UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733
JUL 19 2011

CERTIFIED MAIL, RETURN RECEIPT REQUESTED: 7004 1160 0003 0357 1811

Mr. Chuck White
Axtell WSC
P.O. Box 180
Axtell, TX 76624-0180

Re: PWS ID No.: TX1550016
Docket No.: SDWA-06-2011-1385

Dear Mr. White:

The Environmental Protection Agency (EPA) recently implemented a new Enforcement Response Plan (ERP) that in part, establishes a new process for identifying facilities that are to be given enforcement priority. One requirement of this policy is that all systems subject to enforcement priority must, within two quarters, either come into compliance or become a recipient of a formal enforcement action.

Enclosed is an Order issued to the Axtell WSC Water System for violation of the Safe Drinking Water Act (Act), 42 U.S.C. § 300f, et seq., and its implementing regulations, 40 C.F.R. Part 141. The EPA finds that you own or operate the public water system identified in the Order and are therefore subject to these regulations.

This Order directs your compliance with the requirements of the Act and implementing regulations, including the Maximum Contaminant Levels (MCLs) for arsenic, as set forth in Section 1412 of the Act, 42 U.S.C. § 300g-1. Compliance with the MCL is based on a running annual average. As described in the enclosed Order, the Axtell WSC Water System is required to comply with the requirements cited above to deliver drinking water that meets the national standard for arsenic and to conduct quarterly monitoring to ensure compliance with the MCL.

EPA also wants you to be aware of a new process in place in Texas that was created to help facilities secure technical assistance and funding to address these types of issues. The Texas Water Infrastructure Coordination Committee (TWICC) was formed with representation from stakeholders, funding entities, and Federal and State partners to identify water and wastewater infrastructure and compliance issues and to seek affordable, sustainable and innovative funding strategies for the protection of public health. If you feel your system could benefit from the TWICC, please let us know so that we can discuss the matter with you.

If you need assistance, or have questions regarding the Order, please contact Mr. Mehdi Taheri, of my staff, at (214) 665-2298. Please be aware that failure to comply with this Order may subject you to additional enforcement action by EPA, including the initiation of legal proceedings to seek monetary penalties.

Sincerely,

John Blevins
Director
Compliance Assurance and
Enforcement Division

Enclosure

cc: Brian Sinclair, TCEQ
Linda Brookins, TCEQ

U. S. ENVIRONMENTAL PROTECTION AGENCY-REGION 6
FINDINGS OF VIOLATION AND COMPLIANCE ORDER
In the Matter of: Axtell WSC Water System
Owned/Operated by Axtell WSC, Public Water System, Respondent
Docket No. SDWA-06-2011-1385

STATUTORY AUTHORITY

The following findings are made and 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 USC § 300g–3(g). The Administrator delegated the authority to issue this 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. Respondent, Axtell WSC, is a "person," as defined by Section 1401(12) of the Act, 42 USC §300f(12).

2. At all times relevant to the violations alleged herein ("relevant time period"), Respondent owned or operated a public water system ("PWS"), as defined by Section 1401(4) of the Act, 42 USC §300f(4), located in Axtell, McLennan County, Texas, ("facility"), and designated as PWS number TX1550016.

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 USC § 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 USC § 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. Respondent monitored for arsenic during each of the four quarters in 2010, resulting in a running annual average of 0.017 mg/L that exceeded the arsenic maximum contaminant level ("MCL") of 0.010 mg/L in violation of 40 CFR § 141.62(b)(16).

7. Respondent is required to comply with the arsenic requirements of the Act, as set forth in Section 1412 of the Act, 42 USC § 300g-1.

ORDER

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

A. In the event that public notice, as required by 40 CFR § 141.201, has not been given by Respondent regarding the violations specified in paragraph 6, the Respondent shall, within thirty (30) days of issuance of this Order, provide a public notice of the violations as set forth in 40 CFR § 141.201. Respondent shall submit a copy of the public notice to EPA and TCEQ within forty (40) days of issuance of this Order.

B. Within one hundred and twenty (120) days of the issuance date of this Order, Respondent shall submit to EPA a detailed plan to bring the PWS into compliance with the MCL for arsenic. The plan shall include: 1) a system modification proposal; 2) a cost analysis of system modifications; and 3) a construction schedule for the project. The schedule shall include specific milestone dates and a final compliance date that is no later than eighteen (18) months from the issuance date of this Order. The plans must be submitted to EPA for approval before construction can commence.

C. The approved schedule for construction and completion of modifications will be incorporated in a future administrative order.

D. Respondent must achieve and maintain compliance with 40 CFR § 141.62(b)(16) by the date specified in the approved plan, or not later than eighteen (18) months after the issuance date of this Order.

E. Within ninety (90) days of the effective date of this Order, Respondent shall submit to EPA an initial report on the progress made to bring the PWS into compliance with the arsenic MCL. Following the initial report, quarterly progress reports shall be due to EPA within ten (10) days after the end of each calendar quarter. Respondent shall notify EPA when all improvements have been completed.

F. 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

G. Regarding part A in the Order Section, Respondent shall submit a copy of the public notice to TCEQ at the following address:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 14087
Austin, TX 78711-3087

With a copy to:

Public Drinking Water Section
Water Supply Division, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087

GENERAL PROVISIONS

This Order is effective upon receipt by Respondent.

This Order does not constitute a waiver, suspension, or modification of the requirements of 40 CFR 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 $37,500 under Section 1414(g) of the Act, 42 USC § 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 USC § 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