



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029**

MAY 12 2011

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Mr. Al Lander, President  
Tunnelton Liquids Company  
671 Hogue Drive  
Saltsburg, Pennsylvania 15681-8115

Re: Notice of Violation, Intent to Issue Administrative Order and  
Opportunity to Request a Hearing; Docket No. SDWA-03-2011-0190-DU

Dear Mr. Lander:

Based on inspections conducted March 23 and May 5, 2011, of the Tunnelton Liquids Company (TLC) facility located in Saltsburg, Pennsylvania, the Environmental Protection Agency (EPA) has determined that your facility is in violation of the Safe Drinking Water Act (SDWA), 42 U.S.C. §§ 300f et seq., and the Underground Injection Control (UIC) regulations promulgated there under.

Specifically:

TLC is in violation of 40 C.F.R. §§ 144.11 and 144.31 for unauthorized operation of an injection well which receives industrial wastewater, including wastes generated from oil and natural gas production and storage.

Such violation is subject to enforcement action under Section 1423 of the SDWA, 42 U.S.C. § 300h-2. This Section provides for the initiation of civil and/or criminal actions in federal district court or the issuance of Administrative Orders which mandate compliance with all provisions of the SDWA and its implementing regulations.

A copy of the proposed Order is enclosed herewith for your review. The Order, when it becomes effective, will require TLC to discontinue injection of all fluids into its injection well.

You are hereby offered an opportunity to submit written comments on the proposed Order and/or to request a hearing within 30 days of receipt of this notice, under Section 1423(c)(3), 42 U.S.C. § 300h-2(c)(3). Such a hearing would formally offer you an opportunity to show cause why the enclosed Order should not be issued or why its terms should be modified. If you decide

to request a hearing, you will be sent a copy of the Guidance on UIC Administrative Order Procedures.

Such a hearing would be held on the record. You would have the right to present any witnesses and any documentary evidence bearing on the Findings of the violation cited above, and on specific steps you propose to remedy the violation. Any person who comments on the proposed Order has a right to participate in such a hearing. At such a hearing, you would have the right to be represented by legal counsel. If you do request a hearing, you will be notified promptly of the date of the hearing, which will be held at EPA's Region III office, located at 1650 Arch Street in Philadelphia. If you choose not to request a hearing as provided above, EPA will review any comments submitted on the proposed Order and will thereafter determine whether to issue the Order.

Whether or not you request a hearing, you may confer informally with EPA concerning the alleged violation and applicable procedural rules. You may wish to appear at the conference yourself and/or be represented by your counsel. A request for an informal conference does not extend the thirty (30) day period during which a request for hearing must be submitted. The informal conference procedure may be pursued as an alternative to, or simultaneously with, a hearing.

EPA may take further administrative or judicial action for the same violation pursuant to Section 1423(b) of the SDWA, 42 U.S.C. § 300h-2(b) as warranted. If you have any questions pertaining to this matter, or would like to schedule an informal conference, please contact Mrs. Karen Johnson of my staff, at (215) 814-5445.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jon M. Capacasa". The signature is fluid and cursive, with a large initial "J" and "M".

Jon M. Capacasa, Director  
Water Protection Division

Enclosure

cc: Mr. George Jugovic, PADEP, Southwest Region

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029**

IN THE MATTER OF:	)	Docket No.
	)	SDWA-03-2011-0190-DU
	)	
	)	
Tunnelton Liquids Company	)	PROPOSED ORDER
Saltsburg, Pennsylvania	)	
	)	
Respondent	)	Proceeding under Section
	)	1423(c) of the Safe Drinking
	)	Water Act, 42 U.S.C. § 300h-2(c)

**I. STATUTORY AUTHORITY**

1. The following FINDINGS OF FACT (FINDINGS) are made and ORDER FOR COMPLIANCE (ORDER) issued under the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA") by Section 1423(c) of the Safe Drinking Water Act ("SDWA"), 42 U.S.C. § 300h-2(c). The Administrator has delegated the authority to take these actions to the Regional Administrator for EPA, Region III, who in turn has delegated them to the Water Protection Division Director of EPA, Region III ("Director").
2. Section 1422(c) of the SDWA, 42 U.S.C. § 300h-1(c), requires EPA to administer the Underground Injection Control ("UIC") program in states which do not have approved state programs ("primacy"). The Commonwealth of Pennsylvania has not acquired primacy of the UIC program. Therefore, effective June 25, 1984, EPA Region III began direct implementation of the UIC program in Pennsylvania. See 40 C.F.R. § 147.1951.

**II. FINDINGS OF FACT**

3. Tunnelton Liquids Company ("Respondent") is a corporation operating a wastewater treatment facility ("facility") located in Saltsburg, Indiana County, Pennsylvania, which injects waste treatment sludges into the Marion mine, and a "person" within the meaning of Section 1401(12) of the SDWA, 42 U.S.C. § 300f(12).
4. The UIC regulations at 40 C.F.R. § 144.11 prohibit any underground injection, except into a well authorized by rule or by permit issued under the UIC program. See also 42 U.S.C. 300h(b)(1)(A).

5. The regulations at 40 C.F.R. § 144.6(a)(2) and (b) define Class I industrial and Class II injection wells as wells which inject industrial waste, or fluids associated with natural gas storage, or brought to the surface in oil or natural gas production, respectively.
6. The regulations at 40 C.F.R. § 144.31 provide that all injection activities, including construction of an injection well, are prohibited until the owner or operator is authorized by permit.
7. In March 2011, during the course of file reviews for the Clean Water Act (CWA), EPA learned that Respondent operates a facility located in Saltsburg, Indiana County, Pennsylvania, which injects waste treatment sludges into the Marion mine. The facility was reported to treat acid mine drainage (“AMD”) wastewater and wastewater associated with oil and natural gas production and storage. Treated wastewater is discharged into the Conemaugh River and the resultant sludge into the abandoned Marion mine through an injection well.
8. EPA learned that in August 1997, Respondent entered into a Consent Order and Agreement with the Pennsylvania Department of Environmental Protection (“PADEP”) to operate its facility for the purpose of treating AMD from a coal refuse pile generated from historic deep coal mining operations at the Marion mine. In addition, the facility has treated brines, including drilling pit wastes, hydraulic fracturing flow back water and produced water in association with oil and natural gas production (“brines”).
9. PADEP subsequently issued a National Pollutant Discharge Elimination System (NPDES) permit in 1997, and renewed the permit in 2002 (NPDES Permit No. PA 0091472). The permit authorizes the Respondent to treat up to 100,000 gallons per day (gpd) of oil and gas related wastes in addition to up to 900,000 gpd of AMD wastewater. The expiration date of the 2002 permit was December 20, 2007 but has not been renewed to date, and may be considered to be administratively extended if a complete permit application was timely submitted.
10. On March 23, 2011 and May 5, 2011, EPA conducted inspections of Respondent’s facility. During the course of the inspections, the EPA inspectors confirmed with the operator that oil and natural gas related wastewater is sent to an oil/water separator to remove any free oil. The separator wastewater then flows to a “raw” pond as does the leachate from the coal refuse pile. Wastewater is then pumped from the raw pond to an aeration tank where lime is added. The wastewater then flows to a clarifier. The treated wastewater flows to a final polishing basin and after several days of retention is discharged to the Conemaugh River under the NPDES permit.

11. The solids (sludge) are removed from the clarifier periodically and discharged into the abandoned Marion mine in the upper Freeport coal seam through a 250 foot deep bore hole. The borehole was reportedly previously used to convey water for dust control when there was active coal mining.
12. The bore hole was converted to an injection well in 1996. The Injection well consists of a 6" bore hole about 250 feet deep, with PVC casing and 3" diameter stainless steel tubing. Respondent constructed the injection well in 1996 for the purpose of disposal of sludge generated from the treatment of AMD and oil and natural gas brine and related wastewater.
13. Respondent's injection well receives fluids associated with both AMD treatment and oil and natural gas production and storage and therefore is an unauthorized Class I and/or II injection well as defined in 40 C.F.R. § 144.6(a)(2) or (b).
14. Respondent is in violation of 40 C.F.R. §§ 144.11 and 144.31, for construction and operation of an injection well without a UIC permit.

### III. ORDER FOR COMPLIANCE

Based on the foregoing FINDINGS, I HEREBY ORDER:

15. Upon the effective date of this Order Respondent shall cease injection of all wastes into its injection well.
16. All information required to be submitted to EPA pursuant to this ORDER shall be sent to:

Ms. Karen D. Johnson  
Ground Water Enforcement Branch  
U.S. EPA, Region III  
1650 Arch Street (3WP22)  
Philadelphia, PA 19103-2029  
Phone: (215) 814-5445

### IV. GENERAL PROVISIONS

17. This Order shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state or local law and ordinance, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state or local permit. This Order does not constitute a waiver, suspension or modification of the requirements of 40 C.F.R. § 147.1950-.1955, which remain in full force and effect.

18. Violations of the terms of this ORDER after its effective date or the date of final judgment in the event of an appeal under Section 1423(c)(6) of the SDWA, 42 U.S.C. § 300h-2(c)(6), may subject the Respondent to a civil action in a United States district court with penalties up to \$37,500 per day of violation as authorized in Section 1423(b) of the SDWA, 42 U.S.C. § 300h-2(b).
19. Issuance of this ORDER is not an election by the EPA to forgo any civil or any criminal action other than the civil violations resolved by this action.

V. PUBLIC NOTICE

20. Pursuant to Section 1423(c)(3)(B) of the SDWA, 42 U.S.C. § 300h-2(c)(3)(B) EPA is providing public notice and an opportunity to comment on the ORDER prior to issuing the Final Order.

VI. EFFECTIVE DATE

21. This ORDER will be issued after a thirty (30) day comment period, execution by an authorized representative of the Environmental Protection Agency and filing with the regional hearing clerk. It will become final and effective thirty (30) days after issuance.

Issued this \_\_\_\_\_ day of \_\_\_\_\_.

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Jon M. Capacasa, Director  
Water Protection Division  
EPA Region III