

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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

FEB 29 2008

Ref: 8ENF-UFO

CERTIFIED MAIL: RETURN RECEIPT REQUESTED

The Honorable Jay Suhler
Mayor
Town of Springfield
748 Main Street
Springfield, CO 81073

Re: Proposed Compliance Order, Penalty Complaint,
And Notice Of Opportunity For Hearing
Docket No. **SDWA-08-2008-0021**

Dear Mayor Suhler:

Enclosed is a Proposed Compliance Order, Penalty Complaint, And Notice Of Opportunity For Hearing (PCO) issued by the Environmental Protection Agency (EPA) under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. § 300h-2. The document describes how the Town of Springfield has violated the SDWA and proposes both compliance requirements and the assessment of a civil penalty.

Please note that there are time deadlines that must be followed. The PCO is effective upon the date received. You have 30 calendar days to file an answer to dispute the contents of the PCO. **If you fully comply with the compliance order requirements in a timely manner as set out in the PCO, EPA will settle this case without the assessment of a civil penalty.**

If you have any technical questions, contact Carol Hutchings at the above address (with the mailcode 8ENF-UFO) or by phone at (303) 312-6485. For legal questions, the attorney assigned to this matter is Jim Eppers, who can be reached at the above address (with the mailcode 8ENF-L) or by phone at (303) 312-6893.

We urge your prompt attention to this matter.

Sincerely,



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

Enclosures:

Proposed Compliance Order, Penalty Complaint,
and Notice of Opportunity for Hearing

Part 22

Public Notice

List of EPA Soil Analysis Methods

cc: Jodi Ricker, Town Manager

Town of Springfield

P.O. Box 4

Springfield, CO 81073

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

Docket No. SDWA-08-2008-0021

2008 FEB 29 AM 10:50

ENVIRONMENTAL PROTECTION AGENCY
REGION 8
HEARING CLERK

In the Matter of:)
)
Town of Springfield)
a Colorado Municipality;)
)
)
Respondent.)

**PROPOSED COMPLIANCE ORDER,
PENALTY COMPLAINT, AND NOTICE OF
OPPORTUNITY FOR HEARING**

INTRODUCTION

1. This Proposed Compliance Order, Penalty Complaint and Notice of Opportunity for Hearing (complaint) is authorized by Congress in section 1423 of the Public Health Service Act, commonly known as the Safe Drinking Water Act (the Act). 42 U.S.C. § 300h-2. The Environmental Protection Agency (EPA) regulations authorized by the statute are set out in part 144 of title 40 of the Code of Federal Regulations (C.F.R.), and violations of the statute, permits or EPA regulations constitute violations of the Act. The rules for this proceeding are the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders and the Revocation, Termination or Suspension of Permits ("Rules of Practice")," 40 C.F.R. Part 22, a copy of which is enclosed.

2. The undersigned EPA official has been properly delegated the authority to issue this complaint.

3. EPA alleges that the Town of Springfield, Colorado, (Respondent) has violated the regulations and therefore the Act, as more fully explained below.

NOTICE OF OPPORTUNITY FOR A HEARING

4. Respondent has the right to a public hearing before a presiding officer within the Agency to (1) disagree with any fact stated (alleged) by EPA in the complaint, (2) state the grounds for any legal defense or (3) disagree with the appropriateness of the proposed penalty.

5. To disagree with the complaint and assert Respondent's right to a hearing, Respondent must file a written answer (and one copy) with the Regional Hearing Clerk (1595 Wynkoop Street (8RC)); Denver, Colorado 80202) within thirty (30) calendar days of receiving this

complaint. The answer must clearly admit, deny or explain the factual allegations of the complaint, the grounds for any defense, the facts Respondent may dispute, and Respondent's specific request for a public hearing. Please see section 22.15 of the Rules of Practice for a complete description of what must be in the answer. **FAILURE TO FILE AN ANSWER AND REQUEST A HEARING WITHIN THIRTY (30) CALENDAR DAYS MAY WAIVE RESPONDENT'S RIGHT TO DISAGREE WITH THE ALLEGATIONS OR PROPOSED PENALTY, AND RESULT IN A DEFAULT JUDGMENT AND ASSESSMENT OF PENALTY UP TO THE MAXIMUM AUTHORIZED BY THE ACT.**

SETTLEMENT NEGOTIATIONS

6. EPA encourages discussing whether cases can be settled through informal settlement conferences. If Respondent wants to pursue the possibility of settling this matter, or has any other questions, contact the attorney listed at the end of this Complaint. **Please note that calling the attorney or requesting a settlement conference does NOT delay the running of the thirty (30) day period for filing an answer and requesting a hearing.**

GENERAL ALLEGATIONS

The following general allegations apply to all times relevant to this action, and to the violation alleged in this complaint:

7. Respondent, the Town of Springfield is a Colorado "municipality."
8. Respondent is a "person" as defined in the Act, and therefore subject to the requirements of the statute and/or regulations. 42 U.S.C. § 300f(11).
9. Respondent owns and operates the Springfield Municipal Airport ("facility") which is located three (3) miles north of Springfield, Colorado on U.S. Highway 287/385.
10. On or around June 27, 2006, EPA received a citizen referral concerning alleged dumping of wastes into a storm water dry well located on the Springfield Municipal Airport property.
11. On July 5, 2006, EPA sent a letter to the City Manager of the Town of Springfield, requesting the Town of Springfield to submit inventory information for the Springfield Municipal Airport.
12. On August 2, 2006, EPA Region 8 received a completed *Shallow Injection Well Inventory Request Form* for the facility, prepared by Town Manager Carol J. Brown representing Respondent dated July 25, 2006 (Inventory Form). Respondent also submitted additional

information concerning privately owned airplane hangars, leased from the Respondent on the Springfield Municipal Airport property.

13. On April 11, 2007, an authorized EPA employee entered the facility with the consent of Jay Suhler, Mayor of Springfield and Jodi Ricker, Springfield City Manager, to inspect it for compliance with the law.

14. As of that date, it was verified that Respondent owned and was operating a Class V storm water injection well (dry well).

15. Respondent's disposal system, as identified in the Inventory Form and the inspection above, is classified as a "Class V Injection Well" as defined by 40 C.F.R. §§144.6 and 146.5. Respondent is subject to applicable requirements of 40 C.F.R. §§ 124, 144 and 146.

16. On May 16, 2007, an authorized EPA employee again entered the facility with the consent of Jodi Ricker, Springfield City Manager, to inspect and sample soils and water to determine compliance with the law.

17. The analysis of soil samples taken from the soils in the storm drain detected the pesticides chlorpyrifos, methyl parathion and carbofuran above the Maximum Contaminant Levels (MCLs) and/or Health Based Drinking Water Standards.

18. On July 31, 2007, an authorized EPA employee again entered the facility with the consent of Jodi Ricker, Springfield City Manager, to inspect and sample soils and water to determine compliance with the law.

19. The analysis of additional soil samples taken from the soils in the storm drain detected the additional pesticide contaminants delta HBC (benzene hexachloride), chlorpyrifos, and disulfoton above the Maximum Contaminant Levels (MCLs) and/or Health Based Drinking Water Standards. Also detected above the Maximum Contaminant Levels (MCLs) and/or Health Based Drinking Water Standards was the herbicide 2,4-D.

20. Lying underneath the disposal system are underground sources of drinking water (USDWs) within the High Plains Aquifer system, which consists of unconsolidated sand and gravel aquifers at or near the land surface. This aquifer system is the principal source of water in the region.

21. Respondent is in violation of 40 C.F.R. §§ 144.12(a) and 144.82(a)(1) by owning, operating or maintaining a Class V disposal facility which, through injection activity, allows the movement of fluid containing any contaminant into underground sources of drinking water, if the presence of that contaminant may cause a violation of any primary drinking water regulation or

may otherwise adversely affect the health of persons. Respondent's operation of the well in violation of the EPA regulations is a violation of the Act, 42 U.S.C. § 3000h-2 (c)(1).

PROPOSED COMPLIANCE ORDER

22. Respondent shall: 1) cease operating the dry well immediately; 2) submit for EPA's approval, in writing, within thirty (30) calendar days of the receipt of this complaint, a closure plan for the UIC Class V well (storm drain and dry well), which shall detail the removal and proper disposal of the drywell structure and all contaminated soils associated with this disposal system; 3) permanently close the Class V well within 120 calendar days of the receipt of this complaint, including the removal of all soils associated with this system; and 4) provide EPA with subsequent documentation of the closure within thirty (30) calendar days of completing this work.

23. Respondent shall submit all documentation to:

Carol L. Hutchings (Mail Code 8ENF-UFO)
U.S. EPA Region 8
1595 Wynkoop Street
Denver, Colorado 80202

PROPOSED CIVIL PENALTY

24. For an administrative proceeding, the Act authorizes the assessment of a civil penalty of up to \$11,000 per day, for each violation of the Act, up to a maximum of \$157,500. 42 U.S.C. § 3000h-2 (c)(1). The Act requires EPA to take into account appropriate factors in assessing a civil penalty, including the seriousness of the violation, the economic benefit resulting from the violation, any history of such violations, and good-faith efforts to comply with the requirements, the economic impact on the violator and such other matters as justice may require.

26. As required by the Act, prior to the assessment of a civil penalty, EPA will provide public notice of the this action and reasonable opportunity for public comment on the matter and present evidence in the event a hearing is held 42 U.S.C. § 3000h-2 (c)(3)(B).

27. To discuss settlement or ask any questions you may have about this case or process, please contact Jim Eppers, Enforcement Attorney, Legal Enforcement Program, EPA, Region 8, at 303-312-6893, or the address below.

United States Environmental Protection Agency
Region 8, Office of Enforcement, Compliance, and
Environmental Justice
1595 Wynkoop Street (ENF-L)
Denver, Colorado 80202

Date: 2/26/08

By: 

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

CERTIFICATE OF SERVICE

I hereby certify that the original and one true copy of this Proposed Compliance Order, Penalty Complaint, and Notice of Opportunity for Hearing was hand carried to the Regional Hearing Clerk, EPA Region 8, 1595 Wynkoop Street, Denver, Colorado, and that a true copy was sent via Certified Mail; Return Receipt Requested to the following address:

The Honorable Jay Suhler
Mayor
Town of Springfield
748 Main Street
Springfield, CO 81073

and by 1st Class Mail to:

Jodi Ricker
Town Manager
Town of Springfield
P.O. Box 4
Springfield, CO 81073

Dated: 2/29/08

By: Judith McTernan
Judith McTernan