



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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

2017 AUG 28 AM 9:46

FILED
EPA REGION VIII
HEARING CLERK

AUG 28 2017

Ref: 8ENF-W-SDW

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Don Baker, Chairman
Etna Water and Sewer District
P.O. Box 5031
Etna, Wyoming 83118

Re: Administrative Order regarding Etna Water and Sewer District Public Water System,
PWS ID #5600157, Docket No. **SDWA-08-2017-0028**

Dear Mr. Baker:

Enclosed is an Administrative Order (Order) issued by the U.S. Environmental Protection Agency under the authority of section 1414(g) of the Safe Drinking Water Act, 42 U.S.C. § 300g-3(g). Among other things, the Order alleges that the Etna Water and Sewer District (District), as owner and/or operator of the Etna Water and Sewer District Public Water System (System), has violated the National Primary Drinking Water Regulations at 40 C.F.R. part 141 (Drinking Water Regulations).

The Order is effective upon the date received. Please review the Order and within 10 days provide the EPA with any information the District believes the EPA may not have (for example, monitoring that may have been done but not submitted). If the EPA does not hear from the District, the EPA will assume the information in the Order is correct.

If the District complies with the Order, the EPA may close the Order without further action. Failure to comply with the Order may lead to substantial civil penalties and/or a federal court injunction ordering compliance.

The Small Business Regulatory Enforcement and Fairness Act (SBREFA) may apply to this situation. Enclosed is a small business information sheet, outlining compliance assistance resources available to small businesses and small governments, in case these are relevant. SBREFA does not eliminate the responsibility to comply with the Order or the Drinking Water Regulations.

To submit information or to request an informal conference with the EPA, please contact Kathelene Brainich via email at brainich.kathelene@epa.gov or by phone at (800) 227-8917 extension 6481 or 303-312-6481. Any questions from the District's attorney should be directed to Mia Bearley,

Enforcement Attorney, via email at bearley.mia@epa.gov or by phone at (800) 227-8917, extension 6554, or (303) 312-6554, or at the letterhead address (with the mailcode 8ENF-L).

We urge your prompt attention to this matter.

Sincerely,


Arturo Palomares, Director
Water Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosures

cc: WY DEQ/DOH (via email)
Melissa Haniewicz, EPA Regional Hearing Clerk



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CERTIFIED MAIL LETTER
RETURN RECEIPT REQUESTED

Lincoln County Commissioners
c/o Robert Edward King, Chair
925 Sage Avenue, Suite 302
Kemmerer, Wyoming 83101

Re: Notice of Safe Drinking Water Act Enforcement Action regarding Etna Water and Sewer District Public Water System, PWS ID #5600157

Dear Commissioners:

The Safe Drinking Water Act requires that the U.S. Environmental Protection Agency (EPA) notify locally elected officials of certain enforcement actions taken in their area.

An Administrative Order (Order) is being issued to the Etna Water and Sewer District, as owners and/or operators of the Etna Water and Sewer District Public Water System, located in Lincoln County, Wyoming, directing it to comply with the National Primary Drinking Water Regulations. The violations alleged in the Order are failure to monitor for nitrate, failure to adequately monitor for total coliform, and failure to notify the EPA of these violations.

For more details, a copy of the Order is enclosed for your information. **The Order does not require any response or action by the County Commission.** If you have any questions regarding this Order, please contact Kathelene Brainich at (303) 312-6481.

Sincerely,

Y. Cantor

Ja Arturo Palomares, Director
Water Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

2017 AUG 28 AM 9:46

IN THE MATTER OF:)
)
Etna Water and Sewer District,)
)
Respondent.)

FILED
EPA REGION VIII
Docket No. ~~SDWA-08-2017-0028~~ G C I ERK
ADMINISTRATIVE ORDER

1. This Order is 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 (the Act), 42 U.S.C. § 300g-3(g), as properly delegated to the undersigned officials.
2. Etna Water and Sewer District (Respondent) is a public body created by or pursuant to Wyoming law that owns and/or operates the Etna Water and Sewer District Public Water System (System), which provides piped water to the public in Lincoln County, Wyoming, for human consumption.
3. The System is supplied by a groundwater source accessed via a well and a spring. Chlorination equipment is connected to the System but not in use.
4. The System has approximately 61 service connections used by year-round residents and/or regularly serves an average of approximately 120 year-round residents. Therefore, the System is a “public water system” and a “community water system” as defined in 40 C.F.R. § 141.2 and section 1401 of the Act, 42 U.S.C. § 300f.
5. Respondent is subject to the Act and the National Primary Drinking Water Regulations (Drinking Water Regulations) at 40 C.F.R. part 141. The Drinking Water Regulations are “applicable requirements” as defined in section 1414(i) of the Act, 42 U.S.C. § 300g-3(i).
6. The Drinking Water Regulations include monitoring requirements. The EPA has sent Respondent annual notifications of the specific monitoring requirements that apply to the System.

VIOLATIONS

7. Respondent is required to monitor the System’s water annually for nitrate. 40 C.F.R. § 141.23(d). Respondent failed to monitor the System’s water for nitrate during 2016 and, therefore, violated this requirement. Respondent monitored for nitrate in July 2017.
8. Within 24 hours of being notified that a routine sample of the System’s water is positive for total coliform, Respondent was required to collect a set of four repeat samples. 40 C.F.R. § 141.21(b). Respondent took three repeat samples within 24 hours of being notified of a positive total coliform result taken on February 2, 2015, and, therefore, violated this requirement.

9. Respondent is required to report any failure to comply with any Drinking Water Regulation to the EPA within 48 hours, except where the Drinking Water Regulations specify a different time period. 40 C.F.R. § 141.31(b). Respondent failed to report the violation cited in paragraph 7, above, to the EPA and, therefore, violated this requirement.

10. Respondent is required to report any violation of coliform monitoring requirements to the EPA within 10 days after discovering the violation. 40 C.F.R. § 141.21(g)(2). Respondent failed to report the violation cited in paragraph 8, above, to the EPA and, therefore, violated this requirement.

ORDER

Based on the above violations, Respondent is ordered to perform the following actions upon Respondent's receipt of this Order (unless a different deadline is specified below):

11. Respondent shall monitor the System's water for nitrate as required by the Drinking Water Regulations. 40 C.F.R. § 141.23. Respondent shall report nitrate analytical results to the EPA within the first 10 days following the month in which Respondent receives sample results, as required by 40 C.F.R. § 141.31(a). Respondent shall report any failure to comply with any Drinking Water Regulation to the EPA within 48 hours, except where the Drinking Water Regulations specify a different time period, as required by 40 C.F.R. § 141.31(b).

12. If any total coliform routine sample for the System is positive for total coliform, Respondent shall collect a set of three repeat samples within 24 hours of being notified of the positive result, as required by 40 C.F.R. § 141.853-858 (Revised Total Coliform Rule). Respondent shall report total coliform analytical results to the EPA within the first 10 days following the month in which Respondent receives sample results, as required by 40 C.F.R. § 141.31(a). Respondent shall report any violation of coliform monitoring requirements to the EPA within 10 days after discovering the violation, as required by 40 C.F.R. § 141.861(a)(4).

13. This Order shall be binding on Respondent and any person (e.g., employee, contractor or other agent) acting in concert with Respondent.

14. If Respondent contracts with or hires any other person or entity to operate the System, Respondent shall, no later than the date of such hire or contract, provide a copy of this Order to the employee or contractor and notify the EPA in writing of the employee or contracted parties name and contact information. Respondent shall remain obligated to comply with this Order even if Respondent hires another person or entity to operate the System.

15. Respondent shall send all reporting and notifications required by this Order to the EPA via email at R8DWU@epa.gov or fax at (877) 876-9101.

GENERAL PROVISIONS

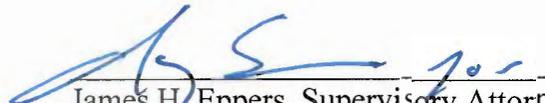
16. This Order shall not constitute a waiver, suspension or modification of any requirement of the Act or the Drinking Water Regulations. Issuance of this Order is not an election by the EPA to forgo any civil or criminal action.

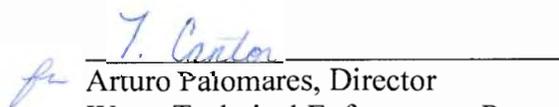
17. Violation of any part of this Order or the Drinking Water Regulations may subject Respondent to a civil penalty of up to \$54,789 (as adjusted for inflation) per day of violation. 42 U.S.C. § 300g-3; 40 C.F.R. part 19; 81 Fed. Reg. 43091 (January 12, 2017).

18. Respondent may seek federal judicial review of this Order pursuant to section 1448(a) of the Act, 42 U.S.C. § 300j-7(a).

19. This Order is effective upon receipt by Respondent and will continue to be in effect until closed by the EPA.

Issued: August 28th, 2017.


James H. Eppers, Supervisory Attorney
Regulatory Enforcement Unit
Office of Enforcement, Compliance
and Environmental Justice


Arturo Palomares, Director
Water Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

U.S. EPA Small Business Resources Information Sheet

The United States Environmental Protection Agency provides an array of resources to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

Office of Small and Disadvantaged Business Utilization (OSDBU)

www.epa.gov/aboutepa/about-office-small-and-disadvantaged-business-utilization-osdbu

EPA's OSDBU advocates and advances business, regulatory, and environmental compliance concerns of small and socio-economically disadvantaged businesses.

EPA's Asbestos Small Business Ombudsman (ASBO)

www.epa.gov/resources-small-businesses/asbestos-small-business-ombudsman or 1-800-368-5888

The EPA ASBO serves as a conduit for small businesses to access EPA and facilitates communications between the small business community and the Agency.

Small Business Environmental Assistance Program

<https://nationalsbeap.org>

This program provides a "one-stop shop" for small businesses and assistance providers seeking information on a wide range of environmental topics and state-specific environmental compliance assistance resources.

EPA's Compliance Assistance Homepage

www.epa.gov/compliance

This page is a gateway to industry and statute-specific environmental resources, from extensive web-based information to hotlines and compliance assistance specialists.

Compliance Assistance Centers

www.complianceassistance.net

EPA sponsored Compliance Assistance Centers provide information targeted to industries with many small businesses. They were developed in partnership with industry, universities and other federal and state agencies.

Agriculture

www.epa.gov/agriculture

Automotive Recycling

www.ecarcenter.org

Automotive Service and Repair

www.ccar-greenlink.org or 1-888-GRN-LINK

Chemical Manufacturing

www.chemalliance.org

Construction

www.cicacenter.org

Education

www.campuserc.org

Food Processing

www.fpeac.org

Healthcare

www.hercenter.org

Local Government

www.lgean.org

Surface Finishing

<http://www.sterc.org>

Paints and Coatings

www.paintcenter.org

Printing

www.pneac.org

Ports

www.portcompliance.org

Transportation

www.tercenter.org

U.S. Border Compliance and Import/Export Issues

www.bordercenter.org

EPA Hotlines and Clearinghouses

www.epa.gov/home/epa-hotlines

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Examples include:

Clean Air Technology Center (CATC) Info-line

www.epa.gov/catc or 1-919-541-0800

Superfund, TRI, EPCRA, RMP, and Oil Information Center

1-800-424-9346

EPA Imported Vehicles and Engines Public Helpline

www.epa.gov/otaq/imports or 1-734-214-4100

National Pesticide Information Center

www.npic.orst.edu or 1-800-858-7378

National Response Center Hotline to report oil and hazardous substance spills - <http://nrc.uscg.mil> or 1-800-424-8802

Pollution Prevention Information Clearinghouse (PPIC) -

www.epa.gov/p2/pollution-prevention-resources#ppic or 1-202-566-0799

Safe Drinking Water Hotline -

www.epa.gov/ground-water-and-drinking-water/safe-drinking-water-hotline or 1-800-426-4791

Toxic Substances Control Act (TSCA) Hotline

tsc hotline@epa.gov or 1-202-554-1404

Small Entity Compliance Guides

<https://www.epa.gov/reg-flex/small-entity-compliance-guides>

EPA publishes a Small Entity Compliance Guide (SECG) for every rule for which the Agency has prepared a final regulatory flexibility analysis, in accordance with Section 604 of the Regulatory Flexibility Act (RFA).

Regional Small Business Liaisons

www.epa.gov/resources-small-businesses/epa-regional-office-small-business-liaisons

The U.S. Environmental Protection Agency (EPA) Regional Small Business Liaison (RSBL) is the primary regional contact and often the expert on small business assistance, advocacy, and outreach. The RSBL is the regional voice for the EPA Asbestos and Small Business Ombudsman (ASBO).

State Resource Locators

www.envcap.org/statetools

The Locators provide state-specific contacts, regulations and resources covering the major environmental laws.

State Small Business Environmental Assistance Programs (SBEAPs)

<https://nationalsbeap.org/states/list>

State SBEAPs help small businesses and assistance providers understand environmental requirements and sustainable business practices through workshops, trainings and site visits.

EPA's Tribal Portal

www.epa.gov/tribalportal

The Portal helps users locate tribal-related information within EPA and other federal agencies.

EPA Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated, businesses may be eligible for penalty waivers or reductions. EPA has two such policies that may apply to small businesses:

EPA's Small Business Compliance Policy

www.epa.gov/enforcement/small-businesses-and-enforcement

EPA's Audit Policy

www.epa.gov/compliance/epas-audit-policy

Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established a SBREFA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System designation, number of employees or annual receipts, as defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247).

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

Your Duty to Comply

If you receive compliance assistance or submit a comment to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.