



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 WYNKOOP STREET

DENVER, COLORADO 80202-1129

Phone 800-227-8917

<http://www.epa.gov/region08>

JUL 3 1 2007

Ref: 8ENF-W

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Park County Commissioners
c/o Bucky Hall, Chair
1002 Sheridan Avenue
Cody, WY 82414

Re: Notice of Safe Drinking Water Act
Enforcement Action against Wapiti
Lodge, LLC PWS ID # 5600460

Dear County Commissioners:

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

An Administrative Order is being issued under Section 1414 of the SDWA to Wapiti Lodge, LLC, owner/operator of Wapiti Lodge and Steakhouse, Wapiti, Wyoming. This Order requires that the public water system take measures to return to compliance with the SDWA and the National Primary Drinking Water Regulations. The violations include: failure to monitor for total coliform (routine) and nitrate, and failure to notify the public and EPA of the violations.

For more details, a copy of the Order is enclosed for your information. **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 cursive script that reads "Diane L. Sipe".

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosure



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CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Gina L. O'Connell, Registered Agent
Wapiti Lodge, LLC
3189 Yellowstone Hwy
Wapiti, WY 82450

Re: Administrative Order
Docket No. **SDWA-08-2007-0067**
PWS ID #5600460

Dear Ms. O'Connell:

Enclosed you will find an Administrative Order (Order), which the Environmental Protection Agency (EPA) has issued under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. Section 300f et seq., and its implementing regulations. Among other things, the Administrative Order finds that Wapiti Lodge, LLC ("the Lodge") is the owner and/or operator of the Wapiti Lodge and Steakhouse Water System and a supplier of water as defined by the SDWA and has violated the National Primary Drinking Water Regulations (NPDWRs) at 40 C.F.R. §§ 141.21, 141.23(d), 141.201, 141.21(g)(2), and 141.31(b) for failure to monitor for total coliform (routine) and nitrate, and failure to notify the public and EPA of the violations.

If the Lodge complies with the enclosed Order for a period of at least twelve months, EPA may choose to close the Order. Violating the enclosed Order may lead to (1) a penalty of up to \$32,500 per day of violation of the Order, (2) a separate such penalty for violating the regulations themselves, and/or (3) a court injunction ordering compliance.

Enclosed is a Small Business Regulatory Enforcement and Fairness Act (SBREFA) Section 22 information sheet. The SBREFA sheet notifies small businesses of their right to comment on regulatory enforcement activities, and provides information on compliance assistance. Dissemination of this information sheet does not constitute an admission or determination by EPA that the business, organization or governmental jurisdiction is a small entity as defined by SBREFA.

Please note that the effective date of the enclosed Order is the date of issuance. Within the next 10 days, please provide EPA with any new information that you believe the Agency is not aware of relating to the alleged violations in the Order. The information should be sent to Kathelene Brainich at the address on the letterhead and include the mailcode 8ENF-W, or call (800) 227-8917, extension 6481 or (303) 312-6481. If you wish to have in informal conference with EPA, you may also call or write Ms. Brainich. If you are represented by an attorney, please

ask your attorney to direct any legal questions to Peggy Livingston, Enforcement Attorney, at the above 800 number, extension 6858, or at (303) 312-6858.

We urge your prompt attention to this matter.

Sincerely,



Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosures

Order
Information Request
SBREFA

cc: WY DEQ (via email)
WY DOH (via email)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

2007 JUL 31 PM 2:34

FILED
EPA REGION VIII
HEARING CLERK

IN THE MATTER OF)

Wapiti Lodge, LLC)

Wapiti, Wyoming)

Respondent)

Proceedings under Section 1414(g))

of the Safe Drinking Water Act,)

42 U.S.C. § 300g-3(g) _____)

ADMINISTRATIVE ORDER

Docket No. **SDWA-08-2007-0067**

The following Findings are made and Order issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by Section 1414(g) of the Safe Drinking Water Act (the Act), 42 U.S.C. § 300g-3(g) and its implementing regulations, as properly delegated to the Supervisors of the Technical and Legal Enforcement Programs of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8.

FINDINGS

1. Wapiti Lodge, LLC (Respondent) is a corporation under the laws of the State of Wyoming as of October 18, 2002 and therefore a "person" within the meaning of 40 C.F.R. § 141.2.
2. Respondent owns and/or operates a system, the Wapiti Lodge and Steakhouse Water System (the System), located in Park County, Wyoming for the provision to the public of piped water for human consumption.
3. The System has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year is therefore a "public water system" within the meaning of Section 1401(4) of the Act, 42 U.S.C.

§ 300f(4), and a "non-community water system" within the meaning of 40 C.F.R. § 141.2.

4. Respondent owns and/or operates a public water system and is therefore a "supplier of water" within the meaning of Section 1401(5) of the Act, 42 U.S.C. § 300f(5) and 40 C.F.R. § 141.2. Respondent is therefore subject to the requirements of Part B of the Act, 42 U.S.C. § 300g et seq., and its implementing regulations, 40 C.F.R. Part 141.
5. The System was notified by EPA on May 23, 2005 that it was a public water system and is required to monitor the drinking water it provides to the public. EPA made numerous attempts, including the mailing of 11 survey requests since 2002, to obtain information from the owner regarding the System. According to EPA records, the System is supplied by one well with no treatment, has 2 service connections and serves an average daily population of at least 25 people per day of operation year round. According to the System's telephone recorded message, it is open after 4:00 p.m. for dinner Wednesday through Sunday.

FINDINGS OF VIOLATION

I.

1. 40 C.F.R. § 141.21 requires any non-community public water system with an average daily population of less than 1,001 and having a groundwater source to monitor its water at least once per quarter to determine compliance with the maximum contaminant level (MCL) for total coliform bacteria as stated in 40 C.F.R. § 141.63.



2. Respondent failed to monitor the System's water for contamination by total coliform bacteria during the 1st (January-March) and second (April-June) quarters of 2007, all four quarters of 2006, and the 2nd (April-June) and 3rd (July-September) quarters of 2005, in violation of 40 C.F.R. § 141.21.

II.

1. 40 C.F.R. § 141.23(d) requires public water systems to monitor annually for nitrate to determine compliance with the nitrate MCL as stated in 40 C.F.R. § 141.62.
2. Respondent failed to monitor for nitrate in 2005 and 2006, in violation of 40 C.F.R. § 141.23(d).

III.

1. 40 C.F.R. § 141.201 requires owners and/or operators of public water systems to notify the public of any NPDWR violations, including violations of any MCL, maximum residual disinfection level, treatment technique, monitoring requirements, and testing procedures in 40 C.F.R. part 141.
2. Respondent has not provided public notice of the 2nd and 3rd quarter 2005 and 1st and 2nd quarter 2006 total coliform monitoring violations and the 2005 nitrate monitoring violation, detailed in the preceding Sections I and II, in violation of 40 C.F.R. § 141.201. Public notice is not yet past due for the 1st and 2nd quarter 2007 and 3rd and 4th quarter 2006 total coliform monitoring violations or the 2006 nitrate monitoring violation.



IV.

1. 40 C.F.R. § 141.21(g)(2) requires any public water system that has failed to comply with a coliform monitoring requirement under 40 C.F.R. § 141.21 to report the violation to EPA within ten days after the system discovers the violation.
2. Respondent failed to report to EPA the noncompliance detailed in Section I, in violation of 40 C.F.R. § 141.21(g)(2).

V.

1. 40 C.F.R. § 141.31(b) requires any public water system to report any failure to comply with any NPDWR (40 C.F.R. Part 141) to EPA within 48 hours.
2. Respondent failed to report to EPA the noncompliance detailed in Sections II and III above, in violation of 40 C.F.R. § 141.31(b).

ORDER

Based on the foregoing Findings, and pursuant to Section 1414(g) of the Act, IT IS ORDERED:

1. Within 10 days of receipt of this Order, Respondent shall complete and return to EPA the attached information request.
2. Upon the effective date of this Order, Respondent shall comply with the requirement of 40 C.F.R. § 141.21(a) to perform quarterly bacteriological monitoring to determine compliance with the MCLs as stated in 40 C.F.R. § 141.63. Respondent shall report analytical results to EPA within the first 10 days of the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).



3. Within 30 days of the date of this Order, Respondent shall comply with the nitrate monitoring requirements as stated in 40 C.F.R. § 141.23(d) to determine compliance with the nitrate MCL appearing at 40 C.F.R. § 141.62(b). Respondent shall report analytical results to the State and EPA within the first 10 days following the month in which sample results are received, as required by 40 C.F.R. § 141.31(a).

4. Within 30 days of the effective date of this Order, Respondent must comply with the public notice requirements set forth at 40 C.F.R. § 141.201 et seq. to return to compliance with 40 C.F.R. §§ 141.201, 141.204, and 141.205 for the violations specified under the Findings of Violation, Sections I and II, in this Order. Specifically, Respondent must provide public notice in accordance with 40 C.F.R. § 141.204. Public Notice must be given by any one of the following methods:
 - (1) posting the notice in conspicuous locations throughout the distribution system frequented by persons served by the system;
 - (2) by mail or direct delivery to each customer and service connection; AND
 - (3) any other method reasonably calculated to reach other persons served by the system, if they would not normally be reached by the public notice described in (1) and (2), including publication in a local newspaper or newsletter distributed to customers; use of E-mail to notify employees or students; or, delivery of multiple copies in central locations.Upon the effective date of this Order, Respondent shall comply with the public notification requirements at 40 C.F.R. § 141.201 et seq. following any future NPDWR violation. Respondent shall submit a copy of the public notice to EPA



within 10 days of completion of the public notice, as required by 40 C.F.R. § 141.31(d).

5. Upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.21(g)(2) by reporting any failure to comply with coliform monitoring requirements under 40 C.F.R. § 141.21 to EPA within ten days after the system discovers the violation.
6. Upon the effective date of this Order Respondent shall comply with 40 C.F.R. § 141.31(b) by reporting any failure to comply with any NPDWR (40 C.F.R. Part 141) to EPA within 48 hours.
7. Reporting requirements specified in this Order shall be provided by certified mail to:

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

GENERAL PROVISIONS

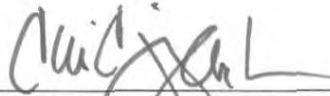
1. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. § 141.1 et seq., or the Safe Drinking Water Act, which remain in full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or criminal action otherwise authorized under the Act.
2. Violation of any term of this Order may subject the Respondent to an administrative civil penalty of up to \$27,500 under Section 1414(g)(3)(B) of the Act, 42 U.S.C. § 300g-3(g)(3)(B), or a civil penalty of not more than \$32,500 per



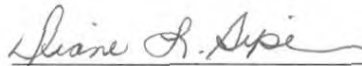
day of violation assessed by an appropriate U.S. District Court under Section 1414(g)(3)(A) and (C) of the Act, 42 U.S.C. § 300g-3(g)(3)(A) and (C).

3. Violation of any requirement of the SDWA or its implementing regulations, may subject Respondent to a civil penalty of not more than \$32,500 per day of violation assessed by an appropriate U.S. District Court under Section 1414(b) of the Act, 42 U.S.C. § 300g-3(b).
4. The effective date of this Order shall be the date of issuance of this Order.

Issued this 3rd day of July, 2007.



David J. Janik, Acting Director
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice



Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

