

PUBLIC NOTICE

Douglas Bailer
204 Old Kawkawlin Street
Kawkawlin, Michigan 48631

Docket No. **SDWA-05-2021-0001**

The U.S. Environmental Protection Agency, Region 5, proposes to issue a Consent Agreement and Final Order (CAFO), that assesses a civil penalty of \$48,960.69 to Douglas Bailer (Respondent) under the authority of Section 1423(c)(2) of the Safe Drinking Water Act (SDWA), 42 U.S.C. §300-2h. The CAFO will settle the EPA's allegations that Respondent failed to comply with requirements for its three Underground Injection Control (UIC) permits and the UIC regulations at Title 40 of the Code of Federal Regulations (40 C.F.R.) Part 144 at its Class II disposal injection well facilities in Tuscola County, Michigan. The alleged violations to be resolved by the CAFO are: 1) failure to conduct required annulus pressure monitoring, and 2) submission of inaccurate monitoring reports.

In addition to payment of the civil penalty, the CAFO requires that Respondent implement compliance measures to improve the operation, monitoring, and record keeping practices at its injection wells. Monitoring and reporting of injection wells is vital to protecting underground sources of drinking water because the required activities ensure that the wells have mechanical integrity, are not leaking, and are being operated for the purposes for which they were permitted.

A copy of the proposed CAFO may be viewed online at: www.epa.gov/aboutepa/epa-region-5#events by clicking on the "Proposed Consent Agreement and Final Order" link on the Region 5 events calendar for the docket number identified above. Alternatively, you may request a copy of the CAFO by contacting the Regional Hearing Clerk at the address listed below.

OPPORTUNITY FOR COMMENT: EPA is providing public notice of the proposed settlement pursuant to Section 1423(c)(3) of SDWA, 42 U.S.C. §300h-2(c)(3).

Any person who wishes to comment on this proposed CAFO may submit written comments, may attend or present evidence at any hearing scheduled on this matter, or both, by following the procedures in 40 C.F.R. § 22.45, particularly Subpart (c) *comment by a person who is not a party*. This portion of the code of federal regulations may be accessed at <https://www.gpo.gov/fdsys/pkg/CFR-2015-title40-vol1/pdf/CFR-2015-title40-vol1-sec22-45.pdf> or through <http://www.archives.gov/federal-register/cfr/>. You may also wish to review 40 C.F.R. Part 22 to learn more about the procedures and rules of practice governing the administrative assessment of civil penalties.

Due to the COVID-19 pandemic, access to the Region 5 office is limited and EPA employees are encouraged to telework. Therefore, EPA requests that all written comments be sent via email to

the Regional Hearing Clerk at whitehead.ladawn@epa.gov. If you are unable to submit written comments by email, please contact the Regional Hearing Clerk at (312) 886-3713.

Your comments should include the case name, docket number, and your complete mailing address. Comments and documents sent to any EPA employee other than the Regional Hearing Clerk are not assured of consideration in this matter. Note that EPA requires your mailing address because we must use the U.S. Postal Service should we need to reply, request additional information, or notify you of a hearing, and to provide a copy of any consent agreement and proposed final order.

All written comments must be received in the Regional Hearing Clerk's Office no later than 4:30 p.m., Central Time, of the Comment Period End Date shown on the Region 5 events calendar page for this docket number: www.epa.gov/aboutepa/epa-region-5#events.

All documents filed in this proceeding (including documents submitted by the Respondent or by the public) are available electronically on the EPA website: <http://yosemite.epa.gov/oa/rhc/epaadmin.nsf>.

Any person wishing to participate in this proceeding must notify the Regional Hearing Clerk in via email or writing within the public notice period and provide his name, complete mailing address, and state that he wishes to participate in the proceeding. *See* 40 C.F.R. § 22.45(c)(1).

Should EPA choose to issue the CAFO after considering any comments received, EPA will send a copy of the CAFO assessing a penalty to any persons who submitted written comments during the public comment period. Commenters will then have 30 days to petition the Regional Administrator to set aside the CAFO on the basis that material evidence was not considered. The specific procedures that apply when a commenter petitions the Regional Administrator include, among other things, an opportunity for EPA to withdraw the CAFO. If EPA does not withdraw the CAFO within 15 days of receipt of the petition, a Petition Officer shall be assigned to consider and rule on the petition. The Petition Officer shall issue written findings as to, among other things, the extent to which the petition states an issue relevant and material to the issuance of the CAFO and whether resolution of the proceeding is appropriate without a hearing. *See* 40 C.F.R. § 22.45(c)(4).

If this CAFO is filed in its present form, no hearing will be held in this matter. If a hearing is held, EPA will advise commenters who, during the public comment period, submitted a written request to participate in a hearing of the date, time, and place of the hearing, which they may attend and present evidence on the appropriateness of the proposed penalty assessment by following the instructions in 40 C.F.R. 22.45(c)(1).