

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7**

IN THE MATTER OF:)	
)	
City of Silex, Missouri)	ADMINISTRATIVE ORDER ON
PWS Identification # MO6010902)	CONSENT
Respondent)	
)	Docket No. SDWA-07-2023-0145
Proceedings under Sections 1414(g) and 1431(a))	
of the Safe Drinking Water Act,)	
42 U.S.C. §§ 300g-3(g), 300i(a))	
_____)	

STATUTORY AUTHORITIES

1. This Findings of Violation and Administrative Order on Consent (Order) are made and issued pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency (EPA) by Sections 1414(g) and 1431(a) of the Safe Drinking Water Act (SDWA or Act), 42 U.S.C. §§ 300g-3(g), 300i(a). The authority to take these actions has been delegated to the EPA Region 7 Enforcement and Compliance Assurance Division Director.

2. Respondent is the City of Silex, Missouri, which owns and/or operates the Silex Public Water System (System or Silex PWS) located in Lincoln County, Missouri, with public water system (PWS) identification number MO6010902.

FINDINGS

3. Respondent owns and/or operates a “public water system” as defined in Section 1401(4) of the SDWA, 42 U.S.C. § 300f(4), and 40 C.F.R. § 141.2, in that it provides water through a piped system or other constructed conveyance to the public for human consumption and the System has at least 15 service connections or regularly serves at least an average of 25 individuals daily at least 60 days out of the year. Specifically, the System has approximately 93 service connections and serves approximately 206 people.

4. Respondent is a “person” within the meaning of Section 1401(12) of the SDWA, 42 U.S.C. § 300f(12), and 40 C.F.R. § 141.2, and a “supplier of water” as that term is defined in Section 1401(5) of the SDWA, 42 U.S.C. § 300f(5), and 40 C.F.R. § 141.2.

5. The system is a “community water system” as defined in 40 C.F.R. § 141.2 and Section 1401(15) of the SDWA, 42 U.S.C. § 300f(15).

6. Respondent’s System utilizes a ground water source.

7. Respondent is subject to Part B of the SDWA, 42 U.S.C. §§ 300g-300g-9, and the regulations promulgated thereunder at 40 C.F.R. Part 141.

8. Pursuant to 40 C.F.R. § 141.2, a “maximum contaminant level” (MCL) is defined as the maximum permissible level of a contaminant in water which is delivered to any user of a public water system. Pursuant to 40 C.F.R. § 141.66, the MCL for combined Radium -226 & -228 is 5 picocuries per liter (pCi/l) and 15 pCi/l for gross alpha particle activity (radionuclide MCL). This regulation became effective December 8, 2003.

9. A community water system must sample for radionuclides in accordance with 40 C.F.R. § 141.26.

10. On September 20, 1992, pursuant to Section 1413 of the SDWA, 42 U.S.C. § 300g-2, EPA determined that the State of Missouri (State) met the requirements for primary enforcement authority for public water systems. The State has primary enforcement responsibility under Section 1413(a) of the SDWA, 42 U.S.C. § 300g-2(a), to ensure that suppliers of water in Missouri comply with the requirements of the SDWA.

11. The MoDNR and Respondent entered into an Administrative Order on Consent (AOC) dated March 30, 2018 (Order PDWB-2017-122), requiring Respondent to take actions to address MCL violations for combined Radium-226 and Radium-228 and Gross Alpha Particle activity of the Radionuclide Rule under the Act, among other violations. The AOC cited MCL violations occurring from 2012 through 2018 and required Respondent to comply with the respective MCLs by January 1, 2020.

12. EPA issued a Notice of Violation under SDWA 1414(a)(1)(A) dated June 14, 2023, notifying the State and the System of its noncompliance with applicable requirements of the SDWA. The NOV cited the following violations:

- a. The System has exceeded the maximum contaminant level for combined Radium required specified at 40 C.F.R. § 141.66 and 10 C.S.R. 60-4.060 for all monitoring periods of 2022;
- b. The System did not employ an appropriately qualified, appropriately certified chief operator as required by 40 C.F.R. § 141.130(c) and 10 C.S.R. 60-14.010(4)(A);
- c. The System did not possess nor implement an Emergency Operations Plan as required by 10 C.S.R.60-12.010;
- d. The System was not using chemicals for disinfection acceptable to MoDNR as

required by 10 C.S.R. 60-4.080(7); and

- e. The System failed to timely address significant deficiencies as required by 40 C.F.R. § 141.403(a)(5) and 10 C.S.R. 60-4.025(4)(A)4. Significant deficiencies that were not timely addressed included disconnection of storage tank #1 from the distribution system and conducting appropriate inspections of finished water storage facilities.

13. The radionuclides present in the System are “contaminants” as defined in 40 C.F.R. § 141.2.

14. Radionuclides emit ionizing radiation, a known human carcinogen, when they radioactively decay. People who drink water containing alpha emitters or Radium-226 or Radium-228 in excess of the MCL may have an increased risk of getting cancer over time.

15. EPA has determined that the System’s ongoing noncompliance with the radionuclide MCLs has resulted in the presence of contaminants in the PWS and, while the levels of radium in the Silex public drinking water do not pose an immediate or acute health risk, the long-term exposure to radium in drinking water may present an “imminent and substantial endangerment” for the purposes of taking this action under SDWA Section 1431.

16. Prior to issuing this Order, EPA consulted with the MoDNR and the System to confirm the accuracy of the information on which this action is based and to ascertain the actions which MoDNR and the System are or will be taking.

17. Despite actions taken by the MoDNR as described above, the System remains out of compliance with the radionuclides MCL.

18. This Order is necessary to protect public health.

19. Pursuant to 40 C.F.R. § 141.203(b), public water systems must provide a public notice as soon as practical, but no later than 30 days after the system learns of the violations as described in paragraphs 12(a), 12(b) and 12(e).

ORDER

20. Based on the findings and violations listed above, the EPA hereby orders Respondent, and Respondent hereby agrees, to take the actions described below to comply with the requirements of the SDWA, 40 C.F.R. Part 141, and other applicable requirements and to take actions necessary to protect the health of persons.

Respondent Must Complete the Following Actions:	By:	Pursuant to:
a. Submit to EPA and MoDNR a detailed Alternate Drinking Water Plan and schedule, subject to EPA approval, for providing alternate drinking water to all consumers using the Silex PWS at no cost to those consumers. Such drinking water shall comply with all MCLs established as NPDWRs and shall be provided until reliable compliance with the radionuclide MCLs is attained by the PWS, and Respondent is notified by EPA that they may discontinue such actions. The Alternate Drinking Water Plan shall provide for at least one gallon of potable water daily per person and include details of monthly progress reporting on the provision of alternate drinking water.	21 days from the Effective Date of this Order	This Order
b. Submit to EPA and MoDNR a detailed Radionuclide Compliance Plan and schedule, subject to EPA approval, for bringing the System into compliance with the radionuclide MCL. Include milestones with dates for planning, engineering/design, obtaining funding, construction/equipment installation, and projected completion date. To the extent that grant funding may be part of Respondent’s plan, the plan must also include a contingency funding option in case the grant funds are not available.	60 days from the Effective Date of this Order	This Order
c. Continue to monitor radionuclides quarterly until EPA notifies Respondent in writing otherwise.	Quarterly	40 C.F.R. § 141.26
d. Report all monitoring results to EPA and MoDNR, as required.	Quarterly within ten days of receipt of the results.	40 C.F.R. § 141.31(a)
e. Retain an appropriately qualified, appropriately certified chief operator for the PWS.	Within 60 days from the Effective Date of this Order	40 C.F.R 141.130(c) and 10 C.S.R 60-14.010(4)(A)
f. Submit to EPA and MoDNR an Emergency Operations Plan.	Within 60 days from the Effective Date of this Order	10 C.S.R 60-12.010

Respondent Must Complete the Following Actions:	By:	Pursuant to:
g. Submit to EPA and MoDNR evidence that storage tank #1 has been permanently disconnected from the PWS’s distribution system.	Within 60 days from the Effective Date of this Order	40 C.F.R.§ 141.403(a)(5) and 10 C.S.R. 60-4.025(4)(A)4
h. Retain a qualified inspector and conduct inspections of all finished water storage facilities at the PWS and submit to EPA and MoDNR a copy of the storage facility inspection report(s).	Within 60 days from the Effective Date of this Order	40 C.F.R.§ 141.403(a)(5) and 10 C.S.R. 60-4.025(4)(A)4
i. Provide public notice to persons served by the System every three months as long as the MCL violation described in paragraph 12(a) persists, as required by MoDNR. A sample public notice is attached.	Quarterly	40 C.F.R. § 141.203(b)
j. Provide public notice to persons served by the System to address each violation described in paragraphs 12(b) and 12(e).	Within 30 days of each violation	40 C.F.R. § 141.203(b)
k. Submit to EPA and MoDNR a copy of the public notifications required by paragraph 20(i) and 20(j) above and a certification statement that all public notice requirements have been met. A sample certification statement is attached.	Quarterly within 10 days of completing public notice	40 C.F.R. §§ 141.201(c)(3) and 141.31(d)

21. If EPA approves the Alternate Drinking Water Plan and/or the Radionuclide Compliance Plan outlined in paragraphs 20(a) and 20(b), Respondent shall implement such Plan according to the details and schedule in the approved Plan. EPA may provide comments or changes for incorporation into a Plan prior to EPA approval. If EPA does not approve a Plan, Respondent shall address EPA’s comments and resubmit the Plan for review within thirty (30) business days of receipt of EPA’s disapproval in writing. Upon resubmission, EPA, in its sole discretion, may either approve the Plan, or if EPA determines that the Plan does not adequately address the comments provided by EPA, EPA may modify the Plan and provide Respondent with a copy of the Plan as modified. Respondent shall implement the Plan as modified by EPA. Once approved by EPA, the Plan shall be incorporated by reference and fully enforceable under the terms of this Order.

22. All reports and submittals required by this Order shall be submitted by electronic mail to EPA and MoDNR at the following addresses:

marquess.scott@epa.gov
Scott Marquess

Water Enforcement Branch
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 7
11201 Renner Boulevard
Lenexa, Kansas 66219
Phone: (913) 551-7131

lance.dorsey@dnr.mo.gov
Lance Dorsey
Public Drinking Water Branch
Missouri Department of Natural Resources
1101 Riverside Drive
Jefferson City, Missouri 65102
Phone: (573) 751-6982

23. Electronic submissions to the EPA and MoDNR will be deemed submitted on the date they are transmitted electronically. Any report, notification, certification, or other communication that cannot be submitted electronically shall be submitted in hard copy to the addresses provided above.

GENERAL PROVISIONS

24. By entering into this Order, Respondent (1) consents to and agrees not to contest the EPA's authority or jurisdiction to issue and enforce this Order, (2) consents to personal service by electronic mail, (3) agrees to undertake all actions required by the terms and conditions of this Order, and (4) consents to be bound by the requirements set forth herein. Respondent neither admits nor denies the specific factual allegations or findings of violation in this Order, except that Respondent admits the jurisdictional allegations herein. Respondent also waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this Order, including any right of judicial review under SDWA section 1448, 42 U.S.C. section 300j-7.

25. Complying with this Order only remedies the violations listed in this Order. Respondent must continue to sample its water as directed by MoDNR and as required by the drinking water regulations to avoid future violations.

26. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. Part 141 or any provision of the SDWA or any of the regulations promulgated thereunder, which remain in full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or criminal action otherwise authorized under the SDWA.

27. For violations of this Order, the Respondent may be subject to administrative and civil judicial penalties assessed by an appropriate United States District Court, under Sections 1414(b), 1414(g)(3)(A), 1414(g)(3)(C), and 1431(b) of the Act, 42 U.S.C. §§ 300g-3(g)(3)(A), 300g-3(g)(3)(C), and 300i(b).

28. The provisions of this Order shall be severable. If any provision of this Order is found to be unenforceable, the remaining provisions shall remain in full force and effect.

29. This Order shall be effective on the date on which it is signed by the EPA.

30. At the EPA's sole discretion, extensions of the compliance schedule/deadlines required by this Order may be made by the EPA by written notice to Respondent, without further formal amendment to the Order. All other terms of this Order may be modified only by a subsequent written agreement signed by the Parties.

31. This Order shall remain in effect until a written notice of termination is issued by an authorized representative of the EPA.

ORDERED, this ____ day of October, 2023.

David Cozad, Director
Enforcement and Compliance Assurance Division

Shane McCain
Office of Regional Counsel

For the Respondent, Silex, Missouri Public Water System:

Lynne Buckets 10-20-23
Date

IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER

SILEX PUBLIC WATER SYSTEM HAS LEVELS OF RADIONUCLIDES ABOVE DRINKING WATER STANDARDS

Our water system recently violated a drinking water standard. As our customers, you have a right to know what happened, what you should do, and what we are doing to correct this situation.

We routinely monitor for the presence of drinking water contaminants. Testing results we received show that our system exceeds the standard, or Maximum Contaminant Level (MCL), for radium, a radionuclide. The MCL for combined radium in drinking water is 5 pCi/l.

What should you do?

- **The Silex PWS will provide you with an alternative water supply until the PWS can supply water to your tap that meets regulatory standards.**

What Happened? What is being done? *Explain below.*

We anticipate resolving the problem within _____.
estimated time frame

For more information, please contact _____ at _____
name of contact
_____ or _____
phone number *mailing address*

Please share this information with all other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.

This notice is being sent to you by Silex Public Water System ID#MO6010902

Date Distributed _____

CERTIFICATION FORM FOR PUBLIC NOTICE

PWS Name: Silex Public Water System
(public water system name)

PWSID # MO6010902
(public water system number)

For Violation: Exceedance for radionuclide MCL
(describe violation or situation)

Occurring on: _____
(insert date)

The public water system indicated above hereby affirms that public notice has been provided to consumers in accordance with the delivery, content, and format requirements and deadlines in the 40 CFR § 141.203 and 141.205.

Notice distributed by _____ on _____
(insert method) *(insert date)*

Signature of owner or operator _____ Date _____

CERTIFICATE OF SERVICE

I certify that on the date noted below, I filed the original and one true and correct copy of the signed Administrative Order with the Regional Hearing Clerk, Region 7.

I further certify that on the date noted below I sent a copy of the foregoing Administrative Order by electronic mail to:

mayorofsilex@gmail.com
Honorable Lynne Lockett
Silex, Missouri

lance.dorsey@dnr.mo.gov
Lance Dorsey
Missouri Department of Natural Resources

marquess.scott@epa.gov
Scott Marquess
EPA Region 7 Enforcement and Compliance Assurance Division

mccoin.shane@epa.gov
Shane McCoin
EPA Region 7 Office of Regional Counsel

Date

Signature