

Time



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

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

Ref: 8ENF-L

MAR 21 2011

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
NO. 7009 3410 0000 2592 7751

Kip Bowler, Chairman
Gunlock Special Service District
411 North Main
Gunlock, UT 84733

Re: Complaint and Notice of
Opportunity for Hearing
Docket No. **SDWA-08-2011-0031**

Dear Mr. Bowler:

Enclosed is an administrative "Complaint and Notice of Opportunity for Hearing" (complaint) filed against you under § 1414(g)(3) of the Safe Drinking Water Act (SDWA), 42 U.S.C § 300g-3(g)(3). The U.S. Environmental Protection Agency (EPA) alleges in the complaint that you failed to comply with an Administrative Order, Docket No. SDWA-08-2010-0016, issued on April 19, 2010, under § 1414(g) of the SDWA, 42 U.S.C. § 300g-3(g). The violations are specifically set out in the complaint.

By law, you 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 do not file an answer to this complaint within 30 days of receipt, a default judgment may be entered and the proposed civil penalty may be assessed without further proceedings. In your answer you may request a hearing. You have the right to be represented by an attorney at any stage of these proceedings.

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 have stipulated in that agreement.

Whether or not you request a hearing, you and/or your representative(s) may confer informally with EPA concerning the alleged violations or the amount of the proposed penalty. However, an informal settlement conference does **not** substitute for filing a written answer and requesting a hearing.

A request for an informal conference also does not extend the 30-day period during which you must submit a written answer and a request for a hearing. You may pursue the informal conference procedure as an alternative to, and simultaneously with, the adjudicatory hearing process.

For any questions specific to the violations or penalty, the most knowledgeable people on my staff regarding this matter are Mario Mérida, Environmental Protection Specialist, who can be reached at 800/227-8917, extension 6297, or David Rochlin, Enforcement Attorney, who can be reached at 800/227-8917, extension 6892.

We urge your prompt attention to this matter.

Sincerely,

Michael T. Bismee
for

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

Enclosure

cc: Tina Artemis, Regional Hearing Clerk

Kenneth H. Bousfield, Director
Division of Drinking Water
Utah Department of Environmental Quality
P.O. Box 144830
Salt Lake City, UT 84114

Patti Fauver
Rule Section Manager
Utah Department of Environmental Quality
P.O. Box 144830
Salt Lake City, UT 84114



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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2011 MAR 21 AM 9:22

IN THE MATTER OF)

Gunlock Special Service District)
411 North Main)
Gunlock, UT 84733)

Respondent,)

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

) Docket No. SDWA-08-2011-0031

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

FILED
EPA REGION VIII
HEARING CLERK

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 § 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 EPA to assess an administrative civil penalty against any person who violates, or fails or refuses to comply with, an order issued under § 1414(g) of the SDWA, 42 U.S.C. § 300g-3(g).

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. Gunlock Special Service District (Respondent) is a component unit of Washington County, Utah, which in turn is a component unit of the State of Utah, and therefore Respondent is a “person” as that term is defined in § 1401(12) of the SDWA, 42 U.S.C. § 300f(12), and 40 C.F.R. § 141.2.
2. Respondent owns and/or operates the Gunlock Special Service District public water system (the system), located in Washington County, Utah, for the provision to the public of piped water for human consumption.
3. The system has at least 50 service connections and/or regularly serves at least 130 individuals year-round and is therefore a “public water system” as that term is defined in § 1401(4) of the SDWA, 42 U.S.C. § 300f(4), and 40 C.F.R. § 141.2.
4. As an owner and/or operator of a public water system, Respondent is a “supplier of water” as that term is defined in § 1401(5) of the SDWA, 42 U.S.C. § 300f(5), and 40 C.F.R. § 141.2. 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 one well and one spring.
The system operates twelve months per year.
6. Respondent is required by 40 C.F.R. § 141.21(a)(2) to monitor the system's water for total coliform bacteria at least once per month and by 40 C.F.R. § 141.31(a) to report those monitoring results to EPA and the State within ten days following that month.
7. Respondent is required by 40 C.F.R. § 141.21(g)(2) to report any violation of the total coliform bacteria requirements to EPA and the State within ten days of discovery.
8. Within 24 hours of being notified of any total coliform-positive routine sample of the system's water, Respondent is required by 40 C.F.R. § 141.21(b) to take a set of four repeat samples.
9. On April 19, 2010, in accordance with § 1414(g) of the SDWA, 42 U.S.C. § 300g-3(g), EPA issued an Administrative Order, Docket No. SDWA-08-2010-0016 (the Order) to Respondent, citing violations of the NPDWRs. A copy of the Order is attached to this complaint (Complainant's Exhibit 2).
10. By letter dated October 6, 2010, EPA notified Respondent that it was in violation of the Order. (Complainant's Exhibit 3)
11. Respondent submitted some additional test results in response to the October 2010 letter but then committed additional violations. In response to those

violations, EPA sent another letter on December 13, 2010, notifying Respondent of the additional violations. (Complainant's Exhibit 4)

COUNTS OF VIOLATION

Count I

Late Reporting for Total Coliform Bacteria Monitoring Results

1. The Order, on page 3, in Paragraph 21, requires Respondent to monitor for total coliform bacteria as required by 40 C.F.R. § 141.21. The Order, on page 4, in Paragraph 28, requires Respondent to report those monitoring results to EPA and the State within ten days following the month in which they are received, as required by 40 C.F.R. § 141.31(a).
2. Respondent violated the Order by reporting its monitoring results for total coliform bacteria many weeks or even months after the due date. The results for May, June, July and August 2010 were all received by EPA on October 21, 2010, which adds up to a total of 349 days of lateness.

Count II

Failure to Monitor for Residual Disinfectant Levels

1. The Order, on page 4, in Paragraph 27, requires Respondent to monitor for residual disinfectant levels, as required by 40 C.F.R. § 141.132(c)(1).
2. Respondent violated the Order by failing to monitor for residual disinfectant levels during the second calendar quarter of 2010.

Count III

Failure to Report Violation to EPA

1. The Order, on page 4, in Paragraph 29, requires Respondent to comply with 40 C.F.R. § 141.31(b) by reporting any violation of the drinking water regulations to EPA and the State within 48 hours or such other time as may be specified in the regulations.
2. Respondent violated the Order by failing to report to EPA the violation cited in Count II above.

Count IV

Failure to Monitor for Total Coliform–Repeat Sampling

1. In the event of any routine sample testing positive for total coliform bacteria, the Order, on page 3, in Paragraph 22, requires Respondent to collect a set of at least four repeat samples within 24 hours, as required by 40 C.F.R. § 141.21(b).
2. Respondent violated the Order by failing to collect required repeat samples in September and November 2010 (See Exhibit 4).

PROPOSED ADMINISTRATIVE CIVIL PENALTY

This complaint proposes that EPA assess an administrative penalty against Respondent. EPA is authorized to assess an administrative civil penalty according to § 1414(g)(3) of the SDWA, 42 U.S.C. § 300g-3(g)(3), for violation of an administrative order issued under § 1414(g) of the SDWA. The amount may be up to \$32,500 per violation for violations which occurred between March 15, 2004, and January 12, 2009, and up to \$37,500 per violation for

violations occurring after January 12, 2009. (The original statutory amount of \$25,000 has been adjusted for inflation pursuant to 40 C.F.R. part 19.)

EPA has determined the proposed penalty amount in accordance with § 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 Respondent's degree of willfulness and/or negligence, history of noncompliance, and ability to pay, as known to EPA at this time, EPA proposes to assess an administrative civil penalty of \$1,200 against Respondent for its violations of the Order.

OPPORTUNITY TO REQUEST A HEARING

As provided in § 1414(g)(3)(B) of the SDWA, 42 U.S.C. § 300g-3(g)(3)(B), Respondent has 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 it is entitled to judgment as a matter of law.

If Respondent wishes to request a hearing, Respondent 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, Respondent has an additional five (5) calendar days, pursuant to 40 C.F.R. § 22.7(c), in which to file its answer.

If Respondent requests a hearing in its answer, 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, Respondent has the right under the SDWA to elect a hearing on the record in accordance with § 554 of the Administrative Procedure Act, 5 U.S.C. §§ 551 et seq. ("APA").

For Respondent 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-caption 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:

Tina Artemis
Region 8 Hearing Clerk (8RC)
U.S. Environmental Protection Agency
1595 Wynkoop Street
Denver, CO 80202

A copy of the answer must also be sent to the attorney whose name and address are provided in the signature block at the end of this complaint.

FAILURE TO FILE AN ANSWER

If Respondent does not file a written answer with the Regional Hearing Clerk at the address above within thirty (30) days of receipt of this complaint, Respondent may be subject to a default order requiring payment of the full penalty proposed in this complaint.

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 Respondent has any knowledge. The answer must state (1) any circumstances or arguments Respondent alleges to constitute

grounds of defense, (2) any facts Respondent disputes, (3) whether and on what basis Respondent opposes the proposed penalty, and (4) whether Respondent requests a hearing. **Failure to admit, deny, or explain any material factual allegation contained in this complaint shall constitute an admission of that allegation.**

QUICK RESOLUTION

Respondent may resolve this proceeding at any time by paying the penalty amount proposed in this complaint. Respondent may make this payment by (1) sending a cashier's or certified check for this amount, including the name and docket number of this case, payable to "Treasurer, United States of America," to the address below to the U.S. Environmental Protection Agency, Fines and Penalties, Cincinnati Finance Center, P.O. Box 979077, St. Louis, MO, 63197-9000, and (2) filing a copy of the check with Tina Artemis, Region 8 Hearing Clerk (8RC), at the address on the preceding page.

If Respondent makes this payment within 30 days of receiving this complaint, it need not file an answer. Such payment waives Respondent's right to contest the allegations and to appeal any final order resulting from this complaint. See § 22.18 of the Rules of Practice for more explanation of the quick resolution process.

SETTLEMENT CONFERENCE

EPA encourages exploring settlement possibilities through informal settlement negotiations. **However, failing to file an answer may lead to a default order, even if settlement negotiations occur.** The parties may simultaneously pursue settlement and proceed with administrative litigation. If a settlement is 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. Any request for settlement negotiations should be directed to the attorney named below.

Dated this 17 day of March, 2011.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 8
Complainant.

Michael T. Resner
for Andrew M. Gaydosh
Assistant Regional Administrator
Office of Enforcement, Compliance and
Environmental Justice

David Rochlin
David Rochlin
Senior Enforcement Attorney
Office of Enforcement, Compliance and
Environmental Justice
U.S. EPA Region 8
1595 Wynkoop Street
Denver, Colorado 80202
Telephone Number: (303) 312-6892
Facsimile Number: (303) 312-7519

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 to each of the following:

Kip Bowler, Chairman
Gunlock Special Service District
411 North Main
Gunlock, UT 84733
Certified mail, return receipt requested
No. 7009 3410 0000 2592 7751

Date: 3/21/2011

By: Judith McTernan
Judith McTernan

§21.13

approve or disapprove the State issued statement, in accordance with the requirements of §21.5.

(2) The Regional Administrator will periodically review State program performance. In the event of State program deficiencies the Regional Administrator will notify the State of such deficiencies.

(3) During that period that any State's program is classified as deficient, statements issued by a State shall also be sent to the Regional Administrator for review. The Regional Administrator shall notify the State, the applicant, and the SBA of any determination subsequently made, in accordance with §21.5, on any such statement.

(i) If within 60 days after notice of such deficiencies has been provided, the State has not taken corrective efforts, and if the deficiencies significantly affect the conduct of the program, the Regional Administrator, after sufficient notice has been provided to the Regional Director of SBA, shall withdraw the approval of the State program.

(ii) Any State whose program is withdrawn and whose deficiencies have been corrected may later reapply as provided in §21.12(a).

(g) Funds appropriated under section 106 of the Act may be utilized by a State agency authorized to receive such funds in conducting this program.

§21.13 Effect of certification upon authority to enforce applicable standards.

The certification by EPA or a State for SBA Loan purposes in no way constitutes a determination by EPA or the State that the facilities certified (a) will be constructed within the time specified by an applicable standard or (b) will be constructed and installed in accordance with the plans and specifications submitted in the application, will be operated and maintained properly, or will be applied to process wastes which are the same as described in the application. The certification in no way constitutes a waiver by EPA or a State of its authority to take appropriate enforcement action against the owner or operator of such facilities for violations of an applicable standard.

PART 22—CONSOLIDATED RULES OF PRACTICE GOVERNING THE ADMINISTRATIVE ASSESSMENT OF CIVIL PENALTIES AND THE REVOCATION/TERMINATION OR SUSPENSION OF PERMITS

Subpart A—General

- Sec.
- 22.1 Scope of this part.
- 22.2 Use of number and gender.
- 22.3 Definitions.
- 22.4 Powers and duties of the Environmental Appeals Board, Regional Judicial Officer and Presiding Officer; disqualification, withdrawal, and reassignment.
- 22.5 Filing, service, and form of all filed documents; business confidentiality claims.
- 22.6 Filing and service of rulings, orders and decisions.
- 22.7 Computation and extension of time.
- 22.8 *Ex parte* discussion of proceeding.
- 22.9 Examination of documents filed.

Subpart B—Parties and Appearances

- 22.10 Appearances.
- 22.11 Intervention and non-party briefs.
- 22.12 Consolidation and severance.

Subpart C—Prehearing Procedures

- 22.13 Commencement of a proceeding.
- 22.14 Complaint.
- 22.15 Answer to the complaint.
- 22.16 Motions.
- 22.17 Default.
- 22.18 Quick resolution; settlement; alternative dispute resolution.
- 22.19 Prehearing information exchange; prehearing conference; other discovery.
- 22.20 Accelerated decision; decision to dismiss.

Subpart D—Hearing Procedures

- 22.21 Assignment of Presiding Officer; scheduling the hearing.
- 22.22 Evidence.
- 22.23 Objections and offers of proof.
- 22.24 Burden of presentation; burden of persuasion; preponderance of the evidence standard.
- 22.25 Filing the transcript.
- 22.26 Proposed findings, conclusions, and order.

Subpart E—Initial Decision and Motion to Reopen a Hearing

- 22.27 Initial decision.
- 22.28 Motion to reopen a hearing.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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

APR 19 2010

Ref: 8ENF-W

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Kip Bowler, Chairman
Gunlock Special Service District
411 N. Main
Gunlock, UT 84733

Re: Administrative Order
Gunlock Special Service District Public
Water System
Docket No. SDWA 08-2010-0016
PWS ID # UTAH27005

Dear Mr. Bowler:

Enclosed is an Administrative Order issued by the Environmental Protection Agency (EPA) under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. § 300f et seq. Among other things, the Order alleges that the Gunlock Special Service District (the Service District) has violated the National Primary Drinking Water Regulations (the drinking water regulations).


The Order is effective upon the date received. Please review the Order and within 10 days provide EPA with any information you believe EPA may not have. If the Service District complies with the Order, 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 Order requires the Service District to notify the public of having violated the drinking water regulations. Enclosed please find a public notice template to assist in providing that notice.

To submit information or to request an informal conference with EPA, please contact Mario Mérida at the above address (with the mailcode 8ENF-W) or by phone at (800) 227-8917, extension 6297 or (303) 312-6297. Any questions from the Association's attorney should be directed to David Janik, Enforcement Attorney, who may be reached at the above address (with the mailcode 8ENF-L) or by phone at (800) 227-8917, extension 6917 or (303) 312-6917.

We urge your prompt attention to this matter.

Sincerely,



Darcy O'Connor, Acting Director
Water Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosures

Order
Public Notice template

cc: Tina Artemis, EPA Regional Hearing Clerk
Patti Fauver, UT DEQ DW
Helen Gardner, System Manager, Gunlock SSD

APR 19 2010
10 14 AM '10
EPA REGION 8 OFFICE
DENVER, CO

IN THE MATTER OF:)
)
Gunlock Special Services District,)
)
)
Respondent.)

Docket No. SDWA-08-2010-0016

ADMINISTRATIVE ORDER

1. This Order is issued under the authority vested in the Administrator of the United States Environmental Protection Agency (EPA) by the Safe Drinking Water Act, 42 U.S.C. § 300f *et seq.* (the Act), as properly delegated to the undersigned officials.
2. The Gunlock Special Service District (Respondent) is a component unit of Washington County, Utah under Utah law that owns and/or operates the Gunlock Special Service District Water System (the system), which provides piped water to the public in Washington County for human consumption.
3. The system is supplied by a groundwater source consisting of one well and one spring. The water is treated via chlorination.
4. The system has approximately 50 service connections used by year-round residents and/or regularly serves at least 130 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 § 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 § 1414(i) of the Act, 42 U.S.C. § 300g-3(i).
6. The drinking water regulations include monitoring requirements. The Utah Department of Environmental Quality has sent Respondent annual notifications of the specific monitoring requirements that apply to the system.
7. The Utah Department of Environmental Quality has primary enforcement authority for the public water system supervision provisions of the Act in the State of Utah (the State). EPA issued a notice of the system's violations to the State on February 8, 2010. The State elected not to commence an enforcement action against Respondent for the violations listed in the notice of violation within the thirty-day time frame set forth in § 1414(a) of the Act, 42 U.S.C. § 300g-3(a). EPA has provided a copy of this Order to the State and has provided the State the opportunity to confer with EPA regarding this Order.

VIOLATIONS

8. Respondent is required to monitor the system's water annually for nitrate. 40 C.F.R. § 141.23(d). Respondent failed to monitor the system's water for nitrate during 2006 and, therefore, violated this requirement.
9. Respondent is required to monitor the system's water annually for nitrate at a sampling point representative of each ground water source after treatment. 40 C.F.R. §§ 141.23(a) and (d). Respondent failed to monitor the system's water for nitrate at the group source sampling site during 2005 and 2007, and, therefore, violated this requirement.
10. Respondent is required to monitor the system's water monthly for total coliform bacteria. 40 C.F.R. § 141.21(a)(2). Respondent failed to monitor during December 2006, and, therefore, violated this requirement.
11. Within 24 hours of being notified of any total coliform – positive routine sample of the system's water, Respondent is required to collect a set of four repeat samples. 40 C.F.R. § 141.21(b). Respondent failed to take four repeat samples of the system's water within 24 hours of being notified of a total coliform-positive sample in February 2008, and, therefore, violated this requirement.
12. Respondent is currently required to monitor the system's water triennially for lead and copper. 40 C.F.R. § 141.86(d)(4). Respondent failed to monitor the system's water for lead and copper for the 2005 – 2007 period, and, therefore, violated this requirement.
13. Respondent is required to monitor the system's water for certain inorganic contaminants at least once every three years. 40 C.F.R. §§ 141.23(a) and (c). Respondent failed to monitor the system's water for inorganic contaminants during the 2005 – 2007 period, and, therefore, violated this requirement.
14. Respondent is required to monitor the system's water for synthetic organic (pesticide / herbicide) contaminants at least once in every three-year compliance period. 40 C.F.R. § 141.24(h). Respondent failed to monitor the system's water for pesticide/herbicide organic contaminants during 2005 – 2007, and, therefore, violated this requirement.
15. Respondent is required to collect a set of total trihalomethane (TTHM) and haloacetic acid (HAA5) samples each year. 40 C.F.R. § 141.132(b)(1)(i). Respondent is required to submit monitoring results for TTHM and HAA5 to the primacy state within 10 days after the end of each year in which samples are collected. 40 C.F.R. § 141.134. Respondent failed to monitor the system's water for TTHM and HAA5 during 2007 and 2008, and, therefore, violated this requirement.



16. Respondent is required to monitor the residual disinfectant level in the system's water, at the same time and place in the system's distribution system as total coliforms are to be sampled under 40 C.F.R. § 141.21, 40 C.F.R. § 141.132(c)(1). Respondent failed to monitor the system's water for residual disinfectant in the 4th quarter of 2007, the 1st, 2nd, and 4th quarters of 2008, and 2nd through 4th quarters of 2009, and, therefore, violated this requirement.

17. Respondent is required to notify the public of certain violations of the drinking water regulations, in the manner specified by the regulations. 40 C.F.R. § 141.201 *et seq.* Respondent failed to notify the public of the violations listed in paragraphs 8 through 16, above, and, therefore, violated this requirement.

18. Respondent is required to report any failure to comply with any coliform monitoring requirement to the State within ten days of discovering the violation. 40 C.F.R. § 141.21(g)(2). Respondent failed to report the violations listed in paragraphs 10 and 11, above, to the State and, therefore, violated this requirement.

19. Respondent is required to report any violation of any drinking water regulation to the State 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 violations cited in paragraphs 8, 9 and 12 through 18 to the State 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):

20. Respondent shall monitor the system's water for nitrate at the sampling point representative of each ground water source after treatment. 40 C.F.R. § 141.23(a) and (d).

21. Respondent shall monitor the system's water for total coliform bacteria monthly, as required by 40 C.F.R. § 141.21. Respondent shall report any violation of the total coliform monitoring requirements to EPA and the State within ten days of discovery, as required by 40 C.F.R. § 141.21(g)(2).

22. If any total coliform routine sample for the system is total coliform-positive, Respondent shall collect a set of four repeat samples within 24 hours of being notified of a positive result, following the procedures in 40 C.F.R. § 141.21.

23. Respondent shall monitor the system's water for lead and copper as directed by the State and in accordance with 40 C.F.R. §§ 141.86(b), (c) and (d). Respondent's next lead and copper sample is due between June 1 and September 30, 2012.



24. Within 30 days of receiving this Order, and per the regulations thereafter, Respondent shall monitor the system's water for inorganic contaminants for the three-year period 2008 – 2010. 40 C.F.R. §§ 141.23(a) and (c).

25. Respondent shall monitor the system's water for pesticide/herbicide contaminants within 30 days for the three-year period of 2008 – 2010 and thereafter per the regulations. 40 C.F.R. § 141.24(h).

26. Respondent shall monitor for TTHM and HAA5 between June 1 and September 30, 2010 and per the regulations thereafter as required by 40 C.F.R. § 141.132(b)(1)(i). Respondent shall submit monitoring results for TTHM and HAA5 to EPA and the State within 10 days after the end of the monitoring period in which samples are collected, as required by 40 C.F.R. § 141.134(a).

27. Respondent shall monitor the residual disinfectant level in the system's water at the same time and place in the distribution system as total coliform are sampled, as required by 40 C.F.R. § 141.132(c)(1). Respondent shall report sample results and all information required by 40 C.F.R. § 141.134(c)(1) quarterly to EPA and the State no later than 10 days after the end of each quarter, as required by 40 C.F.R. § 141.134(a).

28. Unless specified otherwise above, Respondent shall report analytical results to EPA and the State within the first 10 days following the month in which each sample result is received, as required by 40 C.F.R. § 141.31(a).

29. Except where a different reporting deadline is specified in the drinking water regulations or this Order, Respondent shall report any violation of the drinking water regulations to EPA and the State within 48 hours or, if another time period for reporting is specified in the drinking water regulations, within that time period. 40 C.F.R. § 141.31(b).

30. Within 30 days of receiving this Order, Respondent shall notify the public of the violations cited in paragraphs 8 through 16, above, following the instructions provided with the public notice templates provided to Respondent with this Order. 40 C.F.R. § 141.201 et seq.

31. Respondent shall direct all reporting required by this Order to:

Mario E. Mérida, 8ENF-W AND
U. S. EPA Region 8
1595 Wynkoop Street
Denver, CO 80202-1129

Patti Fauver, Rules Section
Manager
Utah Dept. of Environmental
Quality
P.O. Box 144830
Salt Lake City, UT 84114-4830



GENERAL PROVISIONS

32. This Order does not constitute a waiver, suspension, or modification of any requirement of the Act or drinking water regulations. Issuance of this Order is not an election by EPA to forgo any civil or criminal action.

33. Violation of any part of this Order or the drinking water regulations may subject Respondent to a civil penalty of up to \$37,500 (as adjusted for inflation) per day of violation. 42 U.S.C. § 300g-3; 40 C.F.R. part 19.

Issued: April 19, 200.

David Rochlin

Michael T. Risner, Director
David Rochlin, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Darcy O'Connor

Darcy O'Connor, Acting Director
Technical Water Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice



Tier 3 Templates

Tier 3 notices are required for the following violations or situations:

- **Monitoring violations** (except for the following: failure to monitor for fecal coliform or *E. coli* when repeat samples are positive for coliform, failure to take a confirmation sample for nitrate or nitrite within 24 hours, and failure to take required samples for chlorine dioxide in the distribution system, which require Tier 1 notice; failure to collect 3 or more samples for *Cryptosporidium*, which requires Tier 2 notice; and any monitoring violations elevated to Tier 1 or 2 by the primacy agency);
- **Testing procedure violations**, except where elevated to Tier 2 by the primacy agency;
- Operation under a **variance or exemption**;
- Special notice for **availability of unregulated contaminant monitoring data**; and
- Special notice for **fluoride** secondary maximum contaminant level (SMCL) exceedances.

The pages that follow contain templates for Tier 3 violations and situations. Along with the templates are instructions, including the required method of delivery and suggestions for completing individual sections of the notices. These instructions are designed to supplement Chapter 7, so you may see much of the information repeated here.

Mandatory language on unknown risk for monitoring violations, which must be included as written with blanks filled in, is presented in italics (141.205(d)). All the language in the fluoride SMCL template (except the language discussed below) is mandatory (141.208).

You must also include the following italicized language in all notices, where applicable (141.205(d)). Use of this language does not relieve you of your obligation to take steps reasonably calculated to notify all persons served:

Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.

Templates

Monitoring Violations Annual Notice—Template 3-1A

Monitoring Violations Annual Notice—Template 3-1B

Failure to Comply with a Testing Procedure Notice – Template 3-2

Operating Under an Exemption Notice – Template 3-3

Special Notice for Availability of Unregulated Contaminant Monitoring Data – Template 3-4

Fluoride SMCL Notice—Template 3-5

Instructions for Monitoring Violations Annual Notice – Template 3-1A

Template on Reverse

If you are required to provide Tier 3 notification, you must provide public notice to persons served within one year after you learn of the violation (141.204(b)). Multiple monitoring violations can be serious, and your primacy agency may have more stringent requirements. Check with your primacy agency to make sure you meet its requirements.

Community systems must use one of the following (141.204(c)):

- Hand or direct delivery
- Mail, as a separate notice or included with the bill

Non-community systems must use one of the following (141.204(c)):

- Posting in conspicuous locations
- Hand delivery
- Mail

In addition, both community and non-community systems must use another method reasonably calculated to reach others if they would not be reached by the first method (141.204(c)). Such methods could include newspapers, e-mail, or delivery to community organizations. If you post the notice, it must remain posted until the violation is resolved. If the violation has been resolved, you must post the notice for at least seven days (141.204(b)). If you mail, post, or hand deliver, print your notice on letterhead, if available.

The notice on the reverse is appropriate for insertion in an annual notice or the Consumer Confidence Report (CCR), as long as public notification timing and delivery requirements are met (141.204(d)). You may need to modify the template for a notice for individual monitoring violations. This example presents violations in a table; however, you may write out an explanation for each violation if you wish. For any monitoring violation for volatile organic compounds (VOCs) or other groups, you may list the group name in the table, but you must provide the name of every chemical in the group on the notice, e.g., in a footnote.

You may need to modify the notice if you had any monitoring violations for which monitoring later showed a maximum contaminant level or other violation. In such cases, you should refer to the public notice you issued at that time.

Include in your notice the standard language for monitoring and testing procedure violations in italics (141.205(d)(2)). If you modify the notice, you may not alter this mandatory language.

Corrective Actions

In your notice, describe corrective actions you took or are taking. Listed below are some steps commonly taken by water systems with monitoring violations. You can use the following language, if appropriate, or develop your own.

- We have since taken the required samples, as described in the last column of the table above. The samples showed we are meeting drinking water standards.
- We have since taken the required samples, as described in the last column of the table above. The sample for [contaminant] exceeded the limit. [Describe corrective action; use information from public notice prepared for violating the limit.]
- We plan to take the required samples soon, as described in the last column of the table above.

After Issuing the Notice

Make sure to send your primacy agency a copy of each type of notice and a certification that you have met all the public notice requirements within ten days after issuing the notice (141.31(d)).

IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER

Monitoring Requirements Not Met for Gunlock Special Service District

Our water system violated drinking water standards over the past several years. Even though these were not emergencies, as our customers, you have a right to know what happened and what we did to correct these situations.

We are required to monitor your drinking water for specific contaminants on a regular basis. Results of regular monitoring are an indicator of whether or not our drinking water meets health standards. From 2005 through 2009, we did not complete all monitoring or testing for Nitrate, total coliform bacteria, lead and copper, inorganic contaminants, pesticides, disinfection byproducts, or disinfectant residuals and therefore cannot be sure of the quality of our drinking water during that time.

What should I do?

There is nothing you need to do at this time.

The table below lists the contaminant(s) we did not properly test for during the last year, how often we are supposed to sample for [this contaminant/these contaminants] and how many samples we are supposed to take, how many samples we took, when samples should have been taken, and the date on which follow-up samples were (or will be) taken.

Contaminant	Required sampling frequency	Number of samples taken	When samples should have been taken	When samples were taken
Nitrate	1 sample annually at each sampling site	0	2005, 2006, 2007	10/05/2008
Total coliform bacteria	1 sample monthly	0	December 2006	January 2007
Total coliform bacteria	4 repeat samples following total coliform-positive results	0	February 2008	N/A
Lead and Copper	5 samples triennially	0	2005-2007	9/29/2009
Inorganic contaminants	1 sample triennially	0	2005-2007	Due 2010
Pesticides	1 sample triennially	0	2005-2007	Due 2010
Disinfection byproducts	1 sample annually	0	2007, 2008	9/29/2009
Disinfectant residuals	Monitor monthly (1 sample)	0	4 th quarter 2007 1 st , 2 nd and 4 th quarters 2008, 2 nd , 3 rd and 4 th quarters 2009	Due March 2010

What is being done?

[Describe corrective action.]

For more information, please contact [name of contact] at [phone number] or [mailing address].

Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.

This notice is being sent to you by Gunlock Special Service District.
State Water System ID#: UTAH27005

Date distributed: _____.

Complaint's Exhibit 3



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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

2010 OCT -6 AM 10:13

EPA REGION 8
OCT 6 2010

Ref: 8 ENF-W

OCT 06 2010

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Kip Bowler, Chairman
Gunlock Special Service District
411 N. Main
Gunlock, UT 84733

Re: Violation of Administrative Order
Gunlock Special Service District
Public Water System
Docket No. SDWA 08-2010-0016
PWS ID # UTAH27005

Dear Mr. Bowler:

On April 19, 2010, the US Environmental Protection Agency (EPA) issued an Administrative Order, Docket No. SDWA-08-2010-0016, ordering the Gunlock Special Service District, as owner and/or operator of the Gunlock Special Service District public water system, to comply with various regulations issued by EPA under the Safe Drinking Water Act (SDWA), 42 U.S.C. § 300f et seq.

Our records indicate that the Gunlock Special Service District (Respondent) is in violation of the Administrative Order (the Order). Among other things, the Order included the following requirements (quoted from items 21, 27, 28 and 29 on pages 3 and 4 of the "Order" section):

1. (Item 21) Respondent shall monitor the system's water for total coliform bacteria monthly, as required by 40 C.F.R. § 141.21. Respondent shall report any violation of the total coliform monitoring requirements to EPA and the State within ten days of discovery, as required by 40 C.F.R. § 141.21(g)(2).

2. (Item 28) Unless specified otherwise, Respondent shall report analytical results to EPA and the state within the first 10 days following the month in which each sample result is received, as required by 40 C.F.R § 141.31(a).

Respondent failed to monitor and/or report the system's water for total coliform bacteria during May, June, July and Aug of 2010 and failed to report these violations to EPA and the State.

3. (Item 27) Respondent shall monitor the residual disinfectant level in the system's water at the same time and place in the distribution system as total coliform are sampled, as required by 40 C.F.R. § 141.132 (c)(1). Respondent shall report sample results and all information required by 40 C.F.R. § 141.134(c)(1) quarterly to EPA and the State no later than 10 days after the end of each quarter as required by 40 C.F.R. § 141.134(a).

Respondent failed to monitor and/or report the residual disinfectant level in the system's water during the 2nd (April – June) quarter of 2010. On August 26, 2010, the State sent a Notice of Violation letter to Respondent citing this failure to monitor/report residual disinfectant levels.

4. (Item 29) Except where a different reporting deadline is specified in the drinking water regulations or this Order, Respondent shall report any violation of the drinking water regulations to EPA and the State within 48 hours or, if another time period for reporting is specified in the drinking water regulations, within that time period. 40 C.F.R. § 141.31(b).

Respondent failed to report its violation of residual disinfectant monitoring and/or reporting requirements to EPA and the State.

EPA is considering additional enforcement action as a result of the non-compliance with the Order detailed above. Violating an Administrative Order may lead to (1) a penalty of up to \$37,500 per day per violation of the Order, and/or (2) a court injunction ordering compliance.

If you have any questions, or wish to have an informal conference with EPA, you may contact Mario Mérida at 1-800-227-8917, extension 6297 or (303) 312-6297. If the Gunlock Special Service District is represented by an attorney who has questions, that attorney may contact David Janik, Enforcement Attorney, at 1-800-227-8917, extension 6917 or (303) 312-6917 or at the following address:

David Janik
Enforcement Attorney
U.S. EPA, Region 8 (8-ENF-L)
1595 Wynkoop Street
Denver, Colorado 80202-1129

We urge your prompt attention to this matter.

Sincerely,

Lisa Kahn, Team Leader
Drinking Water Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

cc: Tina Artemis, EPA Regional Hearing Clerk
Patti Fauver, UT DEQ DW

Complainant's Exhibit 4



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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

2010 DEC 13 AM 10:02

Ref: 8 ENF-W

DEC 13 2010

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Kip Bowler, Chairman
Gunlock Special Service District
411 N. Main
Gunlock, UT 84733

Re: 2nd Violation of Administrative
Order
Gunlock Special Service District
Public Water System
Docket No. SDWA 08-2010-0016
PWS ID # UTAH27005

Dear Mr. Bowler:

On April 19, 2010, the US Environmental Protection Agency (EPA) issued an Administrative Order, Docket No. SDWA-08-2010-0016, ordering the Gunlock Special Service District, as owner and/or operator of the Gunlock Special Service District public water system, to comply with various regulations issued by EPA under the Safe Drinking Water Act (SDWA), 42 U.S.C. § 300f et seq.

Our records indicate that the Gunlock Special Service District (Respondent) is in violation of the Administrative Order (the Order). Among other things, the Order included the following requirements (quoted from item 22 on page 3 of the "Order" section):

1. If any total coliform routine sample for the system is total coliform-positive, Respondent shall collect a set of four repeat samples within 24 hours of being notified of a positive result, following the procedures in 40 C.F.R. § 141.21.

Respondent failed to collect the required number of repeat samples following total coliform-positive results on a sample taken on September 29, 2010, collecting only three of the required four samples on September 30, 2010. In addition, Respondent failed to collect the required set of four repeat samples following total coliform-positive results on a sample collected on November 8, 2010.


EPA is considering additional enforcement action as a result of the non-compliance with the Order detailed above. Violating an Administrative Order may lead to (1) a penalty of up to \$37,500 per day per violation of the Order, and/or (2) a court injunction ordering compliance.

If you have any questions, or wish to have an informal conference with EPA, you may contact Mario Mérida at 1-800-227-8917, extension 6297 or (303) 312-6297. If the Gunlock Special Service District is represented by an attorney who has questions, that attorney may contact David Janik, Enforcement Attorney, at 1-800-227-8917, extension 6917 or (303) 312-6917 or at the following address:

David Janik
Enforcement Attorney
U.S. EPA, Region 8 (8-ENF-L)
1595 Wynkoop Street
Denver, Colorado 80202-1129

We urge your prompt attention to this matter.

Sincerely,



Lisa Kahn, Team Leader
Drinking Water Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

cc: Tina Artemis, EPA Regional Hearing Clerk
Patti Fauver, UT DEQ DW