



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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

SEP 29 2010

Ref: 8ENF-UFO

CERTIFIED MAIL 7009 3410 0000 2592 1629
RETURN RECEIPT REQUESTED

Robert Beadle, Owner
Beadle Ford, Inc. and Beadle's Chrysler Center
5023 South Fourth Avenue
Bowdle, SD 57428

Re: Proposed Compliance Order, Penalty Complaint,
And Notice Of Opportunity For Hearing
Docket No. **SDWA-08-2010-0084**

Dear Mr. Beadle:

Enclosed is a *Proposed Compliance Order, Penalty Complaint, And Notice Of Opportunity For Hearing* (complaint) issued by the Environmental Protection Agency (EPA) as authorized by the Safe Drinking Water Act (SDWA), 42 U.S.C. § 300h-2. The complaint describes the United States Environmental Protection Agency's allegation that Beadle Ford, Inc. and Beadle's Chrysler Center (Beadle Ford and Chrysler) has violated the SDWA. The complaint proposes both compliance requirements and the assessment of a civil penalty.

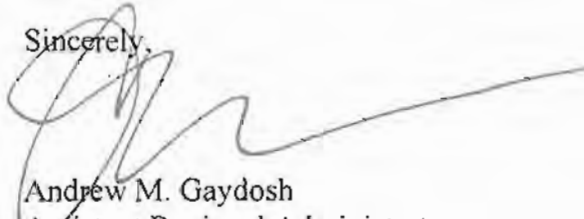
Please be advised, however, that if Beadle Ford, Inc. and Beadle's Chrysler Center fully complies with the compliance order requirements in a timely manner as set out in the complaint, EPA will evaluate the civil penalty factors at 42 U.S.C. § 300h-2(c)(4)(B), and may settle this case without the assessment of a civil penalty, if appropriate. Please note that there are deadlines in the complaint that must be followed. In particular, Beadle Ford and Chrysler has thirty (30) calendar days from the date it is received by Beadle Ford and Chrysler, or its agents or employees, to file an answer to dispute the contents of the complaint.

In an effort to assist your understanding of EPA's administrative hearing process, a copy of EPA's administrative rules of practice is enclosed. In addition, because Beadle Ford and Chrysler appears to be a small business, a Small Business Resources Fact Sheet is also enclosed. Finally, because public notice is required by the Act, a copy of our public notice for this matter is also enclosed.

If you have any technical questions, please contact Cynthia Peterson at the above address (with the mail code 8ENF-UFO) or by phone at (303) 312-6879. Charles Figur is the EPA attorney assigned to this matter. He can be reached at the above address (with the mail code 8ENF-L) or by phone at (303) 312-6915.

We urge your prompt attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Andrew M. Gaydosh', written over a light gray rectangular background.

Andrew M. Gaydosh
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

Enclosures:

Proposed Compliance Order, Penalty Complaint,
and Notice of Opportunity for Hearing
Part 22 Rules of Practice
Public Notice
U.S. EPA Small Business Resources Fact Sheet

cc: Tom Brandner, Groundwater Section Engineering Director
South Dakota DENR
523 E. Capitol
Pierre SD 57501

bcc: Cynthia Peterson, 8ENF-UFO
Charles Figur, 8ENF-L
Brenda Cazier, 8ENF-PJ

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

Docket No. SDWA-08-2010-0084

2010 SEP 29 AM 8:33

FILED
EPA REGION VIII
HEARING CLERK

In the Matter of:)
)
Beadle Ford, Inc. and)
Beadle's Chrysler Center.)
)
Respondent.)

**PROPOSED COMPLIANCE ORDER,
PENALTY COMPLAINT AND NOTICE OF
OPPORTUNITY FOR HEARING**

INTRODUCTION

1. This Proposed Compliance Order, Penalty Complaint and Notice of Opportunity for Hearing (complaint) is authorized by Congress in section 1423 of the Public Health Service Act, commonly known as the Safe Drinking Water Act (the Act). 42 U.S.C. § 300h-2. The Environmental Protection Agency (EPA) regulations authorized by the Act are set out in part 144 of Title 40 of the Code of Federal Regulations (C.F.R.) and violations of the Act, permits issued under the Act, or EPA regulations constitute violations of the Act.

2. *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* (Rules of Practice), govern this proceeding. They are found at 40 C.F.R. Part 22. A copy of the Rules of Practice is enclosed with this complaint.

3. The undersigned EPA official has been properly delegated the authority to issue this complaint.

4. EPA alleges that Beadle Ford, Inc. and Beadle's Chrysler Center (Respondent or Beadle Ford and Chrysler) has violated the regulations and therefore the Act, as more fully explained in the "Allegations" section below.

NOTICE OF OPPORTUNITY FOR A HEARING

5. Beadle Ford and Chrysler has the right to a public hearing before a presiding officer within the Agency to (1) disagree with any fact alleged by EPA in the complaint, (2) state the grounds for any legal defense or (3) disagree with the appropriateness of the proposed penalty.

6. Beadle Ford and Chrysler must file a written answer (and one copy) with the Regional Hearing Clerk (1595 Wynkoop Street (8RC); Denver, Colorado 80202) within thirty (30)

calendar days of receiving this complaint **or Beadle Ford and Chrysler's right to a hearing, and its right to disagree with the complaint is waived.** The answer must clearly admit, deny or explain the factual allegations of the complaint, the grounds for any defense, the facts Beadle Ford and Chrysler may dispute, and Beadle Ford and Chrysler's specific request for a public hearing. Please see section 22.15 of the Rules of Practice for a complete description of what must be in the answer. **FAILURE TO FILE AN ANSWER AND REQUEST A HEARING WITHIN THIRTY (30) CALENDAR DAYS OF RECEIPT OF THE COMPLAINT MAY WAIVE BEADLE FORD AND CHRYSLER'S RIGHT TO A HEARING, AND TO DISAGREE WITH THE ALLEGATIONS AND THE PROPOSED PENALTY. IN ADDITION, A DEFAULT JUDGMENT AND ASSESSMENT OF PENALTY UP TO THE MAXIMUM AUTHORIZED BY THE ACT MAY BE IMPOSED WITHOUT FURTHER INPUT FROM BEADLE FORD AND CHRYSLER.**

SETTLEMENT NEGOTIATIONS

7. EPA encourages discussing whether cases can be settled through informal settlement conferences. If Beadle Ford and Chrysler wants to pursue the possibility of settling this matter, or has any other questions, contact the attorney listed at the end of this complaint. **Please note that calling the attorney or requesting a settlement conference does NOT delay the running of the thirty (30) day period for filing an answer and requesting a hearing.**

ALLEGATIONS

The following allegations apply to all times relevant to this action and to the violation alleged herein.

8. Respondent is a corporation doing business in the State of South Dakota.

9. Respondent is a "person" as defined in the Act, and is therefore subject to the requirements of the Act and regulations promulgated thereunder. 42 U.S.C. § 300f(12).

10. Respondent owns and/or operates the facility located at 5023 South Fourth Avenue, Bowdle, South Dakota (facility).

11. On July 6, 2009, EPA Region 8 received a completed *Shallow Injection Well Inventory Request Form*, prepared by Jerry Beadle, owner, Beadle Ford and Chrysler, dated July 3, 2009, which indicated the existence of one septic system with a drain field that receives fluids from a floor drain or sink in a processing or shop area, engine service or maintenance bay, or vehicle/equipment washing area.

12. On July 14, 2010, authorized EPA employees entered the facility, with consent, to inspect it for compliance with the law. This inspection revealed that the facility operates a motor vehicle maintenance shop with two floor drains and a shop sink that are connected to a septic system with a drain field. The inspection confirmed that the floor drains accept fluids from motor vehicle maintenance activities.

13. Based on the observations made during the July 14, 2010, inspection, Respondent owns and/or operates a motor vehicle waste disposal well.

14. Lying beneath Respondent's motor vehicle waste disposal well are underground sources of drinking water (USDWs), including but not limited to, the Northern Great Plains Aquifer.

15. Respondent's motor vehicle waste disposal well is a Class V Injection Well as defined at 40 C.F.R. §§ 144.6, 144.81(16), and 146.5.

16. Because Respondent's motor vehicle waste disposal well is a Class V Injection Well, Respondent is subject to applicable requirements of 40 C.F.R. §§ 124, 144 and 146.

17. Pursuant to 40 C.F.R. § 144.85, Respondent's operation of its motor vehicle waste disposal well (a Class V Injection Well) is subject to the requirements of 40 C.F.R. § 144.88.

18. Pursuant to 40 C.F.R. § 144.88(b)(1) Respondent was required to close its motor vehicle waste disposal well by January 1, 2007. Class V Injection Well closure requirements are set forth in 40 C.F.R. § 144.89.

19. Respondent has not properly closed its motor vehicle waste disposal well.

20. Because Respondent's motor vehicle waste disposal well remains in use, it allows for the movement of fluid containing any contaminant (including motor vehicle waste) into underground sources of drinking water.

21. Respondent is in violation of: 40 C.F.R. §§ 144.12(a) and 144.82(a)(1) by owning, operating or maintaining a Class V disposal well which, through injection activity, allows the movement of fluid containing any contaminant into underground sources of drinking water, if the presence of that contaminant may cause a violation of any primary drinking water regulation or may otherwise adversely affect the health of persons.

22. Respondent is in violation of 40 C.F.R. § 144.88(b), for operating a motor vehicle waste disposal well after January 1, 2007.

PROPOSED COMPLIANCE ORDER

23. Respondent shall:

(a) within thirty (30) calendar days of Respondent's receipt of this complaint, submit to EPA, in writing, a schedule for permanently closing the disposal system, and a plan for alternative disposal of the waste that would otherwise have been disposed of in the disposal system. If closure includes the use of a self-contained holding tank, the plan must address the specific type, specifications and size of tank to be installed. EPA will promptly review the proposed plan and either approve it or provide Respondent with written comments;

(b) within sixty (60) calendar days of the receipt of this complaint, permanently close the disposal well according to the EPA-approved plan; and

(c) within thirty (30) calendar days of completing closure, provide EPA with documentation of the closure.

24. Respondent shall submit all documentation to:

Cynthia Peterson (Mail Code 8ENF-UFO)
U.S. EPA Region 8
1595 Wynkoop Street
Denver, Colorado 80202

PROPOSED CIVIL PENALTY

25. In an administrative proceeding EPA is authorized to assess a civil penalty of up to \$16,000 per day, for each violation of the Act, up to a maximum of \$177,500. 42 U.S.C. § 300h-2 (c)(1). The Act requires EPA to take into account specific factors in assessing a civil penalty, including the seriousness of the violations, the economic benefit resulting from the violations, any history of such violations, any good-faith efforts to comply with the requirements, the economic impact on the violator, and such other matters as justice may require.

26. As required by the Act, prior to the assessment of a civil penalty, EPA will provide public notice of the proposed penalty, and reasonable opportunity for the public to comment on the matter and present evidence in the event a hearing is held. 42 U.S.C. § 300h-2 (c)(3)(B).

27. To discuss settlement or ask any questions you may have about this case or the administrative process, please contact Charles Figur, Senior Enforcement Attorney, at (303) 312-6915, or the address below (Mailcode ENF-L).

United States Environmental Protection Agency
Region 8, Office of Enforcement, Compliance and
Environmental Justice
1595 Wynkoop Street
Denver, CO 80202

Date:

7/25/11

By:



Andrew M. Gaydosh
Assistant Regional Administrator
Office of Enforcement, Compliance
And Environmental Justice

U.S. ENVIRONMENTAL PROTECTION AGENCY
PUBLIC NOTICE
OPPORTUNITY FOR PUBLIC COMMENT ON
*PROPOSED COMPLIANCE ORDER, PENALTY COMPLAINT,
AND NOTICE OF OPPORTUNITY FOR HEARING*
AGAINST
BEADLE FORD, INC. AND BEADLE'S CHRYSLER CENTER
FOR FAILURE TO COMPLY WITH
UNDERGROUND INJECTION CONTROL REGULATIONS

PURPOSE OF PUBLIC NOTICE

The purpose of this notice is to solicit written comments on a *Proposed Compliance Order, Penalty Complaint, and Notice of Opportunity for Hearing* (complaint) [Docket No. _____] that Region 8 of the United States Environmental Protection Agency (EPA) proposes to issue to Beadle Ford, Inc. and Beadle's Chrysler Center, for alleged violations at the facility it **owns or operates** at 5023 South Fourth Avenue, Bowdle, South Dakota. The complaint alleges violations of the **Safe Drinking Water Act (SDWA)** and the **regulations** detailing the requirements of the SDWA's Underground Injection Control (UIC) program. **These regulations** govern the injection of fluids that may endanger an underground source of drinking water (USDW). The complaint proposes compliance requirements and monetary penalties for the alleged violation.

EPA desires to receive written comments from any interested party having knowledge of the alleged violations or who can provide any information useful to ensure that the complaint is appropriate. EPA will review and consider all comments received, and will thereafter determine whether the comments, if any, justify the modification **or** withdrawal of the complaint.

BACKGROUND

Part C of the SDWA (40 U.S.C. § 300h et seq.) requires EPA to regulate underground injection of fluid through wells to **assure** that underground sources of drinking water (USDWs) are not endangered. Section 1421 of the SDWA (40 U.S.C. § 300h) requires EPA to administer UIC programs in States that do not have approved State UIC programs. Because the State of South Dakota does not have an approved UIC program, **EPA administers** the program in South Dakota in accordance with Title 40 of the Code of Federal Regulations (**40 C.F.R.**) parts 124, 144, 146, 147, and 148.

Pursuant to 40 C.F.R. §§ 144.6, 144.81, and 146.5, a Class V injection well is a shallow injection well that injects fluids into or above a USDW. The Class V motor vehicle waste disposal well that is the subject of this complaint is located at 5023 South Fourth Avenue, Bowdle, South Dakota.

The complaint **alleges** that Beadle Ford, Inc. and Beadle's Chrysler Center is in violation of certain UIC regulations and **is subject** to appropriate penalties for failing to prevent movement of fluids into a USDW that may **cause a violation** of a primary drinking water regulation under 40 C.F.R. Part 142 or otherwise adversely **affect the** health of persons. The complaint explains that EPA may assess an

administrative civil penalty of up to \$16,000 per day, for each violation of the Act, up to a maximum of \$177,500. In the complaint EPA proposes that Beadle Ford, Inc. and Beadle's Chrysler Center undertake certain compliance measures, including permanent closure of the well. The complaint also explains that Beadle Ford, Inc. and Beadle's Chrysler Center may request a hearing within thirty (30) days of receipt of the complaint.

PUBLIC COMMENTS


Written comments on the complaint are encouraged and will be accepted at the address listed below for a period of thirty (30) calendar days after the publication of this notice. Written comments submitted by the public, as well as information submitted by Beadle Ford, Inc. and Beadle's Chrysler Center will be available for public review as part of the administrative record for this matter, unless the information is determined to be confidential under the confidentiality procedures found at 40 C.F.R. Part 2. Any person submitting written comments will be notified of, and has a right to participate in, any hearing on the complaint requested by Beadle Ford, Inc. and Beadle's Chrysler Center. The complaint and the Administrative Record are available for review between 9:00 a.m. and 4:00 p.m. at the address listed below. It is recommended that those wishing to view the Administrative Record call Charles Figur, Senior Enforcement Attorney, Legal Enforcement Program, EPA Region 8, at (303) 312-6915 before visiting EPA Region 8 offices. Please submit written comments to:

Tina Artemis (8RC)
Regional Hearing Clerk
U.S. EPA, Region 8
1595 Wynkoop Street
Denver, Colorado 80202

Any person interested in receiving their own copy of this or any future public notice of a UIC administrative action can call Cynthia Peterson in the UIC program, EPA Region 8, at (303) 312-6879.

THE DECISION

EPA will review and consider all public comments received on the public notice and will thereafter determine whether the comments, if any, justify the modification or withdrawal of the complaint. If the complaint is revised, copies shall be provided to all parties and to all members of the public who have commented.


Philip S. Strobel
Acting Director, Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice
U.S. EPA, Region 8 (8ENF-UFO)
1595 Wynkoop Street
Denver, CO 80202