



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1201 ELM STREET, SUITE 500
DALLAS, TEXAS 75270-2102

July 27, 2021

CERTIFIED MAIL - RETURN RECEIPT REQUESTED:

Alan Fox, Owner
River Point Water System
1101 River Bend Rd,
Haughton, LA 71037

Re: Notice of Proposed Assessment Civil Penalty
Docket Number: SDWA-06-2021-1279
PWS ID Number: LA1015030

Dear Mr. Fox:

Enclosed is an Administrative Complaint (Complaint) issued to Alan Fox, doing business as River Point, for violation of the Safe Drinking Water Act (SDWA), 42 U.S.C. § 300f *et seq.*, and its implementing regulations, 40 C.F.R. Part 141. Sanitary deficiencies were identified during a sanitary survey conducted by the Louisiana Department of Health (LDH) on September 09, 2011, at the River Point water system located in Haughton, Louisiana. This is a violation of the Ground Water Rule (GWR), pursuant to 40 C.F.R. § 141.403 and § 141.404. EPA Region 6 issued an Administrative Order (AO) to the River Point water system on July 29, 2015, for failure to address the sanitary deficiencies identified by LDH. On June 26, 2019, LDH performed an additional sanitary survey and found many of the sanitary deficiencies previously identified had not been addressed. EPA Region 6 issued an Administrative Order (AO) to the River Point water system on May 11, 2021, for failure to address the sanitary deficiencies identified in the July 2015 AO. To date, full compliance with the deficiencies identified in the sanitary survey has not been demonstrated.

You have the right to request a hearing regarding the violations alleged in the Complaint and the proposed administrative civil penalty. Please refer to the enclosed Part 22, "Consolidated Rules of Practice," for information regarding hearing and settlement procedures. Note that should you fail to request a hearing within thirty days of your receipt of the Complaint, you will waive your right to such a hearing, and the proposed civil penalty of \$5,040.00 may be assessed against you without further proceedings.

Whether or not you request a hearing, we invite you to confer informally with EPA. You may represent yourself, or be represented by an attorney at any conference, whether in person or by telephone. EPA encourages all parties against whom it files a Complaint proposing assessment of a penalty to pursue the possibility of settlement as a result of an informal conference.

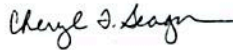
EPA acknowledges that the COVID-19 pandemic may impact your operations. If this is the case, please contact us regarding any specific issues you need to discuss.

Re: Administrative Complaint
River Point Water System

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EPA is committed to ensuring compliance with the requirements of the National Primary Drinking Water regulations program and my staff will assist you in any way possible. If you have questions or wish to discuss the possibility of a settlement of this matter, please contact Mr. Craig Young, of my staff, at (214) 665-2275.

Sincerely,



Digitally signed by CHERYL SEAGER
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ou=Environmental Protection Agency,
cn=CHERYL SEAGER,
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Cheryl T. Seager, Director
Enforcement and
Compliance Assurance Division

Enclosures

cc: w/complaint - Regional Hearing Clerk

ecc: Mr. Silas Corkern
Enforcement Program Administrator
Louisiana Department of Health
P.O. Box 4489
Baton Rouge, LA 70821-4489
silas.corkern@la.gov

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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY, REGIONAL HEARING CLERK
REGION 6 EPA REGION VI

In the Matter of

Alan Fox,
doing business as River Point

Respondent

PWS ID#: LA1015030

§ Docket No. SDWA-06-2021-1279
§
§
§
§ Proceeding to Assess a Class I Civil Penalty
§ Under Section 1414g-3(g)(3) of The
§ Safe Drinking Water Act
§
§
§ ADMINISTRATIVE COMPLAINT
§

I. Statutory Authority

This Administrative Complaint (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 (Act), 42 U.S.C. § 300g-3(g)(3). The Administrator of EPA delegated the authority to issue this Complaint to the Regional Administrator of EPA Region 6, who delegated this authority to the Director of the Enforcement and Compliance Assurance Division of EPA, Region 6 (Complainant). This Complaint is issued in accordance with, and this action will be conducted under, the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/ Termination or Suspension of Permits,” including rules related to administrative proceedings not governed by Section 554 of the Administrative Procedure Act, 40 C.F.R. §§ 22.50 through 22.52.

Based on the following Findings, Complainant finds that Respondent violated the Act and the regulations promulgated under the Act and should be ordered to pay a civil penalty.

II. Findings of Fact and Conclusions of Law

1. Alan Fox, doing business as River Point, (Respondent) 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, Respondent owned or operated the River Point, a public water system (PWS) as defined by Section 1401(4) of the Act, 42 U.S.C. § 300f(12), located in New Orleans, Orleans Parish, Louisiana (facility), and designated as PWS number LA1015030.

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 period, Respondent’s PWS was subject to the requirements of the Ground Water Rule (GWR) as set forth in 40 C.F.R. § 141.851-141.861.

5. The Louisiana Department of Health (LDH) administers the Public Water Supply Supervision Program in Louisiana pursuant to Section 1413 of the Act. LDH had not yet obtained primary enforcement responsibility for the GWR when some of the violations described occurred; therefore, EPA has primary responsibility for enforcement of the GWR.

6. PWSs that have at least 15 service connections or regularly serve at least 25 people per day at least 60 days per year or at least 25 year-round residents are subject to the requirements of Section 1412 of the Act, 42 U.S.C. § 300g-1, and its implementing regulations, 40 C.F.R. Part 141.

7. As a PWS and a “supplier of water,” the River Point Water System serves at least 25 people per day at least 60 days per year.

8. Pursuant to 40 C.F.R. § 141.401, a sanitary survey inspection was conducted by LDH on August 11, 2011, to evaluate the source of water supply, pumps and pumping facilities,

and management and operator qualifications. The following significant deficiencies were not sufficiently addressed by the water system:

- a. Failure to have a PWS that is under the supervision and control of a duly certified operator as per requirements of the State Operator Certification Act, Act 538 of 1972, as amended;
- b. Failure to record and measure the residual disinfectant concentration in water being delivered to the distribution system;
- c. Failure to protect against potential cross connections by having a hose attached to the sample tap at the main plant;
- d. Failure to properly vent well #2;
- e. Failure to protect against open pits/holes/trenches at well #2 that can allow contamination of the source; and
- f. Failure to have properly working pressure gauge on the discharge pipe of well #2.

9. LDH informed Respondent of the identified deficiencies in a September 09, 2011 letter and instructed Respondent to correct the deficiencies by December 8th, 2011. Respondent violated 40 C.F.R. § 141.403 by failing to address the significant deficiencies.

10. Pursuant to 40 C.F.R. § 141.401, an additional sanitary survey inspection was conducted by LDH on November 03, 2014, to evaluate the source of water supply, pumps and pumping facilities, and management and operator qualifications. The following significant deficiencies were noted by LDH pursuant to 40 C.F.R. § 141.403:

- a. Failure to have a PWS that is under the supervision and control of a duly certified operator as per requirements of the State Operator Certification Act, Act 538 of 1972, as amended;
- b. Failure to record and measure the residual disinfectant concentration in water being delivered to the distribution system;
- c. Failure to protect against potential cross connections by having a hose attached to the sample tap at the main plant;
- d. Failure to properly vent well #2;

- e. Failure to protect against open pits/holes/trenches at well #2 that can allow contamination of the source; and
- f. Failure to have properly working pressure gauge on the discharge pipe of well #2.

11. LDH informed Respondent of the identified deficiencies in a December 19, 2014 letter and instructed Respondent to correct the deficiencies by March 11, 2015. Respondent violated 40 C.F.R. § 141.403 by failing to address the significant deficiencies.

12. In violation of 40 C.F.R. § 141.404(a), Respondent did not complete corrective action in accordance with any applicable State plan review processes or other State guidance and direction, including State specified interim actions and measures, nor did Respondent comply with a State-approved corrective action plan and schedule. Failure to meet these requirements is a violation of the Ground Water Rule treatment technique requirements.

13. On July 29, 2015, EPA issued an Administrative Order , Docket Number SDWA-06-2015-1224 (Order) (Attached and incorporated herein at Attachment A) to Respondent, pursuant to EPA's authority under Section 1414(g) of the Act, 42 U.S.C. § 300g-3(g).

14. The issuance date of the Order was July 29, 2015, and the effective date of the Order was August 30, 2015.

15. Pursuant to 40 C.F.R. § 141.401, an additional sanitary survey inspection was conducted by LDH on June 26, 2019, to evaluate the source of water supply, pumps and pumping facilities, and management and operator qualifications. The following significant deficiencies were noted by LDH pursuant to 40 C.F.R. § 141.403:

- a. Failure to have a PWS that is under the supervision and control of a duly certified operator as per requirements of the State Operator Certification Act, Act 538 of 1972, as amended;
- b. Failure to record and measure the residual disinfectant concentration in water being delivered to the distribution system;

- c. Failure to protect against potential cross connections by having a hose attached to the sample tap at the main plant;
- d. Failure to properly vent well #2;
- e. Failure to protect against open pits/holes/trenches at well #2 that can allow contamination of the source; and
- f. Failure to have properly working pressure gauge on the discharge pipe of well #2.

16. LDH informed Respondent of the identified deficiencies in a July 16, 2019 letter and instructed Respondent to correct the deficiencies by October 15, 2019. Respondent violated 40 C.F.R. § 141.403 by failing to address the significant deficiencies

17. On May 11, 2021, EPA issued an Administrative Order , Docket Number SDWA-06-2021-1284 (Order) (Attached and incorporated herein at Attachment A) 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 Ground Water Rule and ordered the following:

- a) Within thirty (30) days of receipt of this Order, Respondent shall address all significant deficiencies identified by LDH in the September 09, 2011 letter and by EPA in the July 29, 2015 Administrative Order and shall submit a report to EPA and LDH indicating what actions have been taken and how the deficiencies have been addressed. If Respondent is technically unable to correct all deficiencies within thirty days, Respondent shall submit to EPA, with a copy to LDH, a proposed plan including schedule to achieve compliance and address all identified deficiencies. The plan shall be submitted to EPA for review and approval.

18. The issuance date of the Order was May 11, 2021, and the effective date of the Order was May 18, 2021.

19. Respondent failed to comply with each Order requirement specified in paragraph 17 above and is therefore liable for a civil penalty pursuant to Section 1414(g) of the Act, 42 U.S.C. § 300g-3(g).

20. Pursuant to Section 1414(g) of the Act, 42 U.S.C. § 300f et seq., Respondent is liable for an administrative civil penalty in an amount not to exceed \$40,640 for violations of the Order.

III. Proposed Penalty

21. 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 forty dollars (\$5,040.00).

22. Complainant has specified that the administrative procedures specified in 40 C.F.R. Part 22, Subpart I, shall apply to this matter, and the administrative proceedings shall not be governed by Section 554 of the Administrative Procedure Act.

IV. Failure to File an Answer

23. If Respondent wishes to deny or explain any material allegation listed in the above Findings or to contest the amount of the penalty proposed, Respondent must file an Answer to this Complaint within thirty (30) days after service of this Complaint whether or not Respondent requests a hearing as discussed below.

24. The requirements for such an Answer are set forth at 40 C.F.R. § 22.15 (copy enclosed). Failure to file an Answer to this Complaint within thirty (30) days of service of the Complaint shall constitute an admission of all facts alleged in the Complaint and a waiver of the right to hearing. Failure to deny or contest any individual material allegation contained in the

Complaint will constitute an admission as to that finding or conclusion under 40 C.F.R. § 22.15(d).

25. If Respondent does not file an Answer to this Complaint within thirty (30) days after service, 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 thirty (30) days after a final Default Order is issued.

26. Respondent must send its Answer to this Complaint, including any request for a Hearing, and all other pleadings to:

Regional Hearing Clerk (6RC-D)
U.S. EPA, Region 6
1201 Elm Street, Suite 500
Dallas, TX 75270-2102

27. Respondent shall also send a copy of its Answer to this Complaint to the following EPA attorney assigned to this case:

Mr. Efren Ordonez (6RC-EW)
U.S. EPA, Region 6
1201 Elm Street, Suite 500
Dallas, TX 75270-2102

28. 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.

29. 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)(A) of the Act, 42 U.S.C. § 300g-3(g)(3)(A). The procedures for hearings are set out at 40 C.F.R. Part 22, including 40 C.F.R. §§ 22.50 through 22.52.

30. Any request for hearing should be included in Respondent's Answer to this Complaint; however, as discussed above, Respondent must file an Answer meeting the requirements of 40 C.F.R. § 22.15 in order to preserve the right to a hearing or to pursue other relief.

VI. Settlement

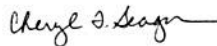
31. EPA encourages all parties against whom civil penalties are proposed to pursue the possibility of settlement through informal meetings with EPA. Regardless of whether a formal hearing is requested, Respondent may confer informally with EPA about the alleged violations or the amount of the proposed penalty. Respondent may wish to appear at any informal conference or formal hearing personally, by counsel or other representative, or both. To request an informal conference on the matters described in this Complaint, please contact Mr. Craig Young, of my staff, at (214) 665-2275.

32. 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 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.

33. 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)(3)(B) of the Act, 42 U.S.C. § 300g-3(g)(3)(B).

July 27, 2021

Date



Digitally signed by CHERYL SEAGER
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Date: 2021.07.27 08:50:01 -0500

Cheryl Seager
Director
Enforcement and
Compliance Assurance Division

CERTIFICATE OF SERVICE

I certify that the foregoing Class I 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
1201 Elm Street, Suite 500
Dallas, TX 75270-2102

Copy by certified mail: Alan Fox, Owner
River Point Water System
1101 River Bend Rd,
Haughton, LA 71037

Copy by first class mail: Mr. Silas Corkern
Enforcement Program Administrator
Louisiana Department of Health
P.O. Box 4489
Baton Rouge, LA 70821-4489

Copy hand-delivered: Mr. Efren Ordonez (6RC-EW)
U.S. EPA, Region 6
1201 Elm Street, Suite 500
Dallas, TX 75270-2102

Dated: 8-31-21

