



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

ELECTRONIC MAIL
CONFIRMATION OF EMAIL RECEIPT REQUESTED

The Honorable John Adams
Mayor of Lynch
P.O. Box 667
Lynch, Kentucky 40855

Re: Notice of Noncompliance and Concerns Pursuant to Section 1414(a)(1)(A) of the Safe Drinking Water Act, 42 U.S.C. § 300g-3(a)(1)(A), Lynch Water Works, Lynch, Kentucky, PWS ID Number: KY0480262

Dear Mayor Adams:

The U.S. Environmental Protection Agency is responsible for assuring public water systems provide safe drinking water in accordance with the Safe Drinking Water Act (SDWA), 42 U.S.C. § 300f *et seq.*, and the regulations promulgated thereunder. Based on information contained in the Safe Drinking Water Information System, Lynch Water Works (System) has approximately 400 connections; serves approximately 1,078 persons; and is owned and/or operated by the City of Lynch. Pursuant to Section 1401(15) of the SDWA, 42 U.S.C. § 300f (15), it is therefore a community water system. As a community water system, the System is subject to the requirements of the National Primary Drinking Water Regulations (NPDWRs), promulgated at 40 C.F.R. Part 141; the Kentucky Safe Drinking Water Act and Kentucky Primary Drinking Water Regulations promulgated at 401 Ky. Admin. Regs. (“KAR”) Ch. 8.

Pursuant to SDWA Section 1413, 42 U.S.C. § 300g-2, the Kentucky Energy and Environment Cabinet’s Department of Environmental Protection (KyDEP) has primary responsibility for the implementation and enforcement of the public water supply program in Kentucky.

Notice of Noncompliance

Based on information observed during a drinking water inspection conducted jointly by the EPA and KyDEP on October 26, 2022, the EPA alleges that the System is in noncompliance with the SDWA, the NPDWRs, and Ky. Admin. Regs. (“KAR”) Ch. 8, as described below:

1. Pursuant to 401 KAR 8:022. (1) “The cabinet shall conduct a sanitary survey of a public water system in accordance with the requirements of 40 C.F.R. 142.16(b)(1)(ii), (iii), and 142.16(b)(3) for systems using surface water as a source.

“Under 40 C.F.R. § 141.723(c), “Systems must respond in writing to significant deficiencies identified in sanitary survey reports no later than 45 days after receipt of the report, indicating how and on what schedule the system will address significant deficiencies noted in the survey.”

On July 13, 2022, KyDEP conducted a sanitary survey where significant deficiencies were identified. The report was transmitted to the System on August 31, 2022. The System was required to respond to the sanitary survey by October 15, 2022. At the time of the EPA inspection on October 26, 2022, the System had not submitted a response. Therefore, the system is in noncompliance with 401 KAR 8:022. as well as 40 C.F.R. § 141.723(c) for failure to respond to a Sanitary Survey performed by the state.

2. Pursuant to 40 C.F.R. § 141.723(b), “A significant deficiency includes a defect in design, operation, or maintenance, or a failure or malfunction of the sources, treatment, storage, or distribution system that EPA determines to be causing, or has the potential for causing the introduction of contamination into the water delivered to consumers.”

Several significant deficiencies were found in the pipe gallery: Standing water was noticed across the pipe gallery; high service pumps, filter’s pump and backwash pumps were leaking excessively; several chemical containers were housed in the pipe gallery without secondary containment devices. Therefore, the System is in noncompliance with 40 C.F.R. § 141.723(b) for failures in operation and maintenance of treatment and storage.

Two significant deficiencies were found in the clearwell: The clearwell has a crack adjacent to the creek which allows untreated water to enter the clearwell. The System attempted to seal the crack; however, infiltration from the creek impeded the complete sealing. The telemetry pipe of the clearwell lacked screens or seal coverings. Therefore, the System is in noncompliance with 40 C.F.R. § 141.723(b) for failures in operation and maintenance of treatment and storage.

3. Pursuant to 40 C.F.R. § 141.723(b), “A significant deficiency includes a defect in design, operation, or maintenance, or a failure or malfunction of the sources, treatment, storage.” In addition, pursuant to 40 C.F.R § 141.70(a), “The treatment technique requirements consist of installing and properly operating water treatment processes.”

Untreated backwash water is being discharged to Looney Creek. Therefore, the system is in noncompliance with 40 C.F.R.§ 141.723(b) and 40 C.F.R § 141.70(a) for failure to properly operate the water treatment processes.

4. Pursuant to 40 C.F.R. § 141.70(a) “The treatment technique requirements consist of installing and properly operating water treatment processes.”

Filter 2 was found to be out of service. Filters 1, 3 and 4 are taxed by the additional flow they need to produce.

Several processes of the conventional filtration system were found to not be functioning properly: The flocculation basin was not producing flocs. Sediments were not settling in the sedimentation basin. No improvement in water turbidity was observed across the sedimentation basin prior to filtration. An effective filtration consists of operating all the processes efficiently and effectively. If one process does not function correctly, it adversely affects the subsequent process.

The valve of filter 4 that feeds the water from the settling basin cannot be closed completely. During the backwash process the valve remains partially open, possibly allowing backwash water to enter the treatment process.

The sludge valves of the sedimentation basin were found to be out of service. The operator stated that the sludge has not been removed from the sedimentation basin since 2004. If the sludge is not removed, it will reach the filtration process. The sludge has organic matter that it will decompose in the basin if it is not removed, thereby adversely affecting the quality of the water. Therefore, the System is in noncompliance with 40 C.F.R. § 141.70(a) for failure to properly operate the water treatment processes.

Therefore, the system is in noncompliance with 40 C.F.R. § 141.70(a) for failure to properly operate the water treatment processes.

5. Pursuant to 40 C.F.R § 141.561, “If there is a failure in the continuous turbidity monitoring equipment, your system must conduct grab sampling every four hours in lieu of continuous monitoring until the turbidimeter is back on-line. Your system has 14 days to resume continuous monitoring before a violation is incurred.”

The continuous turbidity monitoring equipment was out of service. To measure turbidity, the operator collected grab samples every 2 hours. Therefore, the System is in noncompliance with 40 C.F.R § 141.561 for failure to properly monitor the turbidity.

6. Pursuant to 40 C.F.R. §141.853(a)(1), “Systems must develop a written sample siting plan that identifies sampling sites and a sample collection schedule that are representative of water throughout the distribution system not later than March 31, 2016. These plans are subject to State review and revision”

The System could not provide a copy of their Bacteriological sampling plan. Therefore, the System is in noncompliance with 40 C.F.R. §141.853(a)(1) for failure to keep a copy on site.

7. Pursuant to 40 C.F.R. § 141.622(a)(1), “You must develop and implement a monitoring plan to be kept on file for State and public review”

The System could not provide a copy of their Stage 2 Disinfectants and Disinfection Byproducts (DBP) sampling plan. Therefore, the System is in noncompliance with 40 C.F.R. § 141.622(a)(1) for failure to keep a copy of the monitoring plan on site.

Consistent with Section 1414(a)(1)(A) of the SDWA, 42 U.S.C § 300g-3(a)(1)(A), the EPA is hereby notifying the System of such noncompliance. This Notice of Noncompliance shall not be construed as a final agency action subject to judicial review under Section 1414(g) of the SDWA, 42 U.S.C. § 300g-3(g). Within 14 calendar days of receipt of this letter, the System must contact this office to arrange a meeting to show cause why the EPA should not initiate legal proceedings against the System for these violations. In lieu of appearing in the EPA's offices for this meeting, a video or telephone conference may be scheduled. The System should be prepared to provide all relevant information with documentation pertaining to the above violations. The EPA's legal counsel may also be present at this meeting. Accordingly, the System has the right to have its legal counsel present. The System may, if it so desires, assert a confidential business information (CBI) claim covering any or all information furnished to the EPA in response to this letter. Further details on how to make a CBI claim are included in Enclosure A.

To discuss the details of this matter or to arrange for a video or telephone conference, please contact Arturo Arzon at (404) 562-9276 or by email at arzon.arturo@epa.gov. If the System fails to contact Arturo to schedule a meeting/conference, the EPA may proceed with formal enforcement against the System without further notice.

Notice of Concerns

In addition to the noncompliance listed above, the EPA inspection team identified several areas of concern during the October 2022 inspection. An area of concern may include a defect in design, operation, and/or maintenance; or a failure or malfunction of the sources, treatment, storage, and/or distribution system that is causing, or has the potential for causing, the introduction of contamination into the water delivered to consumers.

The following areas of concern were noted in the inspection report, which the EPA recommends the System take immediate action(s) to address:

1. One of the valves in the aeration system cannot be fully shut down, preventing the system from stopping the flow of water from the raw water intake to the plant. This issue is causing overflows in the aeration system once the plant finishes operations for the day. The system should repair the valve. This can represent a risk to the WTP in the events of high flows in the intake reservoir.
2. The concrete of the original exterior catwalks, flocculation basin and sedimentation basins are significantly compromised. The system should repair the exterior catwalks, flocculation basin and sedimentation basin.
3. Corrosion is prevalent across the system. The system should remove corrosion by painting or replacing the corroded equipment. Corrosion can affect the safe handling and operation of the equipment.
4. Chemicals are stored outside unprotected and uncovered. The system should not store the chemicals outside exposed to the environment.

5. Both water storage tanks overflows lacked screens and had high vegetation growth across the surroundings. The system should install 24 screen mesh in the overflows and remove the vegetation.
6. The System does not have a tank inspection plan or schedule. The system should develop a tank inspection schedule to inspect tanks at least every five years.
7. There are no emergency generators. The system should have an emergency generator.
8. The emergency connection valves with Benham and Cumberland are unable to open. The system should repair the emergency valves.

Within 14 calendar days of your receipt of this letter, please respond with the actions you have taken or plan to take to address the areas of concern above. This response shall include a date that the actions were taken for any items completed and proposed timeline for completing any items that have not yet been addressed. All information requested shall be submitted to the EPA and KyDEP via email to Arturo Arzon, EPA Drinking Water Enforcement Officer, at arzon.arturo@epa.gov and Alicia Jacobs, KyDEP Drinking Water Branch Manager, at alicia.jacobs@ky.gov.

Thank you for your cooperation in this matter. If you have any questions, please contact Arturo Arzon at (404) 562-9276 or arzon.arturo@epa.gov . For legal inquiries, please have your attorneys contact Tyler Sniff, Associate Regional Counsel, at 404-562-9499 or sniff.tyler@epa.gov.

Sincerely,

LARRY LAMBERTH Digitally signed by LARRY LAMBERTH
Date: 2023.03.31
14:15:47 -0400 for

Carol L. Kemker
Director
Enforcement and Compliance Assurance Division

cc: Ms. Alicia Jacobs, KyDEP

Enclosure

ENCLOSURE A

RIGHT TO ASSERT BUSINESS CONFIDENTIALITY CLAIMS

(40 C.F.R. Part 2)

Except for information which deals with the existence, absence, or level of contaminants in drinking water, you may, if you desire, assert a business confidentiality claim as to any or all of the information that the EPA is requesting from you. Applicable EPA regulations relating to business confidentiality claims are at 40 C.F.R. Part 2 and 40 CFR § 2.304(e).

If you assert such a claim for the requested information, the EPA will only disclose the information to the extent and under the procedures set out in the cited regulations. If no business confidentiality claim accompanies the information, the EPA may make the information available to the public without any further notice to you.

40 C.F.R. § 2.203(b). **Method and time of asserting business confidentiality claim.** A business which is submitting information to the EPA may assert a business confidentiality claim covering the information by placing on (or attaching to) the information, at the time it is submitted to the EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret,” “proprietary,” or “company confidential.” Allegedly confidential portions of otherwise non-confidential documents should be clearly identified by the business and may be submitted separately to facilitate identification and handling by the EPA. If the business desires confidential treatment only until a certain date or until the occurrence of a certain event, the notice should so state.