



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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2018 MAR 14 PM 12:50

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EPA REGION VIII
HEARING CLERK

MAR 14 2018

Ref: 8ENF-W-SDW

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Matthew Cordingly, District Manager
Lucerne Water and Sewer District
584 Highway 20 North
Thermopolis, Wyoming 82443

Re: Administrative Order regarding Lucerne Water and Sewer District Public Water System,
PWS 5600935, Docket No. **SDWA-08-2018-0005**

Dear Mr. Cordingly:

Enclosed is an Administrative Order (Order) issued by the U.S. Environmental Protection Agency under the authority of section 1414(g) of the Safe Drinking Water Act, 42 U.S.C. § 300g-3(g). Among other things, the Order alleges that the Lucerne Water and Sewer District (Lucerne), as owner and/or operator of the Lucerne Water and Sewer District Public Water System (System), has violated the National Primary Drinking Water Regulations at 40 C.F.R. part 141 (Drinking Water Regulations).

The Order is effective upon the date received. Please review the Order and within 10 days provide the EPA with any information Lucerne believes the EPA may not have (for example, monitoring that may have been done but not submitted). If the EPA does not hear from Lucerne, the EPA will assume the information in the Order is correct.

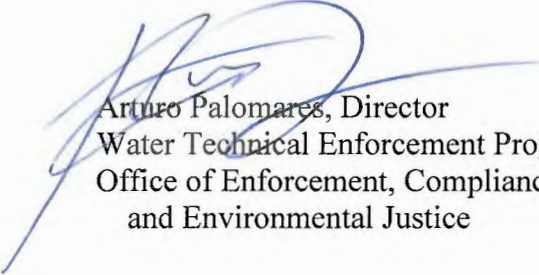
If Lucerne complies with the Order, the EPA may close the Order without further action. Failure to comply with the Order may lead to substantial civil penalties and/or a federal court injunction ordering compliance.

The Small Business Regulatory Enforcement and Fairness Act (SBREFA) may apply to this situation. Enclosed is a small business information sheet, outlining compliance assistance resources available to small businesses and small governments, in case these are relevant. SBREFA does not eliminate the responsibility to comply with the Order or the Drinking Water Regulations.

To submit information or to request an informal conference with the EPA, please contact Kathelene Brainich via email at brainich.kathelene@epa.gov or by phone at (800) 227-8917, extension 6481 or (303) 312-6481. Any questions from your attorney should be directed to Mia Bearley, Enforcement Attorney, who may be reached via email at bearley.mia@epa.gov, by phone at (800) 227-8917, extension 6554, or (303) 312-6554, or at the above address (with the mailcode 8ENF-L),

We urge your prompt attention to this matter.

Sincerely,



Arturo Palomares, Director
Water Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosures

cc: Hot Springs County Commissioners (ninaw@hscounty.com; karens@hscounty.com;
pennyh@hscounty.com)
WY DEQ/DOH (via email)
Melissa Haniewicz, EPA Regional Hearing Clerk

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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IN THE MATTER OF:)
)
Lucerne Water and Sewer District,)
)
Respondent.)

Docket No. SDWA-08-2018-0005

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ADMINISTRATIVE ORDER

1. This Order is issued under the authority vested in the Administrator of the United States Environmental Protection Agency (EPA) by section 1414(g) of the Safe Drinking Water Act (Act), 42 U.S.C. § 300g-3(g), as properly delegated to the undersigned officials.

2. Lucerne Water and Sewer District (Respondent) is a public body created by or pursuant to Wyoming law that owns and/or operates the Lucerne Water and Sewer District Public Water System (System), which provides piped water to the public in Hot Springs County, Wyoming, for human consumption.

3. The System purchases groundwater from the Big Horn Regional Joint Powers Board (WY5601630) and provides no additional treatment.

4. The System has approximately 128 service connections used by year-round residents and/or regularly serves an average of approximately 350 year-round residents. Therefore, the System is a “public water system” and a “community water system” as defined in 40 C.F.R. § 141.2 and section 1401 of the Act, 42 U.S.C. § 300f.

5. Respondent is subject to the Act and the National Primary Drinking Water Regulations (Drinking Water Regulations) at 40 C.F.R. part 141. The Drinking Water Regulations are “applicable requirements” as defined in section 1414(i) of the Act, 42 U.S.C. § 300g-3(i).

VIOLATIONS

6. Respondent was required to monitor the System's tap water for lead and copper triennially between 2013 and 2015. 40 C.F.R. §§ 141.86(d)(1)(ii)(B) and (d)(4)(iii). Respondent failed to monitor the System's water for lead and copper during the 2013-2015 monitoring period and therefore violated this requirement. Triennial reduced monitoring is revoked due to Respondent’s failure to monitor and annual monitoring was required starting in 2016. 40 C.F.R. § 141.86(d)(4)(iii).

7. Respondent was required to monitor the System’s tap water for lead and copper annually in 2016 and 2017. 40 C.F.R. § 141.86(d). Respondent failed to monitor the System’s water for lead and copper during 2016 and 2017 and therefore violated this requirement. Annual reduced monitoring was revoked due to these failures to monitor and Respondent must now monitor for lead and copper for two consecutive six-month monitoring periods.

8. Respondent is required to monitor the System's water monthly for total coliform bacteria. 40 C.F.R. § 141.853-858. Respondent failed to monitor the System's water for total coliform bacteria during March 2017 and, therefore, violated this requirement.

9. Respondent is required to prepare and deliver an annual Consumer Confidence Report (CCR) to the System's customers and the EPA by July 1st of each year and to certify to the EPA that it has done so by October 1. The CCR is to include information about the quality of the System's water using data collected during, or prior to, the previous calendar year. 40 C.F.R. §§ 141.151-141.155. Respondent failed to prepare and deliver an annual CCR for 2014 and 2015 to the System's customers and to the EPA by July 1st. Respondent also failed to provide certification to the EPA for the 2014, 2015 and 2016 CCRs by October 1st. Therefore, Respondent violated these requirements. The 2014 CCR and certification were belatedly received on November 24, 2015.

10. Respondent is required to report any failure to comply with any Drinking Water Regulation to the EPA within 48 hours, except where the Drinking Water Regulations specify a different time period. 40 C.F.R. § 141.31(b). Respondent failed to report the violation cited in paragraphs 6, 7, and 9, above, to the EPA and, therefore, violated this requirement.

11. Respondent is required to report any violation of coliform monitoring requirements to the EPA within 10 days after discovering the violation. 40 C.F.R. § 141.21(g)(2). Respondent failed to report the violation cited in paragraph 8, above, to the EPA and, therefore, violated this requirement.

ORDER

Based on the above violations, Respondent is ordered to perform the following actions upon Respondent's receipt of this Order (unless a different deadline is specified below):

12. No later than June 30, 2018, and then again between July 1, 2018, and December 31, 2018, and thereafter as directed by the EPA, Respondent shall monitor the System's water for lead and copper, in accordance with 40 C.F.R. § 141.86(a)-(d). Respondent shall monitor the System's water for lead and copper according to its sample siting plan in accordance with 40 C.F.R. § 141.86(a) and submit the sampling plan to the EPA prior to monitoring. Within 30 days of receiving monitoring results, Respondent shall deliver a consumer notice of individual tap monitoring results to the persons served at each sampled site, in accordance with 40 C.F.R. 141.85(d). Within 90 days following the end of each monitoring period, Respondent shall submit to the EPA a sample copy of the consumer notification along with a certification that the notification has been distributed, in accordance with 40 C.F.R. 141.90(f)(3).

13. Respondent shall monitor the System's water monthly for total coliform bacteria. If a sample is positive for total coliform, within 24 hours of being notified of the positive result, Respondent shall collect a set of three repeat samples for each total coliform-positive sample.

40 C.F.R. § 141.853-858. Respondent shall report total coliform analytical results to the EPA within the first 10 days following the month in which Respondent receives sample results, as required by 40 C.F.R. § 141.31(a). Respondent shall report any violation of coliform monitoring requirements to the EPA within 10 days after discovering the violation, as required by 40 C.F.R. § 141.861(a)(4).

14. Within 30 days after receipt of this Order, Respondent shall prepare an annual CCR (to include all information required by 40 C.F.R. §§ 141.153 and 154) for the System for 2015 and distribute the CCR to the System's customers and the EPA. The CCR shall include the 2013-2015 failure to monitor lead and copper violation. No later than 30 days later, Respondent shall certify to the EPA that the CCRs covering 2015 and 2016 have been distributed to the System's customers and that the information is correct and consistent with monitoring data previously provided to the EPA. Thereafter, Respondent shall prepare and distribute annual CCRs and provide certifications as required by 40 C.F.R. §§ 141.151-141.155.

15. Respondent shall report any failure to comply with any Drinking Water Regulation to the EPA within 48 hours, except where the Drinking Water Regulations specify a different time period, as required by 40 C.F.R. § 141.31(b).

16. This Order shall be binding on Respondent and any person (e.g., employee, contractor or other agent) acting in concert with Respondent.

17. If Respondent contracts with or hires any other person or entity to operate the System, Respondent shall, no later than the date of such hire or contract, provide a copy of this Order to the employee or contractor and notify the EPA in writing of the employee or contracted parties name and contact information. Respondent shall remain obligated to comply with this Order even if Respondent hires another person or entity to operate the System.

18. Respondent shall send all reporting and notifications required by this Order to the EPA via email at:

R8DWU@epa.gov and brainich.kathelene@epa.gov.

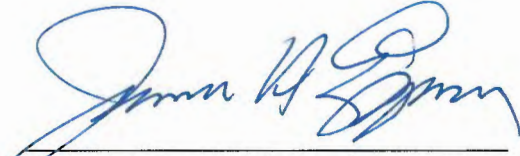
GENERAL PROVISIONS

19. This Order shall not constitute a waiver, suspension or modification of any requirement of the Act or the Drinking Water Regulations. Issuance of this Order is not an election by the EPA to forgo any civil or criminal action.

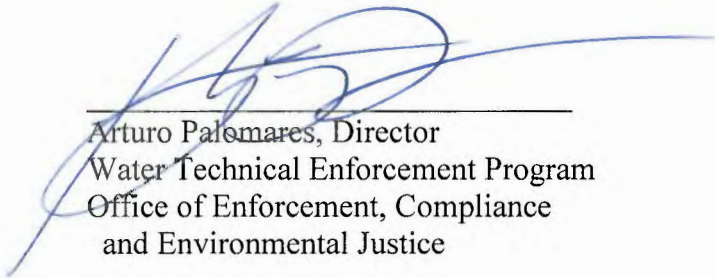
20. Violation of any part of this Order or the Drinking Water Regulations may subject Respondent to a civil penalty of up to \$55,907 (as adjusted for inflation) per day of violation and/or a court injunction ordering compliance. 42 U.S.C. § 300g-3; 40 C.F.R. part 19; 83 Fed. Reg. at 1193 (January 10, 2018).

21. Respondent may seek federal judicial review of this Order pursuant to section 1448(a) of the Act, 42 U.S.C. § 300j-7(a).

Issued: March 14, 2018.



James H. Eppers, Supervisory Attorney
Regulatory Enforcement Unit
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice



Arturo Palomares, Director
Water Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

U.S. EPA Small Business Resources Information Sheet

The United States Environmental Protection Agency provides an array of resources to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

Office of Small and Disadvantaged Business Utilization (OSDBU)

www.epa.gov/aboutepa/about-office-small-and-disadvantaged-business-utilization-osdbu

EPA's OSDBU advocates and advances business, regulatory, and environmental compliance concerns of small and socio-economically disadvantaged businesses.

EPA's Asbestos Small Business Ombudsman (ASBO)

www.epa.gov/resources-small-businesses/asbestos-small-business-ombudsman or 1-800-368-5888

The EPA ASBO serves as a conduit for small businesses to access EPA and facilitates communications between the small business community and the Agency.

Small Business Environmental Assistance Program

<https://nationalsbeap.org>

This program provides a "one-stop shop" for small businesses and assistance providers seeking information on a wide range of environmental topics and state-specific environmental compliance assistance resources.

EPA's Compliance Assistance Homepage

www.epa.gov/compliance

This page is a gateway to industry and statute-specific environmental resources, from extensive web-based information to hotlines and compliance assistance specialists.

Compliance Assistance Centers

www.complianceassistance.net

EPA sponsored Compliance Assistance Centers provide information targeted to industries with many small businesses. They were developed in partnership with industry, universities and other federal and state agencies.

Agriculture

www.epa.gov/agriculture

Automotive Recycling

www.ecarcenter.org

Automotive Service and Repair

www.ccar-greenlink.org or 1-888-GRN-LINK

Chemical Manufacturing

www.chemalliance.org

Construction

www.cicacenter.org

Education

www.campuserc.org

Food Processing

www.fpeac.org

Healthcare

www.hercenter.org

Local Government

www.lgean.org

Surface Finishing

<http://www.sterc.org>

Paints and Coatings

www.paintcenter.org

Printing

www.pneac.org

Ports

www.portcompliance.org

Transportation

www.tercenter.org

U.S. Border Compliance and Import/Export Issues

www.bordercenter.org

EPA Hotlines and Clearinghouses

www.epa.gov/home/epa-hotlines

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Examples include:

Clean Air Technology Center (CATC) Info-line

www.epa.gov/catc or 1-919-541-0800

Superfund, TRI, EPCRA, RMP, and Oil Information Center

1-800-424-9346

EPA Imported Vehicles and Engines Public Helpline

www.epa.gov/otaq/imports or 1-734-214-4100

National Pesticide Information Center

www.npic.orst.edu or 1-800-858-7378

National Response Center Hotline to report oil and hazardous substance spills - <http://nrc.uscg.mil> or 1-800-424-8802

Pollution Prevention Information Clearinghouse (PPIC) -

www.epa.gov/p2/pollution-prevention-resources#ppic or 1-202-566-0799

Safe Drinking Water Hotline -

www.epa.gov/ground-water-and-drinking-water/safe-drinking-water-hotline or 1-800-426-4791

Toxic Substances Control Act (TSCA) Hotline

tsc hotline@epa.gov or 1-202-554-1404

Small Entity Compliance Guides

<https://www.epa.gov/reg-flex/small-entity-compliance-guides>

EPA publishes a Small Entity Compliance Guide (SECG) for every rule for which the Agency has prepared a final regulatory flexibility analysis, in accordance with Section 604 of the Regulatory Flexibility Act (RFA).

Regional Small Business Liaisons

www.epa.gov/resources-small-businesses/epa-regional-office-small-business-liaisons

The U.S. Environmental Protection Agency (EPA) Regional Small Business Liaison (RSBL) is the primary regional contact and often the expert on small business assistance, advocacy, and outreach. The RSBL is the regional voice for the EPA Asbestos and Small Business Ombudsman (ASBO).

State Resource Locators

www.envcap.org/statetools

The Locators provide state-specific contacts, regulations and resources covering the major environmental laws.

State Small Business Environmental Assistance Programs (SBEAPs)

<https://nationalsbeap.org/states/list>

State SBEAPs help small businesses and assistance providers understand environmental requirements and sustainable business practices through workshops, trainings and site visits.

EPA's Tribal Portal

www.epa.gov/tribalportal

The Portal helps users locate tribal-related information within EPA and other federal agencies.

EPA Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated, businesses may be eligible for penalty waivers or reductions. EPA has two such policies that may apply to small businesses:

EPA's Small Business Compliance Policy

www.epa.gov/enforcement/small-businesses-and-enforcement

EPA's Audit Policy

www.epa.gov/compliance/epas-audit-policy

Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established a SBREFA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System designation, number of employees or annual receipts, as defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247).

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

Your Duty to Comply

If you receive compliance assistance or submit a comment to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.