



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 WYNKOOP STREET
DENVER, COLORADO 80202-1129

Phone 800-227-8917

<http://www.epa.gov/region08>

Ref: 8ENF-T

DEC 2 2008

BY CERTIFIED MAIL,
RETURN RECEIPT REQUESTED

Lisa Poledna
Treasurer and Operator
6K, Inc.
703 South 7th Street
Laramie, WY 82070

Re: Complaint and Notice of
Opportunity for Hearing
Docket No. SDWA-08-2009-0021

Dear Ms. Poledna:

Enclosed is an administrative "Complaint and Notice of Opportunity for Hearing" (complaint) filed against you under section 1414 of the Safe Drinking Water Act (SDWA), 42 U.S.C §300g-3. The U.S. Environmental Protection Agency (EPA) alleges in the complaint that you failed to comply with an Administrative Order, Docket No. SDWA-08-2007-0046, issued on April 12, 2007, and amended on August 8, 2007, under section 1414(g) of the SDWA, 42 U.S.C. §300g-3(g). The violations are specifically set out in the complaint.

By law, you have the right to request a hearing regarding the matters set forth in the complaint. Please pay particular attention to those parts of the complaint entitled "Opportunity to Request a Hearing" and "Failure to File an Answer." If you do not respond to this complaint within 30 days of receipt, a default judgment may be entered and the proposed civil penalty may be assessed without further proceedings. In your answer you may request a hearing. You have the right to be represented by an attorney at any stage of these proceedings.

Whether or not you request a hearing, you may confer informally with EPA concerning the alleged violations or the amount of the proposed penalty.

EPA encourages all parties against whom it files a complaint proposing assessment of a penalty to pursue the possibilities of settlement through an informal conference. Any such settlement shall be finalized by the issuance of a final order by the Regional Judicial Officer, EPA Region 8. The issuance of a consent agreement shall constitute a waiver of your right to request a hearing on any matter to which it has stipulated in that agreement.



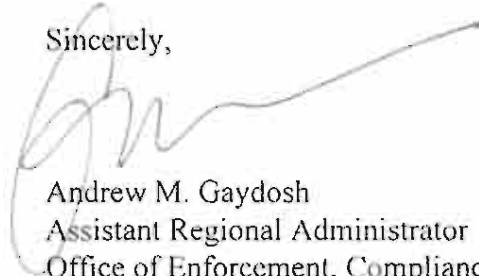
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A request for an informal conference does not extend the 30-day period during which you must submit a written answer and a request for a hearing. The informal conference procedure may be pursued as an alternative to, and simultaneously with, the adjudicatory hearing.

For any questions specific to the violations or penalty, the most knowledgeable people on my staff regarding this matter are Shawn McCaffrey, Environmental Protection Specialist, who can be reached at 800/227-8917 extension 6515, or Peggy Livingston, Enforcement Attorney, who can be reached at 800/227-8917 extension 6858.

We urge your prompt attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "AG", with a long horizontal flourish extending to the right.

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

Enclosure



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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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IN THE MATTER OF)
)
Lisa Poledna,)
Treasurer and PWS Operator)
6K, Inc.)
Laramie, Wyoming)
) Docket No. **SDWA-08-2009-0021**
)
Respondent) **COMPLAINT AND NOTICE OF**
) **OPPORTUNITY FOR HEARING**
Proceedings under section 1414(g))
of the Safe Drinking Water Act,)
42 U.S.C. §300g-3(g))
_____)

COMPLAINT

This civil administrative Complaint and Notice of Opportunity for Hearing ("complaint") is 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, as amended (the "SDWA"), 42 U.S.C. §300g-3(g)(3). Section 1414(g)(3) of the SDWA authorizes the EPA to assess an administrative civil penalty against any person who violates, or fails or refuses to comply with, an order issued under section 1414(g)(1) of the SDWA.

The complainant in this action is the Assistant Regional Administrator, Office of Enforcement, Compliance and Environmental Justice, EPA Region 8, who has been duly authorized to institute this action. This proceeding is subject to EPA's "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or

Suspension of Permits,” 40 C.F.R. part 22 (“Consolidated Rules of Practice”)(Complainant’s Exhibit 1).

GENERAL ALLEGATIONS

The following general allegations apply to each count of this complaint:

1. Lisa Poledna (“Respondent”) is an individual and therefore a “person” as that term is defined in section 1401(12) of the SDWA, 42 U.S.C. §300f(12), and 40 C.F.R. §141.2.
2. Respondent owns and/or operates a system, the 6K, Inc. Water System (the “System”), located in Albany County, Wyoming, for the provision to the public of piped water for human consumption.
3. The System has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year and is therefore a “public water system” as that term is defined in section 1401(4) of the SDWA, 42 U.S.C. §300f(4), and a “non-community water system” as that term is defined in section 1401(16) of the SDWA, 42 U.S.C. §300f(16), and 40 C.F.R. §141.2.
4. As an owner and/or operator of a public water system, Respondent is a “supplier of water” as that term is defined in section 1401(5) of the SDWA, 42 U.S.C. §300f(5), and 40 C.F.R. §141.2. Respondent is therefore subject to the requirements of part B of the SDWA, 42 U.S.C. §300g et seq., and its implementing regulations, 40 C.F.R. part 141 (also known as the “National Primary Drinking Water Regulations” or “NPDWRs”).
5. The source of the System’s water is ground water from a well.

6. On April 12, 2007, in accordance with section 1414 of the SDWA, 42 U.S.C. §§300g-3, EPA issued an Administrative Order, Docket No. SDWA-08-2007-0046 (the "Order") to Respondent, citing violations of the NPDWRs, including, but not limited to, violating 40 C.F.R. §141.21 by failing to monitor at least once per quarter for total coliform bacteria, and violating 40 C.F.R. §141.21(g)(2) by failing to notify EPA within ten days of the failures to monitor.
7. A copy of the Order is attached to this complaint (Complainant's Exhibit 2).
8. On August 8, 2007, EPA issued an Amended Administrative Order (the "Amended Order") to the Respondent, also with Docket No. SDWA-08-2007-0046. The Amended Order cited violations of the same NPDWRs that were cited in the Order. It also cited an additional quarter in which Respondent had violated 40 C.F.R. §141.21 by failing to monitor for coliform and an additional instance in which Respondent had violated 40 C.F.R. §141.21(g)(2) by failing to notify EPA of a failure to monitor for coliform.
9. A copy of the Amended Order is attached to this complaint (Complainant's Exhibit 3.)
10. On March 21, 2008, EPA issued an Administrative Order Violation letter to the Respondent, stating that the Respondent had violated the Amended Order by failing to monitor for coliform in the fourth quarter of 2007 and failing to report to EPA that it had failed to monitor for coliform in the fourth quarter of 2007.
11. A copy of the March 21, 2008 letter is attached to this complaint (Complainant's Exhibit 4).

COUNTS OF VIOLATION

Count I

Failure to Monitor for Total Coliform

1. The Order (on page 5, in paragraph 1 of the “Order” section) and the Amended Order (also on page 5, in paragraph 1 of the “Order” section) required Respondent to perform quarterly bacteriological monitoring, as required by 40 C.F.R. §141.21.
2. Respondent violated the Order by failing to monitor for total coliform bacteria during the fourth quarter of 2007, the second quarter of 2008, and the third quarter of 2008.

Count II

Failure to Report Coliform Monitoring Violation to EPA

1. The Order (on page 7, in paragraph 6 of the “Order” section) and the Amended Order (also on page 7, in paragraph 6 of the “Order” section) required Respondent to comply with 40 C.F.R. §141.21(g)(2) by reporting any total coliform monitoring violation to EPA within ten days after discovering the violation.
2. The Respondent violated the Order by failing to notify the EPA that the Respondent had failed to monitor for total coliform in the fourth quarter of 2007, the second quarter of 2008, and the third quarter of 2008.

PROPOSED ADMINISTRATIVE CIVIL PENALTY

This complaint proposes that EPA assess an administrative penalty from Respondent. EPA is authorized to assess an administrative penalty according to section 1414(g)(3) of the SDWA, 42 U.S.C. §300g-3(g)(3) for violation of an administrative order issued under section 1414(g)(1) of the SDWA. The amount may be up to \$27,500.¹

EPA has determined the proposed penalty amount in accordance with section 1414 of the SDWA, 42 U.S.C. §300g-3. Taking into account the seriousness of the violation, the population at risk, and other appropriate factors, including Respondent's degree of willfulness and/or negligence, history of noncompliance, if any, and ability to pay, as known to EPA at this time, EPA proposes to assess an administrative civil penalty of \$1,200.00 against Respondent for her violations of the Order.

OPPORTUNITY TO REQUEST A HEARING

As provided in section 1414(g)(3)(B) of the SDWA, 42 U.S.C. §300g-3(g)(3)(B), Respondent has the right to request a public hearing to contest any material fact alleged in this complaint, to contest the appropriateness of the proposed penalty and/or to assert that she is entitled to judgment as a matter of law.

If Respondent wishes to request a hearing, Respondent must file a written answer in accordance with 40 C.F.R. §§22.15 and 22.42 within thirty (30) calendar days after this

¹The original statutory amount of \$25,000 has been adjusted for inflation pursuant to 40 C.F.R. part 19.

complaint is served. If this complaint is served by mail, Respondent has an additional five (5) calendar days, pursuant to 40 C.F.R. §22.7(c), in which to file her answer.

If Respondent requests a hearing in her answer, the procedures provided in 40 C.F.R. part 22, subpart I, will apply to the proceedings, and the Regional Judicial Officer will preside. However, Respondent has the right under the SDWA to elect a hearing on the record in accordance with section 554 of the Administrative Procedure Act, 5 U.S.C. §§551 et seq. (“APA”). To exercise this right, the answer must include a specific request for a hearing on the record in accordance with 5 U.S.C. §554. Upon such request, the Regional Hearing Clerk will recaption the pleadings and documents in the record as necessary. (See 40 C.F.R. §22.42.) Pursuant to such a request, subpart I will not apply to the proceedings and an Administrative Law Judge from Washington, D.C., will preside.

The answer must be in writing. An original and one copy of the answer must be sent to the attorney listed below and the EPA Regional Hearing Clerk at the address below:

Tina Artemis
Region 8 Hearing Clerk (8RC)
U.S. Environmental Protection Agency
1595 Wynkoop Street
Denver, Colorado 80202

FAILURE TO FILE AN ANSWER

If Respondent does not file a written answer with the Regional Hearing Clerk at the address above within thirty (30) days of receipt of this complaint, Respondent may be subject to a default order requiring payment of the full penalty proposed in this complaint.

EPA may obtain a default order according to 40 C.F.R. §22.17.

REQUIREMENTS FOR ANSWER

The answer must clearly and directly admit, deny, or explain each of the factual allegations contained in this complaint with regard to which Respondent has any knowledge. The answer must state (1) any circumstances or arguments which the Respondent alleges to constitute grounds of defense, (2) any facts the Respondent disputes, (3) whether and on what basis the Respondent opposes the proposed penalty, and (4) whether the Respondent requests a hearing. **Failure to admit, deny, or explain any material factual allegation contained in this complaint shall constitute an admission of that allegation.**

SETTLEMENT CONFERENCE

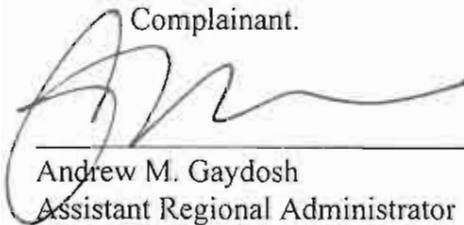
EPA encourages exploring settlement possibilities through an informal settlement conference. Filing an answer does not preclude settlement negotiations. **However, failing to file a timely answer may lead to a default order, even if Respondent requests, schedules, or participates in a settlement conference.**

If a settlement can be reached, its terms shall be expressed in a written consent agreement, signed by the parties and incorporated into a final order signed by the Presiding Officer. A request for a settlement conference, or any questions that Respondent may have regarding this complaint, should be directed to the attorney named below.

Dated this 11th day of November, 2008.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 8

Complainant.



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



Margaret J. ("Peggy") Livingston
Enforcement Attorney
Office of Enforcement, Compliance
and Environmental Justice
U.S. EPA Region 8
1595 Wynkoop Street
Denver, Colorado 80202
Telephone Number: (303) 312-6858
Facsimile Number: (303) 312-7202

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the original and a copy of the COMPLAINT AND NOTICE OF OPPORTUNITY FOR HEARING with all Exhibits were hand-carried to the Regional Hearing Clerk, EPA, Region 8, 1595 Wynkoop Street, Denver, Colorado, and that a true copy of the same was sent to the following by CERTIFIED MAIL/RETURN RECEIPT REQUESTED and by regular U.S. mail:

Lisa Poledna
703 South 7th Street
Laramie, WY 82070

Date: Dec 2 2008 By: Judith McTernan
Judith McTernan