UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TEXAS 75202-2733

January 8, 2013

CERTIFIED MAIL–RETURN RECEIPT REQUESTED: 7007 3020 0002 5102 7815

The Honorable Gail Lohn
Mayor, City of Brady
P.O. Box 351
Brady, TX 76825-0351

Re: PWS ID Number: TX1540001
Docket Number: SDWA-06-2012-1238

Dear Mayor Lohn:

This letter acknowledges receipt by the U.S. Environmental Protection Agency (EPA) of the combined radium 226 and radium 228 and gross alpha particles compliance plan and construction schedule submitted by the City of Brady as required by Administrative Order (Order) Docket Number SDWA-06-2012-1238 (hereinafter referred to as the "Original Order"), issued to you on June 8, 2012. EPA has determined that the plan and the schedule are a satisfactory response to Section B of the Original Order. The plan specifies how the City of Brady will bring its water system into compliance with the maximum contaminant level (MCL) for combined radium 226 and radium 228 and gross alpha particles. EPA's acceptance of the plan does not guarantee compliance with the Safe Drinking Water Act (SDWA); the City of Brady remains solely responsible for compliance with the SDWA.

As a result of the terms and schedule specified in the plan, EPA has amended the Original Order to incorporate the approved schedule in the enclosed Amended Administrative Order (hereinafter referred to as the "Amended Order"). As specified in the Amended Order, the City of Brady must achieve compliance with the combined radium 226 and radium 228 and gross alpha particles MCL requirements by December 31, 2014.

While your combined radium 226 and radium 228 and gross alpha particles compliance plan meets EPA requirements specified in the Original Order, the City of Brady is also responsible for compliance with all applicable Texas regulations in Title 30 Texas Administrative Code (TAC) Chapter 290, Subchapter D. Most treatment options require the submittal of engineering plans and specifications to the Texas Commission on Environmental Quality (TCEQ) for review and approval, as indicated in 30 TAC § 290.39(j). The engineering plans and specifications and any pilot study report must be prepared by a Texas licensed professional engineer as required in 30 TAC §§ 290.39(d)(1) and 290.42(g), respectively. Please send submittals to the TCEQ Public Drinking Water Section address referenced in paragraph G of the Original Order and all submittals must include the EPA Docket Number.

Please be aware that failure to comply with this Amended Order may subject you to additional enforcement action by EPA, including the initiation of legal proceedings to seek monetary penalties.

If you need assistance, or have questions regarding the Amended Order, please contact Mr. Mehdi Taheri, of my staff, at (214) 665-2298.

Sincerely,

John Blevins
Director
Compliance Assurance and
Enforcement Division

Enclosure

cc: Mr. Bryan Sinclair
Director, Enforcement Division
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087

Ms. Linda Brookins
Director, Water Supply Division
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087

Ms. Deanna Sealy
Sealy Engineering, Inc.
101 West Commerce
Brady, TX 76825

U.S. ENVIRONMENTAL PROTECTION AGENCY-REGION 6
FINDINGS OF VIOLATION AND COMPLIANCE ORDER
In the Matter of: City of Brady Water System
Owned/Operated by the City of Brady, Respondent
Docket No. SDWA-06-2012-1238, PWS ID # TX1540001

STATUTORY AUTHORITY

The following findings are made and an Amended Order ("Amended Order") 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). The Administrator delegated the authority to issue this Amended Order to the Regional Administrator of EPA Region 6, who delegated such authority to the Director of the Compliance Assurance and Enforcement Division.

FINDINGS

1. City of Brady ("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 ("relevant time period"), Respondent owned or operated the City of Brady Water System, a public water system ("PWS"), as defined by Section 1401(4) of the Act, 42 U.S.C. § 300f(4), located in Brady, McCulloch County, Texas ("facility"), designated as PWS number TX1540001.

3. As a PWS and a "supplier of water," Respondent is subject to the regulations promulgated by EPA pursuant to Section 1412 of the Act, 42 U.S.C. § 300g-1, entitled National Primary Drinking Water Regulations.

4. 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).

5. The Texas Commission on Environmental Quality ("TCEQ") and the EPA have enforcement authority for the PWS provisions of the Act in the State of Texas. TCEQ and EPA have consulted regarding this Order, and it has been agreed that EPA would initiate this enforcement action.

6. During the relevant time period, Respondent's PWS was required to conduct monitoring to determine compliance regarding combined radium 226 and radium 228 and gross alpha particles, which are radionuclides. Respondent is required to comply with a Maximum Contaminant Level ("MCL") of 5 pCi/L for combined radium 226 and radium 228 and an MCL of 15 pCi/L for gross alpha particles as specified in 40 C.F.R § 141.66(b), and in 40 C.F.R. § 141.66(c), respectively. Respondent monitored for combined radium 226 and radium 228 and gross alpha particles in the last four quarters, resulting in a combined annual average of 20.48 pCi/L at sampling point "EP003" and 19.3 pCi/L at sampling point "EP007" for combined radium 226 and radium 228 in violation of the MCL specified in 40 C.F.R § 141.66(b); and resulting in a combined annual average of 16 pCi/L at sampling point "EP002," 21 pCi/L at sampling "EP003," and 17 pCi/L at sampling point "EP007" for gross alpha particles in violation of the MCL specified in 40 C.F.R § 141.66(c).

7. Respondent is required to comply with the combined radium 226 and radium 228, and gross alpha particles requirements of the Act, as set forth in Section 1412 of the Act, 42 U.S.C. § 300g-1.

8. On June 8, 2012, EPA issued an Administrative Order Docket Number SDWA-06-2012-1238 ("Original Order") to Respondent for the combined radium 226 and radium 228 and gross alpha particles MCL violations. The terms of the Original Order are hereby revised in the Amended Order.

9. In compliance with the Original Order, Respondent has 1) provided public notice as required by 40 C.F.R. § 141.201; 2) submitted a plan to EPA detailing how Respondent will return the PWS to compliance with the MCL for combined radium 226 and radium 228 and gross alpha particles; and 3) provided EPA with an initial progress report on the compliance activities. The terms of the plan and the compliance schedule are hereby incorporated into this Amended Order, and a deadline specified in the Original Order is being revised.

SECTION 141(g) COMPLIANCE ORDER

Based on these findings and pursuant to the authority of Section 1414(g) of the Act, 42 U.S.C. § 300g-3(g) EPA orders Respondent to take the following actions:

A. Respondent shall comply with the terms and schedule specified in the plan submitted to EPA. The project time shall be followed and completed as the Respondent submitted in the detailed plan:

1. The project loan shall be finalized by December 2012
2. The Environmental review and finding shall be completed by January 2013;
3. The construction on treatment plant shall begin on March 2013;
4. The construction shall be completed by December 31, 2014.

B. Respondent must achieve and maintain compliance with 40 C.F.R. §§ 141.66(b) and 141.66(c) by the date specified in the plan submitted to EPA, which is December 31, 2014.

C. Respondent shall provide EPA with quarterly progress reports regarding activities undertaken pursuant to the plan and shall notify EPA when all activities have been completed.

SECTION 1445 INFORMATION DEMAND

D. The reporting required by this Order must be provided by the Respondent to EPA at the following address:

Mr. Mehdi Taheri
Water Enforcement Branch (6EN-W)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

GENERAL PROVISIONS

This Order is effective upon receipt by Respondent.

Respondent may seek federal judicial review of the Order pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706. Section 706, which is set forth at http://uscode.house.gov/download/pls/05C7.txt, states the scope of such review.

This Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. Part 141 or other applicable federal and state requirements, which remain in full force and effect. Issuance of this Order is not an election by EPA to forego any civil or any criminal action otherwise authorized under the Act.

Violation of any term of this Order may subject Respondent to an administrative civil penalty of up to $32,500 under Section 1414(g) of the Act, 42 U.S.C. § 300g-3(g), or a civil penalty of not more than $37,500 per day per violation, assessed by an appropriate United States District Court under Section 1414(g)(3)(A) of the Act, 42 U.S.C. § 300g-3(g)(3)(A).

This Order shall be binding on the PWS cited herein and all its successors and assignees. No change in ownership of the PWS shall alter the responsibility of the PWS under this Order.

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Date

John Blevins
Director
Compliance Assurance and
Enforcement Division