



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

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

SEP 20 2007

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
NO. 7006 3450 0002 1975 8841

Harry Washut, Registered Agent and Operator  
Grand Teton Park Resort, Inc.  
17750 E. Highway 287  
Moran, WY 83013

Re: Complaint and Notice of  
Opportunity for Hearing  
Docket No. SDWA-08-2007-0089

Dear Mr. Washut:

Enclosed is an administrative "Complaint and Notice of Opportunity for Hearing" (complaint) filed against Grand Teton Park Resort, Inc. (the corporation) and you as an individual 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 and the corporation failed to comply with an Administrative Order, Docket No. SDWA-08-2006-0024, issued on March 30, 2006, 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 and the corporation 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 and the corporation do not respond to this complaint within 30 days of receipt, a default judgment may be entered and the proposed administrative civil penalty may be assessed without further proceedings. In your answer you and the corporation may request a hearing. You and the corporation have the right to be represented by an attorney at any stage of these proceedings.

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

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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 the right to request a hearing on any matter to which you or the corporation has stipulated in that agreement.

A request for an informal conference does not extend the 30-day period during which you and the corporation 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 Melanie Wasco, Environmental Protection Specialist, who can be reached at 800/227-8917 extension 6450, or Peggy Livingston, Enforcement Attorney, who can be reached at 800/227-8917 extension 6858.

We urge your prompt attention to this matter.

Sincerely,



for  
Assistant Regional Administrator  
Office of Enforcement, Compliance  
and Environmental Justice

Enclosure

cc: WY DEQ (via email)  
WY DOH (via email)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

2007 SEP 20 AM 10:23

IN THE MATTER OF )

Grand Teton Park Resort, Inc. )  
Harry Washut, )  
Jackson, Wyoming )

Respondents )

Proceedings under section 1414(g) )  
of the Safe Drinking Water Act, )  
42 U.S.C. § 300g-3(g) )

) Docket No. **SDWA-08-2007-0089**

) **COMPLAINT AND NOTICE OF**  
) **OPPORTUNITY FOR HEARING**

**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 Administrator of 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. Respondent Grand Teton Park Resort, Inc. is a Wyoming corporation. Respondent Harry Washut is an individual. Each Respondent is 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. Respondents own and/or operate a system, the Grand Teton Park RV Resort Water System (the "System"), located in Teton 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 40 C.F.R. §141.2, 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, each 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. Each 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 three wells. The System serves an average of approximately 500 persons daily (although not necessarily the same persons each day) through approximately 172 service connections year-round.
6. On March 30, 2006, in accordance with sections 1414(a)(2) and (g)(1) of the SDWA, 42 U.S.C. §§ 300g-3(a)(2) and (g)(1), the EPA issued an Administrative Order, Docket No. SDWA-08-2006-0024 (the “Order”) to Respondents, citing various violations of the NPDWRs, including, but not limited to violating the Maximum Contaminant Level (MCL) for total coliform, failing to monitor for total coliform, failing to monitor for nitrate, and failing to notify the public and EPA of these violations.
7. A copy of the Order is attached to this complaint (Complainant’s Exhibit 2).
8. On July 26, 2006, EPA issued an Administrative Order Violation letter, noting that the Respondents were in violation of the Order’s requirements to monitor for nitrate and to provide public notice of violations.
10. A copy of EPA’s July 26, 2006 letter is attached to this Complaint (Complainant’s Exhibit 3).

## **COUNTS OF VIOLATION**

### **Count I**

#### **Violation of Maximum Contaminant Level for Total Coliform**

1. The Order (on page 6, in par. 1 of the "Order" section) required Respondents to comply with the total coliform MCL as stated in 40 C.F.R. §141.63.
2. Respondents violated the Order by exceeding the total coliform MCL in October of 2006 and December of 2006.

### **Count II**

#### **Failure to Submit Plan for Compliance with Coliform MCL**

1. The Order (on page 6, in par. 1 of the "Order" section) required Respondents, in case the System had a total coliform MCL violation while the Order was in effect, to submit to EPA detailed plans for bringing the System into compliance with the MCL for coliform bacteria at 40 C.F.R. § 141.63. The plan was to be submitted within 30 days of the MCL violation.
2. Respondents violated the Order because, after violating the total coliform MCL on October 30, 2006, they failed to submit any plan for bringing the System into compliance with the MCL. Although the plan was due by November 29, 2006, the Respondents have yet to submit it.

### **Count III**

#### **Failure to Collect Additional Samples After Positive Result**

1. The Order (on page 7, in par. 4 of the "Order" section) required Respondents, in the event of at least one positive coliform sample, to collect at least five routine

samples during the next month the System provided water to the public, as required by 40 C.F.R. §141.21(b)(5).

2. Respondents violated the Order because, after having at least one positive coliform result in September of 2006 and in December of 2006, they failed to collect at least five routine samples during each of the months of October of 2006 and January of 2007.

**Count IV**  
**Untimely Monitoring for Nitrate**

1. The Order (on page 7, in par. 5 of the “Order” section) required Respondents to monitor within thirty days of the date of the Order, and annually thereafter, for nitrate, according to 40 C.F.R. § 141.23(d).
2. Respondents violated the Order by failing to monitor for nitrate by April 29, 2006 (i.e, thirty days after the Order). Respondents did, however, monitor for nitrate on June 6, 2006.

**Count V**  
**Failure to Report MCL Violations to EPA**

1. The Order (on page 8, in par. 7 of the “Order” section) required Respondents to report any total coliform MCL violation to EPA no later than the end of the next business day after learning of the violation, as required by 40 C.F.R. §141.21(g)(1).
2. Respondents violated the Order by failing to report their October 2006 and December 2006 MCL violations to EPA.

**Count VI**  
**Failure to Report Monitoring Violations to EPA**

1. The Order (on page 8, in par. 8 of the “Order” section) required Respondents to report to EPA any failures to comply with coliform monitoring requirements within ten days of the System discovering the violation, as required by 40 C.F.R. §141.21(g)(2).
2. Respondents violated the Order by failing to report that in the months of October of 2006 and January of 2007 they failed to take five additional coliform samples.

**Count VII**  
**Failure to Provide Public Notice of Violations**

1. The Order (on pages 7 and 8, in par. 6 of the “Order” section) required Respondents to provide public notice within thirty days of the Order (i.e., by April 29, 2006) of the following violations: (a) of the MCL for total coliform in September of 2005 and October of 2005, (b) of the requirement to collect at least five routine total coliform samples in July of 2003 following a total coliform positive sample in the preceding month, (c) of the requirement to monitor for nitrate in 2005 at two of the three wells, and (d) any NPDWR violations occurring after the issuance of the Order for which public notice was required under 40 C.F.R. §§ 141.201 *et seq.*
2. Respondents violated the Order by failing to provide public notice of the violations mentioned in parts (a) - (c) of the preceding paragraph, and the MCL violations mentioned in Count I, above.

### **PROPOSED ADMINISTRATIVE CIVIL PENALTY**

This complaint proposes that EPA assess an administrative penalty from Respondents. 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.<sup>1</sup>

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 Respondents' 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 \$10,500.00 against Respondents for their 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), Respondents have 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 they are entitled to judgment as a matter of law.

If Respondents wish to request a hearing, Respondents must file a written answer in accordance with 40 C.F.R. §§ 22.15 and 22.42 within thirty (30) calendar days after this complaint is served. If this complaint is served by mail, Respondents have an additional five (5)

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

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calendar days, pursuant to 40 C.F.R. § 22.7(c), in which to file their answer. Each Respondent may also file a separate answer not applying to the other Respondent.

If Respondents request a hearing in their answer(s), 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, Respondents have 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 re-title 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 Respondents do not file a written answer with the Regional Hearing Clerk at the address above within thirty (30) days of receipt of this complaint, they may be subject to a default order requiring payment of the full penalty proposed in this complaint.** If neither Respondent answers, the two Respondents may be held jointly and severally liable for the full proposed penalty. If only one Respondent files an answer, the other Respondent may be subject to a default judgment. 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 Respondents have any knowledge. The answer must state (1) any circumstances or arguments which the Respondents allege to constitute grounds of defense, (2) any facts the Respondents dispute, (3) whether and on what basis the Respondents oppose the proposed penalty, and (4) whether the Respondents request 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. Requesting, scheduling, or participating in a settlement conference **does not** substitute for an answer or extend the period mentioned above for filing an answer and a request for a hearing. Failing to file an answer may lead to a default order, even if a settlement

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conference occurs. The parties may simultaneously pursue settlement and proceed with administrative litigation under 40 C.F.R. part 22.

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 20<sup>th</sup> day of September, 2007.

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, REGION 8  
Complainant.

Michael T. Bisner  
for Assistant Regional Administrator  
Office of Enforcement, Compliance  
and Environmental Justice

Margaret J. ("Peggy") Livingston  
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:

Harry Washut  
Registered Agent and Operator  
Grand Teton Park Resort, Inc.  
17750 East Highway 287  
Moran, WY 83013

Date: 9/20/07

By: Judith McTernan  
Judith McTernan