



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 Wynkoop Street
DENVER, COLORADO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

2016 SEP 29 PM 1:40

SEP 29 2016

FILED
EPA REGION VIII
HEARING CLERK

Ref: 8ENF-W

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Owl Creek Water District
Mr. Bart Bader, Registered Agent
P.O. Box 662
Thermopolis, Wyoming 82443

Re: Administrative Order issued to Owl Creek Water District, PWS ID #5601673,
Docket No. : SDWA-08-2016-0032

Dear Mr. Bader:

Enclosed is an Administrative Order (Order) issued by the U.S. Environmental Protection Agency under the authority of section 1414(g) of the Safe Drinking Water Act, 42 U.S.C. §300g-3(g). Among other things, the Order alleges that Owl Creek Water District (Owl Creek), as owner and/or operator of the Owl Creek Water District public water system (System), has violated the National Primary Drinking Water Regulations (Drinking Water Regulations) at 40 C.F.R. part 141.

This Order is effective upon the date received. Please review the Order and within 10 days provide the EPA with any information Owl Creek believes the EPA may not have (e.g., any monitoring that may have been done but not submitted, any updates to the numbers of connections and/or individuals served). If the EPA does not hear from Owl Creek, the EPA will assume our information is correct.

If Owl Creek complies with the Order, the EPA may close the Order without further action. Failure to comply with the Order may lead to substantial civil penalties and/or a federal court injunction ordering compliance.

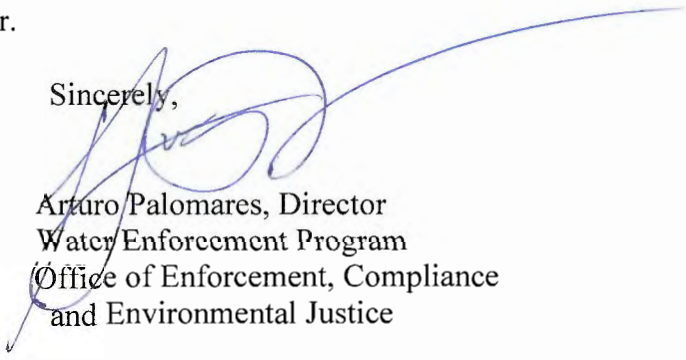
Please be aware that Owl Creek is required to submit to the EPA a plan and schedule for bringing the System into compliance with the Drinking Water Regulations. The EPA's approval of the Owl Creek schedule does not substitute for any other approval that may be required by any other governmental entity for modifying the System. The EPA encourages Owl Creek to contact any such governmental agency or agencies regarding any applicable approval requirements.

The Small Business Regulatory Enforcement and Fairness Act (SBREFA) may apply to this situation. Enclosed is a small business information sheet, outlining compliance assistance resources available to small businesses and small governments, in case these are relevant. SBREFA does not eliminate the responsibility to comply with the Order or the Drinking Water Regulations.

To submit information or request an informal conference with the EPA, please contact Metea Wright at the above address (with the mailcode 8ENF-W), via email at wright.metea@epa.gov, or by phone at (800) 227-8917, extension 6023 or (303) 312-6023. Any questions from your attorney should be directed to Mia Bearley, Enforcement Attorney, who may be reached at the above address (with the mailcode 8ENF-L), via email at bearley.mia@epa.gov, or by phone at (800) 227-8917, extension 6554 or (303) 312-6554.

We urge your prompt attention to this matter.

Sincerely,



Arturo Palomares, Director
Water Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosures

cc: WY DEQ/ DOH (via email)
Missy Haniewicz, EPA Regional Hearing Clerk
Charlie Stickney, Owl Creek (via email) charlie@flyingeaglegallery.com



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CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Hot Springs County Commissioners
c/o John Lumley, Chair
415 Arapahoe
Thermopolis, Wyoming 82443

Re: Notice of Safe Drinking Water Act Enforcement Action against Owl Creek Water District, PWS ID #5601673 , Docket No. : SDWA-08-2016-0032

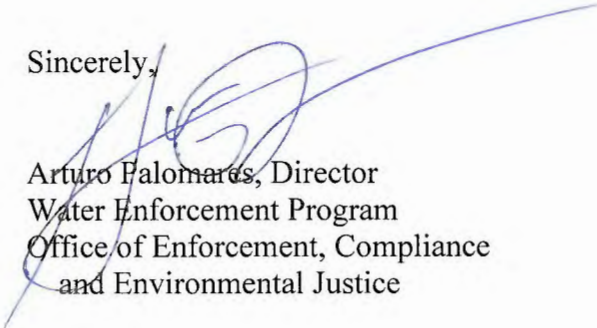
Dear Commissioners:

The Safe Drinking Water Act requires that the U.S. Environmental Protection Agency notify locally elected officials of certain enforcement actions taken in their area.

An Administrative Order (Order) is being issued to the Owl Creek Water District, as owner and/or operator of the Owl Creek Water District Public Water System (System), located in Hot Springs County, directing it to comply with the National Primary Drinking Water Regulations. The violations alleged in the Order include failure to monitor the System's water for total coliform, failure to properly monitor for disinfection byproducts, and exceeding the maximum contaminant level for total trihalomethanes.

For more details, a copy of the Order is enclosed for your information. The Order does not require any response or action by the County Commission. If you have any questions regarding this Order, please contact Metea Wright at (303) 312-6023.

Sincerely,


Arturo Palomares, Director
Water Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2016 SEP 29 PM 1:40

IN THE MATTER OF: _____)
)
Owl Creek Water District, _____)
)
)
Respondent. _____)

Docket No. SDWA-08-2016-0032
FILED
EPA REGION VIII
ADMINISTRATIVE ORDER

1. This Order is issued under the authority vested in the Administrator of the United States Environmental Protection Agency (EPA) by section 1414(g) of the Safe Drinking Water Act (Act), 42 U.S.C. § 300g-3(g), as properly delegated to the undersigned officials.
2. The Owl Creek Water District (Respondent) is a district that owns and/or operates the Owl Creek Water District Public Water System (System), which provides piped water to the public in Hot Springs, Wyoming for human consumption.
3. The System purchases surface water from the Town of Thermopolis. Water is supplied to the System at a consecutive connection. The water is chlorine boosted as needed.
4. Respondent is required to monitor disinfection byproducts in accordance with the System's 2014 Initial Distribution System Evaluation Report (IDSE Report), pursuant to 40 C.F.R. § 141.621.
5. The System has approximately 20 service connections used by year-round residents and/or regularly serves an average of approximately 60 year-round residents. Therefore, the System is a "public water system" and a "community water system" as defined in 40 C.F.R. § 141.2 and section 1401 of the Act, 42 U.S.C. § 300f.
6. Respondent is subject to the Act and the National Primary Drinking Water Regulations (Drinking Water Regulations) at 40 C.F.R. part 141. The Drinking Water Regulations are "applicable requirements" as defined in section 1414(i) of the Act, 42 U.S.C. § 300g-3(i).

VIOLATIONS

7. The Maximum Contaminant Level (MCL) for total trihalomethanes (TTHM) is 0.080 milligrams per liter (mg/l), based on a locational running annual average (LRAA) of quarterly averages. 40 C.F.R. §§ 141.64 and 141.133(b). The LRAA of quarterly averages of TTHM samples from the System for the 3rd quarter of 2015 through the 2nd quarter of 2016 exceeded 0.080 mg/l and, therefore, Respondent violated the TTHM MCL.
8. Respondent is required to collect a set of TTHM and haloacetic acids (HAA5) samples in the System's distribution system annually at the location and date specified in the IDSE Report. 40 C.F.R. § 141.621. Respondent failed to correctly monitor the System's water for TTHM and HAA5 during July of 2014, in accordance with the approved IDSE Report, and, therefore, violated this requirement. Respondent collected sets of TTHM and HAA5 samples in August of 2014.

9. Respondent is required to monitor the System's water monthly for total coliform bacteria. 40 C.F.R. § 141.21(a). Respondent failed to monitor the System's water for total coliform bacteria during December of 2015 and, therefore, violated this requirement.

ORDER

Based on the above violations, Respondent is ordered to perform the following actions upon Respondent's receipt of this Order (unless a different deadline is specified below):

10. Within 60 days after receipt of this Order, Respondent shall provide the EPA with a plan and schedule for Respondent to come into compliance with the TTHM MCL in 40 C.F.R. § 141.64(b). The plan shall include proposed modifications to the System, estimated costs of modifications, and a proposed plan and schedule for completion of the project and compliance with the TTHM MCL. The plan shall also include specific milestone dates and a final compliance date (to be within 6 months from the date of the EPA's approval of the schedule). The schedule must be approved by the EPA before construction or modifications can begin.

11. The schedule required by paragraph 10, above, will be incorporated into this Order as an enforceable requirement upon written approval by the EPA.

12. Within 90 days after receipt of the EPA's approval of the schedule required by paragraph 10, above, Respondent shall begin to provide the EPA with quarterly reports on the progress made toward bringing the System into compliance with 40 C.F.R. § 141.62(b). Each quarterly report is due by the 10th day of the month following the end of the relevant quarter.

13. Within 10 days after completing all tasks included in the schedule required by paragraph 10, above, Respondent shall notify the EPA of the project's completion.

14. Respondent must achieve and maintain compliance with the TTHM MCL by the final date specified in the approved schedule. If implementation of the plan fails to achieve permanent compliance, the EPA may order further steps and/or seek penalties for noncompliance.

15. Respondent shall monitor for TTHM and HAA5 every 90 days at the locations and on the dates identified in the IDSE Report, as required by 40 C.F.R. § 141.621. Respondent shall monitor at the specific location and months per the IDSE Report. Respondent shall submit the test results and the LRAA compliance calculations to the EPA within 10 days of the end of any quarter in which monitoring is required. 40 C.F.R. § 141.629(a).

16. Respondent shall monitor the System's water monthly for total coliform. If a sample is positive for total coliform, within 24 hours of being notified of the positive result, Respondent shall collect a set of three repeat samples for each total coliform-positive sample. 40 C.F.R. § 141.853-858. Respondent shall report any total coliform monitoring violation to the EPA within 10 days after discovery of the violation.

17. If the number of residents served by the System falls below an average of 25 and if the number of connections served by the System falls to below 15, Respondent shall notify the EPA in writing within 10 days.

18. This Order shall be binding on Respondent and any person (e.g., employee, contractor, or other agent) acting in concert with Respondent.

19. If Respondent (a) leases or sells the System to another person or entity, or (b) contracts with or hires any other person or entity to operate the System, Respondent shall, no later than the date of such lease, sale, or other contract, provide a copy of this Order to the lessee, purchaser, or contractor. No later than 10 days thereafter, Respondent shall notify the EPA in writing of the lease, sale, or other contract, with such notification to include the name and contact information of the person who has leased, bought, or contracted to operate the System. Respondent shall remain obligated to comply with this Order even if Respondent leases the System to another person or entity or hires another person or entity to operate the System.

20. Respondent shall send all reporting and notifications required by this Order in writing to:

U.S. EPA Region 8 (8P-W-DW)
1595 Wynkoop Street
Denver, Colorado 80202-1129
Email: R8DWU@epa.gov
Fax 1-877-876-9101

GENERAL PROVISIONS

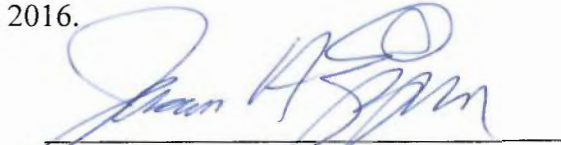
21. This Order shall not constitute a waiver, suspension, or modification of any requirement of the Act or the Drinking Water Regulations. Issuance of this Order is not an election by the EPA to forgo any civil or criminal action.

22. Violation of any part of this Order or the Drinking Water Regulations may subject respondents to a civil penalty of up to \$53,907 (as adjusted for inflation) per day of violation and/or a court injunction ordering compliance. 42 U.S.C. § 300g-3; 40 C.F.R. part 19; 81 Fed. Reg. 43091 (July 1, 2016).

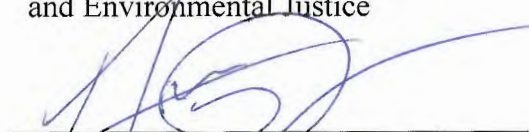
23. Respondent may seek federal judicial review of this Order pursuant to section 1448(a) of the Safe Drinking Water Act, 42 U.S.C. § 300j-7(a).

24. This Order is effective upon receipt by Respondent and will continue to be in effect until closed by the EPA.

Issued: September 29, 2016.



James H. Eppers, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice



Arturo Palomares, Director
Water Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice



U.S. EPA Small Business Resources Information Sheet

The United States Environmental Protection Agency provides an array of resources to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

Small Business Programs

www.epa.gov/smallbusiness
EPA's Office of Small Business Programs (OSBP) advocates and fosters opportunities for direct and indirect partnerships, contracts, and sub-agreements for small businesses and socio-economically disadvantaged businesses.

EPA's Asbestos Small Business Ombudsman

www.epa.gov/sbo or 1-800-368-5888
The EPA Asbestos and Small Business Ombudsman (ASBO) serves as a conduit for small businesses to access EPA and facilitates communications between the small business community and the Agency.

EPA's Compliance Assistance Homepage

www2.epa.gov/compliance
This page is a gateway industry and statute-specific environmental resources, from extensive web-based information to hotlines and compliance assistance specialists.

EPA's Compliance Assistance Centers

www.assistancecenters.net
EPA's Compliance Assistance Centers provide information targeted to industries with many small businesses. They were developed in partnership with industry, universities and other federal and state agencies.

Agriculture

www.epa.gov/agriculture/

Automotive Recycling

www.ecarcenter.org

Automotive Service and Repair

ccar-greenlink.org/ or 1-888-GRN-LINK

Chemical Manufacturing

www.chemalliance.org

Construction

www.cicacenter.org or 1-734-995-4911

Education

www.campuserc.org

Food Processing

www.fpeac.org

Healthcare

www.hercenter.org

Local Government

www.lgean.org

Metal Finishing

www.nmfrc.org

Paints and Coatings

www.paintcenter.org

Printing

www.pneac.org

Ports

www.portcompliance.org

Transportation

www.tercenter.org

U.S. Border Compliance and Import/Export Issues

www.bordercenter.org

EPA Hotlines, Helplines and Clearinghouses

www2.epa.gov/home/epa-hotlines
EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Some examples are:

Clean Air Technology Center (CATC) Info-line

www.epa.gov/ttn/calc or 1-919-541-0800

Superfund, TRI, EPCRA, RMP and Oil Information Center

www.epa.gov/superfund/contacts/infocenter/index.htm or 1-800-424-9346

EPA Imported Vehicles and Engines Public Helpline

www.epa.gov/otaq/imports or 734-214-4100

National Pesticide Information Center

www.npic.orst.edu/ or 1-800-858-7378

National Response Center

Hotline to report oil and hazardous substance spills - www.nrc.uscg.mil or 1-800-424-8802

Pollution Prevention Information Clearinghouse (PPIC) -

www.epa.gov/opptintr/ppic or 1-202-566-0799

Safe Drinking Water Hotline -

www.epa.gov/drink/hotline/index.cfm or 1-800-426-4791

Small Business Resources

Stratospheric Ozone Protection Hotline

www.epa.gov/ozone/comments.htm or 1-800-296-1996

Toxic Substances Control Act (TSCA) Hotline

tsc hotline@epa.gov or 1-202-554-1404

Small Entity Compliance Guides

<http://www.epa.gov/sbrefa/compliance-guides.html>

EPA publishes a Small Entity Compliance Guide (SECG) for every rule for which the Agency has prepared a final regulatory flexibility analysis, in accordance with Section 604 of the Regulatory Flexibility Act (RFA).

Regional Small Business Liaisons

<http://www.epa.gov/sbo/rsbl.htm>

The U.S. Environmental Protection Agency (EPA) Regional Small Business Liaison (RSBL) is the primary regional contact and often the expert on small business assistance, advocacy, and outreach. The RSBL is the regional voice for the EPA Asbestos and Small Business Ombudsman (ASBO).

State Resource Locators

www.envcap.org/statetools

The Locators provide state-specific contacts, regulations and resources covering the major environmental laws.

State Small Business Environmental Assistance Programs (SBEAPs)

www.epa.gov/sbo/507program.htm

State SBEAPs help small businesses and assistance providers understand environmental requirements and sustainable business practices through workshops, trainings and site visits.

EPA's Tribal Portal

www.epa.gov/tribalportal/

The Portal provides access to information on environmental issues, laws, and resources related to federally recognized tribes.

EPA Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated, businesses may be eligible for penalty waivers or reductions. EPA has two such policies that may apply to small businesses:

EPA's Small Business Compliance Policy

www2.epa.gov/enforcement/small-businesses-and-enforcement

This Policy offers small businesses special incentives to come into compliance voluntarily.

EPA's Audit Policy

www2.epa.gov/compliance/epas-audit-policy

The Policy provides incentives to all businesses that voluntarily discover, promptly disclose and expeditiously correct their noncompliance.

Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established a SBREFA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System designation, number of employees or annual receipts, as defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247).

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

Your Duty to Comply

If you receive compliance assistance or submit a comment to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.