



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

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8/16/2023

2:16 PM

Received by  
EPA Region VIII  
Hearing Clerk

August 16, 2023

Ref: 8ENF-W-SD

SENT VIA EMAIL  
DIGITAL DELIVERY RECEIPT REQUESTED

Mr. David Flammond, Owner  
[kipsbeergarden@yahoo.com](mailto:kipsbeergarden@yahoo.com)

Re: Violation of the Kips Beer Garden Administrative Order, Docket No. SDWA-08-2022-0019,  
Kips Beer Garden Public Water System, PWS ID #083090098

Dear Mr. Flammond:

The purpose of this letter is to notify you as the named Respondent in the above-referenced matter (Respondent) that civil penalties and/or a federal court injunction may be ordered against Respondent for violations of the Safe Drinking Water Act, 42 U.S.C. section 300f, *et seq.* (Act) at the Kips Beer Garden Public Water System (System). Specifically, on July 27, 2022, the EPA issued an Administrative Order (Order) directing Respondent to comply with the National Primary Drinking Water Regulations (Part 141) issued by the EPA under the Act. Our records indicate that the System is in violation of the Order.

Among other things, the Order included the following requirements, which have not been properly completed:

**Significant Deficiencies**

Summarized from paragraph 27 of the Order: Within 30 calendar days of receipt of the Order, Respondent was required to consult with the EPA regarding action to correct a significant deficiency (i.e., all openings in Well 1 (WL01) must be sealed and watertight) and submit an updated proposed schedule and plan to the EPA for completion of the corrective action. The plan was to include proposed modifications to the System and estimated costs of modifications.

- Violation: Failure to submit an updated plan and schedule of the significant deficiency identified in the July 27, 2022, Order.
- This violation must be corrected by September 30, 2023.

## **Public Notice**

Summarized from paragraphs 30 and 31 of the Order: Respondent was required to notify the public of certain violations of Part 141 and, within 10 calendar days after completing public notice, provide a copy of the public notice and certification to the EPA. 40 C.F.R. §§ 141.31(d) and 141.201-141.211.

- Violation: Respondent failed to notify the public of all violations cited in the Order.
- This violation must be corrected by September 30, 2023.

Violation of any part of this Order, the Act, or Part 141 may subject Respondent to a civil penalty of up to \$67,544 (as adjusted for inflation) per day of violation, a court injunction ordering compliance, or both. 42 U.S.C. § 300g-3; 40 C.F.R. part 19; 88 Fed. Reg. at 989 (January 6, 2023).

The EPA may choose not to file a complaint seeking civil penalties if Respondent does not incur any additional violations and if Respondent provides the EPA with the aforementioned updated plan and schedule, all public notifications, and all public notice certifications by September 30, 2023. Please note Respondent is also required to monitor the System's water for nitrate per the attached *Monitoring and Reporting Requirements for the Calendar Year 2023* and report the results to the EPA within the first 10 calendar days following the end of the required monitoring period.

If you have any questions or to request an informal conference with the EPA, please contact Rachel Brookins via email at [brookins.rachel@epa.gov](mailto:brookins.rachel@epa.gov), or by phone at (800) 227-8917, extension 6509, or (303) 312-6509. Any questions from the Company's attorney should be directed to Mia Bearley, Senior Assistant Regional Counsel, 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,

Colleen Rathbone, Manager  
Water Enforcement Branch  
Enforcement and Compliance Assurance Division

## Enclosures

cc: EPA Regional Hearing Clerk ([r8\\_hearing\\_clerk@epa.gov](mailto:r8_hearing_clerk@epa.gov))  
Stuart Lewin, Legal Counsel ([stuartlewin@gmail.com](mailto:stuartlewin@gmail.com))  
Timothy Davis, Chairman, Blackfeet Tribal Business Council ([tdavis@blackfeetnation.com](mailto:tdavis@blackfeetnation.com))  
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