



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

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

2017 SEP 29 AM 9:38

SEP 29 2017

FILED  
EPA REGION VIII  
HEARING CLERK

Ref: 8ENF-W-SDW

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Mr. James Nielson, Registered Agent  
Sleeping Giant Ski Area Public Water System  
1501 Stampede Avenue, Suite 3270  
Cody, Wyoming 82414

Re: Administrative Order issued to the Sleeping Giant Ski Area Public Water System,  
PWS ID# 5601628, Docket No. **SDWA-08-2017-0040**

Dear Mr. Nielson:

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 Yellowstone Recreations Foundation (Foundation), as owner and/or operator of the Sleeping Giant Ski Area 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 Foundation 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 Foundation, the EPA will assume the information in the Order is correct.

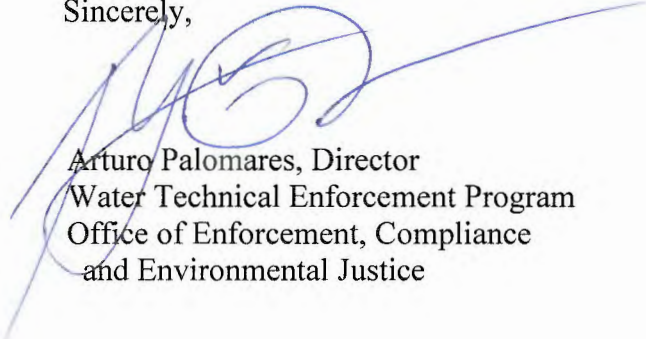
If the Foundation complies with the Order, the EPA may close the Order without further action. Failure to comply with the Order may lead to substantial civil penalties and/or a federal court injunction ordering compliance.

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 the Foundation's attorney should be directed to Mia Bearley, Enforcement Attorney, via email at [bearley.mia@epa.gov](mailto:bearley.mia@epa.gov) or by phone at (800) 227-8917, extension 6554, or (303) 312-6554.

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: Mr. Jon Reveal, General Manager (gm@skisg.com)  
WY DEQ/DOH (via email)  
Melissa Haniewicz, EPA Regional Hearing Clerk



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CERTIFIED MAIL LETTER  
RETURN RECEIPT REQUESTED

Park County Commissioners  
c/o Lee Livingston, Chair  
1002 Sheridan Ave.  
Cody, Wyoming 82414

Re: Notice of Safe Drinking Water Act Enforcement Action regarding the Sleeping Giant Ski Area Public Water System, PWS ID #5601628, Docket No. **SDWA-08-2017-0040**

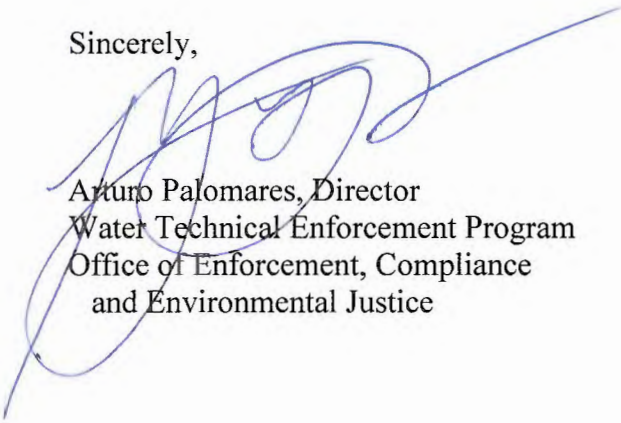
Dear Commissioners:

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

An Administrative Order (Order) is being issued to the Yellowstone Recreations Foundation, as owner and/or operator of the Sleeping Giant Ski Area Public Water System, located in Park County, Wyoming, directing it to comply with the National Primary Drinking Water Regulations. The violations alleged in the Order are failure to complete seasonal start-up procedures in 2016 and 2017, failure to monitor for total source water, failure to correct significant deficiencies, 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 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

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Docket No. SDWA-08-2017-0040

IN THE MATTER OF: )  
 )  
Yellowstone Receptions Foundation, )  
(Sleeping Giant Ski Area PWS) )  
 )  
Respondent. )

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 (Act), 42 U.S.C. § 300g-3(g), as properly delegated to the undersigned officials.
2. The Yellowstone Receptions Foundation (Respondent) is a Wyoming corporation that owns and/or operates the Sleeping Giant Ski Area Public Water System (System), which provides piped water to the public in Park County, Wyoming, for human consumption.
3. The System is open seasonally and is supplied by a groundwater source accessed via one well. The water is not treated.
4. The System has approximately 1 service connection and regularly serves an average of approximately 112 individuals daily at least 60 days out of the year. Therefore, the System is a “public water system” as defined in section 1401(4) of the Act, 42 U.S.C. § 300f(4), and 40 C.F.R. § 141.2. The System is also a “transient, non-community water system” as defined in 40 C.F.R. § 141.2.
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).

**VIOLATIONS**

6. Respondent is required each year to demonstrate completion of an EPA-approved start-up procedure, which may include sampling, prior to serving water to the public and to certify compliance with the EPA-approved start-up procedure. 40 C.F.R. §§ 141.854(i)(1) and 141.861(a)(5). Respondent failed to demonstrate completion and certification of the EPA-approved start up procedure prior to serving water to the public in 2016 and 2017, and, therefore, violated this requirement.
7. Respondent is required to conduct triggered source monitoring within 24 hours of being notified that a regular, routine total coliform monitoring sample is positive for total coliform. 40 C.F.R. § 141.402. Respondent must sample each ground water source and have it analyzed for a fecal indicator (i.e. *E. coli*). Respondent submitted a source sample on September 7, 2017. However, Respondent failed to monitor the System’s source for a fecal indicator within 24 hours

after a sample taken on June 13, 2017, was analyzed as total coliform positive and, therefore, violated this requirement. 40 C.F.R. § 141.402.

8. Respondent is required to complete corrective action of a significant deficiency in accordance with an EPA approved corrective action schedule or within 120 days of receiving written notification from EPA of a significant deficiency. 40 C.F.R. § 141.403(a). Respondent is required to notify the EPA within 30 days of completion of a significant deficiency corrective action. 40 C.F.R. § 141.405(a)(2). Respondent received a letter from the EPA on November 16, 2016, that detailed significant deficiencies and required completion of corrective actions within 6 months. Respondent failed to complete all corrective actions by May 16, 2017, and/or failed to notify the EPA of corrective action completion 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 violations cited in paragraphs 6, 7, and 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):

10. Respondent, each year prior to serving water to the public, shall (a) demonstrate completion of the EPA-approved start-up procedure, as required by 40 C.F.R. § 141.854(i)(1), and (b) certify compliance with the EPA-approved start-up procedure, as required by 40 C.F.R. § 141.861(a)(5), by using the Seasonal Start-up Checklist and submitting a signed certified copy of the checklist to the EPA. The checklist can be found at: <https://www.epa.gov/region8-waterops/revised-total-coliform-rule>.

11. If the System is notified that a regular, routine total coliform monitoring sample is positive for total coliform, Respondent shall comply with all source water monitoring and related requirements in 40 C.F.R. § 141.402. When reporting any triggered source water sample result, Respondent shall specify that it is a triggered source water sample.

12. Within 60 days of receipt of this Order, Respondent shall complete corrective action of the following significant deficiencies and notify the EPA within 30 days after their completion. Respondent shall provide sufficient evidence to the EPA, including photographs, of the corrective actions, and a completed correction notice for each corrective action. Thereafter, Respondent shall complete corrective action of significant deficiencies and notification of their completion as required by 40 C.F.R. §§ 141.403(a) and 141.405(a)(2).

- a. **Lack of a sanitary seal on the well casing on Sleeping Giant Well #1.**  
*Note: A repair was made to address the opening into the well caused by the electrical conduit, and documentation was provided to the surveyor. However, it is still unclear if the significant deficiency is adequately addressed. **Please send additional photos clearly showing the well cap.***
- b. **A well that serves the shop bathroom is not connected to the public water system.** The System must select one of the two options listed below:
  - 1) The well must be monitored as required by the Drinking Water Regulations and included as part of the public water system. And, the System must complete and submit the Unknown Integrity of Source Well Checklist.
  - 2) Or, the System must abandon the well and physically disconnect it from the System. If the System selects this option, photos must be taken to document the inactive status of the well, and must be provided to EPA.
- c. **Lack of an Emergency Response Plan.** The System must develop and submit to EPA an Emergency Response Plan (ERP). Templates, including instructions, for developing ERPs may be found on the USEPA Region 8 Drinking Water Online website: <http://www2.epa.gov/region8-waterops/reporting-forms-and-instructions-reporting-forms>. Select the “Emergency Response Plan Templates” link on the main page.

13. 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.

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

15. If Respondent (a) leases or sells the System to another person or entity, or (b) 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 lessee, purchaser, or contractor. No later than 10 days thereafter, Respondent shall notify the EPA in writing of the lease, sale, or other contract, with such notification to include the name and contact information of the person who has leased, bought, or contracted to operate the System. Respondent shall remain obligated to comply with this Order even if Respondent leases the System to another person or entity or hires another person or entity to operate the System.

16. 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**

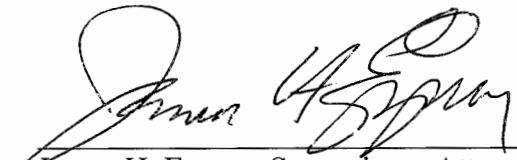
17. This Order shall not constitute a waiver, suspension or modification of any requirement of the Act or the Drinking Water Regulations. Issuance of this Order is not an election by the EPA to forgo any civil or criminal action.

18. 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).

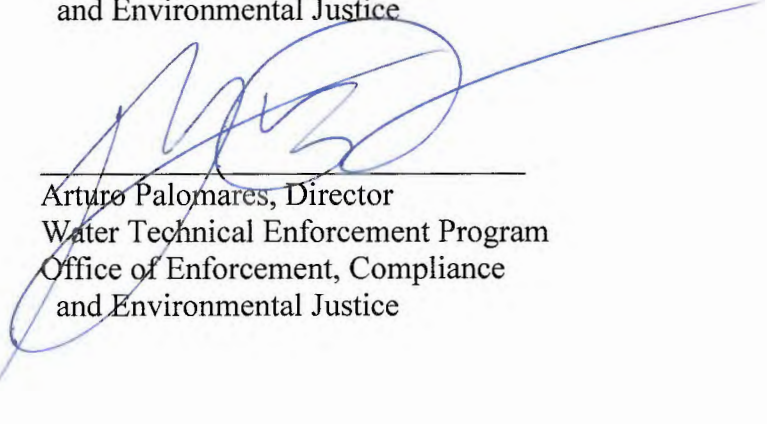
19. Respondent may seek federal judicial review of this Order pursuant to section 1448(a) of the Act, 42 U.S.C. § 300j-7(a).

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

Issued: September 29th, 2017.



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



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



**EPA Region 8 Drinking Water Unit  
Unknown Integrity of Well Checklist**

Fill out one checklist per each well & submit labeled photos of each well component the sanitary surveyor was unable to access and completely evaluate with this form

PWS Name: _____	PWS ID: _____
Well Name: _____ (Review your schematic to find the well name and ID)	Well ID: _____
Proposed Inspection Date: _____	Actual Inspection Date: _____
Name of Person Filling Out Form: _____	Title of Person Filling Out Form: _____
I certify that this information is complete and accurate:	Date: _____

Overall Well Location				
	Significant Deficiency	Required Correction	Proposed Completion Date	Actual Completion Date
<input type="checkbox"/> Yes <input type="checkbox"/> No	Is the well protected from vehicle damage?	If no, how will you address this deficiency? _____	_____	_____
<input type="checkbox"/> Yes <input type="checkbox"/> No	If in a pit or vault is it completed with drainage or a sump pump for permanent or portable use?	If no, how you will address this deficiency? _____	_____	_____
<input type="checkbox"/> Yes <input type="checkbox"/> No	Does surface water drain away from the wellhead (including in pits or vaults)?	If yes, how will you address this deficiency? _____	_____	_____
<input type="checkbox"/> Yes <input type="checkbox"/> No	Measure the height of the well casing and note it here: _____.	If the well does not terminate at least 12" above a concrete pad or 18" above natural ground level the well height may be required to be raised.	_____	_____
<input type="checkbox"/> Yes <input type="checkbox"/> No	Is there a proper sanitary seal? Take a picture of the top of the well and side of the well to aid in the determination if there is a sanitary seal.		_____	_____
<input type="checkbox"/> Yes <input type="checkbox"/> No	Are there any sources of pollution near any of the wells (e.g., chemical storage, agricultural activities, industrial activities, rodents and rodent droppings, or cleaning supplies)?	If yes, note how you will address this deficiency after consulting with EPA. _____	_____	_____

**Well Vent**

**(If there is no well vent, please put N/A in the proposed completion date)**

Significant Deficiency	Required Correction	Proposed Completion Date	Actual Completion Date
<input type="checkbox"/> Yes <input type="checkbox"/> No	Does the well vent terminate in a downward position?	If no, reconfigure vent.	_____
<input type="checkbox"/> Yes <input type="checkbox"/> No	Is the vent covered with #24 mesh corrosion resistant screening (some exceptions apply)? _____ What is the mesh size? _____	If no, install #24 mesh corrosion resistant screen.	_____

## 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.***