



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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

APR 17 2013

Ref: 8ENF-W

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ronald Abernathy, Registered Agent
Atlantic City Mercantile, Inc.
345 S. 7th Street
Lander, WY 82520

P. Alexandra Schultejan, Registered Agent
Schultejan Properties, LLC
159 Lincoln
Lander, WY 82520

Re: Administrative Order
Atlantic City Mercantile Public Water System
Docket No. **SDWA-08-2013-0016**
PWS ID #5600432

Dear Mr. Abernathy and Ms. Schultejan:

Enclosed is an Administrative Order (Order) issued by the U.S. Environmental Protection Agency (EPA) 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 Atlantic City Mercantile, Inc. and Schultejan Properties, LLC (companies), as owners and/or operators of the Atlantic City Mercantile public water system (System) have 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 you believe the EPA may not have (e.g., any monitoring that may have been done but not submitted, any improvements to the system, etc.). If the EPA does not hear from you, the EPA will assume this information is correct.

If the companies comply 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 request an informal conference with the EPA, please contact Olive Hofstader at the above address (with the mailcode 8ENF-W) or by phone at (800) 227-8917, extension 6467 or (303) 312-6467. Any questions from the companies' attorney should be directed to Dana Stotsky, Enforcement Attorney, who may be reached at the above address (with the mailcode 8ENF-L) or by phone at (800) 227-8917, extension 6905 or (303) 312-6905.

We urge your prompt attention to this matter.

Sincerely,



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

Enclosures:

Order
SBREFA Information Sheet

cc:

Dan Schultejann (via email)
WY DEQ/DOH (via email)
Tina Artemis, EPA Regional Hearing Clerk
Connie Hime, Administrative Contact (via email)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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

Ref: 8ENF-W

APR 17 2013

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Fremont County Commissioners
c/o Douglas L. Thompson, Chair
450 North 2nd Street, Room 250
Lander, WY 82520

Re: Notice of Safe Drinking Water Act Enforcement
Action against Atlantic City Mercantile Public Water
System
PWS ID # WY5600432

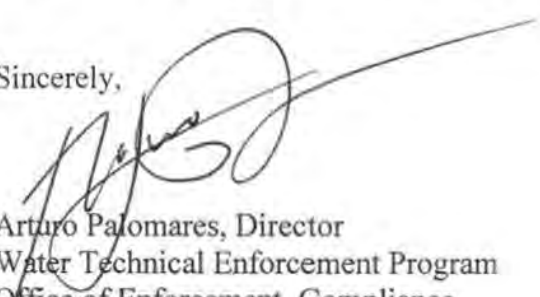
Dear Commissioners:

The Safe Drinking Water Act (SDWA) 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 Atlantic City Mercantile (System). This Order requires that the System take measures to return the Atlantic City Mercantile public water system to compliance with the SDWA and the National Primary Drinking Water Regulations. The violations include: failure to monitor for total coliform bacteria, failure to maintain disinfection residual, failure to remove and/or inactivate 99.99 percent of viruses and failure to report such violations to EPA.

For more details, a copy of the Order is enclosed. **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:
Order

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2013 APR 17 AM 10:09

FILED
EPA REGION VIII
HEARING CLERK

IN THE MATTER OF:)
)
Atlantic City Mercantile, Inc.,)
)
and)
)
Schultejan Properties, LLC,)
)
Respondents.)

Docket No. **SDWA-08-2013-0016**

ADMINISTRATIVE ORDER

1. This Order is issued under the authority vested in the Administrator of the U.S. 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 Atlantic City Mercantile, Inc. and Schultejan Properties, LLC (Respondents) are Wyoming corporations that own and/or operate the Atlantic City Mercantile Water System (System), which provides piped water to the public in Fremont County, Wyoming, for human consumption.
3. The System is supplied by groundwater under the direct influence of surface water through 1 well. The water is filtered and treated with UV and chlorine disinfection. The System's treatment processes do not achieve at least a 4-log, or 99.99%, removal and/or inactivation of viruses.
4. The System has approximately 5 service connections and/or regularly serves an average of approximately 45 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. Respondents are 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 Respondents annual notifications of the specific monitoring requirements that apply to the System.

VIOLATIONS

7. Respondents are required to monitor the System's water monthly for total coliform bacteria, 40 C.F.R. § 141.21(a)(3)(iv). Respondents failed to monitor the System's water for total coliform bacteria during September 2011 and, therefore, violated this requirement.
8. Within 24 hours of being notified that any routine sample of the System's water is positive for total coliform, Respondents is required to collect a set of 4 repeat samples. 40 C.F.R. § 141.21(b). Respondents failed to take 4 repeat samples of the System's water within 24 hours of being notified on June 11, 2012 of a result that was positive for total coliform and, therefore, violated this requirement.

9. If the System has one or more sampling results that are positive for total coliform, Respondents is required to collect at least five routine samples during the next month the System provides water to the public. 40 C.F.R. § 141.21(b)(5). After the System's water tested positive for total coliform on June 7, 2012, Respondents failed to take at least five routine samples of the System's water in July 2012 and, therefore, violated this requirement.
10. If two or more samples collected 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 September 2012, two or more samples from the System were positive for total coliform, and, therefore, Respondents violated this requirement.
11. Respondents must treat the System's water to remove and/or inactivate at least 99.99%, or 4-log, of viruses. 40 C.F.R. § 141.72(b)(1). Based on the August 15, 2012 sanitary survey at the Atlantic City Mercantile water system, the system's current configuration and chlorine dosage practices do not provide enough contact time to remove and/or inactivate at least 99.99 percent (4-log) of viruses. Respondents, therefore, violated 40 C.F.R. § 141.72(b)(1).
12. Respondents are required to maintain a residual disinfectant level in the water entering the System's distribution system. This level may not be less than 0.2 milligrams per liter (mg/l) for any period of more than four hours. 40 C.F.R. § 141.72(b)(2). Respondents submitted monthly SWTR reports for August and September 2012 on September 10 and October 9, 2012, respectively. These reports indicated that for 15 days in August 2012 and 18 days in September 2012, the residual disinfectant level in the System was less than 0.2 mg/l for four hours or longer. Therefore, Respondents violated this requirement.
13. Respondents are required to report to the EPA as soon as possible, but no later than the end of the next business day (1) any time the residual disinfectant in the water entering the System's distribution system falls below 0.2 mg/l, and (2) whether the residual was restored to at least 0.2 mg/l within four hours. 40 C.F.R. § 141.75(b)(3)(iii). Respondents failed to report to the EPA (1) that for 15 days in August 2012 and 18 days in September 2012 the residual fell below 0.2 mg/l and (2) whether the residual was restored within four hours, and, therefore, violated this requirement.
14. Respondents are required to notify the public of certain violations of the Drinking Water Regulations. 40 C.F.R. §§ 141.201-141.211. Respondents failed to notify the public of the violation cited in paragraph 10, above, and, therefore, violated this requirement.
15. Respondents are required to report any failure to comply with any coliform monitoring requirement to the EPA within 10 days after discovering the violation. 40 C.F.R. § 141.21(g)(2). Respondents failed to report the violations listed in paragraphs 7 through 9, above, to the EPA and, therefore, violated this requirement.
16. Respondents are required to report any coliform MCL violation to the EPA no later than the end of the next business day after learning of it. 40 C.F.R. § 141.21(g)(1). Respondents did not notify the EPA of the MCL violation cited in paragraph 10, above, and, therefore, violated this requirement.

17. Respondents are 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). Respondents failed to report the violations cited in paragraphs 11 through 14, above, to the EPA and, therefore, violated this requirement.

ORDER

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

18. Respondents shall monitor the System's water monthly for total coliform bacteria and, if any sample is positive for total coliform, conduct repeat and additional routine monitoring, as required by 40 C.F.R. § 141.21. Respondents shall report analytical results to the EPA within the first 10 days following the month in which Respondents receives sample results, as required by 40 C.F.R. § 141.31(a). Respondents shall report any violation of coliform monitoring requirements in 40 C.F.R. part 141 to the EPA within 10 days after discovering the violation, as required by 40 C.F.R. § 141.21(g)(2).

19. If Respondents' total coliform sample results exceed the MCL while this Order is in effect, Respondents shall, within 30 days after learning of this violation, provide the EPA with a compliance plan and schedule for the system to come into compliance with the MCL for total coliform as stated in 40 C.F.R. § 141.63(a). If the System's water does not comply with the total coliform MCL in 40 C.F.R. § 141.63, Respondents shall report this violation to the EPA by the end of the business day after discovering the violation, as required by 40 C.F.R. § 141.21(g)(1).

20. Within 60 days of receiving this order, Respondents shall provide EPA with a compliance plan and schedule for Respondents to come into compliance with treatment requirements as stated in 40 C.F.R. § 141.72(b)(1), by treating the System's water to achieve at least 99.99 percent (4-log) removal/inactivation of viruses. The plan shall include proposed modifications to the System, estimated costs of modifications, and a schedule for completion of the project and compliance with the required removal/inactivation of viruses. The proposed schedule shall include specific milestone dates and a final compliance date. The final compliance date shall be within 6 months from the date of the EPA's approval of the plan and schedule. The proposed schedule must be approved by the EPA before construction or modifications may begin. The EPA's approval of Respondents' schedule does not substitute for any State of Wyoming approvals of plans and specifications that may also be required before modifications may be made to the System.

21. The plan and schedule required by paragraph 20, above, will be incorporated into this Order as enforceable requirements upon written approval by EPA.

22. Within 30 days of receiving EPA's approval of the schedule required by paragraph 20, above, Respondents shall provide EPA with monthly reports on the progress made toward bringing the system into compliance with 40 C.F.R. § 141.72(b)(1) until compliance is achieved.

23. Respondents shall achieve and maintain compliance with the treatment requirements (removal/inactivation of viruses) as stated in 40 C.F.R. § 141.72(b)(1) by the final date specified in the approved schedule. If the plan fails to achieve permanent compliance, the EPA may order further steps and /or seek penalties for noncompliance.

24. Respondents shall ensure that the residual disinfectant concentration in water entering the System's distribution system be at least 0.2 mg/l for every 4-hour period, as required by 40 C.F.R. § 141.72.

25. If the residual disinfectant level in water entering the System's distribution system falls below 0.2 mg/l at any time, Respondents shall, no later than the end of the next business day, notify the EPA that this has occurred and include in this notification a statement of whether the residual level of 0.2 mg/l was restored within four hours.

26. Within 30 days of serving water to the public, Respondents shall notify the public of the violation cited in paragraph 10, above, following the instructions provided with the public notice template provided to Respondents with this Order. Thereafter, following any future violation of the Drinking Water Regulations, Respondents shall comply with any applicable public notice provisions of 40 C.F.R. part 141, subpart Q. Within 10 days after providing public notice, Respondents shall submit a copy of the notice to the EPA

27. Respondents 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, Respondents shall report within that different period.

28. Respondents shall direct all reporting required by this Order to:

U.S. EPA Region 8 (8P-W-DW)
1595 Wynkoop
Denver, CO 80202-1129


GENERAL PROVISIONS

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

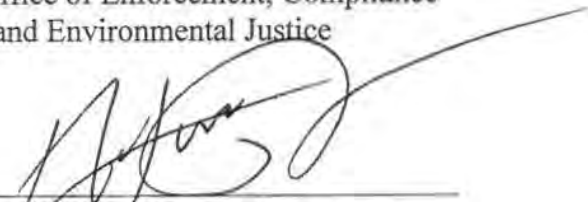
30. Violation of any part of this Order or the Drinking Water Regulations may subject Respondents to a civil penalty of up to \$37,500 (as adjusted for inflation) per day of violation. 42 U.S.C. § 300g-3; 40 C.F.R. part 19.

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

Issued: April 17, 2013.



James H. Eppers, Supervisory Attorney
Legal Enforcement Program
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, including workshops, training sessions, hotlines, websites and guides, 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.

EPA's Small Business Websites

Small Business Environmental Homepage - www.smallbiz-enviroweb.org

Small Business Gateway - www.epa.gov/smallbusiness

EPA's Small Business Ombudsman - www.epa.gov/sbo or 1-800-368-5888

EPA's Compliance Assistance Homepage

[www.epa.gov/compliance/assistance/
business.html](http://www.epa.gov/compliance/assistance/business.html)

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

EPA's Compliance Assistance Centers

www.assistancecenters.net

EPA's 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 or 1-734-995-4911

Education

www.campuserc.org

Food Processing

www.fpeac.org

Healthcare

www.hercenter.org

Local Government

www.lgean.org

Metal Finishing

www.nmfrc.org

Paints and Coatings

www.paintcenter.org

Printed Wiring Board Manufacturing

www.pwbrc.org

Printing

www.pneac.org

Ports

www.portcompliance.org

U.S. Border Compliance and Import/Export Issues

www.bordercenter.org

Hotlines, Helplines and Clearinghouses

www.epa.gov/epahome/hotline.htm

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Some examples are:

Antimicrobial Information Hotline

info-antimicrobial@epa.gov or
1-703-308-6411

Clean Air Technology Center (CATC) Info-line

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

Emergency Planning and Community Right-To-Know Act

[www.epa.gov/superfund/resources/
infocenter/epera.htm](http://www.epa.gov/superfund/resources/infocenter/epera.htm) or 1-800-424-9346

EPA Imported Vehicles and Engines Public Helpline

www.epa.gov/otaq/imports or
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
www.nrc.uscg.mil or 1-800-424-8802

Pollution Prevention Information Clearinghouse (PPIC)

www.epa.gov/opptintr/ppic or
1-202-566-0799

Safe Drinking Water Hotline

[www.epa.gov/safewater/hotline/index.
html](http://www.epa.gov/safewater/hotline/index.html) or 1-800-426-4791

Stratospheric Ozone Protection Hotline

www.epa.gov/ozone or 1-800-296-1996

Toxic Substances Control Act (TSCA) Hotline

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

Wetlands Information Helpline

www.epa.gov/owow/wetlands/wetline.html or 1-800-832-7828

State and Tribal Web-Based Resources

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)

www.smallbiz-enviroweb.org

State SBEAPs help small businesses and assistance providers understand environmental requirements and sustainable business practices through workshops, trainings and site visits. The website is a central point for sharing resources between EPA and states.

EPA's Tribal Compliance Assistance Center

www.epa.gov/tribalcompliance/index.html

The Center provides material to Tribes on environmental stewardship and regulations that might apply to tribal government operations.

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/compliance/incentives/smallbusiness/index.html

This Policy offers small businesses special incentives to come into compliance voluntarily.

EPA's Audit Policy

www.epa.gov/compliance/incentives/auditing/auditpolicy.html

The Policy provides incentives to all businesses that voluntarily discover, promptly disclose and expeditiously correct their noncompliance.

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), or go to their website at www.sba.gov/ombudsman.

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.