



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**REGION 8**

**999 18<sup>TH</sup> STREET - SUITE 300**

**DENVER, CO 80202-2466**

**Phone 800-227-8917**

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

**NOV - 8 2006**

Ref: 8ENF-W

CERTIFIED MAIL LETTER  
RETURN RECEIPT REQUESTED

Fremont County Commissioners  
c/o Lanny Applegate, Chairman  
450 North Second St.  
Lander, WY 82520

Re: Notice of Safe Drinking Water Act  
Enforcement Action against  
The Kinnear Store, Inc.  
PWS ID#5601577

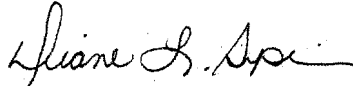
Dear County Commissioners:

Pursuant to Section 1414(a)(2)(B) of the Safe Drinking Water Act (SDWA), the Environmental Protection Agency (EPA) is required to notify an appropriate locally elected official of any action taken in a State that does not have primary enforcement authority for public water systems. The State of Wyoming does not have primary enforcement authority for public water systems under the SDWA.

An Administrative Order is being issued under Section 1414 of the SDWA to The Kinnear Store, Inc., owner of the Kinnear Store located in Kinnear, 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 (NPDWRs). The system is in violation of 40 C.F.R. §§ 141.21(a) and 141.21(g)(2) for: failure to monitor for total coliform bacteria and failure to notify EPA of above mentioned violations.

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 Kimberly Pardue Welch at (303) 312-6983.

Sincerely,



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

Enclosure  
Administrative Order





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CERTIFIED MAIL LETTER  
RETURN RECEIPT REQUESTED

Mr. Fred Nelson, Registered Agent  
The Kinnear Store, Inc.  
11519 U.S. Highway 26  
Kinnear, WY 82516

Re: Administrative Order  
Docket No. SDWA-08-2007-0006  
The Kinnear Store, Inc.  
PWS ID #WY5601577

Dear Mr. Nelson:

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 as owner of the Kinnear Store Water System (the System), The Kinnear Store, Inc. (Respondent), is 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(a) and 141.21(g)(2) for: failure to monitor for total coliform bacteria and failure to notify EPA of above mentioned violations.


If The Kinnear Store, Inc. 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 you to comply.

The NPDWRs require Respondent to provide a public notification of violations of the SDWA. For your convenience, we have enclosed some template forms to assist you in providing the required public notice. If you have any questions or comments concerning the form of public notice, please do not hesitate to contact Kimberly Pardue Welch of EPA, whose telephone number is provided below.

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 may be sent to Kimberly Pardue Welch at the address on the letterhead, include the mailcode 8ENF-W, or you may call Ms. Pardue Welch at (800) 227-8917, extension 6983, or (303) 312-6983. If you wish to have an informal conference with EPA, you may also call or write Ms. Pardue Welch. If you are represented by an attorney or have legal questions, please call Michelle Marcu at the above 800 number, extension 6921, or at (303) 312- 6921.

We urge your prompt attention to this matter.

Sincerely,



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

Enclosures

Administrative Order  
Public Notice template  
SBREFA fact sheet

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



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

2006 NOV -8 AM 10:07

IN THE MATTER OF )  
 )  
The Kinnear Store, Inc. )  
Kinnear, WY )  
 )  
Respondents )  
 )  
Proceedings under Section 1414(g) )  
of the Safe Drinking Water Act, )  
42 U.S.C. § 300g-3(g) )  
\_\_\_\_\_ )

FILED  
EPA REGION VIII  
HEARING CLERK

ADMINISTRATIVE ORDER

Docket No. **SDWA-08-2007-0006**

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. The Kinnear Store, Inc. (Respondent) is a corporation under the laws of the State of Wyoming as of May 6, 2005 and therefore is a "person" within the meaning of 40 C.F.R. § 141.2.
2. Respondent owns and/or operates a system, the Kinnear Store Water System ("the System"), located in Fremont 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 and is therefore a "public water system" within the meaning of Section 1401(4) of the Act, 42 U.S.C. § 300f (4), and a "transient, non-community water system" within the meaning of 40 C.F.R. § 141.2.
4. Respondent owns and/or operates the System and therefore is 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, and its implementing regulations, 40 C.F.R. Part 141.
5. According to an October 2005 sanitary survey by the Midwest Assistance Program, Respondent operates a system that is supplied solely by a ground water source consisting of one well operating since about 1982, which serves approximately 25 persons through 8 service connections and is in operation year-round.

#### FINDINGS OF VIOLATION

##### I

1. 40 C.F.R. § 141.21(a) requires non-community public water systems to monitor the water at least once per quarter that the system serves water to the public to determine compliance with the Maximum Contaminant Level (MCL) for total coliform bacteria as stated in 40 C.F.R. § 141.63(a)(2).

2. Respondent failed to monitor the water for contamination by total coliform bacteria during the 1<sup>st</sup> (January – March), 2<sup>nd</sup> (April – June), and 3<sup>rd</sup> (July – September) quarters in 2006, in violation of 40 C.F.R. § 141.21(a).

## II

1. 40 C.F.R. § 141.21(g)(2) requires public water systems that have failed to comply with a coliform monitoring requirement under 40 C.F.R. § 141.21(a) 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 above, in violation of 40 C.F.R. § 141.21(g)(2).

## ORDER

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

### IT IS ORDERED:

1. Upon the effective date of this Order, Respondents 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(a)(2). 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).
2. 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.

3. Reporting requirements specified in this Order shall be provided by certified mail to:

U. S. EPA Region 8 (8P-W-DW)  
999 18th Street, Suite 300  
Denver, Colorado 80202-2466

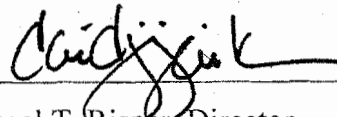
GENERAL PROVISIONS

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)(C) of the Act, 42 U.S.C. § 300g-3(g)(3)(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).

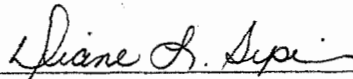


4. The effective date of this Order shall be the date of issuance of this Order.

Issued this 8<sup>th</sup> day of November, 2006.



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



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



# TIER 3 TEMPLATES

The pages that follow contain templates for Tier 3 violations and situations. Along with the templates are instructions, including the required method of delivery and instructions for completing individual sections of the notices. These instructions are designed to supplement Chapter 7, so you may see much of the information repeated here.

**Mandatory language on unknown risk for monitoring violations, which must be included exactly as written, is presented in *italics* (141.205(d)).**

You must also include the following italicized language in all notices, where applicable (141.205(d)). Use of this language does *not* relieve you of your obligation to take steps reasonably calculated to notify all persons served:

*Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.*

## Templates

Monitoring Violations Annual Notice–Template 3-1

## Instructions for Monitoring Violations Annual Notice--Template 3-1

### Template on Reverse

Since most monitoring violations are included in Tier 3, you must provide public notice to persons served within one year after you learn of the violation (141.204(b)). Multiple monitoring violations can be serious, and your primacy agency may have more stringent requirements. Check with your primacy agency to make sure you meet its requirements.

Community systems must use one of the following (141.204(c)):

- Hand or direct delivery
- Mail, as a separate notice or included with the bill

Non-community systems must use one of the following (141.204(c)):

- Posting in conspicuous locations
- Hand delivery
- Mail

In addition, both community and non-community systems must use *another* method reasonably calculated to reach others if they would not be reached by the first method (141.204(c)). Such methods could include newspapers, e-mail, or delivery to community organizations. If you post the notice, it must remain posted until the violation is resolved. If the violation has been resolved, you must post the notice for at least one week (141.204(b)). If you mail, post, or hand deliver, print your notice on letterhead, if available.

The notice on the reverse is appropriate for insertion in an annual notice or the CCR, as long as public notification timing and delivery requirements are met (141.204(d)). You may need to modify the template for a notice for individual monitoring violations. This example presents violations in a table; however, you may write out an explanation for each violation if you wish. For any monitoring violation for volatile organic compounds (VOCs) or other groups, you may list the group name in the table, but you must provide the name of every chemical in the group on the notice, e.g., in a footnote.

You may need to modify the notice if you had any monitoring violations for which monitoring later showed a maximum contaminant level or other violation. In such cases, you should refer to the public notice you issued at that time.

Include in your notice the standard language for monitoring and testing procedure violations in *italics* (141.205(d)(2)). If you modify the notice, you may not alter this mandatory language.

### Corrective Actions

In your notice, describe corrective actions you took or are taking. Listed below are some steps commonly taken by water systems with monitoring violations. Choose the appropriate language, or develop your own:

- We have since taken the required samples, as described in the last column of the table above. The samples showed we are meeting drinking water standards.
- We have since taken the required samples, as described in the last column of the table above. The sample for [contaminant] exceeded the limit. [Describe corrective action; use information from public notice prepared for violating the limit.]
- We plan to take the required samples soon, as described in the last column of the table above.

**After Issuing the Notice**

**Make sure to send your primacy agency a copy of each type of notice and a certification that you have met all the public notice requirements within ten days after issuing the notice (141.31(d)).**

Please send a copy of your notice and dates posted to:

Kimberly Pardue Welch  
US EPA Region 8  
8ENF-W  
999 18<sup>th</sup> Street – Suite 300  
Denver, CO 80202-2466

Or, you may fax a copy to: Attn: Kimberly Pardue Welch at 303-312-6409.

**Certification of Public Notification**

I \_\_\_\_\_ certify that the attached public notification was issued from  
(PWS Operator / Responsible Party)

\_\_\_\_\_ to \_\_\_\_\_  
(Date) (Date)

The attached notice was issued by \_\_\_\_\_  
(Method of delivery)

Signature \_\_\_\_\_ Date \_\_\_\_\_



Office of Enforcement and Compliance Assurance  
**INFORMATION SHEET**

## U. S. EPA Small Business Resources

If you own a small business, the United States Environmental Protection Agency (EPA) offers a variety of compliance assistance and tools to assist you in complying with federal and state environmental laws. These resources can help you understand your environmental obligations, improve compliance and find cost-effective ways to comply through the use of pollution prevention and other innovative technologies.

### Hotlines, Helplines and Clearinghouses

EPA sponsors approximately 89 free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements.

**The National Environmental Compliance Assistance Clearinghouse** provides quick access to compliance assistance tools, contacts, and planned activities from the U.S. EPA, states, and other compliance assistance providers:  
[www.epa.gov/clearinghouse](http://www.epa.gov/clearinghouse)

**Pollution Prevention Clearinghouse**  
[www.epa.gov/opptintr/library/ppicindex.htm](http://www.epa.gov/opptintr/library/ppicindex.htm)

**EPA's Small Business Ombudsman Hotline** provides regulatory and technical assistance information.  
(800) 368-5888

**Emergency Planning and Community Right-To-Know Act**  
(800) 424-9346

**National Response Center** (to report oil and hazardous substance spills)  
(800) 424-8802

**Toxics Substances and Asbestos Information**  
(202) 554-1404

**Safe Drinking Water**  
(800) 426-4791

**Stratospheric Ozone Refrigerants Information**  
(800) 296-1996

**Clean Air Technology Center**  
(919) 541-0800

**Wetlands Helpline**  
(800) 832-7828

### EPA Websites

EPA has several Internet sites that provide useful compliance assistance information and materials for small businesses. If you don't have access to the Internet at your business, many public libraries provide access to the Internet at minimal or no cost.

**EPA's Home Page**  
[www.epa.gov](http://www.epa.gov)

**Small Business Assistance Program**  
[www.epa.gov/ttn/sbap](http://www.epa.gov/ttn/sbap)

**Compliance Assistance Home Page**  
[www.epa.gov/compliance/assistance](http://www.epa.gov/compliance/assistance)

**Office of Enforcement and Compliance Assurance**  
[www.epa.gov/compliance](http://www.epa.gov/compliance)

**Small Business Ombudsman**  
[www.epa.gov/sbo](http://www.epa.gov/sbo)

**Innovative Programs for Environmental Performance**  
[www.epa.gov/partners](http://www.epa.gov/partners)



**IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER**  
**Monitoring Requirements Not Met for Kinnear Store**

Our water system violated several drinking water standards over the past year. Even though these were not emergencies, as our customers, you have a right to know what happened and what we did to correct these situations.

We are required to monitor your drinking water for specific contaminants on a regular basis. Results of regular monitoring are an indicator of whether or not our drinking water meets health standards. During the first and second quarters of 2006 we failed to monitor for total coliform bacteria and therefore cannot be sure of the quality of our drinking water during that time.

**What should I do?**

**There is nothing you need to do at this time.**

The table below lists the contaminant(s) we did not properly test for during the previous years, how often we are supposed to sample for [this contaminant/these contaminants] and how many samples we are supposed to take, how many samples we took, when samples should have been taken, and the date on which follow-up samples were (or will be) taken.

<b>Contaminant</b>	<b>Required sampling frequency</b>	<b>When all samples should have been taken</b>	<b>When samples were or will be taken</b>
Total coliform, failure to monitor	1 sample every quarter	First (Jan – March), second (April – June), and third (July – Sept) quarters 2006	

**What happened? What is being done?**

For more information, please contact Mr. and Mrs. Nelson at 307-856-0277 or 11519 U.S. Hwy 26 Kinnear, WY 82516

*Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.*

This notice is being sent to you by Kinnear Store. State Water System ID#: WY5601577.  
Date distributed or dates posted: \_\_\_\_\_