

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III

1650 Arch Street  
Philadelphia, PA 19103

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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 Inc.	)	
375 Woodland Drive	)	
Luray, Virginia 22835	)	Docket No.
	)	SDWA-03-2014-0015-DS
Respondent	)	ANSWER AND REQUEST
	)	FOR A HEARING
PWS ID No. VA2139017	)	

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).  
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2. Respondent is a "person" as defined by Section 1401 (12) of the SDWA, 42 USC § 300f (12), and 40 CFR § 141.2.  
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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.  
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4. Respondent's water system is supplied by a ground water source.  
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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.

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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.

ASR 7/20

- 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.

ASR 7/20

- 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.

ASR 7/20

- 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.

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- 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.

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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 28<sup>th</sup> day of February, 2012.



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

## Duchovnay, Andrew

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**From:** David Mathews <david\_mathews@dmathcorp.onmicrosoft.com> on behalf of dmathcorp@hotmail.com  
**Sent:** Wednesday, April 01, 2015 10:25 PM  
**To:** Duchovnay, Andrew  
**Cc:** Donahue, Lisa  
**Subject:** Re: Shenandoah Water System  
**Attachments:** EPA1.pdf; EPA2.pdf; EPA3.pdf; EPA4.pdf; EPA5.pdf

Dear Mr. Duchovnay,  
Please find the attached answer.

Thank You

David Mathews  
540-718-6635

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**From:** Duchovnay, Andrew <Duchovnay.Andrew@epa.gov>  
**Sent:** Tuesday, March 24, 2015 10:44 AM  
**To:** dmathcorp@hotmail.com  
**Cc:** Donahue, Lisa  
**Subject:** Shenandoah Water System

Dear Mr. Mathews, attached please find a letter to you dated today. Please give this letter your prompt attention. If you have any questions please call me at (215) 814-2484 or email me.

Sincerely,

Andrew Duchovnay