



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

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EPA REGION VIII
HEARING CLERK

Honorable Samuel Vieyra, Mayor
Town of Rock River
POB 280
Rock River, WY 82083

Re: Administrative Order Violation #2
Docket No. SDWA-08-2009-0050
PWS ID #5600048

Dear Mayor Vieyra:

On June 18, 2009, the U.S. Environmental Protection Agency (EPA) issued an Administrative Order (the Order), Docket No. SDWA-08-2009-0050, ordering the Town of Rock River (Town) to comply with various regulations issued by EPA under the Safe Drinking Water Act (SDWA), 42 U.S.C. Section 300f et seq.

Our records indicate that the Town remains in violation of the Order. Among other things, the Order included the following requirements (quoted from item 11 on page 2 of the Order):

1. Within 90 days, Respondent shall provide EPA with a compliance plan and schedule for the system to achieve consistent compliance with the HAA5 MCL. 40 C.F.R. §§ 141.64 and 141.133(b)(1)(i). The plan shall include proposed system modifications, estimated cost of the modifications, and a schedule for completion of the project and compliance with the HAA5 MCL. The proposed schedule shall include specific milestone dates and a final compliance date to be within 12 months after EPA's approval of the plan. The plan and schedule must be approved by EPA before construction or modifications can commence. EPA's approval of Respondent's plan and schedule does not substitute for any State of Wyoming approval of plans and specifications that may also be required before modifications can be made to the system.

On November 2, 2009, EPA received a copy of the permit application that was submitted to the Wyoming Department of Environmental Quality (DEQ) by Aspen-Banner Engineering (Aspen-Banner) on behalf of the Town. Due to the permit application being incomplete, the DEQ denied a permit via letter dated November 9, 2009. On December 21, 2009, the Town submitted to EPA a letter from Aspen-Banner that stated a revised permit application would be submitted to DEQ no later than mid-February 2010. Aspen-Banner, upon inquiry by EPA as to the status of the permit application, sent a fax on March 2, 2010, that stated any future submissions to DEQ were on hold until the newly-hired Town operator attempted to address the HAA5 MCL by modifying the timing of samples. The Town has previously attempted to achieve consistent compliance numerous times through modifying operational procedures and the timing

of sampling and had been unsuccessful. EPA will not approve modified timing of samples as a compliance plan. All compliance samples must be representative of water quality during normal operations. Further, DEQ's denial of a permit was not disapproval of pretreatment as was implied in the March 2, 2010, correspondence from Aspen-Banner, rather it was the lack of information provided in the application such as an incomplete design report and incomplete submission of all documents needed for the review.

The Town was issued an Administrative Order Violation Letter for this same violation on December 30, 2009, as the plan submitted to EPA as required by the Order was incomplete because it did not include a schedule for completion of the project. **A plan that meets the requirements of the Order and the above paragraph must be submitted to EPA.** The Town's continued failure to meet this requirement is a continuing violation of the Order.

EPA is considering additional enforcement action as a result of non-compliance with the Order. Violating an Administrative Order may lead to (1) a penalty of up to \$37,500 per day per violation of the Order, and/or (2) a court injunction ordering compliance.

If you have any questions or wish to have an informal conference with EPA, you may contact Kathelene Brainich at 1-800-227-8917, extension 6481 or (303) 312-6481. If you are represented by an attorney who has questions, ask your attorney to contact Thomas Sitz, Enforcement Attorney, at 1-800-227-8917, extension 6918, or (303) 312-6918 or at the following address:

Thomas Sitz
Enforcement Attorney
U.S. EPA, Region 8 (8ENF-L)
1595 Wynkoop Street
Denver, Colorado 80202-1129

We urge your prompt attention to this matter.

Sincerely,



Lisa Kahn, Team Leader
Drinking Water Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

cc: Jim Cavalli, Aspen-Banner Engineering
WY DEQ and DOH (via email)
Tina Artemis, EPA Regional Hearing Clerk

