



REGION 4

ATLANTA, GA 30303

ELECTRONIC MAIL **CONFIRMATION OF EMAIL RECEIPT REQUESTED**

Jeff Conner
Superintendent
Albany Water Works
P.O. Box 129
Albany, Kentucky 42602
albanywaterplanta@windstream.net

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), Albany Water Works in Albany Clinton County, Kentucky. PWS ID Number: KY0270003. Docket Number: SDWA-1414-2024-01

Dear Jeff Conner:

The U.S. Environmental Protection Agency, Region 4 is responsible for assuring 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 Albany Water Works Public Water System (System) serves a population of approximately 16,000, with 5,100 service connections. Therefore, under Section 1401(15) of the SDWA, 42 U.S.C. § 300f (15), it is a community water 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 Kentucky Primary Drinking Water Regulations (KPDWR), promulgated pursuant to the Kentucky Administrative Regulations, Title 401, Ch. 8 (401 KAR 8).

Under SDWA Section 1413, 42 U.S.C. § 300g-2, the Kentucky Energy and Environment Cabinet's Department of Environmental Protection (KDEP) is the primary agency responsible for implementing and enforcing the Public Water Supply Supervision Program for Kentucky. See 401 KAR 8:010.

Although the KDEP administers the Public Water Supply Supervision Program for Kentucky pursuant to Section 1413 of the SDWA, the EPA retains primary enforcement authority over Section 1433 of the SDWA. See 42 U.S.C. § 300g-3(g)(1) (granting the EPA administrative enforcement authority over "applicable requirements," as defined at Section 1414(i), 42 U.S.C. § 300g-3(i)).

March 15-16, 2023, a drinking water inspection was conducted by the EPA. Based on information supplied to the EPA by the System representatives through interviews and written statements, observations made by the EPA inspection team, and records and reports maintained by the System, an inspection report was subsequently issued to the System on May 5, 2023. A copy of the Inspection Report was also provided to the KDEP.

Notice of Noncompliance

As detailed in the Inspection Report, the EPA alleges that the System is in noncompliance with the SDWA, the National Primary Drinking Water Regulations, and the Kentucky Primary Drinking Water Regulations, as described below:

1. Under Section 1433(a)(1) of the SWDA, 42 U.S.C. §300i-2(a)(1), "Each community water system serving a population of greater than 3,300 persons shall conduct an assessment of the risks to, and resilience of, its system."

This Risk and Resilience Assessment (RRA) must include assessments of the risk to the System from malevolent acts and natural hazards; the resilience of the pipes and constructed conveyances, physical barriers, source water, water collection and intake, pretreatment, treatment, storage and distribution facilities, electronic, computer, or other automated systems (including the security of such systems) which are utilized by the System; the monitoring practices of the System; the financial infrastructure of the System; the use, storage, or handling of various chemicals by the System; and the operation and maintenance of the System; and may include an evaluation of capital and operational needs for risk and resilience management for the System.

A CWS serving a population of more than 3,300 persons is required to maintain copies of its RRA (including any revisions thereto) for five years after the date on which the certification(s) of such RRA was submitted to the EPA. See Section 1433(d) of the SDWA, 42 U.S.C. § 300i-2(d). During the Inspection, the EPA requested that the System produce its RRA, which it was required to maintain pursuant to Section 1433(d) of the SDWA. Despite having certified to the EPA that it had completed an RRA, the System was unable to produce the RRA during the inspection.

Therefore, the System is in noncompliance with Section 1433(d) of the SDWA, 42 U.S.C. § 300i-2(d), for failure to maintain and produce its RRA.

2. Under Title 401 KAR 8:020, Section 3(6), the owner or operator of a public water system shall operate and maintain the facilities and systems of treatment, intake, and distribution to comply with the provisions of 401 KAR Chapter 8, including: effective performance; preventive maintenance; operator staffing and training.
 - At the time of the Inspection, the high-service pump room in Plant B was flooded because of water leakage from the pumps. Consequently, there was standing water in the room. The pump room also functions as a roof for the clearwell, which is used for storing finished water. The presence of standing water poses two significant concerns. First, there is a risk of

water infiltration into the clearwell through natural stress fractures that may occur. Second, the standing water represents an electrical hazard due to the high voltage equipment present in the room.

- At the time of the Inspection, the roof on top of the rapid sand filters in Plant A was severely deteriorated with insulation hanging over the filters and debris falling into them. Proper operation of water treatment processes includes maintaining the equipment and facilities used in the treatment process to prevent water contamination. Falling debris and insulation could contaminate the water and cause clogging in the filter, compromising the capacity of the filter to reliably achieve the removal targets.
- At the time of the Inspection, the access hatch to the clearwell at Plant A was missing a gasket. Gaskets are intended to create a water-tight seal around the clearwell to keep potential contaminants from entering the clearwell. A lack of a gasket has the potential for contaminants to enter the clearwell.
- At the time of the Inspection of Plant B, the EPA inspectors observed water flowing at the receiving basin for the clearwell overflow. System staff advised the EPA that the water was from a pipe involved in the lubrication of the high-service pumps. This presents an opportunity for contaminants to enter the clearwell.
- At the time of the Inspection, the altitude valve at Piney tank was malfunctioning and causing the tank to overflow. An out-of-service altitude valve can lead to a failure in the proper operation and maintenance of the water distribution system. This can potentially cause contamination in the water delivered to consumers.
- At the time of the Inspection, the Poplar tank was overflowing out of the top of the tank and water was leaking from the inlet pipe. Overflowing water and leaking water from the inlet pipe have the potential to cause the introduction of contamination into the water delivered to consumers. Also, the excess water pooled at the base of the tank, which compromises the structural integrity of the tank.
- At the time of the Inspection, the access roads to several storage tanks were severely deteriorated, making it difficult to access the tanks. The inaccessible roads to the storage tanks could lead to a failure in the proper maintenance of the finished water storage, which can potentially cause contamination in the water delivered to consumers.
- At the time of the Inspection, the flash mixer at Plant A was out of service. The flash mixer is a part of the water filtration process, and its proper operation and installation is required to ensure that the coagulation process is effective in removing contaminants from the water to achieve the removal targets.

Therefore, based upon the observations stated above, the System is in noncompliance with Title 401 KAR 8:020, Section 3(6), for failure to properly operate and maintain facilities and systems of treatment, intake, and distribution.

3. Under Title 401 KAR 8:020, Section 3(17), chemical additives, and protective materials, such as paints and linings, may be used by a water system if they meet the requirements established in the "Recommended Standards for Water Works," 2012 Edition, A Report of the Water Supply Committee of the Great Lakes-Upper Mississippi River Board of State Public Health, and Environmental Managers' Recommended Standards for Water Works (hereinafter, "Recommended Standards"). According to the Recommended Standards at Part J, Section 5.1.9(d), liquid chemical storage tanks shall have an overflow and a receiving basin capable of receiving accidental spills or overflows without uncontrolled discharge. A common receiving basin may be provided for each group of compatible chemicals, which provides sufficient containment volume to prevent accidental discharge in the event of failure of the largest tank.

At the time of the Inspection, both Plant A and Plant B, the chemical storage tanks were single-walled and lacked secondary containment to hold the chemicals in case of a spill.

Therefore, the System is in violation of Title 401 KAR 8:020, Section 3(17) for failure to provide sufficient containment for liquid chemical storage tank spills or overflows.

4. Under Title 401 KAR 8:100, Section 2(1)(b), Systems shall be designed, constructed, and operated consistent with, "General Design Criteria for Surface and Groundwater Supplies," 2010 edition (hereinafter, "General Design Criteria"). The General Design Criteria requires a minimum of two pumps, and 100% of the water treatment plant rated design capacity shall be supplied with largest pump out of service.

At the time of the Inspection, both pumps at the Donny Edmondson Pump Station were running at the same time. One pump must be designated as backup in case of pump failures.

Running two water pumps simultaneously may indicate that the pumps are unable to supply 100% of the required water volume using the largest pump, as specified in the design criteria. Therefore, the System is in violation of Title 401 KAR 8:100, Section 2(1)(b), for failure to have sufficient back-up pumping capacity.

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 following 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 Arturo Arzón at arzon.arturo@epa.gov. If portions are too large or responsive documents are unavailable in electronic format, please notify Arturo Arzón in your electronic submission that additional information needs to be sent and to plan 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 2 (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 2, 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 showing 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 System. Details on 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 KDEP. If you have any questions and/or want to schedule a meeting to discuss this matter, please contact Arturo Arzón, Drinking Water Enforcement Officer, at arzon.arturo@epa.gov, or (404) 562-9276. For legal inquiries, please have your attorney(s) contact Paula Feldmeier, Associate Regional Counsel, at feldmeier.paula@epa.gov, or (404) 562-8276.

Sincerely,

Keriema S. Newman  Digitally signed by Keriema S. Newman
Date: 2024.03.05 11:24:52 -05'00'

Keriema S. Newman
Acting Director
Enforcement and Compliance Assurance Division

cc: Alicia Jacobs, Division of Water
Kentucky Department for Environmental Protection
alicia.jacobs@ky.gov

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.