



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

1595 Wynkoop Street  
DENVER, CO 80202-1129  
Phone 800-227-8917  
<http://www.epa.gov/region08>

Ref: 8ENF-W

JUN 1 2010

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Crook County Commissioners  
c/o John A. Moline, Jr., Chair  
Crook County Courthouse  
POB 37  
Sundance, WY 82729

Re: Notice of Safe Drinking Water Enforcement  
Action against Bentonite Performance Minerals  
Public Water System  
PWS ID # WY5601476

Dear Commissioners:

The Safe Drinking Water Act (SDWA) requires that the Environmental Protection Agency notify locally elected officials of certain enforcement actions taken in their area.

EPA has issued an Administrative Order (Order) to Bentonite Performance Minerals, located in Crook County, WY, directing it to comply with the National Primary Drinking Water Regulations. The violations alleged in the Order include failing to monitor for total coliform bacteria and lead and copper, and exceeding the maximum contaminant level for total coliform bacteria.

For more details, a copy of the Order is enclosed. The Order does not require any response or action by the County Commission. If you have any questions regarding this Order, please contact Kathelene Brainich at (303) 312-6481.

Sincerely,

A handwritten signature in blue ink, appearing to read "Darcy O'Connor", with a long horizontal flourish extending to the right.

Darcy O'Connor, Acting Director  
Water Technical Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

Enclosure  
Order



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REGION 8

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JUN 1 2010

Ref: 8ENF-W

CERTIFIED MAIL RETURN RECEIPT REQUESTED

CT Corporation System, Registered Agent  
1720 Carey Avenue, Suite 200  
Cheyenne, WY 82001

Re: Administrative Order  
Bentonite Performance Minerals, LLC  
Docket No. **SDWA-08-2010-0048**  
PWS ID #5601476

Dear CT Corporation System:


Enclosed is an Administrative Order (Order) issued by the Environmental Protection Agency (EPA) under the authority of the Safe Drinking Water Act, 42 U.S.C. §§ 300f *et seq.* Among other things, the Order alleges that Bentonite Performance Minerals, LLC (BPM), as owner and/or operator of the BPM water system, has violated the National Primary Drinking Water Regulations (drinking water regulations).

The Order is effective upon the date received. Please review the Order and within 10 days provide EPA with any information you believe EPA may not have. If BPM complies with the Order, EPA may close the Order without further action. Failure to comply with the Order may lead to substantial civil penalties and/or a Federal court injunction ordering compliance.

To submit information or request an informal conference with EPA, please contact Kathelene Brainich at the above address (with the mailcode 8ENF-W) or by phone at (800) 227-8917, extension 6481, or (303) 312-6481. Any questions from BPM's attorney should be directed to Amy Swanson, Enforcement Attorney, who may be reached at the letterhead address (with the mailcode 8ENF-L) or by phone at (800) 227-8917, extension 6906, or (303) 312-6906.

We urge your prompt attention to this matter.

Sincerely,

  
Darcy O'Connor, Acting Director  
Water Technical Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

Enclosure (Order)

cc: Lesley Roth, Bentonite Performance Minerals  
WY DEQ/DOH (via email)  
Tina Artemis, EPA Regional Hearing Clerk

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

2010 JUN -1 AM 9:23

IN THE MATTER OF: )  
 )  
Bentonite Performance Minerals, LLC, )  
 )  
 )  
 )  
Respondent. )

Docket No. **SDWA-08-2010-0048**

FILED  
EPA REGION VIII  
HEARING CLERK

ADMINISTRATIVE ORDER

1. This Order is issued under the authority vested in the Administrator of the United States Environmental Protection Agency (EPA) by the Safe Drinking Water Act, 42 U.S.C. § 300f *et seq.* (the Act), as properly delegated to the undersigned officials.
2. Bentonite Performance Minerals (Respondent) is a limited liability company that owns and/or operates the Bentonite Performance Minerals Water System (the system), which provides piped water to the public in Crook County, Wyoming, for human consumption.
3. The system is supplied by one well and the system's water is treated by sodium hypochlorite disinfection.
4. The system has approximately 4 service connections and regularly serves approximately 65 of the same individuals daily for at least 6 months out of the year. Therefore, the system is a "public water system" and a "non-transient, non-community water system" as defined in 40 C.F.R. § 141.2 and § 1401 of the Act, 42 U.S.C. § 300f.
5. Respondent is subject to the Act and the National Primary Drinking Water Regulations (drinking water regulations) at 40 C.F.R. part 141. The drinking water regulations are "applicable requirements" as defined in § 1414(i) of the Act, 42 U.S.C. § 300g-3(i).

VIOLATIONS

6. Respondent is required to monitor the system's water triennially for lead and copper. 40 C.F.R. § 141.86(d). Respondent is required to collect at least five samples every three years during the monitoring period of June 1-September 30. 40 C.F.R. § 141.86(c) and (d). Respondent collected only one sample of the system's water in November 2009 and, therefore, violated this requirement by failing to collect the required number of samples and monitoring outside the required monitoring period.
7. Respondent is required to monitor the system's water quarterly for total coliform bacteria. 40 C.F.R. § 141.21(a)(2). Respondent failed to monitor total coliform bacteria during the 4<sup>th</sup> (October-December) quarter of 2009, and, therefore, violated this requirement.
8. If two or more samples collected in any month from the system's water are positive for total coliform, then Respondent has violated the maximum contaminant level (MCL) for total coliform bacteria. 40 C.F.R. § 141.63(a)(2). During the months of December 2007 and

September 2005 two or more samples from the system were positive for total coliform and, therefore, Respondent violated this requirement.

9. Respondent is required to report any violation of any drinking water regulation to EPA within 48 hours, except where the drinking water regulations specify a different time period. 40 C.F.R. § 141.31(b). Respondent failed to report the violation cited in paragraph 6 above to EPA and, therefore, violated this requirement.

10. Respondent is required to report any failure to comply with any coliform monitoring requirement to EPA within ten days of discovering the violation. 40 C.F.R. § 141.21(g)(2). Respondent failed to report the violations listed in paragraph 7 above to EPA and, therefore, violated this requirement.

### **ORDER**

Based on the above violations, Respondent is ordered to perform the following actions upon Respondent's receipt of this Order (unless a different deadline is specified below):

11. Between June 1, 2010, and September 30, 2010, Respondent shall monitor the system's water for lead and copper, collecting five samples per sampling event, and thereafter as directed by EPA, in accordance with 40 C.F.R. § 141.86(b), (c) and (d). Respondent shall report analytical results to EPA within the first 10 days following the end of the monitoring period, as required by 40 C.F.R. § 141.90. Respondent shall report any violation of lead and copper monitoring requirements to EPA within 48 hours, as required by 40 C.F.R. § 141.31(b).

12. Respondent shall monitor the system's water for total coliform bacteria quarterly, as required by 40 C.F.R. § 141.21. Respondent shall report analytical results to EPA within the first ten days following the month in which Respondent received sample results, as required by 40 C.F.R. § 141.31(a). Respondent shall report any violation of the total coliform monitoring requirements to EPA within 10 days of discovery, as required by 40 C.F.R. § 141.21(g)(2).

13. Respondent shall comply with the total coliform MCL as required by 40 C.F.R. § 141.63(a)(2).

14. Respondent shall direct all reporting required by this Order to:

U.S. EPA Region 8 (8P-W-DW)  
1595 Wynkoop  
Denver, CO 80202-1129

**GENERAL PROVISIONS**

15. This Order does not constitute a waiver, suspension, or modification of any requirement of the Act or drinking water regulations. Issuance of this Order is not an election by EPA to forgo any civil or criminal action.

16. Violation of any part of this Order or the drinking water regulations may subject Respondent to a civil penalty of up to \$37,500 (as adjusted for inflation) per day of violation. 42 U.S.C. § 300g-3; 40 C.F.R. part 19.

Issued: June 1, 2010



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Michael T. Risner, Director  
David Rochlin, Supervisory Attorney  
Legal Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice



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Darcy O'Connor, Acting Director  
Technical Water Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice