

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

IN THE MATTER OF)	
)	
Big Valley and Crossed Arrows)	
Homeowners Association)	
)	
Meeteetsee, Wyoming)	Docket No. SDWA-08-2006-0054
)	
Respondent)	COMPLAINT AND NOTICE OF
)	OPPORTUNITY FOR HEARING
Proceedings under section 1414(g))	
of the Safe Drinking Water Act,)	
42 U.S.C. § 300g-3(g))	

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 section 1414(g)(3) of the Safe Drinking Water Act, as amended ("SDWA"), 42 U.S.C. § 300g-3(g)(3). Section 1414(g)(3) of the SDWA authorizes the Administrator of the EPA to assess an administrative civil penalty, not exceeding \$25,000, against any person who violates, or fails or refuses to comply with, an order issued under section 1414(g)(1) of the SDWA.

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

1. Big Valley and Crossed Arrows Homeowners Association, also known as Big Valley and Crossed Arrows Improvement District ("Respondent"), is a "person" as that term is defined in section 1401(12) of the SDWA, 42 U.S.C. § 300f(12), and 40 C.F.R. § 141.2.
2. Respondent owns and/or operates a system, the Big Valley and Crossed Arrows public water supply system ("System"), located in Park County, Wyoming, for the provision to the public of piped water for human consumption.
3. The System regularly serves an average of at least 25 individuals daily at least 60 days out of the year and is therefore a "public water system" within the meaning of Section 1401(6) of the SDWA, 42 U.S.C. § 300f(16), and a "community water system" as that term is defined in section 1401(15) of the SDWA, 42 U.S.C. § 300f(15) and 40 C.F.R. § 141.2.
4. As owner and/or operator of a public water system, Respondent is a "supplier of water" as that term is defined in section 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 (NPDWRs).
5. The source of the System's water is a well. The System serves an average of approximately 45 persons daily through approximately 14 service connections.

6. On June 16, 2004, EPA issued an Administrative Order (Docket No. SDWA-8-2004-0031) to the Respondent pursuant to section 1414(g) of the SDWA, 42 U.S.C. § 300g-3(g), citing violations of the NPDWRs. The effective date of the Administrative Order was June 16, 2004.
7. The Administrative Order required the Respondent, among other things, to achieve compliance with the NPDWRs, according to deadlines stated in the Administrative Order.
8. On February 23, 2005, EPA sent Respondent a "Violation of Administrative Order" letter citing Respondent's failure to comply with the Administrative Order, the SDWA and the NPDWRs.

SPECIFIC ALLEGATIONS

Count I

Failure to Monitor for Total Coliform Bacteria

9. According to 40 C.F.R. § 141.21(a), community public water systems must monitor their water at least once per month to determine compliance with the MCL for total coliform bacteria as stated in 40 C.F.R. § 141.63.
10. Page 6 of the Administrative Order, in paragraph 1 of the "Order" section, required Respondent to comply with the requirements of 40 C.F.R. § 141.21(a) to perform monthly bacteriological monitoring.
11. Respondent failed to monitor for bacteriological quality during the months of October of 2004, January of 2005, and March of 2005, in violation of the Administrative Order and 40 C.F.R. § 141.21(a).

Count II

Failure to Report Noncompliance with NPDWRs to EPA

12. According to 40 C.F.R. § 141.21(g)(2) public water systems shall report any failure to comply with a coliform monitoring requirement to EPA within 48 hours.
13. Page 9 of the Administrative Order, in paragraph 6 of the "Order" section, required Respondent report any failure to comply with a coliform monitoring requirement under 40 C.F.R. § 141.21 to EPA within ten days of discovering the violation.
14. Respondent failed to report to EPA its failures to monitor in October of 2004, January of 2005, and March of 2005, in violation of the Administrative Order and 40 C.F.R. § 141.21(g)(2).

PROPOSED ADMINISTRATIVE CIVIL PENALTY

Section 1414(g)(3) of the SDWA, 42 U.S.C. § 300g-3(g)(3), authorizes the Administrator to assess an administrative civil penalty of up to \$25,000¹ for violation of an Administrative Order issued under Section 1414(g)(1) of the SDWA.

EPA has proposed a penalty for the Respondent's violations in accordance with Section 1414 of the SDWA, 42 U.S.C. § 300g-3. For purposes of calculating and assessing a rational and consistent penalty, EPA has taken into account the seriousness of the violation, the population at risk, and other appropriate factors, including Respondent's degree of willfulness and/or

¹In an action for violations occurring on or after March 15, 2004, a penalty of up to \$27,500 is authorized. See 69 Fed. Reg. 7121, February 13, 2004.

negligence, history of noncompliance, if any, and ability to pay, as known to EPA at this time.

Based on the above factors, EPA proposes to assess an administrative civil penalty of \$1,000.00 against Respondent for violations of the Administrative Order.

OPPORTUNITY TO REQUEST A HEARING

As provided in Section 1414(g)(3)(B) of the SDWA, 42 U.S.C. § 300g-3(g)(3)(B), the Respondent has the right to request a public hearing on any material fact alleged in this complaint or on the appropriateness of the proposed penalty or to assert that it is entitled to judgment as a matter of law. The remainder of this Complaint consists of instructions to the Respondent (addressed as "you").

If you wish to request a hearing, you 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, you have an additional five (5) calendar days, pursuant to 40 C.F.R. § 22.07(c).

If you request a hearing in your 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, you have the right under the SDWA to elect a hearing on the record in accordance with Section 554 of the Administrative Procedure Act, 5 U.S.C. §§ 551, et seq. ("APA"). To exercise this right, you must include in your answer 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 recaption 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.

Your answer and one copy must be in writing and must be sent to the EPA Regional Hearing Clerk at the address below:

Tina Artemis
Region 8 Hearing Clerk (8RC)
U.S. Environmental Protection Agency
999 18th Street, Suite 300
Denver, Colorado 80202-2466

FAILURE TO FILE AN ANSWER

To avoid entry of a default order against you pursuant to 40 C.F.R. § 22.17 for the full amount of the penalty proposed in this complaint, you must file a written answer with the Regional Hearing Clerk at the address above within thirty (30) days of receipt of this complaint.

Your answer should clearly and directly admit, deny, or explain each of the factual allegations contained in this complaint with regard to which you have any knowledge. Your answer should state (1) the circumstances or arguments which are alleged to constitute grounds of defense, (2) a concise statement of the facts which you intend to place at issue in the hearing, and (3) whether a hearing is requested. Failure to admit, deny, or explain any material factual allegation contained in this complaint shall constitute an admission of the allegation.

SETTLEMENT CONFERENCE

EPA encourages the exploration of settlement possibilities through an informal settlement conference. Please note that a request for, scheduling of, or participation, in a settlement conference does not extend the period for filing an answer and request for hearing as set out above. The settlement process, however, may be pursued simultaneously with the administrative litigation procedures found in 40 C.F.R. part 22. If a settlement can be 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. A request for a settlement conference, or any questions that you may have regarding this complaint, should be directed to the attorney listed below.

Dated this 14TH day of August, 2006.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 8

Complainant.

SIGNED

Carol Rushin
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

SIGNED

Margaret J. ("Peggy") Livingston, Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice
U.S. EPA Region 8
999 18th Street, Suite 300
Denver, Colorado 80202-2466
Telephone Number: (303) 312-6858
Facsimile Number: (303) 312-6953

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the original and one copy of the COMPLAINT AND NOTICE OF OPPORTUNITY FOR HEARING with the Attachment were hand-carried to the Regional Hearing Clerk, EPA, Region 8, 999 18th Street, Denver, Colorado, and that a true copy of the same was delivered as follows:

Via certified mail to:

Steve Christiansen
Treasurer, Big Valley and Crossed Arrows Homeowners Association
P.O. Box 33
Meetetsee, WY 82433

Date: August 22, 2006

By: SIGNED
Judith McTernan

IF YOU WOULD LIKE COPIES OF THE ATTACHMENTS, PLEASE CONTACT THE REGIONAL HEARING CLERK.

THIS DOCUMENT WAS FILED IN THE REGIONAL HEARING CLERK'S OFFICE ON AUGUST 22, 2006.