



U.S. ENVIRONMENTAL PROTECTION AGENCY-REGION 6
COMPLAINT AND NOTICE OF OPPORTUNITY FOR HEARING FILED
In the Matter of Kirby's Place Homeowners' Association Public Water System
Owned/Operated by the Kirby's Place Homeowners' Association, Respondent
Docket No. SDWA-06-2012-1203

2012 JAN 18 AM 10:26
REGIONAL HEARING CLERK
EPA REGION VI

STATUTORY AUTHORITY

The following findings are made and Administrative Complaint ("Complaint") issued under the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA"), by Section 1414(g)(3) of the Safe Drinking Water Act ("Act"), 42 U.S.C. § 300g-3(g)(3). The Administrator delegated the authority to issue this Order to the Regional Administrator of EPA Region 6 who further delegated such authority to the Director of the Compliance Assurance and Enforcement Division. This Complaint is issued in accordance with the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, Revocation, Termination or Suspension of Permits," including rules related to administrative proceedings not governed by Section 554 of the Administrative Procedures Act, 40 C.F.R. §§ 22.50 through 22.52.

FINDINGS AND CONCLUSIONS

1. Respondent, Kirby's Place Homeowners' Association, is a "person," as defined by Section 1401(12) of the Act, 42 U.S.C. § 300f(12).

2. At all times relevant to the violations alleged herein ("relevant time period"), Respondent owned or operated a public water system ("PWS"), as defined by Section 1401(4) of the Act, 42 U.S.C. § 300f(4), located in Livingston Parish, Louisiana ("facility"), designated as PWS number LA1063072.

3. During the relevant time period, Respondent's PWS was a "community water system" as defined by Section 1401(15) of the Act, 42 U.S.C. § 300f(15).

4. During the relevant time period, Respondent's PWS was subject to the requirements of the Stage 2 Disinfectants and Disinfection Byproducts Rule ("Stage 2 DBPR") as set forth in 40 C.F.R. § 141.600.

5. As a PWS and a "supplier of water," Respondent is subject to the regulations promulgated by EPA pursuant to Section 1412 of the Act, 42 U.S.C. § 300g-1, entitled "National Primary Drinking Water Regulations."

6. Pursuant to this Order, Respondent is required to comply with the Stage 2 DBPR requirements of the Act, as set forth in Section 1412 of the Act, 42 U.S.C. § 300g-1.

7. The Louisiana Department of Health and Hospitals ("LDHH") administers the Public Water Supply Supervision Program in Louisiana pursuant to Section 1413 of the Act. The LDHH has not yet obtained primary enforcement responsibility for the Stage 2 DBPR; therefore, the EPA has primary responsibility for enforcement of the Stage 2 DBPR.

8. Pursuant to 40 C.F.R. § 141.600(d), Respondent was required, on an annual basis, to conduct standard monitoring that meets the requirements of 40 C.F.R. § 141.601. Based on the schedule listed in 40 C.F.R. § 141.600(c), Respondent must have completed the annual standard monitoring for trihalomethane ("TTHM") and haloacetic acid ("HAA5") by March 31, 2010, at the location(s) identified in the Respondent's EPA-approved Stage 2 DBPR monitoring plan.

9. Based on information available to EPA, Respondent failed to conduct the 2010 standard monitoring in accordance with 40 C.F.R. § 141.601(b)(1) through (b)(4) and according to the schedule in 40 C.F.R. § 141.600(c) and the EPA-approved Stage 2 DBPR monitoring plan.

10. Pursuant to 40 C.F.R. § 141.601(c), Respondent was required to submit an Initial Distribution System Evaluation ("IDSE") report to the EPA that includes the monitoring results and other elements as required in the paragraphs found in 40 C.F.R. § 141.601(c)(1) through (c)(4). Based on the schedule listed in Section 141.600(c), Respondent must have submitted the annual monitoring results report by July 1, 2010.

11. Based on information available to EPA, Respondent failed to submit an IDSE Report in accordance with the requirements contained in 40 C.F.R. § 141.601(c)(1) through (c)(4) and according to the schedule in 40 C.F.R. § 141.600(c).

12. On October 21, 2009, the EPA issued Administrative Order Docket No. SDWA-06-2010-1219 ("Order") to Respondent, pursuant to EPA's authority under Section 1414(g) of the Act, 42 U.S.C. § 300g-3(g), citing violation of the Stage 2 DBPR monitoring and reporting requirements for 2009 and requiring that, within thirty (30) days of receipt of the Order, Respondent comply with 40 C.F.R. § 141.600(d) by conducting standard monitoring for TTHM and HAA5 in accordance with 40 C.F.R. § 141.601 and report the results to EPA. A copy of the Order is enclosed hereto and incorporated by reference.

PROPOSED PENALTY

13. Based on these Findings and Conclusions, having taken into account the serious nature of the violations, the population at risk, and other appropriate factors, including with respect to the violator, ability to pay, the past history of such violations, degree of culpability, and other matters as justice may require, and pursuant to the authority of Section 1414(g)(3)(B) of the Act, 42 U.S.C. § 300g-3(g)(3)(B), EPA proposes to assess against Respondent a penalty of five thousand dollars (\$5,000.00).

NOTICE OF OPPORTUNITY TO REQUEST A HEARING

14. Respondent may request a hearing to contest any material allegation contained in this Complaint, or to contest the appropriateness of the amount of the proposed penalty, pursuant to Section 1414(g)(3)(B) of the Act, 42 U.S.C. § 300g-3(g)(3)(B). The procedures for hearings are set out at 40 C.F.R. Part 22 (copy enclosed), including 40 C.F.R. §§ 22.50 through 22.52 and supplemental rules at 40 C.F.R. § 22.42.

FAILURE TO ANSWER

15. Respondent must file an Answer within thirty (30) days after service of this Complaint, whether or not Respondent requests a hearing.

16. Failure to file an Answer within thirty (30) days after service of the Complaint shall constitute an admission of all facts alleged in the Complaint and a waiver of the right to hearing under 40 C.F.R. § 22.15(d).

17. Pursuant to 40 C.F.R. § 22.42(b), Respondent has a right to elect a hearing on the record in accordance with 5 U.S.C. § 554. Respondent waives this right unless Respondent, in its Answer, requests a hearing in accordance with 5 U.S.C. § 554.

18. If Respondent does not file an Answer within thirty (30) days after service of this Complaint, a Default Order may be issued against Respondent pursuant to 40 C.F.R. § 22.17. A Default Order, if issued, would constitute a finding of liability, and could make the full amount of the penalty proposed in this Complaint due and payable by Respondent, without further proceedings, sixty (60) days after a final order is issued upon default.

19. Respondent must send its Answer to this Complaint, including any request for hearing, and all other pleadings to:

Regional Hearing Clerk (6RC-D)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

and send a copy to the following EPA attorney assigned to this case:

Ms. Ellen Chang-Vaughan (6RC-EW)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

20. The Answer must be signed by Respondent, Respondent's counsel, or other representative on behalf of Respondent and must contain all information required by 40 C.F.R. §§ 22.05 and 22.15, including the name, address, and telephone number of Respondent and Respondent's counsel. All other pleadings must be similarly signed and filed.

SETTLEMENT

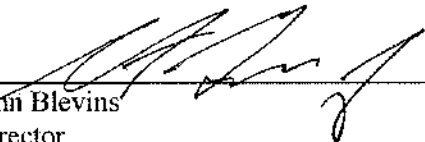
21. EPA encourages all parties against whom civil penalties are proposed to pursue the possibility of settlement through informal meetings with EPA. Regardless of whether a formal hearing is requested, Respondent may confer informally with EPA about the alleged violations or the amount of the proposed penalty. Respondent may wish to appear at any informal conference or formal hearing personally, by counsel or other representative, or both.

22. If this action is settled without a formal hearing and issuance of an opinion by the Presiding Officer pursuant to 40 C.F.R. § 22.27, this action will be concluded by issuance of a Consent Agreement and Final Order ("CAFO") pursuant to 40 C.F.R. § 22.18(b). The issuance of a CAFO would waive Respondent's right to a hearing on any matter stipulated to therein or alleged in the Complaint. Any person who commented on this Complaint would be notified and given an additional thirty (30) days to petition EPA to set aside any such CAFO and to hold a hearing on the issues raised in the Complaint. Such a petition would be granted and a hearing held only if the evidence presented by the petitioner's comment was material and was not considered by EPA in the issuance of the CAFO.

23. Neither assessment nor payment of a penalty in resolution of this action will affect Respondent's continuing obligation to comply with all requirements of the Act, the applicable regulations and permits, and any separate Compliance Order issued under Section 1414(g) of the Act, 42 U.S.C. § 300g-3(g), including one relating to the violations alleged herein.

1-13-12

Date



John Blevins
Director
Compliance Assurance and
Enforcement Division

CERTIFICATE OF SERVICE

I certify that the foregoing Administrative Complaint was sent to the following persons,
in the manner specified, on the date below:

Original hand-delivered:

Regional Hearing Clerk (6RC-D)
U. S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

Copy by certified mail, return receipt
requested:

Ms. Wilma Vicknair
Kirby's Place Homeowners' Association
11473 Kirby Road
Denham Springs, LA 70726

Copy:

Mr. Jake Causey, P.E., Chief Engineer
Louisiana Department of Health and Hospitals -
Office of Public Health (LDHH-OPH)
P.O. Box 4489
Baton Rouge, LA 70821-4489

Copy hand-delivered:

Ms. Ellen Chang-Vaughan (6RC-EW)
Assistant Regional Counsel
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

Dated: 1-18-2012

Lori Gadean