



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

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

April 21, 2020

Ref: 8ENF-W-SD

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Ronald Abernathy, Owner
Atlantic City Mercantile
100 East Main
Atlantic City, Wyoming 82520

Re: Violation of Atlantic City Mercantile Administrative Order, Docket No. SDWA-08-2019-0047
Atlantic City Mercantile Public Water System, PWS ID #WY5600432

Dear Mr. Abernathy:

The purpose of this letter is to provide notice of the EPA's intention to file a complaint seeking civil administrative penalties. Specifically, on September 27, 2019, the EPA issued the above-referenced Administrative Order (Order), directing Atlantic City Mercantile (the Company), to comply with the National Primary Drinking Water Regulations issued by the EPA under the Safe Drinking Water Act, 42 U.S.C. section 300f, *et seq.* Our records indicate that the Company is in violation of the Order.

Among other things, the Order included the following requirement (summarized from paragraph 12 on page 2 of the Order), which has not been fulfilled:

- Within 120 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. Thereafter, Respondent shall complete corrective action of significant deficiencies as required by 40 C.F.R. § 141.723(d) and notify the EPA of their completion within 30 days.
 - Turbidimeter must be calibrated quarterly using a primary standard: At the time of the survey, the turbidimeter was not being routinely calibrated and the calibration standards on site had expired in September 2008.
 - Inadequate filtration design or operation: The differential pressure across the final cartridge filter must be monitored and recorded daily, and the filter must be changed out before the manufacturer's recommended limits are reached. The current treatment system does not have pressure gauges to monitor the pressure drop across the final cartridge filter.

- Inadequate filtration design or operation: The cartridge filter currently being used as the final filtration barrier does not have an absolute micron rating and had not been certified for Cryptosporidium removal. The system must begin using a different final filter cartridge that meets these requirements.
- Inadequate Treatment Process Monitoring for Surface Water Treatment Plants: During the sanitary survey, a chlorine residual value of 0.57 mg/L was measured by the surveyor using a Hach digital colorimeter. The system operator reported a residual of 0.3 mg/L for a sample that was collected concurrently. This represents a variation in measurement of more than 50%, which is unacceptable. The system must begin using a digital colorimeter that utilizes an EPA approved analytical method in order to eliminate analytical error.
- Inadequate design or operation (CT): Based on calculations included in the sanitary survey report using conservative values for unknown variables, the required level of virus inactivation may not be achieved by the time the water reaches the first user. The system must ensure adequate inactivation by conducting weekly disinfection calculations using actual operating data for one year. If the system is unable to demonstrate the required 4 log inactivation of viruses by adjusting the flow rate or chlorine residual, it is possible that modifications to the system design will be necessary.
- The treatment plant is not being operated to prevent inadequately treated water from being sent to the distribution system: During the survey, the operator demonstrated a lack of operational understanding of turbidity monitoring and reporting requirements, chlorination /disinfection theory, how to determine whether adequate inactivation is achieved, measurement of system flow rates and chlorine dosages, and other technical knowledge needed to ensure adequate treatment of microbial contaminants. The system operator must be provided with sufficient training or a contract operator with an appropriate WY DEQ operator license must be employed.
- No Emergency Response Plan: A system specific emergency response plan must be provided.

In other words, you were required to complete corrective action of the above referenced significant deficiencies by March 14, 2020. Our records indicate that you have not completed corrective actions of the significant deficiencies or submitted a plan and schedule for corrective action.

Violation of any part of this Order, the Safe Drinking Water Act, or Part 141 of the National Primary Drinking Water Regulations may subject Respondent to a civil penalty of up to \$58,328 (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; 85 Fed. Reg. at 1754 (January 13, 2020).

Please note that the EPA may choose not to file a complaint seeking civil penalties if you provide the EPA with notice of completed corrective actions regarding the above-referenced violations within 30 calendar days or submit to the EPA a plan and schedule that demonstrates specific corrective actions with expected dates of completion for each action.

For assistance with actions necessary to come into compliance, please contact Steven Latino at (303) 312-6440 or (800) 227-8917 extension 312-6440. If the Company is represented by an attorney, please ask the attorney to direct any questions or comments to Matthew Castelli, Senior Assistant Regional Counsel, at (303) 312-6491 or at the following address:

Matthew Castelli, Senior Assistant Regional Counsel
U.S. EPA, Region 8 (8ORC-LE-R)
1595 Wynkoop Street
Denver, Colorado 80202-1129

We urge your prompt attention to this matter.

Sincerely,

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

Enclosures

cc: WY DEQ/DOH (via email)
Fremont County Commissioners (travis.becker@fremontcountywy.gov)
Melissa Haniewicz, EPA Regional Hearing Clerk