



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 WYNKOOP STREET  
DENVER, COLORADO 80202-1129

Phone 800-227-8917

<http://www.epa.gov/region08>

Ref: 8ENF-L

MAR 17 2008

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Leo and Iola Sprigler, Owners  
LeMaster Enterprises  
405 Rohan Avenue  
Gillette, WY 82716

Re: Complaint and Notice of  
Opportunity for Hearing  
Docket No. **SDWA-08-2008-0034**

Dear Mr. and Mrs. Sprigler:

Enclosed is an administrative "Complaint and Notice of Opportunity for Hearing" (complaint) filed against the two of you as owners and/or operators of the LeMaster Enterprises public water supply system, under section 1414 of the Safe Drinking Water Act (SDWA), 42 U.S.C § 300g-3. The U.S. Environmental Protection Agency (EPA) alleges in the complaint that you failed to comply with an Administrative Order, Docket No. SDWA-08-2006-0010, issued on December 22, 2005, under section 1414(g) of the SDWA, 42 U.S.C. § 300g-3(g). The violations are specifically set out in the complaint.

By law, you have the right to request a hearing regarding the matters set forth in the complaint. Please pay particular attention to those parts of the complaint entitled "Opportunity to Request a Hearing" and "Failure to File an Answer." If you do not respond to this complaint within 30 days of receipt, a default judgment may be entered and the proposed civil penalty may be assessed against you without further proceedings. In your answer you may request a hearing. You have the right to be represented by an attorney at any stage of these proceedings.

Whether or not you request a hearing, you may confer informally with EPA concerning the alleged violations or the amount of the proposed penalty.

A request for an informal conference does not extend the 30-day period during which you must submit a written answer and a request for a hearing. The informal conference procedure may be pursued as an alternative to, and simultaneously with, the adjudicatory hearing. Please note that if you do not file an answer, you may be subject to a default order requiring you to pay the full penalty proposed in the complaint, even if you have requested an informal conference.

For any questions specific to the violations or penalty, the most knowledgeable people on my staff regarding this matter are Kathelene Brainich, who can be reached at 800-227-8917 extension 6481, or Peggy Livingston, Enforcement Attorney, who can be reached at 800-227-8917 extension 6858.

We urge your prompt attention to this matter.

Sincerely,

*Michael J. Brainich*  
*for*

Andrew M. Gaydosh  
Assistant Regional Administrator  
Office of Enforcement, Compliance  
and Environmental Justice

Enclosures

cc: WY DEQ (via email)  
WY DOH (via email)



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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

2008 MAR 17 AM 10:08

EPA REGION VIII  
HEARING OFFICE

\_\_\_\_\_  
IN THE MATTER OF )  
 )  
Leo and Iola Sprigler, Owners )  
LeMaster Enterprises )  
Gillette, Wyoming )  
 ) Docket No. SDWA-08-2008-0034  
 )  
Respondents ) **COMPLAINT AND NOTICE OF**  
 ) **OPPORTUNITY FOR HEARING**  
Proceedings under section 1414(g) )  
of the Safe Drinking Water Act, )  
42 U.S.C. §300g-3(g) )  
\_\_\_\_\_ )

**COMPLAINT**

This civil administrative Complaint and Notice of Opportunity for Hearing (“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, as amended (the “SDWA”), 42 U.S.C. §300g-3(g)(3). Section 1414(g)(3) of the SDWA authorizes the Administrator of the EPA to assess an administrative civil penalty against any person who violates, or fails or refuses to comply with, an order issued under section 1414(g)(1) of the SDWA.

The complainant in this action is the Assistant Regional Administrator, Office of Enforcement, Compliance and Environmental Justice, EPA Region 8, who has been duly authorized to institute this action. This proceeding is subject to EPA’s “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or

Suspension of Permits,” 40 C.F.R. part 22 (“Consolidated Rules of Practice”)(Complainant’s Exhibit 1).

### **GENERAL ALLEGATIONS**

The following general allegations apply to each count of this complaint:

1. Leo and Iola Sprigler (“Respondents”) are each an individual and therefore a “person” as that term is defined in section 1401(12) of the SDWA, 42 U.S.C. §300f(12), and 40 C.F.R. §141.2.
2. Respondents own and/or operate a system, the LeMaster Enterprises Water System (the “System”), located in Campbell County, Wyoming, for the provision to the public of piped water for human consumption.
3. The System has at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents and is therefore a “public water system” as that term is defined in section 1401(4) of the SDWA, 42 U.S.C. §300f(4), and a “community water system” as that term is defined in section 1401(15) of the SDWA, 42 U.S.C. §300f(15), and 40 C.F.R. §141.2.
4. As an owner and/or operator of a public water system, each Respondent is 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. Each Respondent is therefore subject to the requirements of part B of the SDWA, 42 U.S.C. §300g *et seq.*, and its implementing regulations, 40 C.F.R. part 141 (also known as the “National Primary Drinking Water Regulations” or “NPDWRs”).

5. The source of the System's water is ground water from three wells. The System serves an average of about 25 persons daily through approximately 20 service connections year-round.
6. On December 22, 2005, in accordance with sections 1414(a)(2) and (g)(1) of the SDWA, 42 U.S.C. §§300g-3(a)(2) and (g)(1), the EPA issued an Administrative Order, Docket No. SDWA-08-2006-0010 (the "Order") to Respondents, citing violations of the NPDWRs.
7. A copy of the Order is attached to this complaint (Complainant's Exhibit 2).
8. By letter dated April 16, 2007, EPA notified the Respondents that they were in violation of the Order.
9. A copy of EPA's April 16, 2007 letter is attached to this complaint (Complainant's Exhibit 3).

### **COUNTS OF VIOLATION**

#### **Count I**

#### **Failure to Monitor for Total Coliform**

1. The Order (on page 7, in par. 1 of the "Order" section) required Respondents to perform monthly bacteriological monitoring for total coliform, as required by 40 C.F.R. §141.21(a).
2. Respondents violated the Order by failing to monitor for total coliform bacteria during the months of January, June, July, and November of 2007.

**Count II**  
**Failure to Report Coliform Monitoring Violations to EPA**

1. The Order (on pages 10 and 11, in par. 8 of the “Order” section) required Respondents to report to EPA any failure to comply with coliform monitoring requirements, within ten days of discovering the violation, as required by 40 C.F.R. §141.21(g)(2).
2. Respondents violated the Order by failing to report to EPA that in January, June, July, and November of 2007 they had not monitored the System’s water for coliform.

**PROPOSED ADMINISTRATIVE CIVIL PENALTY**

This complaint proposes that EPA assess an administrative penalty from Respondents. EPA is authorized to assess an administrative penalty according to section 1414(g)(3) of the SDWA, 42 U.S.C. §300g-3(g)(3) for violation of an administrative order issued under section 1414(g)(1) of the SDWA. The amount may be up to \$27,500.<sup>1</sup>

EPA has determined the proposed penalty amount in accordance with section 1414 of the SDWA, 42 U.S.C. §300g-3. Taking into account the seriousness of the violation, the population at risk, and other appropriate factors, including Respondents’ degree of willfulness and/or negligence, history of noncompliance, if any, and ability to pay, as known to EPA at this time, EPA proposes to assess an administrative civil penalty of \$1,200 against Respondents for their violations of the Order.

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<sup>1</sup>The original statutory amount of \$25,000 has been adjusted for inflation pursuant to 40 C.F.R. part 19.

**OPPORTUNITY TO REQUEST A HEARING**

As provided in section 1414(g)(3)(B) of the SDWA, 42 U.S.C. §300g-3(g)(3)(B), Respondents have the right to request a public hearing to contest any material fact alleged in this complaint, to contest the appropriateness of the proposed penalty and/or to assert that it is entitled to judgment as a matter of law.

If Respondents wish to request a hearing, Respondents must file a written answer in accordance with 40 C.F.R. §§22.15 and 22.42 within thirty (30) calendar days after this complaint is served. If this complaint is served by mail, Respondents have an additional five (5) calendar days, pursuant to 40 C.F.R. §22.7(c), in which to file their answer.

If Respondents request a hearing in their answer, the procedures provided in 40 C.F.R. part 22, subpart I, will apply to the proceedings, and the Regional Judicial Officer will preside. However, Respondents have the right under the SDWA to elect a hearing on the record in accordance with section 554 of the Administrative Procedure Act, 5 U.S.C. §§551 et seq. (“APA”). To exercise this right, the answer must include a specific request for a hearing on the record in accordance with 5 U.S.C. §554. Upon such request, the Regional Hearing Clerk will recaption the pleadings and documents in the record as necessary. (See 40 C.F.R. §22.42.) Pursuant to such a request, subpart I will not apply to the proceedings and an Administrative Law Judge from Washington, D.C., will preside.

The answer must be in writing. An original and one copy of the answer must be sent to the attorney listed below and the EPA Regional Hearing Clerk at the following address:

Leo and Iola Sprigler, Owners  
LeMaster Enterprises  
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Tina Artemis, Regional Hearing Clerk (8RC)  
U.S. Environmental Protection Agency Region 8  
1595 Wynkoop Street  
Denver, Colorado 80202

#### **FAILURE TO FILE AN ANSWER**

**If Respondents do not file a written answer with the Regional Hearing Clerk at the address above within thirty (30) days of receipt of this complaint, Respondents may be subject to a default order requiring payment of the full penalty proposed in this complaint.**

EPA may obtain a default order according to 40 C.F.R. §22.17.

#### **REQUIREMENTS FOR ANSWER**

The answer must clearly and directly admit, deny, or explain each of the factual allegations contained in this complaint with regard to which Respondents have any knowledge. The answer must state (1) any circumstances or arguments the Respondents allege to constitute grounds of defense, (2) any facts the Respondents dispute, (3) whether and on what basis the Respondents oppose the proposed penalty, and (4) whether the Respondents request a hearing.

**Failure to admit, deny, or explain any material factual allegation contained in this complaint shall constitute an admission of that allegation.**

#### **SETTLEMENT CONFERENCE**

EPA encourages exploring settlement possibilities through an informal settlement conference. Filing an answer does not preclude settlement negotiations. **However, failing to file a timely answer may lead to a default order, even if Respondents request, schedule, or participate in a settlement conference.**



Leo and Iola Sprigler, Owners  
LeMaster Enterprises  
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If a settlement can be reached, its terms shall be expressed in a written consent agreement, signed by the parties and incorporated into a final order signed by the Presiding Officer. A request for a settlement conference, or any questions that Respondents may have regarding this complaint, should be directed to the attorney named below.

Dated this 14<sup>th</sup> day of March, 2008.

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, REGION 8  
Complainant.

*for* Michael T. Bizner  
Andrew M. Gaydosh  
Assistant Regional Administrator  
Office of Enforcement, Compliance  
and Environmental Justice

Margaret J. ("Peggy") Livingston  
Margaret J. ("Peggy") Livingston  
Enforcement Attorney  
Office of Enforcement, Compliance  
and Environmental Justice  
U.S. EPA Region 8  
1595 Wynkoop Street  
Denver, Colorado 80202  
Telephone Number: (303) 312-6858  
Facsimile Number: (303) 312-7202

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the original and a copy of the COMPLAINT AND NOTICE OF OPPORTUNITY FOR HEARING with all Exhibits were hand-carried to the Regional Hearing Clerk, EPA Region 8, 1595 Wynkoop Street, Denver, Colorado, and that a true copy of the same was sent to each of the following by CERTIFIED MAIL/RETURN RECEIPT REQUESTED:

Leo Sprigler  
LeMaster Enterprises  
405 Rohan Avenue  
Gillette, WY 82716

and

Iola Sprigler  
LeMaster Enterprises  
405 Rohan Avenue  
Gillette, WY 82716

Date: 3/17/08

By: Judith McTernan  
Judith McTernan