



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 -9 AM 10: 27

FILED  
EPA REGION VIII  
HEARING CLERK

**AUG 09 2017**

Ref: 8ENF-W-SDW

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

The Honorable Debra McColley-Piana, Mayor  
City of Newcastle  
10 West Warwick  
Newcastle, Wyoming 82701

Re: Administrative Order regarding the City of Newcastle Public Water System,  
PWS ID #5600256, Docket No. **SDWA-08-2017-0026**

Dear Mayor McColley-Piana:

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 City of Newcastle (City), as owner and/or operator of the City of Newcastle 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 City 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 City, the EPA will assume the information in the Order is correct.

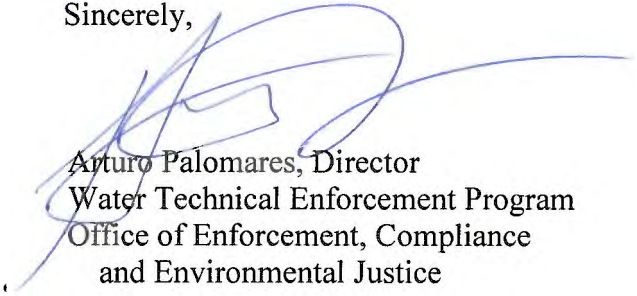
If the City complies with the Order, the EPA may close the Order without further action. Failure to comply with the Order may lead to substantial civil penalties and/or a federal court injunction ordering compliance.

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 Olive Hofstader via email at [hofstader.olive@epa.gov](mailto:hofstader.olive@epa.gov) or by phone at (800) 227-8917, extension 6467 or (303) 312-6467. Any questions from your attorney should be directed to Mia Bearley, enforcement attorney, who may be reached via email at [bearley.mia@epa.gov](mailto:bearley.mia@epa.gov), by phone at (800) 227-8917, extension 6554, or (303) 312-6554, or at the above 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: Mike Moore, City of Newcastle ([engineer@cityofnewcastle.org](mailto:engineer@cityofnewcastle.org))  
WY DEQ/DOH (via email)  
Melissa Haniewicz, EPA Regional Hearing Clerk



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CERTIFIED MAIL LETTER  
RETURN RECEIPT REQUESTED

Weston County Commissioners  
c/o Bill Lambert, Chair  
1 West Main  
Newcastle, Wyoming 82701

Re: Notice of Safe Drinking Water Act Enforcement Action regarding the City of Newcastle Public Water System, PWS ID #5600256 **Docket no. : SDWA-08-2017-0026**

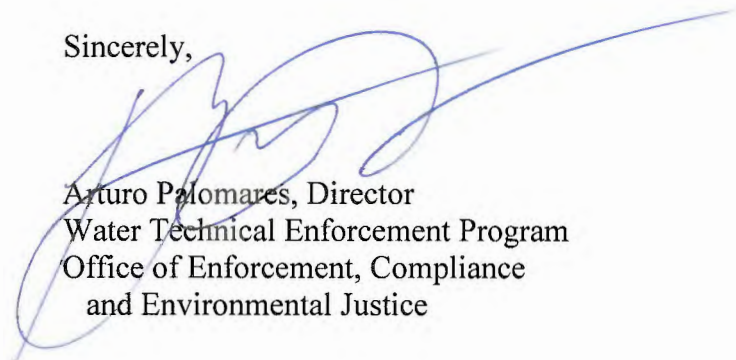
Dear Commissioners:

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 City of Newcastle, as owners and/or operators of the City of Newcastle Public Water System, located in Weston County, Wyoming, directing it to comply with the National Primary Drinking Water Regulations. The violations alleged in the Order are failure to monitor for lead and copper and total coliform, exceeding the total coliform maximum contaminant level, failure to adequately complete the annual consumer confidence report, and failure to notify the EPA of the 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 Olive Hofstader at (303) 312-6467.

Sincerely,

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

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

2017 AUG -9 AM 10: 27

IN THE MATTER OF: \_\_\_\_\_ )  
 )  
City of Newcastle, Wyoming, )  
 )  
Respondent. \_\_\_\_\_ )

Docket No. ~~SDWA-08-2017-0026~~

**ADMINISTRATIVE ORDER**

FILED  
EPA REGION VIII  
HEARING CLERK

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 (Act), 42 U.S.C. § 300g-3(g), as properly delegated to the undersigned officials.
2. The City of Newcastle (Respondent) is a municipality that owns and/or operates the City of Newcastle Public Water System (System), which provides piped water to the public in Weston County, Wyoming, for human consumption.
3. The System is supplied by a groundwater source accessed via four wells. The System does not treat the water.
4. The System has approximately 1,564 service connections used by year-round residents and/or regularly serves an average of approximately 3,521 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 was required to monitor the System’s tap water for lead and copper triennially between 2013 and 2015, and annually in 2016. 40 C.F.R. § 141.86(d). Respondent failed to monitor the System’s water for lead and copper during the 2013-2015 monitoring period and in 2016, and therefore violated this requirement.
8. Respondent was required to monitor the System’s water three times monthly for total coliform bacteria in 2015. 40 C.F.R. § 141.21(a). Respondent failed to monitor the System’s water for total coliform bacteria during October 2015, and, therefore, violated this requirement.
9. If two or more samples in any month from the System’s water are positive for total coliform, then the System has not complied with the maximum contaminant level (MCL) for total coliform bacteria. 40 C.F.R. § 141.63(a)(2). During the month of August 2014, two or more samples from the System were positive for total coliform and, therefore, Respondent violated this requirement.

10. Respondent is required to prepare and deliver an annual Consumer Confidence Report (CCR) to the System's customers and the EPA by July 1<sup>st</sup> of each year and to certify to the EPA that it has done so. 40 C.F.R. §§ 141.151-141.155. Among other things, the CCR must include information on drinking water violations that occurred during the year covered by the report. 40 C.F.R. § 141.153. Respondent failed to include the required information on the violations listed in paragraphs 7 and 8, above, in their 2015 and 2016 CCRs and, therefore, violated this requirement.

11. Respondent is required to report any failure to comply with any Drinking Water Regulations 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 violations cited in paragraphs 7 and 10, above, to the EPA and therefore violated this requirement.

12. 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 listed 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):

13. No later than September 30, 2017, and thereafter as directed by the EPA, Respondent shall collect lead and copper samples in the distribution system according to the System's tap sample site plan, in accordance with 40 C.F.R. § 141.86(b), (c) and (d). Respondent shall report analytical results to the EPA within the first 10 days following the end of each monitoring period, as required by 40 C.F.R. § 141.90.

14. Respondent shall monitor the System's water four times monthly for total coliform bacteria. If a sample is positive for total coliform, within 24 hours of being notified of the positive result, Respondent shall collect a set of three repeat samples for each total coliform-positive sample. 40 C.F.R. § 141.853-858. 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).

15. Following any future instances of the System (1) having more than one positive total coliform sample result (including routine and repeat samples) within the same month, or (2) failing to collect three repeat samples within 24 hours following a total coliform positive sample, Respondent shall conduct a Level 1 assessment in compliance with 40 C.F.R. § 141.859. The assessment shall determine the cause of the total coliform positive samples and be submitted to the EPA within 30 days of learning of the positive monitoring results or failure to monitor violation. The assessment must identify corrective action for any sanitary defects identified in the

assessment. If corrective action of sanitary defects will take longer than 10 days to complete, Respondent shall consult with and submit a schedule for completion to the EPA and complete the actions no later than the EPA-approved timeframe.

16. Within 30 days after receipt of this Order, Respondent shall revise the System's CCR for 2016 that was due July 1, 2017. The revised CCR shall include information on the 2013-2015 triennial and 2016 annual lead and copper monitoring violations, and the October 2015 TCR monitoring violation as required by 40 C.F.R. § 141.153. Respondent shall provide the revised CCR to the System's customers, and certify to the EPA that it has done so. Thereafter, Respondent shall prepare and distribute annual CCRs and provide certifications as required by 40 C.F.R. §§ 141.151-141.155.

17. Respondent shall report any violation of the Drinking Water Regulations to the EPA within 48 hours of the violation occurring, as required by 40 C.F.R. § 141.31(b). However, if a different time period for reporting is specified in this Order or the Drinking Water Regulations, Respondent shall report within that different period.

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

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

20. Respondent shall send all reporting and notifications required by this Order in writing via:

Email: R8DWU@epa.gov or Fax: (877) 876-9101  
or mail to:  
U.S. EPA Region 8 (8P-WP-SD)  
1595 Wynkoop Street  
Denver, CO 80202-1129

#### **GENERAL PROVISIONS**


21. 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.

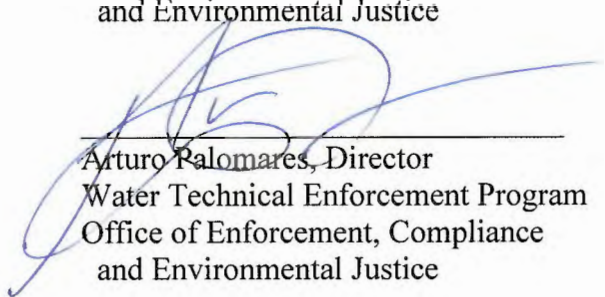
22. Violation of any part of this Order or the Drinking Water Regulations may subject Respondent to a civil penalty of up to \$54,789 (as adjusted for inflation) per day of violation. 42 U.S.C. § 300g-3; 40 C.F.R. part 19; 81 Fed. Reg. 43091 (January 12, 2017).

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

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

Issued: August 9th, 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](http://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](http://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](http://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](http://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](http://www.epa.gov/agriculture)

### Automotive Recycling

[www.ecarcenter.org](http://www.ecarcenter.org)

### Automotive Service and Repair

[www.ccar-greenlink.org](http://www.ccar-greenlink.org) or 1-888-GRN-LINK

### Chemical Manufacturing

[www.chemalliance.org](http://www.chemalliance.org)

### Construction

[www.cicacenter.org](http://www.cicacenter.org)

### Education

[www.campuserc.org](http://www.campuserc.org)

### Food Processing

[www.fpeac.org](http://www.fpeac.org)

### Healthcare

[www.hercenter.org](http://www.hercenter.org)

### Local Government

[www.lgean.org](http://www.lgean.org)

### Surface Finishing

<http://www.sterc.org>

### Paints and Coatings

[www.paintcenter.org](http://www.paintcenter.org)

### Printing

[www.pneac.org](http://www.pneac.org)

### Ports

[www.portcompliance.org](http://www.portcompliance.org)

### Transportation

[www.tercenter.org](http://www.tercenter.org)

### U.S. Border Compliance and Import/Export Issues

[www.bordercenter.org](http://www.bordercenter.org)

### EPA Hotlines and Clearinghouses

[www.epa.gov/home/epa-hotlines](http://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](http://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](http://www.epa.gov/otaq/imports) or 1-734-214-4100

### National Pesticide Information Center

[www.npic.orst.edu](http://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](http://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](http://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](mailto: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](http://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](http://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](http://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](http://www.epa.gov/enforcement/small-businesses-and-enforcement)

**EPA's Audit Policy**

[www.epa.gov/compliance/epas-audit-policy](http://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.***