



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

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

AUG 28 2007

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
NO. 7004 1350 0001 5669 3235

Cody Brinton, President
High Country Subdivision
850 S. High Country Dr.
Jackson, WY 83001

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
NO. 7006 3450 0002 1992 0019

Jon Wagner, Operator
High Country Subdivision
P.O. Box 54
Teton Village, WY 83025

Re: Complaint and Notice of
Opportunity for Hearing
Docket No. **SDWA-08-2007-0079**

Dear Mr. Brinton and Mr. Wagner:

Enclosed is an administrative "Complaint and Notice of Opportunity for Hearing" (complaint) filed against the High Country Subdivision (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 the system failed to comply with an Administrative Order, Docket No. SDWA-08-2005-0014, issued on April 12, 2005, under section 1414(g) of the SDWA, 42 U.S.C. § 300g-3(g). The violations are specifically set out in the complaint.



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By law, the system has 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 the system does not respond to this complaint within 30 days of receipt, a default judgment may be entered and the proposed administrative civil penalty may be assessed without further proceedings. In the system's answer it may request a hearing. The system has the right to be represented by an attorney at any stage of these proceedings.

Whether or not the system requests a hearing, its representatives may confer informally with EPA concerning the alleged violations or the amount of the proposed penalty.

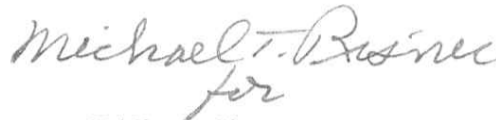
EPA encourages all parties against whom it files a complaint proposing assessment of a penalty to pursue the possibilities of settlement through an informal conference. Any such settlement shall be finalized by the issuance of a final order by the Regional Judicial Officer, EPA Region 8. The issuance of a consent agreement shall constitute a waiver of the system's right to request a hearing on any matter to which the system has stipulated in that agreement.

A request for an informal conference does not extend the 30-day period during which the system 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.

For any questions specific to the violations or penalty, the most knowledgeable people on my staff regarding this matter are Melanie Wasco, Environmental Protection Specialist, who can be reached at 800/227-8917, extension 6450, or Peggy Livingston, Enforcement Attorney, who can be reached at 800/227-8917, extension 6858.

We urge your prompt attention to this matter.

Sincerely,



Eddie A. Sierra
Acting Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

Enclosure

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



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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

EPA REGION VIII
HEARING OFFICE

IN THE MATTER OF)

High Country Subdivision)
Jackson, Wyoming)

Respondent)

Proceedings under section 1414(g))
of the Safe Drinking Water Act,)
42 U.S.C. §300g-3(g))

) Docket No. **SDWA-08-2007-0079**

) **COMPLAINT AND NOTICE OF**
) **OPPORTUNITY FOR HEARING**

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. The High Country Subdivision ("Respondent"), also known as Hi Country Water District, is 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. Respondent owns and/or operates a system, the High Country Subdivision Water System (the "System"), located in Teton 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, 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. 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 a well. The System serves an average of approximately 75 persons daily through approximately 26 service connections year-round.
6. On April 12, 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-08-2005-0014 (the "Order") to Respondent, citing violations of the NPDWR.
7. A copy of the Order is attached to this complaint (Complainant's Exhibit 2).
8. On June 27, 2006, EPA issued an Administrative Order Violation / Administrative Order Addendum letter to the Respondent.
9. A copy of the June 27, 2006 letter is attached to this complaint (Complainant's Exhibit 3).
10. On September 23, 2005, and on September 16, 2006, the System exceeded the action level for copper.
11. On May 8, 2007, EPA issued an Administrative Order Violation letter, noting that the Respondent (1) was in violation of the Order's requirement to submit an optimal corrosion control and source water treatment recommendations to EPA within three months of exceeding the copper action level and (2) had exceeded the Maximum Contaminant Level (MCL) for total coliform.
12. A copy of EPA's May 8, 2007 letter is attached to this Complaint (Complainant's Exhibit 4).

COUNTS OF VIOLATION

Count I

***Untimely Submission of Optimal Corrosion Control
and Source Water Treatment Recommendations to EPA***

1. The Order (on page 8, in par. 4 of the "Order" section) required Respondent to provide EPA with optimal corrosion control and source water treatment recommendations within three months of exceeding any lead or copper action level (as set forth in 40 C.F.R. §141.80(c)) during either of two monitoring periods (one within 30 days of the Order and a second between July 1 - December 31, 2005).
2. Although the System exceeded the copper action level on September 23, 2005, EPA did not require that the Respondent submit recommendations to EPA by December 23, 2005. Instead, the June 27, 2006 letter allowed the Respondent to wait to submit the recommendations to EPA until completing further lead and copper sampling, including source water and water quality parameter sampling, from September 1 - December 31, 2006.
3. Respondent violated the 2006 Order (as modified by the June 27, 2006 letter) because, after exceeding the copper action level on September 16, 2006, it failed to provide optimal corrosion control and source water treatment recommendations to EPA by December 16, 2006. The Respondent did not submit complete recommendations to EPA until May 15, 2007. (Although EPA did receive a report from the Respondent on March 20, 2007, over three months after the

deadline, EPA notified the Respondent, by letter dated May 8, 2007, that this report was incomplete.)

Count II
Violation of Maximum Contaminant Level for Total Coliform

1. The Order (on page 10, in par. 6 of the "Order" section) required Respondent to comply with the total coliform MCL as stated in 40 C.F.R. §141.63.
2. Respondent violated the Order by exceeding the total coliform MCL in November of 2006.

Count III
Failure to Report MCL Violation to EPA

1. The Order (on page 10, in par. 7 of the "Order" section) required Respondent to report any total coliform MCL violation to EPA no later than the end of the next business day after learning of the violation, as required by 40 C.F.R. §141.21(g)(1).
2. Respondent violated the Order by failing to report its November 2006 MCL violation to EPA.

PROPOSED ADMINISTRATIVE CIVIL PENALTY

This complaint proposes that EPA assess an administrative penalty from Respondent. 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 \$27,500.¹

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

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 Respondent's 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 \$1,200.00 against Respondent for its violations of the Order.

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), Respondent has 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 Respondent wishes to request a hearing, Respondent 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, Respondent has an additional five (5) calendar days, pursuant to 40 C.F.R. §22.7(c), in which to file its answer.

If Respondent requests a hearing in its 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, Respondent has 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 address below:

Tina Artemis
Region 8 Hearing Clerk (8RC)
U.S. Environmental Protection Agency
1595 Wynkoop Street
Denver, Colorado 80202

FAILURE TO FILE AN ANSWER

If Respondent does not file a written answer with the Regional Hearing Clerk at the address above within thirty (30) days of receipt of this complaint, Respondent 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 Respondent has any knowledge. The answer must state (1) any circumstances or arguments which the Respondent alleges to constitute grounds of defense, (2) any facts the Respondent disputes, (3) whether and on what basis the Respondent opposes the proposed penalty, and (4) whether the Respondent requests 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 Respondent requests, schedules, or participates in a settlement conference.**

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 Respondent may have regarding this complaint, should be directed to the attorney named below.

Dated this 28 day of August, 2007.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 8
Complainant.

for Michael T. Bigner
Eddie A. Sierra
Acting 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:

Cody Brinton, President
High Country Subdivision
850 S. High Country Dr.
Jackson WY 83001

and to

Jon Wagner, Operator
High Country Subdivision
P.O. Box 54
Teton Village, WY 83025

Date: 8/28/07

By: Judith McTernan
Judith McTernan