



State of Utah

GARY R. HERBERT
Governor

GREG BELL
Lieutenant Governor

Department of
Environmental Quality

Amanda Smith
Executive Director

DIVISION OF DRINKING WATER
Kenneth H. Bousfield, P.E.
Director

April 16, 2012

Callie A. Videtich
Acting Assistant Regional Administrator
Office of Partnerships & Regulatory Assistance
EPA Region VIII
1595 Wynkoop Street
Denver, Colorado 80202-1129

Dear Ms. Videtich:

SUBJECT: 2010/2011 Primacy Review for the State of Utah

The purpose of this letter is to respond to your January 31, 2012 letter addressed to Amanda Smith, and received in this office on February 3, 2012. In commenting, I will make specific comments on a page-by-page basis.

On page 2 of the report titled: "Executive Summary" in the third paragraph there are four observations. I agree with the four observations listed as bullets in this paragraph, and wish to comment on each: **First bullet:** We have taken steps to improve on enforcement tracking, and we are looking at increasing the efficiencies in administering the source water protection program. Unfortunately, we have no solution for our plan review workload but we are working on improving our SDWIS data entry efforts. **Second Bullet:** We acknowledge that Utah's drinking water program is minimally funded. We were able to obtain the equivalent of a \$100,000 budget increase in the 2011 legislative session, but this increase is not nearly enough to fully fund the Division. Further, the prospect of reduced SRF funding with its associated reduction in Set Aside funding is discouraging. **Third Bullet:** I acknowledge the need to be involved with succession planning. This is why we've embarked on developing standard procedures documents which explain all areas of our business processes. We also encourage "back-up" capability in all program functions. **Fourth Bullet:** I acknowledge the significant workload associated with the new Groundwater Rule. However, as a State, we are probably better prepared than any other state struggling with this rule. This is due to our historic efforts of identify and track deficiencies found during sanitary surveys.

Rather than phasing into the process as sanitary surveys are conducted, we've launched an effort to work with all the systems in the state, regarding the resolution of significant deficiencies, to either correct them or get on a schedule to correct them. This has resulted in a significant workload increase and we've attempted to deal with it by enlisting non-engineering staff to address the less technical deficiencies.

In the last paragraph on page 3 of the report, contained in the second to the last sentence within this paragraph, there is a notation that compliance determinations were not reviewed and that the managers were not adequately following up on enforcement actions. I acknowledge the accuracy of this statement, and wish to report that on April 11, 2011, we hired a new individual who was tasked to address this issue. This person's assignment involves: tracking all enforcement actions with their associated milestones on a compliance calendar and working specifically with Rule Managers to ensure an appropriate and timely follow-up. Part of that tracking includes updating information in SDWIS-State for the purpose of uploading to SDWIS-Fed on a quarterly basis. EPA should see significant improvements in this area with subsequent program reviews.

Page 4: Relative to the accomplishments listed as items 1 through 7 on this page, we take note of item 4 relative to the Lead/Copper Manager. We've taken actions regarding the problems found during EPA's visits. We report that the past Lead and Copper Rule and Arsenic Rule Manager has been dismissed and a new individual has been hired in his place. We are cautiously optimistic that significant improvement in rule management of both rules will be realized in the coming months, as the replacement employee took over these two rules on April 9, 2012.

I note on page 7 that the title of this page reads: "Utah DDW Resource Comparison to the ASDWA Model-2010." I feel this title is misleading, as the ASDWA Model was produced in 2003. Hence, I feel the title should reflect that fact and read: "Utah DDW Resource Comparison to the ASDWA Model-2003", but more importantly, it should be acknowledged that the resource needs in 2003 have been significantly increased by new EPA Regulations since then, including: a) Revisions to the Lead Copper Rule, the Long Term 2 Enhanced Surface Water Treatment Rule, the Stage 2 Disinfection Rule and the Groundwater Rule. Of note, these later rules are significantly more complex than earlier rules promulgated by EPA. This means the listed resource needs, as shown in the table on page 7, should be increased and the gap between Utah's existing resources and the needed resources is greater than stated in the table on page 7.

At the bottom of page 7 there is a reference to the CASPER database. It should be noted, in addition to producing automated e-mails, that: the Engineering Plan Reviews, the SRF Program and the Source Protection Program are also tracked in the CASPER database. Also, in the bottom paragraph on page 7, it should be noted that the SARA database also tracks Operator Certification and Backflow Technician Certification.

On the top paragraph of page 8 there is a reference to the centralized IT support that the Division receives. I am happy to report that there have been some personnel changes within this system, and we feel we've got a much more responsive group to work with. This is important as they are helping us with some new initiatives that will be discussed in the following paragraph of this letter. In the second paragraph on page 8 there is a reference that the Division is using SDWIS version 2.3. I am also happy to report that we have successfully migrated to SDWIS 3.01.

Starting this month, we've begun working with appropriate partners on a plan to provide information to laboratories and to receive analytical data from laboratories. Conceptually, we have divided the laboratories in to 2 groups, those that have Laboratory Information Management Systems (LIMS) and do the bulk of the chemical analytical work and the small local health department's laboratories that perform only coliform and E. Coli analysis. For the first group, we will provide them with a spread sheet showing monitoring requirements with it being updated periodically, and in return, the laboratories will provide analytical data to the Division. For the second group of laboratories, we will provide a software package which will include: analytical results, billing, and QA/QC that the laboratories need, and in return they will transfer the analytical data to the Division. We feel this initiative will help reduce the workload of Division staff by eliminating the need to re-enter the laboratory data.

On page 11, under the paragraph entitled: "Enforcement", it is important to note, as stated above, that we have hired an individual to track enforcement actions. This individual was hired in April 2011, and since that individual has been working on this assignment, follow-up has been more consistent, and this should be evidenced by subsequent audits of this facet within the Division's operations. This individual has already created enforcement templates and utilizes SDWIS tracking for compliance and enforcement schedules.

Appearing on page 16 of the report, there is a paragraph for the Lead Copper Rule and another paragraph for the Arsenic Rule. I will combine my comments for both rules with the following: I acknowledge, in the past that proper tracking and follow up for both rules have been lacking. The Rule Manager assigned to both rules has been dismissed, and a replacement employee was recently hired on April 9, 2012. Please be aware that there will need to be some backtracking that this new individual will need to do to get us on track as well as continued diligence in implementing these two rules. We are optimistic that the individual we've hired will be able to get us back on track and keep us on track. We did an internal audit of our arsenic compliance in early 2012 which will help jump start the efforts of our new arsenic rule manager

On page 17, under the paragraph entitled: "IPS Reporting", we would like to comment that we are disappointed in the lack of EPA Region VIII OECA staff participation in the four quarterly meetings held where we plan enforcement actions and technical assistance actions to assist systems appearing on Utah's IPS List as well as EPA's ETT List. We would recommend that EPA reconsider this decision, and participate in the meetings via a teleconference call.

On page 18 under the paragraph entitled: "Conclusions": There are seven conclusions that are identified by bullets. I will refer to them as numbers in the order presented in this paragraph. Conclusions 1 and 2: I agree with the conclusions, and I agree with the reason for the conclusions that they are due to limited resources. On conclusion 3: I also agree with this conclusion, and we are working on it by encouraging rule managers to use the tools (SDWIS) that are available to help them track their responsibilities as well as report to EPA. I acknowledge the statement associated with conclusion number 4. I note that now, after states in general have taken their cuts to balance their individual state's budgets, that EPA is, by federal law, required to "sequestering" portions of its budget in the coming years. I see this as a regrettable situation. Regarding future budget cuts, EPA at both the Headquarters level and the Region level, must be willing to promote a corresponding decrease in its expectation of the states. During Congressional hearings, or responding to OMB findings and at similar opportunities, EPA needs to clearly point out that budget cuts have consequences. I agree with the remaining conclusions: 5, 6 and 7 on page 18.

On page 18 under the paragraph titled: "Recommendations", I have the following comments:
Relative to Recommendation # 1: I am reluctant to fill positions in the Engineering Section and in the Source Protection program due to possible funding cuts from EPA, as reported at the ASDWA Member Meeting held in Washington D.C. in March 2012, and also reported in the media. I agree with Recommendation # 2: We are working on the data entry piece associated with the return to compliance and enforcement actions.

Relative to Recommendation # 3: We are actively pursuing the electronic reporting of data from laboratories, and we have migrated to SDWIS 3.01. During the migration process, we have worked to ensure that ESS is functional and the reporting to SDWIS is proceeding appropriately. This piece is essential for the successful implementation of the Groundwater Rule. Recommendation # 3 also states that we should move to a live version of SDWIS 3.01 and upload to SDWIS-Fed. We've operated in a live version of SDWIS 3.01 since December 2011. Our uploads to SDWIS-Fed have gone above and beyond the requirement, as we've uploaded actions every six weeks, and actions, samples and inventory every 90 days.

Relative to Recommendation # 4: This summer, we plan to participate in a Kaizen process focused on our sanitary survey functions within the Division. Representatives who will participate in this review process will be from the local health departments, district engineers and key Division staff. We hope for outcomes that will result in improvements to the process. Our ability to ensure that all systems are surveyed within three years, remains to be seen, but it is probably doubtful due to the limited resources we have available for this task.

On page 19 of the report, we agree with the assessments for 5 and 6. We are actively working on improving our performance on the Arsenic Rule as stated previously in this letter, and also we have successfully migrated to SDWIS 3.01.

EPA Region VIII

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I appreciate the opportunity of being able to comment on this report. I also appreciate the diligence, the professionalism and the thoroughness of the audit team.

Sincerely,

A handwritten signature in black ink, appearing to read "Kenneth H. Bousfield". The signature is written in a cursive style with a large, sweeping initial "K".

Kenneth H. Bousfield, P.E.

Director

KHB:lm

cc: Lisa Kahn, EPA Region VIII
Karen Shirley, EPA Region VIII
Art Palomares, EPA Region VIII
Amanda Smith, Executive Director, DEQ