

Communication is a Key Ingredient to Working with KDHE



As the newest member of the KRWA staff, I think it is important to discuss some issues based on my experiences while being employed with my previous employer, the Kansas Department of Health and Environment (KDHE). My name is Daryn Martin; I began working with other good folks at the Kansas Rural Water Association (KRWA) in mid-August.

Before joining KRWA, I was the Environmental Program Administrator for the water and wastewater programs in the KDHE – South Central District Office (SCDO) in Wichita. Some readers may already recognize the mug at the end of this article because I came knocking on your door representing the regulators. But I am here to tell you that KDHE is not the boogeyman they are at times made out to be. The key to working with KDHE is very basic: Communicate with them!

While working the beat at the SCDO, the main trouble we had with the regulated community (i.e., Water or Wastewater Utilities) were the few who just flat out ignored the letters and phone calls. I promise you, when you get a letter or phone call from a representative of KDHE, you cannot

wait them out. They will always come back to hound you again. I was witness to one public water supply owner (a mobile home community with some wells) who tried to ignore the deficiencies that were cited during a KDHE site visit but it caught up with the owner. He was handed fines from the Agency totaling near \$250,000! It does not pay to try and ignore those letters and phone calls.

When you are called by a KDHE staff member, it is a good idea to accept the call and hear what they have to say. If the phone call was to set up an inspection date, happily agree to meet with the inspector. Remember that the person on the other end of the line is, just like you, simply doing their job to bring home a few dollars to support their loved ones. When the inspector shows up on the date of the inspection, kindly answer the questions and show him or her around the facility. Open the doors that he or she asks you to. The KDHE inspector is not the enemy, remember? The inspection is a great time for you to ask questions as well! Not sure about the Lead and Copper Rule requirements or what exactly Supplemental Condition #4 in your wastewater permit means? Ask! You

have the complete attention of an agent of the State of Kansas, so get those questions answered!

When the inspection is finished, the system will receive a letter that will summarize the inspection noting the issues that need to be addressed. The language used to describe the issues depends on the type of inspection, for example a “Deficiency”, either Significant or Minor, is a term used in a public water supply inspection while “Permit Violation” is used during a wastewater facility inspection. The reality is, no matter what language is used in the inspection letter, the permittee will most likely not face serious consequences unless the utility staff or owner tries to ignore the inspector. Every, and I mean EVERY, inspection letter written by a KDHE staff person will include a date that the owner or operator needs to respond by. The date is not necessarily the deadline to fix every issue. A simple letter to the inspector explaining what actions the facility has or will take to address the issues is all that is needed. A reasonable date when things will be repaired or returned to compliance is usually required too, so be sure to include it.

If you receive a letter from the state and you are not sure what the heck it is even asking (we've all seen these), call the person who sent it to you! Have the KDHE staff person explain what is required, or what will be in the future. If you call one person and it still doesn't make a lick of sense, call your local KDHE District Office or call someone at KRWA to help decipher the letter. I recommend making as many phone calls as it takes to whomever it

Ignored violation letters, especially those with associated public notice requirements, tend to stack up and make your problems worse.

takes rather than decide to ignore the letter and "see what happens". Ignored violation letters, especially those with associated public notice requirements, tend to stack up and make your problems worse. Each violation has an associated "Tier" which requires a public notice. A public notice for Tier 3 violations is due within one year of the letter's date. Tier 2 public notices are due within 30 days and Tier 1 public notices are due as soon as possible. If you do not issue a public notice, either because you did not understand the letter or due to ignoring the letter, you are subject to an additional violation for failing to issue a public notice. If you issue a public notice and do not send the Public Notice Certificate of Delivery to KDHE within ten days after issuing the notice, you will be in trouble again.

Confused? Let's use an example I alluded to earlier. Suppose a KDHE staff member performed a Public Water Supply Sanitary Survey (i.e., an inspection) at your facility. A few

weeks after the site visit you receive a letter from the inspector that cited two Significant Deficiencies (i.e., things you need to correct). You choose to put the letter in the "Inbox" on your desk and forget about it. The first deadline in the letter will be the date you need to respond by. In a Sanitary Survey, that date is automatically 30 days from the inspection letter date. The second deadline is the date the Deficiency must be corrected by, 120 days from the inspection letter date. For simplicity's sake in this example, let's say the inspection letter is still in the bottom of the inbox on day 121. Since your Public Water Supply did not correct the two Significant Deficiencies cited in the letter, you have just received a pair of Failure to Correct a Significant Deficiency Violations. This violation is a Tier 2 violation that requires Public Notice within ten days of receiving the violation letter and a Certificate of Delivery due 10 days after issuing the notice. Still with me? Ok, say the violation letter is ignored too. KDHE will then issue another violation, this time it is called a Public Notice Violation for Failure to Correct a Significant Deficiency Violation.

Now you have two 2 more violations AND you still must address the initial Significant Deficiencies cited in the original letter you received six or seven months ago plus you must issue two public notices to your customers explaining what happened!

My advice, as a former KDHE employee, is: "Do not let a letter from the regulator go unacknowledged". KDHE is not immune to the unacknowledged letter or email either. It is generally good practice for everyone to acknowledge receipt of a letter or email. Communication is the key to compliance. Let's keep talking to each other and don't forget that whether you are the regulaTOR or the regulaTED: the other guy feels just as overworked and underpaid as you do.

Daryn Martin began work with KRWA in August, 2019. He previously was a Water Program Inspector and Environmental Program Administrator at KDHE's Wichita office. Prior to joining KDHE, he worked as an operator in the El Dorado Water Treatment Plant. He holds a Class IV water operator certification.



WILSON & COMPANY

Providing clients with quality engineering services and innovative solutions that protect, enhance, re-use, store, and mitigate water.

Salina, Kansas
www.wilsonco.com
Kansas City, Missouri