



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 WYNKOOP STREET
DENVER, COLORADO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

2010 NOV 24 AM 8:02

FILED
EPA REGION VIII
HEARING CLERK

NOV 24 2010

Ref: 8ENF-L

CERTIFIED MAIL No. 7009 3410 0000 2593 8443
RETURN RECEIPT REQUESTED

The Honorable John Bachman, Mayor
City of Eagle Butte
280 South Main
Eagle Butte, SD 57625

Re: Findings of Violation and Order for
Compliance
Docket No. CWA-08-2010-0040
AND
Proposed Assessment of Class I Civil Penalty
Docket No. CWA-08-2010-0041

Dear Mayor Bachman :

On September 30, 2010, the U.S. Environmental Protection Agency (EPA) issued an administrative order and an administrative penalty complaint to the City of Eagle Butte (the City) under § 309 of the Clean Water Act (CWA), 33 U.S.C. § 1319, alleging that the City has violated a National Pollutant Discharge Elimination System Permit (the NPDES permit) authorizing discharges from the City's wastewater treatment facility. According to EPA's records, the City received the order and penalty complaint on October 8, 2010.

The administrative order (entitled "Findings of Violation and Order for Compliance") required the City, among other things,

- (1) within ten days of receiving the order, to provide EPA with any monitoring results not previously submitted (¶ 31),
- (2) within ten days of receiving the order, to provide EPA and the Cheyenne River Sioux Tribe (the Tribe) with Discharge Monitoring Reports (DMRs) for July through December of 2009 and January through June of 2010 (¶ 32),
- (3) within thirty days of receiving the order, to provide EPA and the Tribe with a written explanation for each violation cited in the order (¶ 33), and



Printed on Recycled Paper

- (4) within thirty days of receiving the order, to demonstrate the capability to analyze pH within fifteen minutes of an effluent sample by either acquiring a field pH meter or using a laboratory pH meter within 15 minutes of taking a pH sample.

To date, EPA has not received any response from the City to the order. Please provide all missing information immediately. Please also be aware that violations of an administrative order may be subject to additional enforcement, such as actions for civil penalties.

As stated in the order, the City's DMRs and other notices and reports required by the order are to be submitted to

Natasha Davis (8ENF-W-NP)
U.S. EPA Region 8
1595 Wynkoop Street
Denver, CO 80202-1129

Please note, however, that contrary to ¶ 26 of the order, EPA now has a copy of the City's Discharge Monitoring Report for the third quarter of 2009. The City need not submit another copy of that report.

The penalty complaint (entitled "Administrative Complaint and Notice of Opportunity for Hearing") proposed that EPA assess a penalty of \$10,000.00 against the City, due to the NPDES permit violations cited in the penalty complaint. The penalty complaint and the accompanying cover letter stated that if the City wished to contest the allegations in the penalty complaint, the City would need to file an answer with the Regional Hearing Clerk for EPA Region 8 within thirty days of your receipt of the penalty complaint.

The Regional Hearing Clerk has no answer on file to the penalty complaint. Therefore, EPA would be entitled to file a motion for default asking the Regional Judicial Officer to assess the entire \$10,000. However, our office will hold off on filing such a motion if the City files an answer by December 15, 2010.

If you have any questions or comments, please contact Natasha Davis, Technical Enforcement, who can be reached at 800/227-8917, extension 6225. Please note that the case has been reassigned from David Janik to me. Therefore, if you are represented by an attorney, please ask your attorney to call me at 800/227-8917, extension 6858.

Sincerely,



Margaret J. (Peggy) Livingston
Enforcement Attorney

