

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

2015 JUL 13 PM 2:57

Docket No. SDWA-08-2015-0026

FILED  
EPA REGION VIII  
HEARING CLERK

IN THE MATTER OF )  
 )  
 Intermountain Rural Electric )  
 )  
 )  
 )  
 Respondent. )

**PROPOSED COMPLIANCE ORDER,  
PENALTY COMPLAINT AND NOTICE OF  
OPPORTUNITY FOR HEARING**

**INTRODUCTION**

1. This Proposed Compliance Order, Penalty Complaint and Notice of Opportunity for Hearing (Complaint) is authorized by Congress in section 1423 of the Public Health Service Act, commonly known as the Safe Drinking Water Act (SDWA), 42 U.S.C. § 300h-2. The Environmental Protection Agency (EPA) regulations authorized by the SDWA are set forth in part 144 of title 40 of the Code of Federal Regulations (Regulations or C.F.R.), and violations of the Regulations constitute violations of the SDWA. The rules for this proceeding are the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders and the Revocation, Termination or Suspension of Permits” (Rules of Practice), 40 C.F.R. Part 22, a copy of which is enclosed.

2. The undersigned EPA official has been properly delegated the authority to issue this Complaint.

3. EPA alleges that Intermountain Rural Electric (Respondent), owner and/or operator, has violated the Regulations and therefore the SDWA, as more fully explained below.

**NOTICE OF OPPORTUNITY FOR A HEARING**

4. Respondent has the right to a public hearing before a presiding officer within the Agency to (1) disagree with any fact alleged by EPA in the Complaint, (2) state the grounds for any legal defense or (3) disagree with the appropriateness of the proposed penalty.

5. To disagree with the Complaint and assert Respondent’s right to a hearing, Respondent must file a written answer (and one copy) with the Regional Hearing Clerk (1595 Wynkoop Street (8RC); Denver, Colorado 80202) within thirty (30) calendar days of receiving this Complaint. The answer must clearly admit, deny or explain the factual allegations of the Complaint, the grounds for any defense, the facts Respondent may dispute and Respondent’s specific request for a public hearing. Please see section 22.15 of the Rules of Practice for a

complete description of what must be in the answer. **FAILURE TO FILE AN ANSWER AND REQUEST A HEARING WITHIN THIRTY (30) CALENDAR DAYS MAY WAIVE RESPONDENT'S RIGHT TO DISAGREE WITH THE ALLEGATIONS OR PROPOSED PENALTY, AND RESULT IN A DEFAULT JUDGMENT AND ASSESSMENT OF PENALTY UP TO THE MAXIMUM AUTHORIZED BY THE SDWA.**

### SETTLEMENT NEGOTIATIONS

6. EPA encourages discussing whether cases can be settled through informal settlement conferences. If Respondent wants to pursue the possibility of settling this matter, or has any other questions, contact Mia Bearley, Enforcement Attorney, at (303) 312-6554 or at the following address:

Mia Bearley (Mail Code 8ENF-L)  
U.S. Environmental Protection Agency, Region 8  
1595 Wynkoop Street  
Denver, Colorado 80202

**Please note that calling Ms. Bearley or requesting a settlement conference does NOT delay the running of the thirty (30) day period for filing an answer and requesting a hearing.**

### GENERAL ALLEGATIONS

The following general allegations apply to all times relevant to this action and to each violation alleged in this Complaint:

7. Respondent is a "person" as defined in the SDWA, and is therefore subject to the requirements of the SDWA and/or the Regulations. 42 U.S.C. § 300f (12).

8. Respondent owns and/or operates the facility known as Intermountain Rural Electric, located at 5496 Highway 85, Sedalia, Colorado, 80135 (Facility).

9. On May 21, 2014, authorized EPA employees entered the Facility, with consent from a Facility director, to conduct inventory verification and to inspect for compliance with the law. EPA's inspection report indicates that one of the two maintenance buildings at the Facility has an enclosed area with bays for vehicles, a truck wash bay and a maintenance area. There is a floor drain in this motor vehicle bay area and it is possible for maintenance fluids to enter this drain.

10. Respondent's disposal system, as identified in the inspection above, including the floor drain in the motor vehicle bay area, is classified as a "Class V Injection Well" as defined by 40 C.F.R. §§ 144.6, 144.81 and 146.5 (Class V Motor Vehicle Waste Disposal Well). Respondent is subject to applicable requirements of 40 C.F.R. §§ 124, 144 and 146.

11. Based on the inspection described above, Respondent owns and/or operates a Class V Motor Vehicle Waste Disposal Well.

12. Lying beneath Respondent's Class V Motor Vehicle Waste Disposal Well are underground sources of drinking water (USDWs), including but not limited to, the Other Rocks Aquifer.

13. Respondent is in violation of:

(a) 40 C.F.R. §§ 144.12(a) and 144.82(a)(1) by owning, operating or maintaining a Class V Motor Vehicle Waste Disposal Well which, through injection activity, allows the movement of fluid containing any contaminant into underground sources of drinking water, if the presence of that contaminant may cause a violation of any primary drinking water regulation or may otherwise adversely affect the health of persons; and

(b) 40 C.F.R. § 144.88(b) for operating a Class V Motor Vehicle Waste Disposal Well after the January 1, 2007 ban of all Class V Motor Vehicle Waste Disposal Wells.

Respondent's operation of the Class V Motor Vehicle Waste Disposal Well is in violation of the Regulations and Respondent is therefore in violation of the SDWA. 42 U.S.C. § 300h-2(c)(1).

### **PROPOSED COMPLIANCE ORDER**

14. Respondent shall:

(a) within thirty (30) calendar days of Respondent's receipt of this Complaint, submit to EPA, in writing, a schedule for permanently closing the floor drain in the motor vehicle bay area, and a plan for alternative disposal of the waste. If the closure includes the use of a self-contained holding tank, the plan must address the specific type, specifications and size of tank to be installed. EPA will promptly review the proposed plan and either approve it or provide Respondent with written comments;

(b) within sixty (60) calendar days of the receipt of this Complaint, permanently close the floor drain in the motor vehicle bay area; and

(c) within thirty (30) calendar days of completing this work, provide EPA with subsequent documentation of the closure.

15. Respondent shall submit all documentation to Christopher Ajayi, Enforcement Specialist, by email at [ajayi.christopher@epa.gov](mailto:ajayi.christopher@epa.gov), or by mail at:

Christopher Ajayi  
(Mail Code 8ENF-UFO)  
U.S. Environmental Protection Agency, Region 8  
1595 Wynkoop Street  
Denver, Colorado 80202

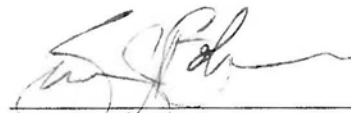
### PROPOSED CIVIL PENALTY

16. For an administrative proceeding, the SDWA authorizes the assessment of a civil penalty of up to \$16,000 per day, for each violation of the SDWA, up to a maximum of \$187,500. 42 U.S.C. § 300h-2(c)(1). The SDWA requires EPA to take into account appropriate factors in assessing a civil penalty, including the seriousness of the violations, the economic benefit resulting from the violations, any history of such violations, any good-faith efforts to comply with the requirements, the economic impact on the violator and such other matters as justice may require.

17. As required by the SDWA, prior to the assessment of a civil penalty, EPA will provide public notice of the proposed penalty, and reasonable opportunity for the public to comment on the matter and present evidence in the event a hearing is held. 42 U.S.C. § 300h-2(c)(3)(B).

Date: July 13, 2015

By:



Suzanne J. Bohan  
Assistant Regional Administrator  
Office of Enforcement, Compliance  
and Environmental Justice

**U.S. ENVIRONMENTAL PROTECTION AGENCY  
PUBLIC NOTICE  
OPPORTUNITY FOR PUBLIC COMMENT ON  
PROPOSED COMPLIANCE ORDER, PENALTY COMPLAINT AND  
NOTICE OF OPPORTUNITY FOR HEARING AGAINST  
INTERMOUNTAIN RURAL ELECTRIC  
FOR FAILURE TO COMPLY WITH  
UNDERGROUND INJECTION CONTROL REGULATIONS**

**PURPOSE OF PUBLIC NOTICE**

The purpose of this notice is to solicit written comments on a Proposed Compliance Order, Penalty Complaint and Notice of Opportunity for Hearing (Complaint), Docket No. SDWA-08-2015-0026 that Region 8 of the United States Environmental Protection Agency (EPA) proposes to issue to Intermountain Rural Electric (Intermountain) for alleged violations at its facility located in Sedalia, Colorado. The Complaint alleges violations of the Safe Drinking Water Act (SDWA) and the regulations detailing the requirements of the SDWA's Underground Injection Control (UIC) program. These regulations (Regulations) govern the injection of fluids that may endanger an underground source of drinking water (USDW). The Complaint proposes compliance requirements and monetary penalties for the alleged violations.

The EPA requests written comments from any interested party having knowledge of the alleged violations or who can provide any information useful to ensure that the Complaint is appropriate. The EPA will review and consider all comments received, and will thereafter determine whether to modify or withdraw the Complaint.

**BACKGROUND**

Part C of the SDWA (40 U.S.C. § 300h *et seq.*) requires the EPA to regulate underground injection of fluid through wells to assure that USDWs are not endangered. Section 1421 of the SDWA (40 U.S.C. § 300h) requires the EPA to administer UIC programs in States that do not have approved State UIC programs. Regulation of the UIC Class V Program has not been delegated to the State of Colorado; therefore, the EPA administers the program in accordance with title 40 of the Code of Federal Regulations (40 C.F.R.) parts 124, 144, 146, 147 and 148.

The Class V motor vehicle waste disposal well which is the subject of this Complaint, is located at 5496 Highway 85, Sedalia, Colorado, 80135. A Class V injection well, pursuant to 40 C.F.R. §§ 144.6 and 146.5, is a shallow injection well that injects fluids into or above a USDW.

The Complaint alleges that owner and/or operator, Intermountain, is in violation of the Regulations and is subject to appropriate penalties for operating a banned well, failing to prevent movement of fluids into a USDW that may cause a violation of a primary drinking water regulation under 40 C.F.R. part 142, or

otherwise potentially adversely affecting the health of persons. The Complaint cites that the EPA may assess an administrative civil penalty of up to \$16,000 per day for each violation of the SDWA, up to a maximum of \$187,500, and proposes certain compliance measures, including the permanent closure of the well.

### **PUBLIC COMMENTS**

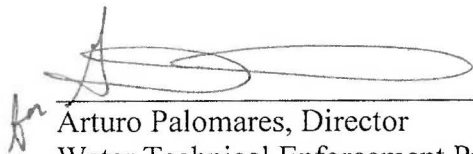
Written comments on the Complaint are encouraged and will be accepted at the address listed below for a period of thirty (30) calendar days after the publication of this notice. Written comments submitted by the public as well as information submitted by Intermountain will be available for public review as part of the administrative record, subject to the provisions of law restricting the disclosure of confidential information. Intermountain may request a hearing. Any person submitting written comments will be notified of and has a right to participate in such a hearing. The Complaint and the administrative record are available for review between 9:00 a.m. and 4:00 p.m. at the address listed below. It is recommended that those wishing to view the administrative record call Mia Bearley, Enforcement Attorney, at (303) 312-6554 before visiting the EPA Region 8 offices. Please submit written comments to:

Tina Artemis (8RC)  
Regional Hearing Clerk  
U.S. EPA, Region 8  
1595 Wynkoop Street  
Denver, Colorado 80202

Any person interested in receiving their own copy of this or any future public notice of a UIC administrative action can call Christopher Ajayi in the UIC program, at (303) 312-6320.

### **THE DECISION**

The EPA will review and consider all public comments received on the public notice and will thereafter determine whether to modify or withdraw the Complaint. If the Complaint is revised, copies shall be provided to all parties and to all members of the public who have commented.

  
for Arturo Palomares, Director  
Water Technical Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice  
U.S. EPA, Region 8  
1595 Wynkoop Street  
Denver, CO 80202

**In the Matter of: Intermountain Rural Electric**  
**Docket No. SDWA-08-2015-0026**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the date indicated below, the original and one true and correct copy of the foregoing PROPOSED COMPLIANCE ORDER, PENALTY COMPLAINT, AND NOTICE OF OPPORTUNITY FOR HEARING with the Consolidated Rules of Practice (40 C.F.R. Part 22), a Public Notice, and the U.S. EPA Small Business Resources Fact Sheet were hand-carried to and filed with the Regional Hearing Clerk,

Tina Artemis  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 8  
1595 Wynkoop Street  
Denver, Colorado 80202-1129

The undersigned also certifies that on the date indicated below, a true and correct copy of this document was hand delivered at the same time to:

Hon. Elyana R. Sutin  
Regional Judicial Officer  
U.S. Environmental Protection Agency, Region 8  
1595 Wynkoop Street  
Denver, Colorado 80202-1129

The undersigned also certifies that on the date indicated below, a true copy of the same was sent via Certified Mail to:

Intermountain Rural Electric  
c/o Costas Lagos  
5496 Highway 85  
Sedalia, Colorado, 80135  
**CERTIFIED MAIL #7008 3230 0003 1303**

and

Intermountain Rural Electric  
c/o Alex Mendez  
5496 Highway 85  
Sedalia, Colorado, 80135

CERTIFIED MAIL # 7008 3230 0003 0126 0591

July 13, 2015  
Date

Gayle Aldinger





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 Wynkoop Street  
Denver, CO 80202-1129  
Phone 800-227-8917  
www.epa.gov/region08

Ref: 8ENF-UFO

JUL 13 2015

**CERTIFIED MAIL # 7008 3230 0003 0726 1303**  
**RETURN RECEIPT REQUESTED**

Intermountain Rural Electric  
c/o Costas Lagos  
5496 Highway 85  
Sedalia, Colorado 80135

**CERTIFIED MAIL # 7008 3230 0003 0726 0597**  
**RETURN RECEIPT REQUESTED**

Intermountain Rural Electric  
c/o Alex Mendez  
5496 Highway 85  
Sedalia, Colorado 80135

Re: Proposed Compliance Order, Penalty Complaint and Notice of Opportunity for Hearing  
Docket No. **SDWA-08-2015-0026**

Dear Messrs. Lagos and Mendez:

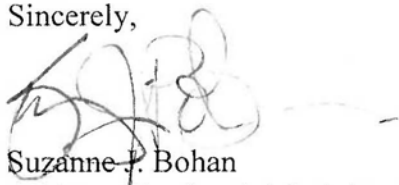
Enclosed is a Proposed Compliance Order, Penalty Complaint and Notice of Opportunity For Hearing (Complaint) issued by the Environmental Protection Agency (EPA) as authorized by the Safe Drinking Water Act (SDWA), 42 U.S.C. § 300h-2. The document describes how Intermountain Rural Electric has violated the SDWA and proposes both compliance requirements and the assessment of a civil penalty.

**However, if you fully comply with the compliance order requirements in a timely manner as set forth in the Complaint, the EPA will evaluate the civil penalty factors at 42 U.S.C. § 300h-2(c)(4)(B), and may settle this case without the assessment of a civil penalty, if appropriate.** Please note that there are deadlines in the Complaint that must be followed. The Complaint is effective upon the receipt date, and you have thirty (30) calendar days to file an answer to dispute the contents of the Complaint.

If you have any technical questions, contact Christopher Ajayi at the above address (with the mail code 8ENF-UFO) or by phone at (303) 312-6320. For legal questions, the attorney assigned to this matter is Mia Bearley, who can be reached at the above address (with the mail code 8ENF-L) or by phone at (303) 312-6554.

We urge your prompt attention to this matter.

Sincerely,



Suzanne J. Bohan  
Assistant Regional Administrator  
Office of Enforcement, Compliance  
and Environmental Justice

Enclosures: Proposed Compliance Order, Penalty Complaint,  
and Notice of Opportunity for Hearing  
Part 22 Rules of Practice  
Public Notice  
U.S. EPA Small Business Resources Fact Sheet



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

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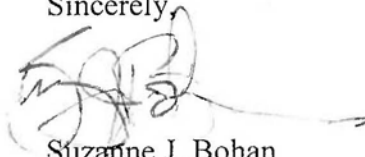
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We urge your prompt attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Suzanne J. Bohan', with a long horizontal flourish extending to the right.

Suzanne J. Bohan  
Assistant Regional Administrator  
Office of Enforcement, Compliance  
and Environmental Justice

Enclosures: Proposed Compliance Order, Penalty Complaint,  
and Notice of Opportunity for Hearing  
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