



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

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

SEP 28 2012

Ref: 8ENF-UFO

**CERTIFIED MAIL # 7009 3410 0000 2597 1501**  
**RETURN RECEIPT REQUESTED**

Rodney E. Stamper  
Stamper Black Hills Gold Jewelry, Inc.  
S US Highway 16  
Rapid City, SD 57701

Re: UNDERGROUND INJECTION  
CONTROL PROGRAM (UIC)  
Complaint with Notice of Opportunity  
for Hearing

Dear Mr. Stamper:

The enclosed document is a Complaint with Notice of Opportunity for Hearing (Complaint) for violations of the Safe Drinking Water Act (SDWA). We encourage you to carefully read the Complaint, since it describes Stamper Black Hills Gold Jewelry, Inc.'s, rights and responsibilities in this matter as well as EPA's authority, the factual basis of the violations, and the background for the proposed penalties. Also enclosed is a copy of the Rules of Practice that govern these proceedings, the required Public Notice associated with this Complaint and, in case Stamper Black Hills Gold Jewelry, Inc., meets the criteria, an information sheet about the Small Business Regulatory Enforcement Fairness Act.

**Stamper Black Hills Gold Jewelry, Inc. is required to take action within 30 calendar days of your receipt of this Complaint** to avoid the possibility of having a default judgment entered against Stamper Black Hills Gold Jewelry, Inc. that could impose the penalty amount proposed in the Complaint.

Under the Rules of Practice, Stamper Black Hills Gold Jewelry, Inc. may resolve this proceeding by paying the \$3,600 proposed penalty when the quick resolution process becomes available. In this instance, the quick resolution process is available ten (10) calendar days after the close of the public comment period described in the Complaint. Such payment need not contain any response to, or admission of, the allegations in the Complaint, and it constitutes a waiver of Respondent's right to contest the allegations and to appeal the final order. See section 22.18 of the Rules of Practice for a full explanation of the quick resolution process, including the method for seeking an extension of the time to pay the penalty. Whether or not Stamper Black Hills Gold Jewelry, Inc., requests a hearing, we encourage an informal conference with EPA concerning the alleged violations in an effort to negotiate a settlement. Stamper Black Hills

Gold Jewelry, Inc. may wish to appear at an informal conference and/or be represented by legal counsel. To arrange for such a conference, Stamper Black Hills Gold Jewelry, Inc. should contact Eduardo Quintana, Enforcement Attorney, Legal Enforcement Program, at the number provided below. A Request for such a conference does not extend the 30 calendar day period during which a request for hearing must be submitted.

Public Notice of EPA's Complaint and the opportunity to provide written comments on the Complaint is being provided pursuant to section 1423 (c)(3)(B) of the SDWA, 42 U.S.C. § 300h-2(c)(3)(B). Should a hearing be held, any person who comments on the Complaint has a right to participate in the hearing.

The EPA issued a Class V Underground Injection Permit SD05635-03282 (the Permit) to Stamper Black Hills Gold Jewelry, Inc. Stamper Black Hills Gold Jewelry, Inc. is in violation of 40 C.F.R. §144.51(a) for exceeding the Permit limit for chromium. Stamper Black Hills Gold Jewelry, Inc. is also in violation of 40 C.F.R. § 144.51(l)(6) for failing to notify the EPA of its chromium exceedance within the timeframes required by the Permit. The duration of Stamper Black Hills Gold Jewelry, Inc. violations for exceeding its permit limit was from March 6, 2012, to April 26, 2012. Failure to comply with the UIC regulations found at 40 C.F.R. part 144 is a violation of the SDWA, 42 U.S.C. § 300h.

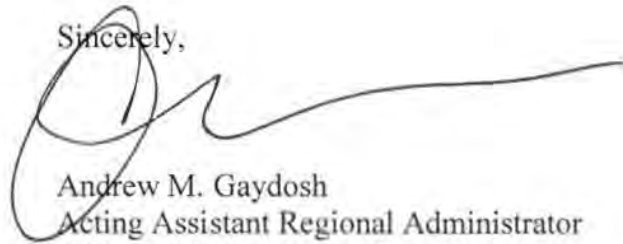
If Stamper Black Hills Gold Jewelry, Inc. has technical questions relating to this matter, the person most knowledgeable on my staff is Britta Copt, UIC Enforcement Team, Technical Enforcement Program, at 1-800-227-8917 ext. 6229 or (303) 312-6229. For all legal questions, the person most knowledgeable on my staff is Eduardo Quintana at 1-800-227-8917 ext. 6924 or (303) 312-6924. Ms. Copt and Mr. Quintana can also be reached at the following addresses:

Britta Copt (Mail Code 8ENF-UFO)  
U.S. EPA Region 8  
1595 Wynkoop Street  
Denver, Colorado 80202-1129

Eduardo Quintana (Mail Code 8ENF-L)  
Enforcement Attorney  
U.S. EPA Region 8  
1595 Wynkoop Street  
Denver, Colorado 80202-1129

We urge your prompt attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew M. Gaydosh". The signature is fluid and cursive, starting with a large loop and ending with a long horizontal stroke.

Andrew M. Gaydosh  
Acting Assistant Regional Administrator  
Office of Enforcement, Compliance  
and Environmental Justice

Enclosures:

Complaint and Opportunity to Request Hearing  
40 C.F.R. Part 22  
Public Notice  
U.S. EPA Small Business Resources Fact Sheet

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

2012 SEP 28 PM 3:47

Docket No. SDWA-08-2012-0062

FILED  
EPA REGION VIII  
DENVER, COLORADO

In the Matter of: )  
)  
Stamper Black Hills Gold Jewelry, Inc., )  
)  
)  
)  
)  
Respondent. )

**COMPLAINT WITH NOTICE OF  
OPPORTUNITY FOR HEARING**

**INTRODUCTION**

1. This civil Complaint With Notice of Opportunity for Hearing (Complaint) is authorized by Congress in section 1423(c) of the Public Health Service Act, also known as the Safe Drinking Water Act (SDWA or the Act). 42 U.S.C. § 300h-2(c). The U.S. Environmental Protection Agency (EPA) has promulgated regulations to implement the statute in 40 CFR part 144, and violations of the statute, permits or regulations constitute violations of the Act. The rules for this proceeding are the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders and the Revocation, Termination or Suspension of Permits (Rules of Practice)," 40 CFR part 22, a copy of which is enclosed.

2. The regulations at 40 CFR part 22, subpart I, apply to this Complaint.

3. The undersigned EPA official has been properly delegated the authority to issue this Complaint.

4. The EPA alleges that Stamper Black Hills Gold Jewelry, Inc. (Respondent) has violated the Act by exceeding a permit limit and Maximum Contaminant Level (MCL) for chromium and by failing to notify the EPA of the exceedance. The EPA proposes the assessment of a civil penalty, as more fully explained below.

**NOTICE OF OPPORTUNITY FOR A HEARING**

5. Respondent has the right to a public hearing before a Presiding Officer to disagree with any factual allegation made by the EPA in the Complaint or the appropriateness of the proposed penalty, or to present the grounds for any legal defense it may have. To disagree with the Complaint and assert your right to a hearing, Respondent must file a written answer (and one copy) with the Regional Hearing Clerk (8RC), 1595 Wynkoop Street, Denver, Colorado 80202 within thirty (30) calendar days of receipt of this Complaint. 40 CFR § 22.15(a). The answer must clearly admit, deny or explain the factual allegations of the Complaint, state the grounds for

any defense, the facts you may dispute, and your specific request for a public hearing. Please see section 22.15 of the Rules of Practice for a complete description of what must be in the answer.

**FAILURE TO FILE AN ANSWER AND REQUEST FOR HEARING WITHIN THIRTY (30) CALENDAR DAYS MAY WAIVE RESPONDENT'S RIGHT TO DISAGREE WITH THE ALLEGATIONS OR PROPOSED PENALTY, AND RESULT IN A DEFAULT JUDGMENT AND ASSESSMENT OF THE PENALTY PROPOSED IN THE COMPLAINT, OR UP TO THE MAXIMUM AUTHORIZED BY THE ACT.**

### **QUICK RESOLUTION**

6. Respondent may resolve this proceeding by paying the amount proposed in the Complaint ten (10) calendar days after the close of the public comment period described in this Complaint. Such payment need not contain any response to, or admission of, the allegations in the Complaint, and it constitutes a waiver of Respondent's right to contest the allegations and to appeal the final order issued by EPA after full payment is made. See section 22.18 of the Rules of Practice for a full explanation of the quick resolution process, including the method for seeking an extension of the time to file an answer.

### **SETTLEMENT NEGOTIATIONS**

7. The EPA encourages discussing whether cases can be settled through informal settlement conferences. If Respondent wants to pursue the possibility of settling this matter, or has any other questions, contact Eduardo Quintana, Enforcement Attorney, at 1-800-227-8917; extension 6924 or 303-312-6924 or at the address identified herein for Eduardo Quintana. **Please note that calling Mr. Quintana or requesting a settlement conference does NOT delay the running of the 30 day period for filing an answer and requesting a hearing.**

### **GENERAL ALLEGATIONS**

The following general allegations apply to all times relevant to this action, and to each count of this Complaint:

8. Pursuant to section 1422 of the Act, 42 U.S.C. § 300h-1, and 40 C.F.R. part 147 subpart BB, section 147.1351, the EPA administers the Underground Injection Control (UIC) program for Class I, III, IV, and V wells in the State of South Dakota. The effective date of the program is June 25, 1984. The program requirements are located at 40 C.F.R. Parts 124, 144, 146, 147, and 148.

9. On December 30, 2004, the EPA issued a Final Class V Underground Injection Permit SD05635-03282 (the Permit) pursuant to 40 C.F.R. Parts 124, 144, 146, and 147, to Stamper Black Hills Gold Jewelry, Inc., located at 7201 Highway 16 South, Rapid City, South Dakota.

10. For Class V underground injection wells, operators are required to comply with all permit conditions, as defined in the regulations. "Any permit noncompliance constitutes a violation of the Safe Drinking Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application" except when noncompliance is authorized by an emergency permit. 40 CFR §144.51(a).

11. For Class V underground injection wells and pursuant to 40 CFR §144.51(l)(6), operators are required to "report any noncompliance which may endanger health or the environment, including:

- (i) Any monitoring or other information which indicates that any contaminant may cause an endangerment to a USDW [underground source of drinking water]; or
- (ii) Any noncompliance with a permit condition or malfunction of the injection system which may cause fluid migration into or between USDWs.

Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause, the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance."

12. The permit states in part II, section E.4., page 8 that "any unauthorized injectate or any exceedance of a permit limit or requirement shall be considered non-compliance with this permit and may result in enforcement action."

13. The permit states in part III, section E.10(b)(i), page 14 that "the permittee shall report to the Shallow Well Compliance Team Leader any noncompliance which may endanger health or the environment. Information shall be provided orally within twenty-four (24) hours from the time the permittee becomes aware of the circumstances by telephoning EPA." Part III, section E.10(b)(ii), page 14 further states that "a written submission shall also be provided within five (5) days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause, the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance."

14. The Permit sets limits for certain constituents that must be measured quarterly. The Permit limit and MCL for chromium is 0.1 mg/L.

15. On March 6, 2012, Respondent's consultant took a sample from its shallow injection well subject to the Permit.

16. On March 15, 2012, Respondent's consultant completed the sampling report for the March 6, 2012, sampling event.

17. On March 26, 2012, the EPA received results from the March 6, 2012, sampling event, which showed chromium levels at 2.48 mg/L. Respondent did not orally report to the EPA about the sampling results within 24 hours of receiving the March 15, 2012, sampling results. Respondent did not submit a written submission with a description of the chromium Permit limit (and MCL) exceedance and its cause, the period of noncompliance, including exact dates and times, and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

18. The sampling Permit (and MCL) exceedance for chromium included in the March 15, 2012, sampling report constitutes noncompliance of the Permit and which may endanger health or the environment, specifically the USDW. Respondent's sampling exceedances included in the February 29, 2012, sampling report are subject to the reporting requirements of part III, section E.10(c)(i) of the Permit and 40 CFR §144.51(l)(6).

19. On April 12, 2012, an EPA representative contacted Respondent and asked that another sample be taken due to the elevated chromium levels.

20. On April 13, 2012, the Respondent took another sample from its shallow injection well subject to the Permit.

21. On April 26, 2012, the EPA received results from Respondent's sampling event on April 13, 2012, which showed chromium levels at 0.04 mg/L, below the permit limit or MCL.

22. Respondent is incorporated in the State of South Dakota.

23. Respondent is a "person" within the meaning of section 1401(12) of the Act, 42 U.S.C. § 300f(12).

24. Respondent, at all times pertinent hereto, owned and operated a facility that manufactures jewelry which produces waste fluids as a result of its manufacturing process. The facility is located at 7201 Highway 16 South, Rapid City, South Dakota.

25. Beneath the disposal system are underground sources of drinking water (USDWs), including but not limited to the Madison and Minnelusa Aquifers.

## COUNTS

26. Respondent was in violation of 40 C.F.R. § 144.51(a) and the Permit for exceeding the permit limit for chromium. Respondent's violation for exceeding its permit limit occurred on March 6, 2012. Failure to comply with the UIC regulations found at 40 C.F.R. part 144 and the Permit is a violation of the SDWA, 42 U.S.C. § 300h.

27. Respondent was in violation of 40 C.F.R. § 144.51(I)(6) and the Permit for failing to verbally notify the EPA of its Permit exceedance within 24 hours of the March 26, 2012, sampling analysis report, and for failing to submit to the EPA the required written information of its Permit exceedance within 5 days of the March 26, 2012, sampling analysis report . Failure to comply with the UIC regulations found at 40 C.F.R. part 144 and the Permit is a violation of the SDWA, 42 U.S.C. § 300h.

### **PROPOSED ORDER WITH ADMINISTRATIVE CIVIL PENALTY**

28. The Act, as amended, authorizes the assessment of a civil penalty of up to \$16,000.00 per day for each violation of the Act, up to a maximum of \$177,500, 42 U.S.C. § 300h-2(c)(1). The Act requires the EPA to take into account the following factors in assessing a civil penalty: the nature, circumstances, extent and gravity of the violations; any economic benefit or savings gained resulting from the violations; Respondent's history of such violations; Respondent's culpability for the violations; Respondent's good-faith efforts to comply with applicable requirements; the economic impact of the penalty on the Respondent; and other factors that justice may require. 42 U.S.C. § 300h-2(c)(4)(B).

29. In light of the statutory factors and the specific facts of this case, the EPA proposes that a penalty of three thousand six hundred dollars (\$3,600.00) be assessed against Respondent for the violations alleged above, as explained below:

#### Nature, Circumstances, Extent, and Gravity of Violations

Failing to prevent the movement of fluids containing any contaminant in exceedance of the permit limits into a USDW is serious because of the threats to the quality and health of the Aquifer and the potential threats to health of persons posed by Respondent's noncompliance.

#### Prior Compliance History

No adjustment made regarding this factor at this time.

#### Good-Faith Efforts to Comply

Respondent made some effort to comply with the requirements of the Permit after being contacted by the EPA about the exceedance.

#### Degree of Culpability

No adjustment made regarding this factor at this time.



Economic Benefit

Any economic benefit of exceeding the permit limits was negligible.

Ability to Pay

The EPA did not reduce the proposed penalty due to this factor, but will consider any new information Respondent may present regarding Respondent's ability to pay the penalty proposed in this Complaint.

Other Matters that Justice may Require

An adjustment was made to the proposed penalty due to the fact that Respondent had control over the violations and did not take precautions to avoid the violations.

30. The EPA, in proposing this penalty, considered the following: (a) there are underground sources of drinking water contained in the geologic formations in the area where this well is located; (b) wells with this type of violation pose an elevated risk to underground sources of drinking water; and (c) Respondent has had continuous ability to address the alleged violations.

31. Respondent's payment of the penalty shall be made by money order or certified check made payable to "Treasurer, United States of America," include the docket number of this complaint, and mailed to the following address:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

A copy of said check shall be mailed to the following address:

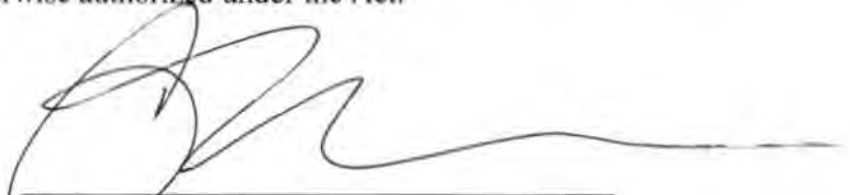
Eduardo Quintana (8ENF-L)  
Enforcement Attorney  
U.S. EPA - Region 8  
1595 Wynkoop Street  
Denver, Colorado 80202

32. As required by the Act, prior to the assessment of a civil penalty, the EPA will provide public notice of the proposed penalty, and reasonable opportunity for the people to comment on the matter, and present evidence in the event a hearing is held. 42 U.S.C. § 1423(c)(3)(B).

34. The Presiding Officer is not bound by the EPA's penalty policy or the penalty proposed by the EPA, and may assess a penalty above the proposed amount, up to the \$16,000.00 per day for each violation, as authorized by the Act.

35. This Complaint does not constitute a waiver, suspension, or modification of the requirements of any applicable provision of the Act or the UIC regulations implementing the Act, which remain in full force and effect. Issuance of this Complaint is not an election by the EPA to forego any civil or any criminal action otherwise authorized under the Act.

Date: Sept. 28, 2012



---

Andrew M. Gaydosh  
Assistant Regional Administrator  
Office of Enforcement, Compliance,  
and Environmental Justice

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that the original and one copy of the COMPLAINT WITH NOTICE OF OPPORTUNITY FOR HEARING was hand-carried to the Regional Hearing Clerk, EPA Region 8, 1595 Wynkoop Street, Denver, Colorado, and that a true copy of the same, with enclosures, was sent via certified mail to:

Rodney E. Stamper  
Registered Agent for Stamper Black Hills Gold Jewelry, Inc.  
S US Highway 16  
Rapid City, SD 57701

09/28/2012  
Date

\_\_\_\_\_  
Sue Zaynard

**U.S. ENVIRONMENTAL PROTECTION AGENCY  
PUBLIC NOTICE  
OPPORTUNITY FOR PUBLIC COMMENT ON  
PROPOSED PENALTY COMPLAINT  
AND  
NOTICE OF OPPORTUNITY FOR HEARING  
AGAINST  
STAMPER BLACK HILLS GOLD JEWELRY, INC.  
FOR FAILURE TO COMPLY WITH  
UNDERGROUND INJECTION CONTROL REQUIREMENTS**

**PURPOSE OF PUBLIC NOTICE**

The purpose of this notice is to solicit written comments on a Proposed Penalty Complaint and Notice of Opportunity for Hearing (complaint), Docket #SDWA-08-2012-0062 that Region 8 of the United States Environmental Protection Agency (EPA) proposes to issue to Stamper Black Hills Gold Jewelry, Inc. for alleged violations at the facility located in Rapid City, South Dakota. The complaint alleges violations of the Safe Drinking Water Act (SDWA) and the regulations detailing the requirements of the SDWA's Underground Injection Control (UIC) program. These regulations govern the injection of fluids that may endanger an underground source of drinking water (USDW). The complaint proposes the assessment of a monetary penalty in the amount of \$3,600.

The EPA desires to receive written comments from any interested party having knowledge of the alleged violations or who can provide any information useful to ensure that the complaint is appropriate. The EPA will review and consider all comments received, and will thereafter determine whether to modify or withdraw the complaint.

**BACKGROUND**

Part C of the SDWA (40 U.S.C. §300h *et seq*) requires the EPA to regulate underground injection of fluid through wells to assure that underground sources of drinking water (USDWs) are not endangered. Section 1421 of the SDWA (40 U.S.C. §300h) requires the EPA to administer UIC programs in States that do not have approved State UIC programs. Regulation of the UIC Class V Program has not been delegated to the State of South Dakota; therefore, the EPA administers the program in accordance with title 40 of the Code of Federal regulations (40 C.F.R.), Parts 124, 144, 146, 147, and 148.

The Class V disposal system which is the subject of this complaint is located at 7201 Highway 16 South, Rapid City, South Dakota. A Class V injection well, pursuant to 40 C.F.R. 144.6 and 146.5, is a shallow injection well that injects fluids into or above a USDW.

The complaint alleges that Stamper Black Hills Gold Jewelry, Inc. is in violation of UIC requirements, and is subject to appropriate penalties and fines for: exceeding its permit limit for chromium; for failing to notify the EPA orally within twenty four hours of any

noncompliance which may endanger health or the environment; and failing to submit to the EPA written notification within five calendar days of the noncompliance.

### **PUBLIC COMMENTS**

Written comments on the complaint are encouraged and will be accepted at the address listed below for a period of thirty (30) calendar days after the publication of this notice. Written comments submitted by the public as well as information submitted by Stamper Black Hills Gold Jewelry, Inc. will be available for public review as part of the Administrative Record, subject to the provisions of law restricting the disclosure of confidential information. Stamper Black Hills Gold Jewelry, Inc. may request a hearing. Any person submitting written comments will be notified of and has a right to participate in such a hearing. The complaint and the Administrative Record are available for review between 9:00 a.m. and 4:00 p.m. at the address listed below. It is recommended that those wishing to view the Administrative Record call Eduardo Quintana, Enforcement Attorney, Legal Enforcement Program, EPA Region 8, at (303) 312-6924 before visiting the EPA Region 8 offices. Please submit written comments to:

Tina Artemis (8RC)  
Regional Hearing Clerk  
U.S. EPA, Region 8  
1595 Wynkoop Street  
Denver, Colorado 80202

Any person interested in receiving their own copy of this or any future public notice of a UIC administrative action can call Britta Copt in the UIC program, EPA Region 8, at (303) 312-6229.

### **THE DECISION**

The EPA will review and consider all public comments received on the public notice and will thereafter determine whether to modify or withdraw the complaint. If the complaint is revised, copies shall be provided to all parties and to all members of the public who have commented.



\_\_\_\_\_  
Darcy O'Connor, Acting Director  
UIC/FIFRA/OPA Technical Enforcement Program  
U.S. EPA, Region 8  
1595 Wynkoop Street  
Denver, CO 80202