



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029**

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

JUN 30 2014

Mr. David Mathews
Shenandoah Utility Services
375 Woodland Drive
Luray, Virginia 22835

RE: Administrative Complaint and Notice of Opportunity to Request Hearing
Docket No. SDWA-03-2014-0015-DS
Shenandoah Utility Services, Luray, Page County, Virginia 22835
PWS ID No. VA2139017

Dear Mr. Mathews:

The Environmental Protection Agency (EPA) is issuing the enclosed Administrative Complaint and Notice of Opportunity to Request Hearing (Complaint), filed against you as the owner of the public water system referenced above. This letter and the enclosed Complaint will tell you why EPA is sending the Complaint, what you need to do, when and where to send your response, what happens if you do not respond.

Also enclosed is a copy of 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, 40 C.F.R. Part 22 (Consolidated Rules).

Why EPA is Sending the Complaint

This Complaint is being issued because you did not respond to or comply with the May 27, 2009 Administrative Order (AO), October 27, 2009 letter (Letter) which included a copy of the AO, or the February 28, 2012 AO. The Letter and the AOs stated that your lack of response and action to the AOs could result in a fine. In addition, you continued to incur violations and failed to make progress toward obtaining a licensed operator while in negotiation with EPA for a resolution of the violations addressed in the AOs. **EPA is proposing a penalty of \$37,500.**

What You Need to Do

The enclosed Complaint directs you to file an Answer within 30 days if you wish to avoid being found in default. The addresses where you need to send the response are below. The answer must include specific items, including a request for a hearing, if desired. The Answer must:

- clearly and directly admit, deny or explain each of the factual allegations contained in the Complaint with regard to which you have any knowledge. Where you do not have knowledge of a particular factual allegation and say so, the allegation is deemed denied.
- include circumstances or arguments that are alleged to constitute grounds of any defense;
- include the facts which you dispute;
- include the basis for opposing any proposed relief; and
- include, if desired, a request for a hearing to contest any part of the Complaint.

In addition to a request for a hearing, you may also request a settlement conference. **However, a request for a settlement conference does not relieve you of the responsibility to file an Answer to the Complaint and does not extend the thirty day deadline for your written Answer.**

Where and When to Send Your Answer

The Answer must be filed within thirty (30) days of receiving this Complaint with:

Regional Hearing Clerk (3RC00)
U.S. Environmental Protection Agency, Region III
1650 Arch Street
Philadelphia, PA 19103-2029

A copy of this Answer and any other documents shall be sent to:

Mr. Andrew Duchovnay
Senior Assistant Regional Counsel (3RC20)
U.S. Environmental Protection Agency
1650 Arch Street
Philadelphia, PA 19103-2029
Duchovnay.Andrew@epa.gov

Mr. Duchovnay may also be reached by telephone at (215) 814-2484 and by facsimile at (215) 814-2603.

What Happens if You Don't Take Action

If you do not comply with the enclosed Complaint you can be found in default. If a default judgment is issued, you will be required to pay the entire penalty with no right to contest the factual allegations in the Complaint.

Where to Go for Assistance

Assistance for Small Business

EPA has determined that your company may be a small business under the Small Business Regulatory Enforcement Fairness Act (SBREFA). Enclosed is a copy of the SBREFA Fact Sheet. This Fact Sheet provides information on contacting the SBREFA Ombudsman to comment on Federal enforcement and compliance activities and also provides information on compliance assistance. As noted in the Fact Sheet, any decision to participate in this program or to seek compliance assistance does not relieve you of your obligation to respond in a timely manner to an EPA request or other enforcement action, does not create any new rights or defenses under law and will not affect EPA's decision to pursue this enforcement action. To preserve your legal rights, you must comply with all rules governing the administrative enforcement process. The Ombudsman and fairness boards do not participate in the resolution of EPA's enforcement actions.

You can contact Mr. Andrew Duchovnay, the EPA attorney assigned to this case, at 215-814-2484, if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Jon M. Capacasa", written over a horizontal line.

Jon M. Capacasa, Director
Water Protection Division

Enclosures

cc: Robert A. K. Payne, J.D., Virginia Department of Health

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, PA 19103

REGIONAL HEARING CLERK
EPA REGION III PHILADELPHIA

2014 JUN 30 AM 11:34

RECEIVED

In the Matter of	)	Proceeding to Assess Civil Penalty
	)	Pursuant to Section 1414(g)(3) of
Mr. David T. Mathews	)	the Safe Drinking Water Act
Shenandoah Utility Services)	
375 Woodland Drive)	
Luray, Virginia 22835	)	Docket No.
	)	SDWA-03-2014-0015-DS
)	
Respondent	)	ADMINISTRATIVE COMPLAINT
	)	AND NOTICE OF
	)	OPPORTUNITY
PWS ID No. VA2139017	)	TO REQUEST HEARING
)	
)	
)	
)	
)	

I. STATUTORY AUTHORITY

1. This Administrative Complaint and Notice of Opportunity to Request a Hearing (Complaint) is issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) pursuant to Section 1414(g)(3)(B) of the Safe Drinking Water Act (SDWA or Act), 42 U.S.C. § 300g-(g)(3)(B), and delegated to the Regional Administrator of EPA Region III, and further delegated to the Director, Water Protection Division EPA Region III (Complainant).

2. Pursuant to Section 1414(g)(3)(B) of the Act, 42 U.S.C. § 300g-(g)(3)(B), the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, and the subsequent Civil Monetary Penalty Inflation Adjustment Rule (codified at 40 C.F.R. Part 19), and in accordance with 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, 40 C.F.R. Part 22, Complainant hereby proposes that an administrative civil penalty be assessed against David Mathews (Respondent) for violations of two Administrative Orders issued to Respondent on May 27, 2009, and February 28, 2012, pursuant to Section 1414(g) of the SDWA, requiring compliance with applicable

requirements of the SDWA at Respondent's public water system in Luray, Page County, Virginia.

II. FACTUAL AND JURISDICTIONAL ALLEGATIONS AND FINDINGS OF VIOLATIONS

3. Respondent, Mr. David Mathews, is an individual and therefore a "person" as defined by § 1401(12) of the SDWA, 42 U.S.C. § 300f(12), and 40 C.F.R. § 141.2.
4. Respondent is the owner of a water supply and distribution system for provision of drinking water for human consumption, known as Shenandoah Utility Services, located at 375 Woodland Drive, Luray, Page County, Virginia, Public Water System Identification Number: VA2139017 (System). The Commonwealth of Virginia, Department of Health issued Waterworks Operation Permit Number 2139017 (Permit) to Respondent for the operation of the Shenandoah Utility Services. The Permit became effective on August 12, 2004 and had no expiration date.
5. The System is supplied by a ground water source and treats the water with a chemical disinfectant.
6. A "public water system," as defined by § 1401(4) of the SDWA, 42 U.S.C. § 300f(4), and 40 C.F.R. § 141.2, is a system that regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year, and/or has at least fifteen (15) service connections. A "community water system" is defined at §1401(15) of the SDWA, 42 U.S.C. § 300f(15) and 40 C.F.R. § 141.2 to be a public water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents. According to a sanitary survey inspection conducted by the Virginia Department of Health (VDH) on October 4, 2011, the System serves 55 persons who are year-round residents via at least 18 service connections. Therefore, the System meets the definitions of a "public water system" and "community water system."
7. As the owner of the system, Respondent is a "supplier of water" as defined by § 1401(5) of the SDWA, 42 U.S.C. § 300f(5), and 40 C.F.R. § 141.2. The Respondent is therefore subject to the requirements of Part B of the SDWA, 42 U.S.C. § 300g *et seq.*, and its implementing regulations, the National Primary Drinking Water Regulations (NPDWR), 40 C.F.R. Part 141. The NPDWR established mandatory monitoring, analysis and reporting requirements for suppliers of water.
8. In 1999 EPA issued final guidelines for the Certification and Recertification of the Operators of Community and Nontransient Noncommunity Public Water Systems (Final Guidelines), 64 Fed. Reg. 5919, February 5, 1999. The Final Guidelines stated that:
The public health objectives of the guidelines are to ensure that:
 - Customers of any public water system be provided with an adequate

supply of safe, potable drinking water.

- Consumers are confident that their water is safe to drink.
- Public water system operators are trained and certified and that they have knowledge and understanding of the public health reasons for drinking water standards.

9. The Final Guidelines established the minimum requirements that State programs must meet to ensure that Community and Nontransient Noncommunity Public Water Systems are operated by certified and qualified operators.
10. On November 13, 2008, VDH issued a Notice of Violation to the System for failure to have a licensed operator. The NOV included a draft Public Notice for distribution to the System's customers advising them that the System was not being maintained by a licensed operator. (See Attachment A, attached hereto.)
11. VDH has issued no fewer than one hundred seventy-seven (177) Notices of Violations to Respondent since it purchased the System. Since 2009, VDH has issued no fewer than thirty (30) Notices of Violation to the Respondent for failures to monitor and failures to provide customer notices, but has been unable to secure Respondent's compliance with the SDWA. (See Attachment B, attached hereto for a summary description of the Notices of Violation since 2009.)
12. On February 10, 2009, EPA issued a Notice of Violation/Request for Information (referred to as the "2009 NOV/RFI") to Respondent, under sections §1414(a)(1)(A) and § 1445 of the SDWA, 42 U.S.C. § 300g-3(a)(1)(A) and 42 U.S.C. §300 j-4. The 2009 NOV/RFI required Respondent to provide, within thirty (30) days of receipt of the NOV/RFI, specific information regarding the System, including, *inter alia*, information notifications to the public ("public notices"), copies of chemical analyses, and plans to conduct the required monitoring, reporting and public notices. The NOV/RFI was sent to the Respondent via certified mail, return receipt requested. Additionally, the 2009 NOV/RFI required the Respondent to provide EPA with the "Name and street address of the operator or operators of the System, and state certification number, if applicable." A copy of the 2009 NOV/RFI is attached hereto as Attachment C.
13. The 2009 NOV/RFI notified the Respondent of the following violations:
 - (1) Failure to conduct routine monitoring for total coliform bacteria at least once per month as required by 40 C.F.R. § 141.21, for the monthly monitoring periods of January, March, April, May, August and October, 2004; January through April, 2005; January, February, June, July and October, 2006; April, June, September, November and December, 2007; and January, July, August, and October, 2008;
 - (2) Failure to conduct routine monitoring for nitrates as required by 40 C.F.R. §141.23, for the annual monitoring periods beginning 2007 and 2008;
 - (3) Failure to conduct routine monitoring for total trihalomethanes and haloacetic acids as required by 40 C.F.R. §141.132 for the annual monitoring periods of 2007 and 2008.

(4) Failure to conduct routine monitoring for a series of volatile organic compounds, as required by 40 C.F.R. §141.24, for the annual monitoring periods of 2007 and 2008;

(5) Failure to deliver to the System's customers, an annual Consumer Confidence Report by July 1 of the following year, as required under 40 C.F.R. §§141.152 - 155 for the calendar years 2006 and 2007;

Additionally, the RFI issued in 2009 required Respondent to supply copies to EPA of chemical analyses from monitoring activities, and any existing plans and schedules for monitoring, reporting, and public notification.

14. On May 27, 2009, EPA issued an Administrative Order, Docket No. SDWA-03-2009-0150-DS (2009 AO) to Respondent, effective upon issuance, pursuant to Section 1414(g) of the SDWA. A copy of the 2009 AO is attached hereto as Attachment D. The 2009 AO included the findings of violation in paragraph 13 noted above and ordered the Respondent to conduct monitoring for contaminants, in accordance with NPDWR.
15. The 2009 AO required the Respondent to, among other requirements, "comply with the requirements of the SDWA and the applicable requirements of the Commonwealth of Virginia", both of which require that the System be operated by a licensed operator, 40 C.F.R. §141.130(c) and 12 VAC5-590-460 A, respectively, and to include the name of the operator in the annual Consumer Confidence Reports. 40 C.F.R. §141.154(h)(2).
16. Based on information received from VDH, the Respondent has not fully complied with the 2009 AO. Specifically, the System failed to collect samples for nitrates and volatile organic compounds. Additionally, as of this date, EPA has not received the information required by the 2009 RFI, described in paragraph 13.
17. On February 28, 2012, EPA issued an Administrative Order, Docket No. SDWA-03-2012-0112-DS (2012 AO) to Respondent, effective upon issuance, pursuant to Section 1414(g) of the SDWA. A copy of the 2012 AO is attached hereto as Attachment E. The 2012 AO included the following findings of violation and ordered the Respondent to comply with the NPDWR:
 - (1) Failure to conduct monitoring for nitrates as required by 40 C.F.R. § 141.23, for the annual monitoring periods from 2007 through 2011;
 - (2) Failure to conduct monitoring for a series of inorganic chemicals as required by 40 C.F.R. § 141.23 for the annual monitoring periods from 2007 through 2011;
 - (3) Failure to conduct monitoring for cyanide as required by 40 C.F.R. § 141.23 for the 9-year monitoring period of 2002-2010;
 - (4) Failure to conduct routine monitoring for a series of volatile organic compounds, as required by 40 C.F.R. § 141.24, for the annual monitoring periods from 2007 through 2011;
 - (5) Failure to perform four consecutive sampling periods during initial monitoring for gross alpha particle activity, radium-228 and gross beta (radionuclides), as required by 40 C.F.R. § 141.26(a).

- (6) Failure to retain a licensed waterworks operator as required by VDH, in accordance with 12 VAC 5-590-460A.
18. Paragraph 11 of the 2012 AO notified the Respondent of his failure to retain a licensed waterworks operator to be in charge of operation and maintenance of the System, as required by 12 VAC 5-590-460A. The NPDWR at 40 C.F.R. §141.130(c) similarly requires the System to be operated by qualified personnel who meet the requirements specified by the state. Based on information from VDH, the System did not have a licensed operator during the calendar years of 2009 through the present.
 19. Paragraph 15 of the 2012 AO ordered the Respondent to comply with the requirements of the Safe Drinking Water Act, which includes the NPDWR at 40 C.F.R. §141.
 20. Paragraph 16 of the 2012 AO required the Respondent to provide a written report to EPA and VDH within thirty (30) days of the receipt of the 2012 AO outlining the actions the Respondent had taken and Respondent's plans to comply with the orders for compliance in the 2012 AO.
 21. Paragraphs 17 through 21 of the 2012 AO required Respondent to immediately comply with 40 C.F.R. §§ 141.23, 141.24, and 141.26, by sampling for total coliform bacteria monthly; lead and copper between July and September, 2012; organic chemicals quarterly; disinfection byproducts annually, during the warmest month (August); inorganic chemicals triennially; and nitrate/nitrite annually.
 22. Paragraph 22 of the 2012 AO required Respondent to submit quarterly progress reports to EPA and VDH, including the results of any analyses.
 23. Respondent has not fully complied with the 2012 AO as a result of the Respondent's failure to comply with the monitoring described in paragraph 17 above and failure to obtain the services of a licensed operator. Additionally, as of the date of the issuance of this Complaint, EPA has not received the information required by the 2009 NOV/RFI, described in Paragraph 13 above.
 24. On November 5, 2013 VDH issued a Warning Letter and Notice of Impending Enforcement Action to Respondent, attached hereto as Attachment F.
 25. Pursuant to § 1414(g)(2) of the SDWA, 42 U.S.C. § 300g-3(g)(2), EPA has conferred with VDH prior to issuance of this Administrative Complaint and Notice of Opportunity to Request a Hearing.

III. PROPOSED CIVIL PENALTY

26. Under Section 1414(g)(3) of the Act, 42 U.S.C. § 300g-3(g)(3), and the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt

Collection Improvement Act of 1996, and the subsequent Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19, violations which are assessed penalties under Section 1414(g)(3)(B) of the Act, 42 U.S.C. § 300g-3(g)(3)(B) after March 15, 2004, subject the violator to civil penalties in an amount not to exceed \$ 37,500 per proceeding.

27. Based on the foregoing findings of violation, and pursuant to the authority of Section 1414(g)(3)(B) of the Act, 42 U.S.C. § 300g-3(g)(3)(B), Complainant hereby proposes to issue an Order Assessing Administrative Penalties to the Respondent assessing a penalty in the amount of \$37,500. The proposed administrative penalty has been determined in accordance with Section 1423(c)(4) of the Act, 42 U.S.C. § 300h-2(c)(4). For purposes of determining the amount of any penalty to be assessed, EPA has taken into account the seriousness of the violations, the economic benefit resulting from the violation, any history of such violations, any good faith efforts to comply with the applicable requirements, the violator's ability to pay, and other appropriate factors. The proposed penalty does not constitute a demand as defined in 28 U.S.C. §§ 2412 *et seq.*
28. If warranted, Complainant may adjust the proposed civil penalty assessed in this Complaint. Complainant will consider Respondent's ability to pay in making any adjustments to the proposed civil penalty assessed. However, the burden of raising the issue of an inability to pay and demonstrating this fact rests with the Respondent. In addition, to the extent that facts or circumstances unknown to Complainant at the time of issuance of the Complaint become known after issuance of the Complaint, such facts and circumstances may also be considered as a basis for adjusting the proposed civil penalty assessed in the Complaint.

IV. SETTLEMENT CONFERENCE

29. EPA encourages settlement of proceedings at any time after issuance of a Complaint if such settlement is consistent with the provisions and objectives of the SDWA. Whether or not a hearing is requested, the Respondent may request a settlement conference to discuss the allegations of the Complaint and the amount of the proposed civil penalty. **However, a request for a settlement conference does not relieve the Respondent of the responsibility to file a timely Answer to the Complaint.**
30. In the event settlement is reached, its terms shall be expressed in a written Consent Agreement prepared by Complainant, signed by the parties, and incorporated into a Final Order signed by the Regional Administrator or his designee. The execution of such a Consent Agreement shall constitute a waiver of Respondent's right to contest the allegations of the Complaint or to appeal the Final Order accompanying the Consent Agreement.
31. If you wish to arrange a settlement conference or if you have any questions related to this proceeding, please contact the attorney assigned to this case, as

indicated in Section V, following your receipt of this Complaint. **Such a request for a settlement conference does not relieve the Respondent of the responsibility to file an Answer within 30 days following Respondent's receipt of this Complaint.**

V. NOTICE OF OPPORTUNITY TO REQUEST A HEARING

32. As provided in section 1414(g)(3)(B) of the SDWA, 42 U.S.C. § 300g-3(g)(3)(B), the Respondent has the right to a public hearing regarding this Complaint to contest any material fact contained in this Complaint, or to contest the appropriateness of the amount of the proposed penalty. At the hearing, Respondent may contest any material fact contained in the violations listed in Section II above, and the appropriateness of the proposed penalty amount.
33. Hearing procedures are described in the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits, 40 C.F.R. Part 22, a copy of which is enclosed.
34. If the Respondent wishes to avoid being found in default, he must file a written Answer to this Complaint and a Request for Hearing with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region III, within 30 (thirty) days of service of this Complaint. The Answer must clearly and directly admit, deny or explain each of the factual allegations contained in the Complaint with regard to which Respondent has any knowledge. Where Respondent has no knowledge of a particular factual allegation and so states, the allegation is deemed denied.
35. The Answer shall also state:
 - a. the circumstances or arguments that are alleged to constitute grounds of any defense;
 - b. the facts which Respondent disputes;
 - c. the basis for opposing any proposed relief; and
 - d. whether a hearing is requested.

Failure of respondent to admit, deny or explain any of material factual allegation in the Complaint constitutes an admission of the allegation.

36. The Answer must be filed within thirty (30) days of receiving this Complaint with the following:

Regional Hearing Clerk (3RC00)
U.S. Environmental Protection Agency, Region III
1650 Arch Street
Philadelphia, PA 19103-2029

37. A copy of this Answer and any subsequent documents filed in this action shall be sent to:

Mr. Andrew Duchovnay
Senior Assistant Regional Counsel (3RC20)
U.S. Environmental Protection Agency
1650 Arch Street
Philadelphia, PA 19103-2029
Duchovnay.Andrew@epa.gov

Mr. Duchovnay may be reached by telephone at (215) 814-2484 and by facsimile at (215) 814-2603.

38. If Respondent fails to file a written Answer within thirty (30) days of service of this Complaint, a Default Order may be issued. Default by the Respondent constitutes, for purposes of the pending proceeding only, an admission of all facts alleged in the Complaint and a waiver of Respondent's right to contest such factual allegations. Upon issuance of a default judgment, the civil penalty proposed herein shall become due and payable without further proceedings thirty (30) days after the default order becomes final. Respondent's failure to pay the entire penalty assessed by the default order by its due date will result in a civil action to collect the assessed penalty. In addition, the default penalty is subject to the provisions relating to imposition of interest, penalty and handling charges set forth in the Federal Claims Collection Act at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717.
39. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. Part 13.11, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on any unpaid amount if it is not paid within thirty (30) calendar days of Respondent's receipt of notice of filing of an approved copy of an Order assessing Administrative Penalties with the Regional Hearing Clerk. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. Part 13.11(a). Moreover, the costs of the Agency's administrative handling of overdue debts, based on either actual or average cost incurred, will be charged on all debts. 40 C.F.R. Part 13.11(b). In addition, a penalty will be assessed on any portion of the debt which remains delinquent more than ninety (90) calendar days after payment is due. 40 C.F.R. Part 13.11(c). Should assessment of the penalty charge of the debt be required, it will be assessed as of the first day payment is due pursuant to 4 C.F.R. Part 102.13(e). Furthermore, pursuant to EPA Resources Management Directives System, Chapter 9, EPA will assess a \$15.00 handling charge for administrative costs on unpaid penalties for the first 30-day period after a payment is due and an additional \$15.00 for each subsequent 30 days the penalty remains unpaid.
40. Neither assessment nor payment of an administrative civil penalty pursuant to

Section 1414(g)(3) of the SDWA, 42 U.S.C. § 300g-3(g)(3), shall affect Respondent's continuing obligation to comply with the SDWA, any other Federal or State laws, and with any Compliance Order issued pursuant to Section 1414(g).

VI. QUICK RESOLUTION

41. In accordance with 40 C.F.R. § 22.18(a) Respondent may resolve this proceeding at any time by paying the specific penalty proposed in this Complaint.
42. If Respondent pays the specific penalty proposed in this Complaint within thirty (30) days of receiving this Complaint, then, pursuant to 40 C.F.R. § 22.18(a)(1), no Answer need be filed.
43. If Respondent wishes to resolve this proceeding by paying the penalty proposed in this Complaint instead of filing an Answer, but needs additional time to pay the penalty, pursuant to 40 C.F.R. § 22.18(a)(2), Respondent may file a written statement with the Regional Hearing Clerk within 30 days after receiving this Complaint stating that Respondent agrees to pay the proposed penalty in accordance with 40 C.F.R. § 22.18(a)(1). Such written statement need not contain any response to, or admission of, the allegations in the Complaint. Such statement shall be filed with the following:

Regional Hearing Clerk (3RC00)
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029

and a copy shall be provided to:

Mr. Andrew Duchovnay (3RC20)
Senior Assistant Regional Counsel
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029

44. If Respondent files such a written statement with the Regional Hearing Clerk within 30 days after receiving this Complaint, Respondent shall pay the full amount of the proposed penalty within 60 days of receiving the Complaint. Failure to make such payment within 60 days of receipt of the Complaint may subject the Respondent to default pursuant to 40 C.F.R. § 22.17.
45. Upon receipt of payment in full, in accordance with 40 C.F.R. § 22.18(a)(3), the Regional Judicial Officer or Regional Administrator shall issue a final order.

Payment by Respondent shall constitute a waiver of Respondent's rights to contest the allegations and to appeal the final order.

46. Payment of the penalty shall be made by one of the following methods below. Payment by Respondent shall reference Respondent's name and address, and the EPA Docket Number of the Administrative Penalty Complaint.

a. Payment by check to "United States Treasury":

i. If sent via first-class mail, to:

US EPA Region III
Fines and Penalties
Cincinnati Finance Center
P. O. Box 979077
St. Louis, MO 63197-9000

ii. If sent via UPS, Federal Express, or Overnight Mail, to:

U.S. Environmental Protection Agency
Government Lockbox 979077
US EPA Fines and Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101
314-418-1028

b. Via wire transfer, sent to:

Federal Reserve Bank of New York
ABA: 021030004
Account Number: 68010727
SWIFT address: FRNYUS33
33 Liberty Street
New York, NY 10045
Attn: "D 68010727 Environmental Protection Agency"

c. Via ACH (Automated Clearing House) for receiving U.S. currency, sent to:

US Treasury REX/Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking
Finance Center Contacts:

- 1) Jesse White: 301-887-6548
- 2) John Schmid: 202-874-7026
- 3) REX (Remittance Express) 866-234-5681

At the same time payment is made, copies of the check and/or proof of payment via wire transfer or ACH shall be mailed to:

Regional Hearing Clerk (3RC00)
U.S. EPA, Region III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

and to:

Mr. Andrew Duchovnay (3RC20)
Senior Assistant Regional Counsel
U.S. EPA, Region III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029.

VII. SEPARATION OF FUNCTIONS AND EX PARTE COMMUNICATIONS

47. The following Agency offices, and the staffs thereof, are designated as the trial staff to represent the Agency as a party in this case: the Region III Office of Regional Counsel, the Region III Water Protection Division, the Office of the EPA Assistant Administrator for the Office of Water, and the EPA Assistant Administrator for Enforcement and Compliance Assurance. From the date of this Complaint until the final Agency decision in this case, neither the Administrator, members of the Environmental Appeals Board, Presiding Officer, Regional Administrator, nor the Regional Judicial Officer, may have an *ex parte* communication with the trial staff on the merits of any issue involved in this proceeding. Please be advised that the Consolidated Rules of Practice, 40 C.F.R. Part 22, prohibit any unilateral discussion or *ex parte* communication of the merits of a case with the Administrator, members of the Environmental Appeals Board, Presiding Officer, Regional Administrator, or the Regional Judicial Officer after issuance of a Complaint.

Date: _____

JUN 30 2014



Jon M. Capacasa, Director
Water Protection Division
U.S. Environmental Protection Agency
Region III

LIST OF ATTACHMENTS

A: November 13, 2008 Virginia Department of Health Notice of Violation Failure to Provide a Licensed Operator

B: Summary of Virginia Department of Health Notices of Violation for Shenandoah Utility Services, Inc.

C: February 10, 2009, EPA Notice of Violation/Request for Information (2009 NOV/RFI)

D: May 27, 2009, EPA Administrative Order, Docket No. SDWA-03-2009-0150-DS (2009 AO)

E: February 28, 2012, EPA Administrative Order, Docket No. SDWA-03-2012-0112-DS (2012 AO)

F: November 5, 2013, VDH Warning Letter and Notice of Impending Enforcement Action to Respondent



COMMONWEALTH of VIRGINIA

PHONE: (540)463-7136
FAX: (540)463-3892

Department of Health
OFFICE OF DRINKING WATER
Lexington Environmental Engineering Field Office

ROCKBRIDGE SQUARE SHOPPING CENTER
131 WALKER STREET
LEXINGTON, VIRGINIA 24450-2431

November 13, 2008

NOTICE OF VIOLATION

SUBJECT: Page County
Water - Shenandoah Utility Services
PWSID 2139017

Mr. David Matthews
Shenandoah Utility Services
P.O. Box 26
Luray, VA 22835

Re: Failure to Provide a Licensed Operator

Dear Mr. Matthews:

This notice is to advise that you may be in violation of §12 VAC 5-590-460A of the *Waterworks Regulations* for failure to provide a licensed operator for your waterworks. Section 12 VAC 5-590-460A states "Waterworks operators designated by the waterworks owner to be in responsible charge must possess a valid waterworks operator license issued by the Board for Waterworks and Wastewater Works Operators, Department of Professional and Occupational Regulation, in accordance with that Board's regulations (18 VAC 160-20-10 et seq.)". The license must be of a classification equal to or higher than that of the waterworks. Our records indicate that you do not have an appropriately licensed operator in responsible charge of your waterworks.

Required Actions

Public Notice: Section 12 VAC 5-590-540 of the *Waterworks Regulations* characterizes this as a Tier 2 situation. Therefore, you are required to notify consumers that you have failed to obtain a licensed operator as follows:

- You must distribute a notice to consumers no later than December 13, 2008.
- Your notice to consumers must be mailed or directly delivered to each customer receiving a bill, and to other service connections served by your waterworks.
- If your waterworks serves consumers who do not pay water bills, or who do not have service connection addresses (apartment residents, university students, or nursing home patients, for example), you must also use other delivery methods to provide notice to these consumers as well. Examples of other methods include (but are not limited to) notice publication in local newspapers, delivery of multiple copies to apartment buildings, or posting the notice in public places served by the system.

VDH VIRGINIA
DEPARTMENT
OF HEALTH
Protecting You and Your Environment
WWW.VDH.VIRGINIA.GOV

SUBJECT: Page County
Water – Shenandoah Utility Services

- Until the violation is resolved, you must give a copy of the notice to all new billing units or new customers, before or at the time service begins.
- You must repeat distribution of the notice every 3 months, for as long as the violation persists.

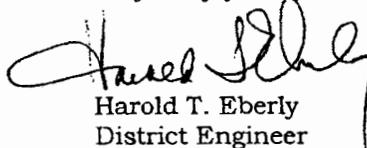
Draft Notice: Attached is a draft notice for you to distribute to consumers. You may use this notice as is, or modify it to better meet your situation, as long as the information is accurate and the notice contains all of the required elements and mandated language. If you decide to change the notice, we suggest you contact us to verify that your proposed changes meet the requirements of the *Waterworks Regulations*.

Public Notice Confirmation: Within 10 days of completing public notification, but no later than December 23, 2008, you must provide this Office with a copy of the notice you distribute, along with signed certification of the distribution completion date and methods used. Failure to distribute the public notice and report to the Virginia Department of Health may be a violation of the *Waterworks Regulations*. A certification form is enclosed for your use.

Follow-up Actions: You must obtain a licensed operator with a valid Class VI license or higher.

If you have any questions, please call me 540-463-7136, Ext. 108.

Very truly yours,



Harold T. Eberly
District Engineer

HTE/bt/shenutil4
cc Page County Health Department
Page County Administrator
VDH – Richmond Central

**NOTICE TO CONSUMERS OF THE
SHENANDOAH UTILITY SERVICES WATERWORKS
IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER**

PWSID NUMBER 2139017

We have been advised by state health officials of a failure to have a Class VI or higher licensed operator for the Shenandoah Utility Services waterworks in accordance with the Virginia State Board of Health *Waterworks Regulations*.

We are required to have a licensed operator in responsible charge in order to assure the operation and management of a waterworks rests in qualified hands. The Virginia Board for Waterworks and Wastewater Works Operators, Department of Professional and Occupational Regulation issues six classes of waterworks licenses. The Virginia Department of Health designates the class of license required for each waterworks to maintain public health protection. The required class of operator license for a specific waterworks depends on the following factors: quality of the waterworks source raw water; type(s) of waterworks treatment process; and size of the waterworks.

State health officials feel there is need for concern about the safety of your water because a treatment process is used to assure your drinking water is safe. Waterworks using a treatment process require an individual that has been verified to have adequate knowledge and skill to produce safe water under all conditions and maintain safe water in the waterworks piping distribution system.

You do not need to boil your water or take other corrective action. However, if you have specific health concerns, consult your doctor.

This is not an emergency. If it had been, you would have been notified immediately.

We plan to obtain the services of a licensed operator by May 12, 2009.

For more information, please contact Mr. David Matthews, P.O. Box 26, Luray, Virginia 228351, or by telephone at 540-743-6363.

Public Water Supply ID#: 2139017

Date Distributed: _____

Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.

PUBLIC NOTIFICATION COMPLETION REPORT

INSTRUCTIONS: After you have completed the public notification requirements, please complete and return this form to: **Office of Drinking Water, Lexington Environmental Engineering Field Office, 131 Walker Street, Lexington, Virginia 24450.**

NAME OF WATER SYSTEM: Shenandoah Utility Services
CITY/COUNTY: Page PWSID NO.: 2139017
TYPE OF VIOLATION: Failure to provide a licensed operator

THIS REQUIRED PUBLIC NOTIFICATION WAS COMPLETED AS FOLLOWS:

- By mail or with water bills _____
(Date)
- By direct delivery _____
(Date)
- Published in the _____ on _____
(Newspaper) (Date)
- All new billing units or new hook-ups prior to or at the time service begins.

I hereby certify that the above mentioned public notice was distributed in the indicated manner.

(Signature)

(Date)

Attachment B

**SUMMARY OF VIRGINIA DEPARTMENT OF HEALTH NOTICES OF VIOLATION
FOR SHENANDOAH UTILITY SERVICES, INC.**

Based on a review of the Safe Drinking Water Information System (SDWIS), the Virginia Department of Health issued over 30 notices of violation (NOVs) since 2009 for failure to conduct monitoring and issue consumer notices. The following list summarizes the violations cited in NOVs. Some NOVs contained more than one violation.

- Failure to conduct routine monthly monitoring for total coliform bacteria
- Failure to conduct routine annual monitoring for nitrates
- Failure to conduct routine annual monitoring for total trihalomethanes and haloacetic acids
- Failure to conduct routine annual monitoring for a series of volatile organic compounds
- Failure to conduct initial monitoring for radioactive contaminants
- Failure to conduct routine monitoring for lead and copper
- Failure to have a certified operator
- Failure to deliver to the System's customers an annual Consumer Confidence Report
- Failure to deliver to the System's customers public notices of violations incurred by the System

Attachment C



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
 Region III
 1650 Arch Street
 Philadelphia, Pennsylvania 19103-2029

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

FEB 10 2009

Mr. David Mathews
 Shenandoah Utility Services
 375 Woodland Drive
 Luray, Virginia 22835

RE: Notice of Violation and Request for Information, Docket No. 03-2009- 010-VS
 Luray, Page County, Virginia 22835
 PWS ID No. VA2139017

Dear Mr. Mathews:

The following Notice of Violation and Request for Information is issued pursuant to Sections 1414(a) and 1445 of the Safe Drinking Water Act (SDWA), 42 U.S.C. §§ 300g-3(a) and 300j-4(a), and is a coordinated effort with the Virginia Department of Health (VDH). According to our records and information received from VDH, your public water system has violated certain provisions of the SDWA, 42 U.S.C. §§ 300f-300j-26, the National Primary Drinking Water Regulations (NPDWR) found at 40 Code of Federal Regulations (CFR) Part 141.

NOTICE OF VIOLATION

FINDINGS

Based on information we possess:

1. David Mathews (Respondent) is the owner/operator of the Shenandoah Utility Services public water system (PWS), PWS Identification Number VA2139017 (System). Respondent is a "person" as defined by Section 1401 (12) of the SDWA and 40 C.F.R. § 141.2.
2. The System serves a population of at least twenty-five (25) persons daily with piped water for human consumption for a minimum of sixty (60) days per year, and/or has at least fifteen (15) service connections.
3. Respondent failed to monitor for total coliform bacteria, as required by VDH pursuant to 40 CFR § 141.21(a), for the monthly monitoring periods beginning January, March, April, May, August and October 2004, January, February, March and April 2005, January, February, June, July and December 2006, April, June, September, November and December 2007, and January, July, August and October 2008.

C-1

attached to the file

4. Respondent failed to monitor for nitrate, as required by VDH pursuant to 40 C.F.R. § 141.23, during the annual monitoring periods beginning January 2007 and January 2008.
5. Respondent failed to monitor for total trihalomethanes (TTHM), as required by VDH pursuant to 40 C.F.R. § 141.132, during the annual monitoring periods beginning January 2007 and January 2008.
6. Respondent failed to monitor for total haloacetic acids (HAA5), as required by VDH pursuant to 40 C.F.R. § 141.132, during the annual monitoring periods beginning January 2007 and January 2008. *2 samples per year
highest DBPs*
7. Respondent failed to monitor for a series of volatile organic chemicals, as required by VDH pursuant to 40 C.F.R. § 141.24, during the annual monitoring periods beginning January 2007 and January 2008.
8. Respondent failed to mail or otherwise directly deliver a copy of its 2006 and 2007 Consumer Confidence Report (CCR) to each of its customers as required by 40 C.F.R. § 155 (a).
9. Respondent failed to mail a copy of its 2006 and 2007 CCR to the VDH, as required by 40 C.F.R. § 141.155 (c).

Respondent is required to correct each of the above violations. The Environmental Protection Agency ("EPA") is available to provide advice and technical assistance to help address the above FINDINGS. Please contact Mr. Brian A. Poe at 215-814-5471, if you want to request such advice or assistance.

This Notice of Violation is issued pursuant to Section 1414(a) of the SDWA, 42 U.S.C. § 300g -3(a). After thirty (30) days from the date of this notice, EPA is authorized either to issue an Administrative Order under Section 1414(g) requiring the public water system to comply, or to commence a civil action under Section 1414(b). Violations of the SDWA and the regulations are subject to penalties of up to \$32,500 per day of violation.

REQUEST FOR INFORMATION

Section 1445(a) of the SDWA, 42 U.S.C. § 300j-4(a), authorizes EPA to require owners and operators of public water systems to provide information as may be necessary to carry out the purposes of the SDWA.

Pursuant to Section 1445(a) of the SDWA, Respondent is required to provide EPA with the following information. This requirement to submit information is mandatory. Compliance with this requirement does not relieve Respondent of any liability for violations of the SDWA. Respondent may be subject to civil and criminal sanctions if it provides misleading or false information or fails to provide the requested information. Information which Respondent provides may be used by EPA in administrative, civil or criminal proceedings.

You may, if desired, assert a business confidentiality claim covering all or part of the information requested herein in the manner described in 40 C.F.R. Part 2. If no claim of

confidentiality accompanies the information requested herein, it may be made available to the public by EPA without further notice to you. This inquiry is not subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1980, 44 U.S.C. Chapter 35 (See 5 C.F.R. § 1320.3(c)).

The instructions for responding to the inquiries are as follows:

- a. A separate narrative response must be made for each question set forth below, and for any subpart of each question.
- b. Label each response with the corresponding number of the question and any subpart to which it responds.

Accordingly, pursuant to Section 1445(a) of the SDWA, Respondent is directed to provide EPA the following information.

1. Name and street address of the owner or owners of the System. If this is a corporation, provide the names, titles, and addresses of officers. Do not provide a post office box.
2. Name and street address of the operator or operators of the System, and state certification number, if applicable. Do not provide a post office box. If this is a corporation, provide the names, titles, and addresses of officers.
3. The street address of the System, or, if no street address is possible, the physical location of the System. Do not provide a post office box.
4. Number of persons served drinking water by the System per day on average.
5. Number of service connections to the System.
6. State whether the System is operated year-round. If the System is not operated year-round, state the number of days in operation.
7. A copy of the most recently performed sanitary survey for the System.
8. Copies of all total coliform analysis conducted since January 2004.
9. Copies of all nitrate and/or nitrite analysis since January 2007.
10. Copies of all total trihalomethanes (TTHM) analysis conducted since January 2007.
11. Copies of all total haloacetic acids (HAA5) analysis conducted since January 2007.
12. Copies of all organic chemical analysis conducted since January 2007.
13. Copies of 2006 and 2007 Consumer Confidence Reports (CCR).
14. Any existing plans and schedules for monitoring, reporting and public notification.

Your response to this Notice of Violation and Request for Information shall be in writing. Your response is due within thirty (30) days of receipt of this Notice of Violation and Request for Information. You should submit your response to:

Mr. Brian A. Poe
United States Environmental Protection Agency
Ground Water and Enforcement Branch (3WP22)
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

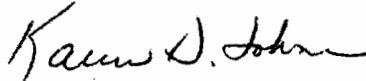
and

Mr. Douglas Caldwell, PE, Field Director
Virginia Department of Health – Office of Drinking Water
131 Walker Street
Lexington, Virginia 24450

If you have any questions, please call Brian A. Poe at 215-814-5471.

EPA has determined that your System may be a "small business" under the Small Business Regulatory Enforcement Fairness Act (SBREFA). The enclosed document entitled "Information for Small Businesses" provides information on contacting the SBREFA Ombudsman to comment on federal enforcement and compliance activities and also provides information on compliance assistance. As noted in the enclosure, any decision to participate in such program or to seek compliance assistance does not relieve you of your obligation to respond in a timely manner to an EPA request or other enforcement action, does not create any new rights or defenses under law, and will not affect EPA's decision to pursue this enforcement action. To preserve your legal rights, you must comply with all rules governing the administrative enforcement process. The Ombudsman and fairness boards do not participate in the resolution of EPA's enforcement action.

Sincerely,



Karen D. Johnson, Chief
Ground Water and Enforcement Branch

Enclosure

cc: Robert A. K. Payne, J.D., Virginia Department of Health - Headquarters
Douglas Caldwell, Virginia Department of Health – Lexington Field Office
Tom Eberly, Virginia Department of Health – Lexington Field Office

5. The State of Virginia, acting through the Virginia Department of Health (VDH), has primary enforcement responsibility under Section 1413 (a) of the SDWA, 42 USC § 300g-2 (a), to ensure that public water systems within the State of Virginia comply with the requirements of the SDWA.
6. Respondent failed to monitor for total coliform bacteria, as required by VDH pursuant to 40 CFR § 141.21(a), for the monthly monitoring periods beginning January, March, April, May, August and October 2004, January, February, March and April 2005, January, February, June, July and December 2006, April, June, September, November and December 2007, January, July, August and October 2008, and January 2009.
7. Respondent failed to monitor for nitrate, as required by VDH pursuant to 40 C.F.R. § 141.23, during the annual monitoring periods beginning January 2007 and January 2008.
8. Respondent failed to monitor for total trihalomethanes (TTHM), as required by VDH pursuant to 40 C.F.R. § 141.132, during the annual monitoring periods beginning January 2007 and January 2008.
9. Respondent failed to monitor for total haloacetic acids (HAA5), as required by VDH pursuant to 40 C.F.R. § 141.132, during the annual monitoring periods beginning January 2007 and January 2008.
10. Respondent failed to monitor for a series of volatile organic chemicals, as required by VDH pursuant to 40 C.F.R. § 141.24, during the annual monitoring periods beginning January 2007 and January 2008.
11. Respondent failed to mail or otherwise directly deliver a copy of the 2006 and 2007 Consumer Confidence Reports (CCR) to each of its customers as required by 40 C.F.R. § 141.155 (a).
12. Respondent failed to mail a copy of the 2006 and 2007 CCR to the VDH, as required by 40 C.F.R. § 141.155 (c).
13. On February 10, 2009, EPA issued Respondent a Notice of Violation and Request for Information (NOV) under Section 1414 (a)(1)(A) of the SDWA, 42 USC §§ 300g-3 (a)(1)(A) by United States Postal Service, which notified Respondent of the above listed violations and which required specific information about the System within thirty (30) days of receipt. Respondent was informed about the mandatory nature of the Request for Information and informed of possible penalties if this information was not sent to EPA.
14. Respondent acknowledged receipt of the Notice of Violation and Request for Information on February 17, 2009. As of the date of this Order, respondent has not provided EPA with the information required by the Request for Information.

ORDER FOR COMPLIANCE

Based on the foregoing FINDINGS, and pursuant to the authority of Section 1414(g) of the SDWA, 42 USC §§ 300g-3(g), the Respondent is HEREBY ORDERED to comply with all provisions of the SDWA and its implementing regulations. In addition, Respondent shall do the following:

15. Respondent shall, commencing immediately, comply with the requirements of the SDWA and the applicable requirements of the State of Virginia.
16. Respondent shall, within thirty (30) days of receipt of this Order, submit to EPA and VDH a plan for remedial action to achieve full compliance with the SDWA and the applicable requirements of the State of Virginia. The Respondent shall send a copy of the plan to the addresses listed in Paragraph 24.
17. Respondent shall, commencing immediately, comply with 40 C.F.R. § 141.21(a) by sampling and analyzing for total coliform bacteria at least once per month. For failure to monitor, Respondent shall collect the appropriate number of routine monthly samples before the fifteenth of each month. If a routine sample is total coliform positive Respondent shall collect the proper number of repeat monitoring samples within 24 hours of being notified of a positive result, and the proper number of follow up routine samples the next month. All samples are to be analyzed by a laboratory certified to perform the appropriate drinking water analyses required by the VDH. Respondent shall ensure that reports of results are sent to EPA and VDH at the addresses listed in Paragraph 24.
18. Respondent shall comply with 40 C.F.R. § 141.23 by sampling and analyzing for nitrate at least once per year. For failure to monitor in 2007 and 2008, Respondent shall collect the appropriate number of yearly samples by June 30, 2009. All samples are to be analyzed by a laboratory certified to perform the appropriate drinking water analyses required by the VDH. Respondent shall ensure that reports of results are sent to EPA and VDH at the addresses listed in Paragraph 24.
19. Respondent shall comply with 40 C.F.R. § 141.132 by sampling and analyzing for total trihalomethanes (TTHM) and total haloacetic acids (HAA5) at least once per year. For failure to monitor since 2007 Respondent shall complete one sample of each during the month of warmest water temperature (July or August). Respondent shall indicate the month in which the samples will be taken. All samples are to be analyzed by a laboratory certified to perform the appropriate drinking water analysis required by the VDH. Respondent shall ensure that reports of results are sent to EPA and VDH at the addresses listed in Paragraph 24.
20. Respondent shall comply with 40 C.F.R. § 141.24 by sampling and analyzing for volatile organic chemicals at least once per year. For failure to monitor since 2007 Respondent shall complete all volatile organic chemicals monitoring by June 30, 2009. All samples are to be analyzed by a laboratory certified to perform the appropriate drinking water

analysis required by the VDH. Respondent shall ensure that reports of results are sent to EPA and VDH at the addresses listed in Paragraph 24.

21. Respondent shall, within sixty (60) days, comply with 40 C.F.R. § 141.155 (c) by sending a copy of its annual Consumer Confidence Report (CCR) to EPA and VDH at the address listed in Paragraph 24. For failure to report since 2006 Respondent shall send delinquent yearly reports containing separate data tables for each year. Respondent shall deliver the 2008 report by July 1, 2009. The content of these reports shall be consistent with the requirements in 40 C.F.R. § 141.153.
22. Respondent shall send written operating and progress reports within thirty (30) days from the date of this letter, by July 31, 2009, and every ninety (90) days thereafter (at the end of every quarter: October 2009, January 2010, etc.), for one full year, to EPA and VDH at the addresses listed in Paragraph 24. The first progress report shall be submitted no later than thirty (30) days after receipt of this Order and the reports will continue to be required until the Respondent has fully complied with the Order and EPA closes out the case by written correspondence to the Respondent. The reports shall describe, in detail:
 - a. progress toward complying with each of the requirements of this Order; and
 - b. any event which may delay compliance with this Order, including:
 - i. the cause and the anticipated length of the delay;
 - ii. the efforts taken to prevent or minimize the delay; and
 - c. a description of any future deadlines which could be affected by the present or anticipated delay.

The issuance of the reports shall not excuse the obligation of the Respondent to comply with this Order.

23. Submission of progress reports and/or delayed laboratory analyses shall not excuse the obligation of the Respondent to comply with this Order.
24. Respondent shall submit all documentation, reports and analyses to:

Mr. Brian A. Poe
Ground Water and Enforcement Branch (3WP22)
U.S. Environmental Protection Agency
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

and

D-4

Mr. Douglas Caldwell, PE, Field Director
Virginia Department of Health – Office of Drinking Water
131 Walker Street
Lexington, Virginia 24450

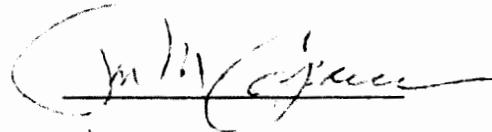
GENERAL PROVISIONS

25. This Order does not waive, suspend, or modify the requirements of the SDWA, 42 USC §§ 300f-300j-26, and its implementing regulations found in 40 CFR Part 141, which remain in full force and effect. Issuance of this Order is not an election by EPA to forego any civil or criminal action otherwise authorized under the SDWA.
26. Violation of any term of this Administrative Order subjects Respondent to an administratively assessed civil penalty of up to \$37,500 under Section 1414 (g) (3) (B) of the SDWA, 42 USC §§ 300g-3 (g) (3) (B), or a civil penalty of not more than \$32,500 per day of violation, assessed by an appropriate United States District Court, under Section 1414 (g) (3) (A) or (C) of the SDWA, 42 USC §§ 300g-3 (g) (3) (A) or (C).
27. This Administrative Order in no way relieves Respondent of the duty to comply with any Federal, State, or local law, regulation, or permit. Compliance with this Administrative Order shall be no defense to any action commenced pursuant to such authorities.
28. Any request for modification of this Administrative Order must be in writing and must be approved by the EPA.

EFFECTIVE DATE

This Order shall become effective upon issuance as permitted by Section 1414 (g) (2) of the SDWA, 42 USC §§ 300g-3 (g) (2).

Issued this 27th day of May, 2009.



Jon M. Capacasa, Director
Water Protection Division
U.S. EPA, Region III

Attachment E

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III

IN THE MATTER OF:	)	Docket No. SDWA-03-2012-0112-DS
)	
Mr. David Mathews)	
375 Woodland Drive)	
Luray, Virginia 22835	)	FEB 28 2012
)	
RE: Shenandoah Utility Services)	
PWS ID No. VA2139017)	
)	
Proceedings Pursuant To Section	)	ADMINISTRATIVE ORDER
1414(g) of the Safe Drinking)	
Water Act, as amended, 42 USC §§ 300g-3(g))	
)	

STATUTORY AUTHORITY

The following FINDINGS are made and ORDER FOR COMPLIANCE issued under the authority vested in the Administrator of the United States Environmental Protection Agency (EPA) by Section 1414(g) of the Safe Drinking Water Act (SDWA), 42 USC §§ 300g-3(g). The Administrator of EPA has delegated the authority to take these actions to the Regional Administrator of EPA, Region III, who has re-delegated these authorities to the Director, Water Protection Division, EPA, Region III.

FINDINGS

1. Mr. David Mathews (Respondent) owns and/or operates Shenandoah Utility Services public water system (PWS), Identification Number VA2139017 (System).
2. Respondent is a "person" as defined by Section 1401 (12) of the SDWA, 42 USC § 300f (12), and 40 CFR § 141.2.
3. Respondent's water system is a "public water system" and a "community water system," as defined by Sections 1401 (4) and 1401 (16) of the SDWA, 42 USC §§ 300f (4), 300f (16), and by 40 CFR § 141.2, and is subject to Part B of the SDWA, and its implementing regulations, 40 CFR Part 141.
4. Respondent's water system is supplied by a ground water source.

5. The Commonwealth of Virginia, acting through the Virginia Department of Health (VDH), has primary enforcement responsibility under Section 1413 (a) of the SDWA, 42 USC § 300g-2 (a), to ensure that public water systems within the Commonwealth of Virginia comply with the requirements of the SDWA.
6. Respondent failed to monitor for nitrate, as required by VDH pursuant to 40 C.F.R. § 141.23, during the 2007, 2008, 2009, 2010, and 2011 annual monitoring periods.
7. Respondent failed to monitor for a series of inorganic chemicals, as required by VDH pursuant to 40 C.F.R. § 141.23, during the 2008, 2009, 2010, and 2011 annual monitoring periods.
8. Respondent failed to monitor for cyanide, as required by VDH pursuant to 40 C.F.R. § 141.23, during the 2002 through 2010 monitoring period.
9. Respondent failed to monitor for a series of volatile organic chemicals, as required by VDH pursuant to 40 C.F.R. § 141.24, during the 2007, 2008, 2009, 2010, and 2011 annual monitoring periods.
10. Respondent failed to perform four consecutive sampling periods during initial monitoring for gross alpha particle activity, radium-228, and gross beta (radionuclides) as required by VDH pursuant to 40 C.F.R. § 141.26(a). Without the completion of four consecutive quarterly sampling events VDH cannot make the determination for a reduced monitoring schedule which would either be once every three (3), six (6), or nine (9) years
11. Respondent violated 12VAC5-590-460 of the Virginia Waterworks Regulations by failing to retain a licensed waterworks operator to be in charge of operating the waterworks.
12. On February 10, 2009, EPA issued Respondent a Notice of Violation and Request for Information (NOV) under Section 1414 (a)(1)(A) of the SDWA, 42 USC §§ 300g-3 (a)(1)(A) by United States Postal Service. Respondent acknowledged receipt of the Notice of Violation and Request for Information on February 17, 2009. Respondent was informed about the mandatory nature of the Request for Information and informed of possible penalties if this information was not sent to EPA within thirty (30) days. As of the date of this Order, Respondent has not provided EPA with the information required by the Request for Information.
13. On May 27, 2009, EPA issued Respondent an Administrative Order (AO) under Section 1414 (g) of the SDWA, 42 USC §§ 300g-3 (g) by United States Postal Service. Respondent acknowledged receipt of the AO on June 3, 2009. Respondent was informed about the mandatory nature of the Administrative Order and informed of possible penalties if the requirements of the AO were not completed. As of the date of this Order, respondent has not completed all of the requirements listed in the AO.

14. On October 27, 2009, EPA sent Respondent a copy of the May 27, 2009 AO and a letter to explain that if Respondent did not fully comply with the AO a Penalty Order could be issued. Respondent acknowledged receipt of the AO on June 3, 2009. As of the date of this Order, Respondent has not completed all of the requirements listed in the AO.

ORDER FOR COMPLIANCE

Based on the foregoing FINDINGS, and pursuant to the authority of Section 1414(g) of the SDWA, 42 USC §§ 300g-3(g), the Respondent is HEREBY ORDERED to comply with all provisions of the SDWA and its implementing regulations. In addition, Respondent shall do the following:

15. Respondent shall, commencing immediately, comply with the requirements of the SDWA and the applicable requirements of the Commonwealth of Virginia.
16. Respondent shall, within thirty (30) days from the date of this Order, submit to EPA and VDH a written plan for remedial action to achieve full compliance with the SDWA and the applicable requirements of the Commonwealth of Virginia. The plan shall also include a timeline/schedule of how you are going to ensure that your water system is properly operated on a regular basis. The Respondent shall send a copy of the plan to the addresses listed in Paragraph 24.
17. Respondent shall comply with 40 C.F.R. § 141.23 by sampling and analyzing for nitrate at least once per year. For failure to monitor for nitrate, Respondent shall collect the appropriate number of yearly samples within thirty (30) days from the date of this Order. All samples are to be analyzed by a laboratory certified to perform the appropriate drinking water analysis required by the VDH. Respondent shall ensure that reports of results are sent to EPA and VDH at the addresses listed in Paragraph 24.
18. Respondent shall comply with 40 C.F.R. § 141.23 by sampling and analyzing for a series of inorganic chemicals at least once per year. For failure to monitor for a series of inorganic chemicals, Respondent shall collect the appropriate number of yearly samples within thirty (30) days from the date of this Order. All samples are to be analyzed by a laboratory certified to perform the appropriate drinking water analysis required by the VDH. Respondent shall ensure that reports of results are sent to EPA and VDH at the addresses listed in Paragraph 24.
19. Respondent shall comply with 40 C.F.R. § 141.23 by sampling and analyzing for cyanide at least once every nine years. For failure to monitor for cyanide, Respondent shall collect the appropriate number of yearly samples within thirty (30) days from the date of this Order. All samples are to be analyzed by a laboratory certified to perform the appropriate drinking water analysis required by the VDH. Respondent shall ensure that reports of results are sent to EPA and VDH at the addresses listed in Paragraph 24.

20. Respondent shall comply with 40 C.F.R. § 141.24 by sampling and analyzing for volatile organic chemicals at least once per year. For failure to monitor for a series of volatile organic chemicals, Respondent shall collect the appropriate number of yearly samples within sixty (60) days from the date of this Order. All samples are to be analyzed by a laboratory certified to perform the appropriate drinking water analysis required by the VDH. Respondent shall ensure that reports of results are sent to EPA and VDH at the addresses listed in Paragraph 24.
21. Respondent shall comply with 40 C.F.R. § 141.26(a) by sampling and analyzing for radionuclides for four consecutive quarters. For failure to monitor for radionuclides, Respondent shall collect the appropriate number of yearly samples within ninety (90) days from the date of this Order. All samples are to be analyzed by a laboratory certified to perform the appropriate drinking water analysis required by the VDH. Respondent shall ensure that reports of results are sent to EPA and VDH at the addresses listed in Paragraph 24.
22. Respondent shall send written progress reports within thirty (30) days from the date of this Order, and at the end of every quarter thereafter (June 2012, September 2012, December 2012, and March 2013), for one full year, to EPA and VDH at the addresses listed in Paragraph 24. The first progress report shall be submitted no later than thirty (30) days from the date of this Order and the reports will continue to be required until the Respondent has fully complied with the Order and EPA closes out the case by written correspondence to the Respondent. The reports shall describe, in detail:
 1. progress toward complying with each of the requirements of this Order; and
 2. any event which may delay compliance with this Order, including:
 - i. the cause and the anticipated length of the delay;
 - ii. the efforts taken to prevent or minimize the delay; and
 3. a description of any future deadlines which could be affected by the present or anticipated delay.
23. Submission of progress reports and/or delayed laboratory analysis shall not excuse the obligation of the Respondent to comply with this Order.
24. Respondent shall submit all documentation, reports and analysis to:

Mr. James Bennett (bennett.james@epa.gov)
Ground Water and Enforcement Branch (3WP22)
U.S. Environmental Protection Agency
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

and

Mr. Douglas Caldwell, PE, Field Director
Virginia Department of Health – Office of Drinking Water
131 Walker Street
Lexington, Virginia 24450

GENERAL PROVISIONS

25. This Order does not waive, suspend, or modify the requirements of the SDWA, 42 USC §§ 300f-300j-26, and its implementing regulations found in 40 CFR Part 141, which remain in full force and effect. Issuance of this Order is not an election by EPA to forego any civil or criminal action otherwise authorized under the SDWA.
26. Violation of any term of this Administrative Order subjects Respondent to an administratively assessed civil penalty of up to **\$32,500** under Section 1414 (g) (3) (B) of the SDWA, 42 USC §§ 300g-3 (g) (3) (B), or a civil penalty of not more than **\$37,500** per day of violation, assessed by an appropriate United States District Court, under Section 1414 (g) (3) (A) or (C) of the SDWA, 42 USC §§ 300g-3 (g) (3) (A) or (C).
27. This Administrative Order in no way relieves Respondent of the duty to comply with any Federal, State, or local law, regulation, or permit. Compliance with this Administrative Order shall be no defense to any action commenced pursuant to such authorities.
28. Any request for modification of this Administrative Order must be in writing and must be approved by the EPA.

EFFECTIVE DATE

This Order shall become effective upon issuance as permitted by Section 1414 (g) (2) of the SDWA, 42 USC §§ 300g-3 (g) (2).

Issued this 28th day of February, 2012.



Jon M. Capacasa, Director
Water Protection Division
U.S. EPA, Region III

Attachment F



COMMONWEALTH of VIRGINIA

Cynthia C. Romero, MD, FAAFP
State Health Commissioner

DEPARTMENT OF HEALTH

OFFICE OF DRINKING WATER

John J. Aulsach II, PE
Director, Office of Drinking Water

WARNING LETTER AND

NOTICE OF IMPENDING ENFORCEMENT ACTION

Madison Building
109 Governor Street, 6th Floor
Richmond, VA 23219
Phone: 804-864-7500
Fax: 804-864-7521

November 5, 2013

VIA FIRST CLASS and CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Mr. David T. Matthews, President
Shenandoah Utility Services, Inc.
375 Woodland Drive
Luray, Virginia 22835

Re: Shenandoah Utility Services Waterworks (Page County) PWSID #2139017
Ongoing Noncompliance – Pending State/Federal Enforcement Action

Dear Mr. Matthews:

The Shenandoah Utility Services waterworks has been identified as a Serious Violator under the U.S. Environmental Protection Agency's (EPA) Enforcement Response Policy, and Virginia Department of Health (VDH) records indicate that the Shenandoah Utility Services waterworks is not being operated in compliance with the *Waterworks Regulations (Regulations)*. This situation presents a potential threat to public health and you are advised to take immediate action to resolve this matter.

Since you purchased the waterworks on January 1, 2004, VDH has issued 177 Notices of Violation (NOVs) to you, and the EPA has issued two Administrative Orders (February 28, 2012 and May 27, 2009) because of persistent violations.

- Failure to provide a **Class VI licensed operator** in responsible charge of your waterworks from July 15, 2007 when Mr. Gregory Pierce resigned to the present pursuant to 12VAC5-590-460 A of the *Regulations*. You stated that you planned to take the exam to obtain your Class VI license, and you were emailed information regarding the Virginia Tech Short School for water plant operators after the April 18, 2013 inspection. To date you have not taken the exam nor have you hired a Class VI (or higher) licensed operator for your waterworks. **This violation was included in the warning letter of April 25, 2011.**
- Failure to collect and have analyzed the routine monthly samples for **total coliform bacteria** for November 2012, February 2013, May – June 2013, and August 2013 as

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required by 12VAC5-590-370 of the *Regulations*. **Since you acquired the waterworks in January 2004, you have received 52 NOVs for failure to monitor for total coliform bacteria, reflecting a sampling rate of approximately 55%. This is unacceptable.**

- Failure to collect and have analyzed the required **cyanide** sample from the well entry point during the 2002 – 2010 monitoring period and the 2011 and 2012 calendar year monitoring periods pursuant to 12VAC5-590-370 of the *Regulations*. **This violation was included in the warning letter of April 25, 2011.**
- Failure to collect and have analyzed the required consecutive quarterly **radiological** samples from the well entry point during the 2009 – 2013 quarterly monitoring periods pursuant to 12VAC5-590-370 of the *Regulations*. You failed to collect all quarters of the 2009 monitoring period, the fourth quarter sample of the 2010 monitoring period, all quarters of the 2011 monitoring period, the third and fourth quarters of the 2012 monitoring period, and the second quarter of the 2013 monitoring period. **One sample is required each quarter for four consecutive quarters. This violation was included in the warning letter of April 25, 2011.**
- Failure to collect and have analyzed the required **inorganics** sample from the well entry point during the 2011 and 2012 calendar year monitoring periods pursuant to 12VAC5-590-370 of the *Regulations*. **This violation was included in the warning letter of April 25, 2011.**
- Failure to collect and have analyzed the required **metals** sample from the well entry point during the 2011 and 2012 calendar year monitoring periods pursuant to 12VAC5-590-370 of the *Regulations*. **This violation was included in the warning letter of April 25, 2011.**
- Failure to collect and have analyzed the required **nitrate/nitrite** sample from the well entry point during the 2007 – 2012 calendar year monitoring periods pursuant to 12VAC5-590-370 of the *Regulations*. **Since you acquired the waterworks in January 2004, you have collected two samples for nitrate/nitrite, reflecting a sampling rate of approximately 20%. This is unacceptable.**
- Failure to collect and have analyzed the required **volatile organic chemicals (VOC)** monitoring from the well entry point during the 2007 – 2012 calendar year monitoring periods pursuant to 12VAC5-590-370 of the *Regulations*. **This violation was included in the warning letter of April 25, 2011.**
- Failure to submit monthly operation reports, including the water usage, daily chlorine residuals, number of connections, population served, and any pertinent comments relating to the daily operation of the waterworks from February 2004 to the present as required by 12VAC5-590-530 of the *Regulations*. **Only six monthly operational reports (July 2009, September 2009, and January – April 2013) have been received since you**

acquired the waterworks; however, no water usage was reported on any form. This violation was included in the warning letter of April 25, 2011.

To protect public health and avoid formal enforcement action, please take the following actions:

1. Provide VDH with the name and license number of the Class VI (or higher) licensed operator in responsible charge of your waterworks no later than December 6, 2013;
2. Collect and have analyzed the required cyanide sample from the well entry point no later than December 6, 2013, and report the results to VDH no later than January 10, 2014;
3. Collect and have analyzed your second of four consecutive quarterly radiological samples from the well entry point no later than December 31, 2013 (and continuing quarterly thereafter), and report the results to VDH no later than January 31, 2014;
4. Collect and have analyzed the required inorganics sample from the well entry point no later than December 6, 2013, and report the results to VDH no later than January 10, 2014;
5. Collect and have analyzed the required metals sample from the well entry point no later than December 6, 2013, and report the results to VDH no later than January 10, 2014;
6. Collect and have analyzed the required nitrate/nitrite sample as scheduled annually, and report the results to VDH no later than the 10th day of the following month;
7. Collect and have analyzed the required total trihalomethane and haloacetic acid samples no later than December 31, 2013, and report the results to VDH no later than January 31, 2014;
8. Collect and have analyzed the required VOC sample from the well entry point no later than December 6, 2013, and report the results to VDH no later than January 10, 2014;
9. Collect and have analyzed all bacteriological samples as scheduled, and report the results to VDH no later than the 10th day of the following month; and,
10. Submit the required monthly operation reports to the Lexington Field Office by the 10th day of the month following each month reporting the water usage, daily chlorine residuals, number of connections, population served, and any pertinent comments relating to the daily operation beginning with the month ending November 30, 2013. Your monthly report is due no later than December 10, 2013.

Furthermore, because you appear to have demonstrated significant noncompliance with the *Regulations*, you are required to submit a Waterworks Business Operation Plan to VDH no later than December 6, 2013. The business plan must detail the technical, financial, and managerial

Mr. David T. Matthews, President
November 5, 2013
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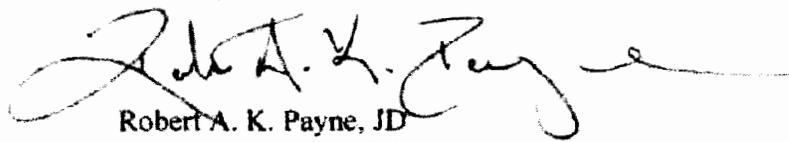
commitments to be made by the owner to assure that system performance requirements for providing water will be met over the long term (Va. Code § 32.1-172 B).

You need to seriously consider your ability to operate the waterworks in compliance with the *Regulations* and whether your waterworks can be depended upon to furnish pure water. Your history of noncompliance suggests that you do not possess the technical, financial, or managerial capability required to be a waterworks owner in Virginia.

Should you fail to resolve the issues by the above deadlines, VDH will initiate formal enforcement action by referring the case to the local Commonwealth's Attorney for criminal prosecution to compel compliance and protect public health pursuant to Va. Code § 32.1-27 (i.e., a Class I misdemeanor carrying up to 12 months in jail and/or a \$2,500 fine). Additional state enforcement action may include revocation of your waterworks operation permit. VDH has also requested that the EPA take additional federal action to compel compliance with the federal *Safe Drinking Water Act*. Formal federal enforcement may involve a penalty of up to \$32,500 per day of violation.

If you have any technical questions about how to operate your waterworks in compliance with the *Regulations*, please contact Tom Eberly, District Engineer, at the VDH Lexington Field Office, at (540) 463-0408.

Sincerely,



Robert A. K. Payne, JD
Director of Legal Affairs

RAKP:cmh

cc: Karen D. Johnson, EPA Region III, Chief, Ground Water and Enforcement Branch
John J. Aulbach II, PE, Director, Office of Drinking Water
Douglas M. Caldwell, PE, Field Director, VDH ODW Lexington Field Office
Charles J. Devine, MD, District Director, Lord Fairfax Health District
Mark Lauzier, County Administrator, Page County
Kenneth L. Alger II, Commonwealth's Attorney, Page County

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