



REGION 4

ATLANTA, GA 30303

ELECTRONIC MAIL

CONFIRMATION OF EMAIL RECEIPT REQUESTED

Chairman Alvin Woods
Macon County Water Authority
401 Fonville Street
Tuskegee, Alabama 36083
alvinwoods34096@gmail.com

Re: Notice of Noncompliance and Concerns Pursuant to Section 1414(a)(1)(A) and Request for Information Pursuant to Section 1445(a)(1) of the Safe Drinking Water Act, 42 U.S.C. §§ 300g-3(a)(1)(A) and 300j-4(a)(1), Macon County Water Authority in Tuskegee, Macon County, Alabama. PWS ID Number: AL0000867. Docket Number: SDWA-1414-2024-03

Dear Chairman Alvin Woods:

The U.S. Environmental Protection Agency is responsible for ensuring public water systems (PWS) 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. According to the information in the EPA's Safe Drinking Water Information System, the Macon County Water Authority Public Water System (System) serves a population of approximately 6,951, with 2,437 service connections. Pursuant to Section 1401(15) of the SDWA, 42 U.S.C. § 300f (15), it is therefore a community water system. The System also receives some of its finished water from one or more wholesale systems. Pursuant to 40 C.F.R § 141.2 and Ala. Code § 335-7-1.01, it is therefore a consecutive system.

A community water system is subject to the requirements of the National Primary Drinking Water Regulations (NPDWRs), 40 C.F.R. Part 141, and the Alabama Primary Drinking Water Regulations (APDWR), promulgated pursuant to the Alabama Safe Drinking Water Act of 1977, Ala. Code § 22-23-33 et seq. Pursuant to SDWA Section 1413, 42 U.S.C. § 300g-2, the Alabama Department of Environmental Management (ADEM) is the primary agency responsible for implementing and enforcing the public water supply supervision program for Alabama. See Ala. Code § 22-23-32.

On March 21, 2024, a Drinking Water Inspection (Inspection) was conducted by the EPA, Region 4 Drinking Water Enforcement Section. An Inspection Report was subsequently issued to the System on April 24, 2024, based on information supplied to the EPA by System representatives through interviews

and written statements, observations made by the EPA Inspection Team, and records and reports maintained by the System. A copy of this Inspection Report was also provided to the ADEM.

Notice of Noncompliance

As detailed in the Inspection Report, the EPA alleges that the System is in noncompliance with the SDWA, the NPDWRs, and the APDWRs, as described below:

1. Pursuant to Ala. Admin. Code § 335-7-4-.02, all public water systems must possess a current Water Supply Permit authorizing the furnishing of water for potable use prior to beginning operation, unless specifically exempted by 335-7-1-.02. All general and special conditions that are part of such permit must be met.

Pursuant to ADEM Water Supply Operating Permit No. 2023-600 Part II (C)(2), drinking water equipment and facilities shall be maintained in a safe, clean, operable, and secure condition.

At the time of Inspection, the EPA Inspection Team observed the following:

- a. The Hardaway well had a leaking gasket, causing water to pool.
- b. The pressure gauge at the Rowlinson well was inoperable.
- c. Space heaters were present at all well houses and the booster pump station. Additionally, a space heater was in the chlorine room located at the Rowlinson well. In addition to cluttering these spaces, the heat from a space heater near chlorine can pose a safety concern.

Therefore, the System is in noncompliance with Ala. Admin. Code § 335-7-4-.02 and ADEM Water Supply Operating Permit No. 2023-600 Part II (C)(2), for failure to maintain the System in a safe, clean and operable condition.

2. Pursuant to Ala. Admin. Code § 335-7-10-.02, community and non-transient non-community water systems shall employ operators certified in accordance with ADEM regulations to be responsible for system or plant operations.

Pursuant to Ala. Admin. Code § 335-7-4-.11 (2), consecutive water systems must provide adequate operation through the employment of certified operators to ensure that the quality of water provided meets all State and Federal Drinking Water Standards.

Pursuant to ADEM Water Supply Operating Permit No. 2023-600 Part II (C)(3), the permittee shall employ certified operator(s) who meet the requirements of ADEM Admin. Code Div. 10, as required by ADEM Admin. Code § 335-7-4-.11(2), to ensure safe, efficient operation at all times. The permittee shall notify ADEM verbally within 24 hours and in writing within 30 days if a personnel change results in noncompliance with the operator requirement.

At the time of Inspection, System staff told the EPA that additional and uncertified Macon County Water Authority staff operate the System when the System's certified operator is unavailable. The Inspection Team was able to confirm the System's additional uncertified staffing when reviewing daily log sheets.

Therefore, the System is in noncompliance with Ala. Admin. Code § 335-7-10-.02, Ala. Admin. Code § 335-7-4-.11 (2), and ADEM Water Supply Operating Permit No. 2023-600 Part II (C)(3), for failure to abide by certified operator requirements.

3. Pursuant to Ala. Admin. Code § 335-10-1-.15, process control decisions at wastewater treatment plants, water treatment plants, water distribution systems, and public wastewater collection systems classified in 335-10-1-.03 must be made or supervised by a properly certified operator.

At the time of the Inspection, System staff stated that changes to set points in the Supervisory Control and Data Acquisition (SCADA) system are made without adequate supervision by System staff that do not have an operator certification.

Therefore, the System is in noncompliance with ADEM Admin. Code § 335-19-1-.15, failure to ensure a properly certified operator makes or supervises all control decisions at the System.

4. Section 2013 of the America's Water Infrastructure Act of 2018 (Public Law 115-270), as codified at Section 1433 of the SDWA, 42 U.S.C. § 300i-2, requires community water systems serving more than 3,300 people to conduct risk and resilience assessments (RRA); prepare or revise emergency response plans (ERP); and certify to the U.S. Environmental Protection Agency that this work has been completed.

A CWS serving a population of more than 3,300 persons is required to maintain copies of its RRA and ERP (including any revisions thereto) for five years after the date on which the certification(s) of such RRA and/or ERP was submitted to the EPA. See Section 1433(d) of the SDWA, 42 U.S.C. § 300i-2(d).

The EPA Inspection Team observed the System's inability to produce a readily available RRA and ERP for review at the time of the Inspection. The System had certified completion of an RRA and ERP per EPA's online records accessed via: <https://www.epa.gov/waterresilience/americas-water-infrastructure-act-section-2013-compliance-data>.

Therefore, the System is in noncompliance with Section 1433 of the SDWA, 42 U.S.C. § 300i2(d), for failure to provide an ERP and RRA upon request during the Inspection.

5. Pursuant to Ala. Admin. Code § 335-7-9-.04 (1), community systems must have a formally adopted written cross-connection control policy. This policy must meet the provisions of this chapter and shall be provided to customers on request.

Pursuant to Ala. Admin. Code § 335-7-9-.04 (2), this [cross-connection] policy shall include an inspection program, with records of health hazards found and corrective action taken kept at the water office for a minimum of five years. These records shall be made available to regulatory inspectors upon request.

At the time of Inspection, the System was unable to provide a cross-connection control policy.

Therefore, the System is in noncompliance with ADEM Admin. Code § 335-7-9-.04(1), for failure to provide a cross-connection control policy at the time of Inspection.

6. Pursuant to 40 C.F.R. § 141.622(a)(1), Subpart V – Stage 2 Disinfection Byproducts (DBP) requirements, each system must develop and implement a monitoring plan to be kept on file for state and public review. The monitoring plan must be complete no later than the date the System conducted its initial monitoring and contain the following elements:

- (i) Monitoring locations;
- (ii) Monitoring dates;
- (iii) Compliance calculation procedures; and
- (iv) Monitoring plans for any other systems in the combined distribution system if the State has reduced monitoring requirements under the State authority in § 142.16(m).

Pursuant to 40 C.F.R. § 141.629(b), each system must retain any subpart V monitoring plans and subpart V monitoring results as required by § 141.33.

At the time of Inspection, the 2013 approved DBP monitoring plan kept onsite by the System was missing a portion of the plan containing a required sampling site. The Inspection Team was able to view the full approved plan, containing the additional sampling site, via the Alabama Drinking Water Watch.

Therefore, the System is in noncompliance with 40 C.F.R. § 141.622(a)(1) and 40 C.F.R. § 141.629(b), failure to retain and produce a complete DBP sampling plan at time of Inspection.

7. Pursuant to 40 C.F.R. § 141.33, any owner or operator of a public water system subject to the provisions of this part shall retain on its premises or at a convenient location near its premises the records required by subsections (a)-(f).

Pursuant to 40 C.F.R. § 141.91, any system subject to the requirements of this subpart shall retain on its premises original records of all sampling data and analyses, reports, surveys, letters, evaluations, schedules, State determinations, and any other information required by §§ 141.81 through 141.88, 141.90, 141.92, and 141.93. Each water system shall retain the records required by this section for no fewer than 12 years.

At the time of the Inspection, the System was not adhering to the required retention policy for records. Most records were not available for review during the Inspection, and the Inspection

Team had to rely on ADEMS's online record retention following the Inspection to obtain the Systems' records.

Therefore, the System is in noncompliance with 40 C.F.R. §§ 141.33 and 141.91, for failure to abide by the required record retention policies.

Notice of Concerns

During the March 2024 Inspection, the EPA Inspection Team identified several areas of concern. 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 to address:

1. At the time of the Inspection, System staff stated that customer complaints are received by Elnora S. Love, the Acting Administrator of the System, via the police or sheriff's office. ADEM personnel stated that Ms. Love's telephone voicemail is full.

It is recommended that the System create a more reliable way for the public to reach System personnel during regular operations and emergency situations.

2. At the time of Inspection, the System notified the Inspection Team of frequent distribution line breaks during heavy storm events. Customers are not able to get water while a distribution line is broken. At the time of Inspection, the System was also unable to produce a line repair SOP, and the Inspection Team could not locate records of boil water notifications and bacteriological testing following the line breaks.

It is recommended for the System to issue a boil water notification and conduct bacteriological sampling following the System's distribution pressure falling below 20 psi. A line break SOP should also be established so all System personnel are aware of necessary procedures to facilitate efficient line repairs.

3. At the time of Inspection, threaded sample taps were observed at the South Macon, Hardaway, and Rowlinson wells.

It is recommended that sampling taps be smooth-nosed. Threaded sample taps may cause cross-connection contamination within the System.

4. At the time of Inspection, the System did not have a written flushing program.

It is recommended that the System prepare a written formal flushing program to ensure flushing is performed correctly.

5. At the time of Inspection, System personnel stated that 541 meters in the distribution system were not working. Customers with inoperable meters were billed using a minimum usage standard. System staff stated that the minimum usage standard is not an accurate reflection of actual water usage.

It is recommended that inoperable meters are repaired or replaced so that accurate water usage can be read, logged, and billed correctly.

6. At the time of Inspection, the Inspection Team observed that there are leaks throughout the distribution contributing to water loss. Water loss throughout the System is approximately 52.7%. The estimated water loss is reported in the System's monthly operating reports.

It is recommended that leaks should be repaired to minimize the percentage of water loss throughout the System.

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 the noncompliance it observed during its Inspection. 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). The EPA reserves its rights to take any appropriate enforcement action, which may include issuance of administrative compliance orders under Section 1414(g) of the SDWA, 42 U.S.C. § 300g-3(g) or commencement of civil judicial actions under Section 1414(b) of the SDWA, 42 U.S.C. § 300g-3(b).

Request for Information

Section 1445(a)(1) of the SDWA, 42 U.S.C. § 300j-4(a)(1), and 40 C.F.R. § 141.31 authorize the EPA to require the submittal of information to determine whether a public water system is in compliance with federal drinking water regulations. Pursuant to this authority, the EPA hereby requests that the System provide the EPA with documentation of any actions that the System has taken to address each instance of noncompliance alleged herein within 14 calendar days of receipt of this letter. Such documentation may include, but need not be limited to, contracts, scopes of work, additional capital improvement project plans and/or evidence of actions taken to address these observations.

The EPA encourages the submission of this information in electronic format to Brianna LaPapa at lapapa.brianna@epa.gov. If portions are too large or responsive documents are unavailable in electronic format, please notify Brianna LaPapa in your electronic submission that additional information needs to be sent and to make arrangements for an alternative submission method.

Please be advised that, under Section 1445(c) of the SDWA, 42 U.S.C. § 300j-4(c), as amended by 40 C.F.R. § 19.4, Table 1 (Adjustment of Civil Monetary Penalties for Inflation), failure to provide the information required by this letter may result in a civil penalty of up to \$69,733. In addition, under SDWA Section 1414(g), 42 U.S.C. § 300g-3(g), failure to provide the information required by this letter may result in an order requiring compliance. Violation of such order may lead to sanctions under SDWA Section 1414, 42 U.S.C. § 300g-3(g)(3)(A) and 40 C.F.R. § 19.4, Table 1, which may include

penalties of up to \$69,733 per day of violation. The information provided in response to this letter may be used by the United States in any enforcement proceeding related to this matter.


The System may, if it so desires, assert a confidential business information (CBI) claim covering any, or all, the information furnished to the EPA in response to this letter. Every CBI claim must be made in a manner described in 40 C.F.R. § 2.203 and must be fully substantiated with documentary evidence which shows how the claim meets every criterion listed in 40 C.F.R. §§ 2.208 and 2.304. If no CBI claim accompanies the System's information when it is received by the EPA, it may be made available to the public by the EPA without further notice to the PWS. Further details, including how to make a business confidentiality claim, are included in Enclosure A.

Consistent with Sections 1414(a)(1) and 1445(a)(1)(B) of the SDWA, 42 U.S.C. §§ 300g-3(a)(1) and 300j-4(a)(1)(B), the EPA is also providing a copy of this Notice and Request for information to ADEM.

If you have any question, please contact Brianna LaPapa, Drinking Water Enforcement Officer, at lapapa.brianna@epa.gov or (404) 562-8165. For legal inquiries, please have your attorney(s) contact Jay Khuti, Associate Regional Counsel, at Khuti.Jay@epa.gov or (404) 562-8390.

Sincerely,

**KERIEMA
NEWMAN**

 Digitally signed by KERIEMA
NEWMAN
Date: 2024.07.19 10:48:00 -04'00'

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Director
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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 C.F.R. § 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.