UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

NOV 10 2016

CERTIFIED MAIL
RETURN RECEIPT REQUESTED TO:

Ms. Mavis Brewster
McDowell County PSD Hemphill
HC31 P.O. Box 436 J
Welch, WV 24801

RE: Notice of Violation, Docket No. SDWA-03-2016-001-VS
McDowell County PSD Hemphill
Welch, Mc Dowell County, West Virginia
PWS ID No. WV3302441

Dear Ms. Brewster,

The following Notice of Violation is issued pursuant to Sections 1414(a) and 1445 of the Safe Drinking Water Act (SDWA), 42 U.S.C. §§ 300g-3(a) and 300j-4(a), and is a coordinated effort with the West Virginia Department of Health and Human Resources (WVDHHR). According to our records and information received from WVDHHR, your public water system has violated certain provisions of the SDWA, 42 U.S.C. §§ 300f-300j-26, the National Primary Drinking Water Regulations (NPDWR) found at 40 Code of Federal Regulations (CFR) Part 141.

NOTICE OF VIOLATION

FINDINGS

Based on information we possess:

1. McDowell County PSD is the owner of the McDowell County PSD Hemphill public water system (PWS), PWS Identification Number WV3302441 (System). Respondent is a "person" as defined by Section 1401 (12) of the SDWA and 40 C.F.R. § 141.2.

2. Pursuant to Sections 1401(4) and 1401(15) of the SDWA, 42 U.S.C. §§ 300f(4), 300f(15), and 40 C.F.R. § 141.2, "a *public water system* means a system for the provision to the public of water for human consumption through pipes or other constructed conveyances, if such system has at least fifteen service connections or regularly serves at least twenty-five individuals" and "*community water system* means a public water system which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

3. According to information provided by WVDHHR the System serves approximately 322 persons and has 123 service connections. Therefore, Respondent's System is a "public water system" and a "community water system," as defined by Sections 1401(4) and 1401(15) of the SDWA, 42 U.S.C. §§ 300f (4), 300f (15), and by 40 C.F.R. §141.2.

4. Respondent failed to provide notice of the individual lead monitoring tap water results to the persons served by the water system at that specific sampling site from which the sample was collected as required by 40 C.F.R. § 141.85(d), no later than 30 days after the system learns of the tap monitoring results. The Respondent failed to provide the specific lead monitoring tap results to the residents by October 31, 2013.

5. Respondent failed to mail a sample copy of the consumer notification of lead and copper tap results to WVDHHR along with a certification that the notification was distributed in a manner consistent with 141.85 (d), as required by 141.90 (f) (3) within 3 months following the end of the monitoring period. The certification should have been sent to WVDHHR by December 30, 2013.

6. Respondent failed to collect the required number of tap samples for lead and copper analysis as required by 141.86(c), during the monitoring period beginning July 2014.

7. Respondent failed to notify the public and those served by the System of its monitoring and reporting violations as required by 40 CFR §141.204, for the following monitoring and reporting violations during the required notification periods:
    a. Failure to provide lead and copper tap monitoring data collected during for 2013 to individuals at the specific sampling site.
    b. Failure to collect the correct number of samples for lead and copper analysis during the June through September 2013 monitoring period.
    c. Failure to meet the maximum contaminant level (MCL) for trihalomenthanes during August 2014 monitoring period.

8. **The Environmental Protection Agency ("EPA") is available to provide advice and technical assistance to help address the above FINDINGS. Please contact Ms. Roberta Riccio at 215-814-3107, if you want to request such advice or assistance.**

This Notice of Violation is issued pursuant to Section 1414(a) of the SDWA, 42 U.S.C. § 300g -3(a). After thirty (30) days from the date of this notice, EPA is authorized either to issue an Administrative Order under Section 1414(g) requiring the public water system to comply, or to commence a civil action under Section 1414(b). Violations of the SDWA and the regulations are subject to penalties of up to $37,500 per day of violation.

REQUEST FOR INFORMATION

Section 1445(a) of the SDWA, 42 U.S.C. § 300j-4(a), authorizes EPA to require owners and operators of public water systems to provide information as may be necessary to carry out the purposes of the SDWA.

Pursuant to Section 1445(a) of the SDWA, Respondent is required to provide EPA with the following information. This requirement to submit information is mandatory. Compliance with this requirement does not relieve Respondent of any liability for violations of the SDWA. Respondent may be subject to civil and criminal sanctions if it provides misleading or false information or fails to provide the requested information. Information which Respondent provides may be used by EPA in administrative, civil or criminal proceedings.

You may, if desired, assert a business confidentiality claim covering all or part of the information requested herein in the manner described in 40 C.F.R. Part 2. If no claim of confidentiality accompanies the information requested herein, it may be made available to the public by EPA without further notice to you. This inquiry is not subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1980, 44 U.S.C. Chapter 35 (See 5 C.F.R. § 1320.3(c)).

The instructions for responding to the inquiries are as follows:

a. A separate narrative response must be made for each question set forth below, and for any subpart of each question.

b. Label each response with the corresponding number of the question and any subpart to which it responds.

Accordingly, pursuant to Section 1445(a) of the SDWA, Respondent is directed to provide EPA the following information.

1. Name and street address of the owner or owners of the System. If this is a corporation, provide the names, titles, and addresses of officers. Do not provide a post office box.

2. Name and street address of the operator or operators of the System, and state certification number, if applicable. Do not provide a post office box. If this is a corporation, provide the names, titles, and addresses of officers. The street address of the System, or, if no street address is possible, the physical location of the System. Do not provide a post office box.

3. Number of persons served drinking water by the System per day on average.

4. Number of service connections to System.

5. State whether the System is operated year-round. If the System is not operated year-round, state the number of days in operation.

6. A copy of the most recently performed sanitary survey for the System.

7. Copies of residential tap water sampling for lead during September 2013 and certification of delivery to persons receiving water from the specific tap from which samples were collected.

8. Copies of any public notification posted or provided to water users, regarding the violations listed in paragraph 7 of the Findings.

9. Copies of any reports forwarded to WVDHHR concerning violations and public notifications for the violations listed in paragraph 7 of the Findings.

10. Any existing plans and schedules for monitoring, reporting and public notification.

11. Your response to this Notice of Violation and Request for Information shall be in writing.

12. Your response is due within thirty (30) days of receipt of this Notice of Violation and Request for Information. You should submit your response to:

Ms. Roberta Riccio
United States Environmental Protection Agency
Ground Water and Enforcement Branch (3WP22)
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029
Riccio.roberta@epa.gov

and

Mr. Walter M. Ivey
West Virginia Bureau of Public Health
Office of Environmental Health Services
Environmental Engineering Division
WV Department of Health and Human Resources
350 Capitol Street, Room 313
Charleston, WV 25301-3713

If you have any questions, please call Roberta Riccio at 215-814-3107.

EPA has determined that your System may be a "small business" under the Small Business Regulatory Enforcement Fairness Act (SBREFA). The enclosed document entitled "Information for Small Businesses" provides information on contacting the SBREFA Ombudsman to comment on federal enforcement and compliance activities and also provides information on compliance assistance. As noted in the enclosure, any decision to participate in such program or to seek compliance assistance does not relieve you of your obligation to respond in a timely manner to an EPA request or other enforcement action, does not create any new rights or defenses under law, and will not affect EPA's decision to pursue this enforcement action. To preserve your legal rights, you must comply with all rules governing the administrative

enforcement process. The Ombudsman and fairness boards do not participate in the resolution of EPA's enforcement action.

Sincerely,

Karen D. Johnson, Chief
Ground Water and Enforcement Branch

cc: Mr. Walter M. Ivey, WVDHHR Charleston Office
Mr. John Stafford, WVDHH Beckley Office
Ms. Meredith Vance, WVDHH Charleston Office