



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**REGION 6**

**1445 ROSS AVENUE, SUITE 1200  
DALLAS, TEXAS 75202-2733**

**OCT 18 2011**

CERTIFIED MAIL - RETURN RECEIPT REQUESTED: 7011 0110 0001 3590 6643

Ms. Elizabeth Thayer  
Coyote Creek Mutual Domestic  
Water Users Association  
HC 32, Box 565  
Quemado, NM 87829

Re: PWS ID Number: NM3500402  
Docket Number: SDWA-06-2011-1212

Dear Ms. Thayer:

Enclosed is an Administrative Complaint (Complaint) issued to you by the Environmental Protection Agency (EPA) for failure to achieve compliance with the total coliform and uranium requirements. On August 7, 2008, EPA issued an Administrative Order requiring you to: 1) comply with the maximum contaminant level for total coliform set forth in 40 C.F.R. § 141.63; 2) comply with the maximum contaminant level for uranium set forth in 40 C.F.R. § 141.66; and 3) address the water system deficiencies in order to protect the water system from potential contamination from the environment and/or wildlife and public health. To date, you have failed to meet these requirements.

The Complaint proposes a penalty of \$5,000.00. By law, you have the right to request a hearing regarding the allegations and/or civil penalty set forth in this Complaint. You have the right to representation by an attorney at any stage of these proceedings. If you do not respond to this Complaint within thirty (30) days of receipt, a Default Order may be entered and the proposed civil penalty may be assessed against you without further proceedings.

Whether or not you request a hearing, we invite you to confer informally with the EPA concerning the alleged violation and the amount of the proposed penalty. You may represent yourself or be represented by an attorney at any conference, whether in person or by telephone. The EPA encourages all parties against whom it files a Complaint proposing assessment of a penalty to pursue the possibility of settlement as a result of an informal conference.

Re: Administrative Complaint  
Ms. Elizabeth Thayer

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The EPA is available to provide compliance assistance. If you have any questions or wish to explore the possibility of settlement, please contact Ms Chelo Hall, of my staff, at (214) 665-8416. We urge your prompt attention to this matter.

11/05 9:11 PM  
Sincerely,



John Blevins  
Director  
Compliance Assurance and  
Enforcement Division

Enclosure

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cc w/Complaint: Regional Hearing Clerk

Ms. Margaret Ryan, Bureau Chief  
Drinking Water Bureau  
New Mexico Environment Department  
Santa Fe, NM 87505





U. S. ENVIRONMENTAL PROTECTION AGENCY-REGION 6 **FILED**  
COMPLAINT AND NOTICE OF OPPORTUNITY FOR HEARING

In the Matter of Public Water System (Coyote Creek Mutual Domestic Water Users Association)

Owned/Operated by Elizabeth Thayer, Respondent

Docket No. SDWA-06-2011-1212

2011 OCT 18 AM 10:17  
REGIONAL HEARING CLERK  
EPA REGION VI

STATUTORY AUTHORITY

The following findings are made and Administrative Complaint ("Complaint") 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 ("Act"), 42 U.S.C. § 300g-3(g)(3). The Administrator delegated the authority to issue this Complaint to the Regional Administrator of EPA Region 6 who further delegated such authority to the Director of the Compliance Assurance and Enforcement Division. This Complaint is issued in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, Revocation, Termination or Suspension of Permits," including rules related to Administrative Proceedings not Governed by Section 554 of the Administrative Procedures Act, 40 C.F.R. §§ 22.50-22.52.

FINDINGS AND CONCLUSIONS

1. Respondent, Ms. Elizabeth Thayer, is a "person," as defined by Section 1401(12) of the Act, 42 U.S.C. § 300f(12).
2. At all times relevant to the violations alleged herein, Respondent owned or operated a public water system ("PWS"), as defined by Section 1401(4) of the Act, 42 U.S.C. § 300f(4), located in Quemado, Catron County, New Mexico and designated as PWS number NM3500402.
3. At all times relevant to the violations alleged herein, Respondent's PWS was a "community water system" as defined by Section 1401(15) of the Act, 42 U.S.C. § 300f(15).
4. At all times relevant to the violations alleged herein, Respondent's PWS was subject to the requirements of the Total Coliform Rule ("TCR") as described by 40 C.F.R. § 141.63, and the requirements of the Radionuclide Rule as described by 40 C.F.R. § 141.66.
5. On August 25, 2008, the EPA issued Administrative Order Docket No. SDWA-06-2007-1294 ("Order") to Respondent, pursuant to EPA's authority under Section 1414(g) of the Act, 42 U.S.C. § 300g-3(g), citing violation of the TCR, the Radionuclides Rule, and public water system deficiencies. The EPA Order required Respondent to comply with the requirements of the TCR, and the

Radionuclides Rule in accordance with 40 C.F.R. § 141 and with corrective action requirements to address the water system deficiencies in order to protect the water system from potential contamination from the environment and/or wildlife and public health and to install a treatment technology to remove uranium.

6. Pursuant to the EPA Order, Respondent violated the following requirements: 1) exceeded the Maximum Contaminant Level ("MCL") for total coliform set forth in 40 C.F.R. § 141.63 on monthly routine samples, special samples, and repeat water samples on August 2006, March 2007, July 2007, August 2007, September 2007, August 2008, August 2010; 2) exceeded the MCL for uranium set for in 40 C.F.R. § 141.66 on January 2007 thru December 2007, January 2008 thru December 2008, January 2009 thru December 2009, January 2010 thru December 2009, and January 2010 thru December 2010; 3) failed to provide the chlorine contact time to achieve 4 log treatment for viruses; 4) failed to provide a corrective action plan which would achieve assure of 99.99% (4 log) inactivation of viruses from all chlorinators at maximum flow, if Coyote Creek does not meet 4 log; and 5) failed to meet the milestones and timelines set forth in the Order, which would have addressed the water system deficiencies in order to comply with the TCR. This included protecting wells and storage tanks by installing 6' fences and burying transmission lines at Well #2, Snell Well, and Homestead Well.

7. Pursuant to Section 1414(g) of the Act, 42 U.S.C. § 300f et seq., Respondent is liable for an administrative civil penalty in an amount not to exceed \$37,500 for violation of the Order.

PROPOSED PENALTY

8. Based on these Findings and Conclusions, having taken into account the serious nature of the violations, the population at risk, and other appropriate factors, including with respect to the violator, ability to pay, the past history of such violations, degree of culpability, and other matters as justice may require, and pursuant to the authority of Section 1414(g)(3)(B) of the Act, 42 U.S.C. § 300g-3(g)(3)(B), EPA proposes to assess against Respondent a penalty of five thousand dollars (\$5,000.00).

NOTICE OF OPPORTUNITY TO REQUEST A HEARING



9. Respondent may request a hearing to contest any material allegation contained in this Complaint, or to contest the appropriateness of the amount of the proposed penalty, pursuant to Section 1414(g)(3)(B) of the Act, 42 U.S.C. § 300g-3(g)(3)(B). The procedures for hearings are set out at 40 C.F.R. Part 22 (copy enclosed), including 40 C.F.R. §§ 22.50 through 22.52 and supplemental rules at 40 C.F.R. § 22.42.

#### FAILURE TO ANSWER

10. Respondent must file an Answer within thirty (30) days after service of this Complaint, whether or not Respondent requests a hearing, as discussed below.

11. Failure to file an Answer within thirty (30) days after service of the Complaint shall constitute an admission of all facts alleged in the Complaint and a waiver of the right to hearing under 40 C.F.R. § 22.15(d).

12. Pursuant to 40 C.F.R. § 22.42(b), Respondent has a right to elect a hearing on the record in accordance with 5 U.S.C. § 554. Respondent waives this right unless Respondent, in its Answer, requests a hearing in accordance with 5 U.S.C. § 554.

13. If Respondent does not file an Answer within thirty (30) days after service of this Complaint, a Default Order may be issued against Respondent pursuant to 40 C.F.R. § 22.17. A Default Order, if issued, would constitute a finding of liability, and could make the full amount of the penalty proposed in this Complaint due and payable by Respondent, without further proceedings, thirty (30) days after a Final Order is issued upon default.

14. Respondent must send its Answer to this Complaint, including any request for hearing, and all other pleadings to:

Regional Hearing Clerk (6RC-D)  
U.S. EPA, Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, TX 75202-2733

and a copy to the following EPA attorney assigned to this case:

Ellen Chang-Vaughan (6RC-EW)  
U.S. EPA, Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, TX 75202-2733

15. The Answer must be signed by Respondent, Respondent's counsel, or other representative on behalf of

Respondent and must contain all information required by 40 C.F.R. §§ 22.05 and 22.15, including the name, address, and telephone number of Respondent and Respondent's counsel. All other pleadings must be similarly signed and filed.

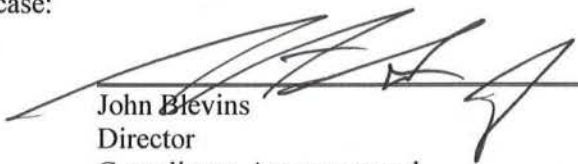
#### SETTLEMENT

16. EPA encourages all parties against whom civil penalties are proposed to pursue the possibility of settlement through informal meetings with EPA. Regardless of whether a formal hearing is requested, Respondent may confer informally with EPA about the alleged violations or the amount of the proposed penalty. Respondent may wish to appear at any informal conference or formal hearing personally, by counsel or other representative, or both.

17. If this action is settled without a formal hearing and issuance of an opinion by the Presiding Officer pursuant to 40 C.F.R. § 22.27, this action will be concluded by issuance of a Consent Agreement and Final Order ("CAFO") pursuant to 40 C.F.R. § 22.18(b). The issuance of a CAFO would waive Respondent's right to a hearing on any matter stipulated to therein or alleged in the Complaint. Any person who commented on this Complaint would be notified and given an additional thirty (30) days to petition EPA to set aside any such CAFO and to hold a hearing on the issues raised in the Complaint. Such a petition would be granted and a hearing held only if the evidence presented by the petitioner's comment was material and was not considered by EPA in the issuance of the CAFO.

18. Neither assessment nor payment of a penalty in resolution of this action will affect Respondent's continuing obligation to comply with all requirements of the Act, the applicable regulations and permits, and any separate Compliance Order issued under Section 1414(g) of the Act, 42 U.S.C. § 300g-3(g), including one relating to the violations alleged herein.

10/18/11  
Date

  
John Blevins  
Director  
Compliance Assurance and  
Enforcement Division

CERTIFICATE OF SERVICE

I certify that the foregoing Administrative Complaint was sent to the following persons, in the manner specified, on the date below:

Original hand-delivered:	Regional Hearing Clerk (6RC-D) U.S. EPA, Region 6 1445 Ross Avenue Dallas, TX 75202-2733
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Copy by certified mail, return receipt Requested	Mr. Wayne Stephens, Administrator Haskell Public Water Association P.O. Drawer 9 Haskell, OK 74436
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Carbon copy:	Ms. Shellie Chard-McClary, Director Water Quality Programs Oklahoma Department of Environmental Quality P.O. Box 1677 Oklahoma City, OK 73101-1677
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Carbon copy hand-delivered:	Ms. Ellen Chang-Vaughan U.S. EPA, Region 6 1445 Ross Avenue Dallas, TX 75202-2733
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Dated: Oct 18, 2011 Cheryl Hall

