § 300f, et seq. and 40 C.F.R. § 144.28(a) require the owner or operator of a rule-authorized injection well to comply with all applicable statutory and regulatory requirements.

30. The regulations at 40 C.F.R. §§ 144.28(g)(2)(iv) and 146.8, require the owner or operator of an active rule-authorized injection well to demonstrate the mechanical integrity of the well at least once every 5 years.

31. The information contained in the EPA's records, indicates Respondent is in violation of 40 C.F.R. §§ 144.28(g)(2)(iv) and 146.8, for failure to timely demonstrate mechanical integrity of the rule-authorized Subject Wells, as shown below.

<u>EPA ID No.</u>	<u>Well</u>	<u>Status</u>	<u>Last MIT</u>	<u>MIT Due</u>	<u>MIT Done</u>
KYS1010301	Clarence Wood #5	Active	5/25/06	5/25/11	Not Yet
KYS2250128	Agnes Proctor #5	Active	1/30/06	1/25/11	Not Yet
KYS2250133	Verona Coal #A-2	Active	2/25/10	2/25/15	Not Yet

32. Therefore, Respondent is in violation of the SDWA, 42 U.S.C. § 300f, et seq., and 40 C.F.R. §§ 144.28(g)(2)(iv), 146.8 and 144.28(a), for failure to timely demonstrate the mechanical integrity of the rule-authorized Subject Wells, as shown above.

33. The regulation at 40 C.F.R. § 144.28(c)(2)(iv), states that after a cessation of injection for 2 years, the owner or operator of a rule-authorized underground injection well shall close, plug and abandon the well.

34. Based on the EPA's field inspections, the following rule-authorized Subject Well is inactive and has not been plugged, closed and abandoned.

<u>EPA ID No.</u>	<u>Well</u>	<u>Status</u>	<u>Last MIT</u>
KYS2250179	Zimmerman-Kuester #2	Inactive	7/27/10

35. Therefore, Respondent is in violation of the SDWA 42 U.S.C. § 300f, et seq. and 40 C.F.R. § 144.28(a) and § 144.28(c)(2)(iv) for failure to close, plug and abandon the inactive Subject Well, as shown above.

36. The regulation at 40 C.F.R. § 144.28(f)(6)(ii) states that the maximum allowable injection pressure measured at the wellhead shall not exceed the maximum pounds per square inch (psig) and that injecting at a pressure which initiates or propagates fractures into the confining zone or causes the movement of injection or formation fluids into an underground source of drinking water is prohibited.

37. The Completion Report, contained in Respondent's file, was received by the UIC program on June 21, 1985, and indicates that 450 psig is the established maximum well head injection pressure.

38. The EPA-authorized field inspector observed the following gauge readings on the injection tubing of the Subject Well, as shown below.

<u>EPA ID No.</u>	<u>Well</u>	<u>Injection Pressure Limit</u>	<u>Overpressure on Reports</u>
KYS2250133	Verona Coal #A-2	450 psig	650 psig on monitoring report
KYS2250133	Verona Coal #A-2	450 psig	650 psig on pump on 1/23/14
KYS2250133	Verona Coal #A-2	450 psig	610 psig on pump on 1/29/13

39. Therefore, Respondent is in violation of the SDWA, 42 U.S.C. § 300f, et seq. and 40 C.F.R. § 144.28(a) and § 144.28(f)(6)(ii) for exceeding the maximum injection pressure limitation of 450 psig, as established by the completion report, contained in Respondent's file for the Subject Well, as shown above.

40. On July 7, 2016, Respondent participated in a show cause hearing with representatives of the EPA to discuss these alleged violations of the SDWA and the implementing regulations.

III. STIPULATIONS AND FINDINGS

41. Complainant and Respondent have conferred for the purpose of settlement, pursuant to 40 C.F.R. § 22.18 and desire to resolve this matter and settle the violations described herein without resorting to a formal hearing. Therefore, without the taking of any evidence or testimony, the making of an argument or the adjudication of any issue in this matter and in accordance with 40 C.F.R. § 22.13(b), this Consent Agreement and Final Order (CA/FO) will simultaneously commence and conclude this matter.

42. For purposes of this CAFO Respondent admits the jurisdictional allegations and facts and findings of violations as alleged herein.

43. The Respondent consents to the assessment of and agrees to pay the civil penalty as set forth in this CA/FO and consents to any specified compliance or corrective action set forth in this CA/FO.
44. Respondent waives any right to a hearing and waives any right to appeal a final order in this matter.

IV. PENALTY AND INJUNCTIVE RELIEF

Based upon the foregoing findings, the parties hereby agree and consent to entry of the following:

45. Respondent shall pay a civil penalty of **\$12,960.00 (twelve thousand nine hundred sixty dollars)** in accordance with the terms set forth below.
46. Within 30 days of the Effective Date of this CA/FO, Respondent shall submit a cashiers or certified check in the amount **\$12,960.00 (twelve thousand nine hundred sixty dollars)**. The penalty payment as set forth shall be made payable to the Treasurer, United States of America at the following address:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

Respondent shall note the title and docket number of the case on the penalty payment certified or cashier's check.

47. Respondent shall submit copies of the check to the following persons:

Regional Hearing Clerk
U.S. EPA - Region 4
61 Forsyth Street SW
Atlanta, GA 30303-8960

Brian J. Smith, Chief
Ground Water and UIC Section
Grants and Drinking Water Protection Branch
U. S. EPA - Region 4
61 Forsyth Street SW
Atlanta, GA 30303-8960