

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6

FILED
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REGIONAL ADMINISTRATOR
EPA REGION VI

In the Matter of § Docket No. SDWA-06-2015-1204
§
§
George W. Jackson § Proceeding to Assess a Class I Civil Penalty
d/b/a Fort Jackson Mobile Estates § under Section 303g-3(g)(3) of the
Respondent § Safe Drinking Water Act
§
§
§ ADMINISTRATIVE COMPLAINT
PWS ID No. TX1520064 §

I. Statutory Authority

This Administrative Complaint (“Complaint”) is issued under the authority vested in the Administrator of the United States Environmental Protection Agency (“EPA”) by Section 1414(g)(3) of the Safe Drinking Water Act (Act), 42 U.S.C. § 300g-3(g)(3). The Administrator of EPA delegated the authority to issue this Complaint to the Regional Administrator of EPA Region 6, who further delegated this authority to the Director of the Compliance Assurance and Enforcement Division of EPA Region 6 (“Complainant”). This Complaint is issued in accordance with, and this action will be conducted under, the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits,” including rules related to administrative proceedings not governed by Section 554 of the Administrative Procedure Act, 40 C.F.R. §§ 22.50 through 22.52.

Based on the following Findings, Complainant finds that Respondent violated the Act and the regulations promulgated under the Act and should be ordered to pay a civil penalty.

II. Findings of Fact and Conclusions of Law

1. Mr. George Jackson, doing business as Fort Jackson Mobile Estates (“Respondent”), is a “person,” as defined by Section 1401(12) of the Act, 42 U.S.C. § 300f(12).

2. According to Section 1401(4) of the Act, 42 U.S.C. § 300f (4), a public water system (“PWS”) provides water to the public for human consumption, if such system has at least fifteen (15) service connections or regularly serves at least twenty-five (25) individuals daily at least sixty (60) days out of the year.

3. According to Section 1401(15) of the Act, 42 U.S.C. § 300f (15), a “community water system” is a PWS that has at least fifteen (15) service connections used by year-round residents served by the system or that regularly serves at least twenty-five (25) year-round residents.

4. According to Section 1401(5) of the Act, 42 U.S.C. § 300f (5), a “supplier of water” is a person who owns or operates a PWS.

5. At all times relevant to the violations alleged herein, Respondent owned or operated the Fort Jackson Mobile Estates water system, a PWS, as defined by Section 1401(4) of the Act, 42 U.S.C. § 300f (4), located in Lubbock, Lubbock County, Texas (“facility”), and designated as PWS number TX1520064.

6. The facility serves over twenty-five (25) residents year-round and is therefore a community water system.

7. As an owner or operator of a PWS, Respondent is a supplier of water pursuant to Section 1401(5) of the Act, 42 U.S.C. § 300f(5).

8. Respondent, as a supplier of water, and the facility, as a community PWS, are subject to the regulations promulgated by EPA pursuant to Section 1412 of the Act, 42 U.S.C. § 300g-1, entitled National Primary Drinking Water Regulations (“NPDWR”).

9. Pursuant to Section 1413(a) of the Act, 42 U.S.C. Section 300g-2(a), the State of Texas, acting through the Texas Commission on Environmental Quality (“TCEQ”), has primary enforcement responsibility to ensure that suppliers of water within the State comply with the requirements of the Act.

10. TCEQ and the EPA have enforcement authority for the PWS provisions of the Act in the State of Texas. TCEQ and EPA have consulted regarding this Order, and it has been agreed that EPA would initiate this enforcement action.

11. At all times relevant to the violations alleged herein, Respondent's facility was subject to the Radionuclide requirements of Combined Uranium as described by 40 C.F.R. § 141.66(e).

12. During the relevant time period, Respondent's facility was required to conduct monitoring to determine compliance regarding Combined Uranium. Respondent is required to comply with a Maximum Contaminant Level ("MCL") of 30 µg/L for Combined Uranium as specified in 40 C.F.R. § 141.66(e).

13. Respondent monitored for Combined Uranium during the first four quarters, the 2nd quarter of 2007 through the 1st quarter of 2008, resulting in an annual average of 197 µg/L for uranium in violation of the MCL specified in 40 C.F.R. § 141.66(e).

14. On August 7, 2012, EPA issued Administrative Order Docket No. SDWA-06-2012-1255 ("Order") (attached and incorporated herein at Attachment A) to Respondent, pursuant to EPA's authority under Section 1414(g) of the Act, 42 U.S.C. § 300g-3(g), which cited violation of the 2nd quarter of 2007 through the 1st quarter of 2008, and ordered the following:

A. "If Respondent has not provided public notice, as required by 40 C.F.R. § 141.201, regarding the violations specified in paragraph 13, Respondent shall, within thirty (30) days of the issuance of this Order, provide a public notice of the violations as set forth in 40 C.F.R. § 141.201. Respondent shall submit a copy of the public notice to EPA and TCEQ within forty (40) days of the effective date of this Order."

B. "Within one hundred and twenty (120) days of the effective date of this Order, Respondent shall submit to EPA a detailed plan to bring the System into compliance with the MCL for Combined Uranium. The plan shall include 1) a system modification proposal, 2) a cost analysis of system modifications, and 3) a construction schedule for the project. The schedule shall include specific milestone dates and a final compliance date that is no later than eighteen (18) months from the effective date of this Order. The plan must be submitted to EPA for concurrence before construction can commence."

C. "Respondent must achieve and maintain compliance with 40 C.F.R. § 141.62(e) by the date specified in the approved plan, or not later than eighteen (18) months after the effective date of this Order, whichever is earliest.

D. "Within ninety (90) days of the effective date of this Order, Respondent shall submit to EPA an initial report on the progress made to bring the PWS into compliance with the Combined Uranium MCL. Following the initial report, a quarterly progress report shall be sent to EPA within ten (10) days after the end of each calendar quarter. Respondent shall notify EPA when all improvements have been completed."

15. The issuance date of the Order was August 7, 2012, and the effective date of the Order was August 13, 2012.

16. Respondent failed to comply with each Order requirement specified in paragraph 14 above, and is therefore liable for a civil penalty pursuant to Section 1414(g) of the Act, 42 U.S.C.

§ 300g-3(g).

17. Pursuant to Section 1414(g) of the Act, 42 U.S.C. § 300f et seq., Respondent is liable for an administrative civil penalty in an amount not to exceed \$37,500 for violations of the Order.

III. Proposed Penalty

18. Based on these Findings and Conclusions, having taken into account the serious nature of the violations, the population at risk, and other appropriate factors including with respect to the violator, ability to pay, the past history of such violations, degree of culpability, and other matters as justice may require, and pursuant to the authority of Section 1414(g)(3)(B) of the Act, 42 U.S.C. § 300g-3(g)(3)(B), EPA proposes to assess against Respondent a penalty of seven thousand dollars (\$7,000.00).

19. Complainant has specified that the administrative procedures specified in 40 C.F.R. Part 22, Subpart I, shall apply to this matter, and the administrative proceedings shall not be governed by Section 554 of the Administrative Procedure Act.

IV. Failure to File an Answer

20. If Respondent wishes to deny or explain any material allegation listed in the above Findings or to contest the amount of the penalty proposed, Respondent must file an Answer to this Complaint within thirty (30) days after service of this Complaint whether or not Respondent requests a hearing as discussed below.

21. The requirements for such an Answer are set forth at 40 C.F.R. § 22.15 (copy enclosed). Failure to file an Answer to this Complaint within thirty (30) days of service of the Complaint shall constitute an admission of all facts alleged in the Complaint and a waiver of the right to hearing. Failure to deny or contest any individual material allegation contained in the Complaint will constitute an admission as to that finding or conclusion under 40 C.F.R. § 22.15(d).

22. If Respondent does not file an Answer to this Complaint within thirty (30) days after service, a Default Order may be issued against Respondent pursuant to 40 C.F.R. § 22.17. A Default Order, if issued, would constitute a finding of liability, and could make the full amount of the penalty proposed in this Complaint due and payable by Respondent without further proceedings thirty (30) days after a final Default Order is issued.

23. Respondent must send its Answer to this Complaint, including any request for a Hearing, and all other pleadings to:

Regional Hearing Clerk (6RC-D)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

24. Respondent shall also send a copy of its Answer to this Complaint to the following EPA attorney assigned to this case:

Mr. Efren Ordoñez (6RC-EW)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

25. The Answer must be signed by Respondent, Respondent's counsel, or other representative on behalf of Respondent and must contain all information required by 40 C.F.R.

§§ 22.05 and 22.15, including the name, address, and telephone number of Respondent and Respondent's counsel. All other pleadings must be similarly signed and filed.

V. Notice of Opportunity to Request a Hearing

26. Respondent may request a hearing to contest any material allegation contained in this Complaint, or to contest the appropriateness of the amount of the proposed penalty, pursuant to Section 1414(g)(3)(B) of the Act, 42 U.S.C. § 300g-3(g)(3)(B). The procedures for hearings are set out at 40 C.F.R. Part 22, including 40 C.F.R. §§ 22.50 through 22.52.

27. Any request for hearing should be included in Respondent's Answer to this Complaint; however, as discussed above, Respondent must file an Answer meeting the requirements of 40 C.F.R. § 22.15 in order to preserve the right to a hearing or to pursue other relief.

VI. Settlement

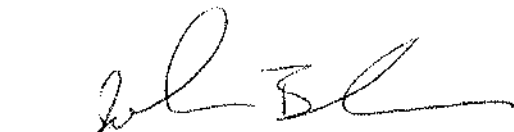
28. EPA encourages all parties against whom civil penalties are proposed to pursue the possibility of settlement through informal meetings with EPA. Regardless of whether a formal hearing is requested, Respondent may confer informally with EPA about the alleged violations or the amount of the proposed penalty. 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 Complaint, please contact Mr. Mehdi Taheri, of my staff, at (214) 665-2298.

29. If this action is settled without a formal hearing and issuance of an opinion by the Presiding Officer pursuant to 40 C.F.R. § 22.27, this action will be concluded by issuance of a

additional thirty (30) days to petition EPA to set aside any such CAFO and to hold a hearing on the issues raised in the Complaint. Such a petition would be granted and a hearing held only if the evidence presented by the petitioner's comment was material and was not considered by EPA in the issuance of the CAFO.

30. Neither assessment nor payment of a penalty in resolution of this action will affect Respondent's continuing obligation to comply with all requirements of the Act, the applicable regulations and permits, and any separate Compliance Order issued under Section 1414(g)(3)(B) of the Act, 42 U.S.C. § 300g-3(g)(3)(B).

7/3/15
Date



John Blevins
Director
Compliance Assurance and
Enforcement Division

CERTIFICATE OF SERVICE

I certify that the foregoing Administrative Complaint 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: Mr. Bryan Sinclair
Director, Enforcement Division
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087

Copy by certified mail: Ms. Linda Brookins
Director, Water Supply Division
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087

Copy hand-delivered: Mr. Efren Ordoñez (6RC-EW)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

Dated: _____

FEB 05 2015

