



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

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

JUN 10 2009

Ref: 8ENF-W

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Carbon County Commissioners
c/o Terry Weickum, Chairman
P.O. Box 6
Rawlins, WY 82301.

Re: Notice of Safe Drinking Water Act
Enforcement Action against the
Arlington Outpost
Public Water System
PWS ID #WY5600068

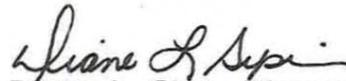
Dear County Commissioners:

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 to Ron and Jodi Newkirk for violations at the Arlington Outpost public water system (the system) located in Carbon County, Wyoming. This Order requires that the Newkirks, as system owners, take measures to return the system to compliance with the SDWA and the National Primary Drinking Water Regulations. The violations include: failing to monitor for total coliform bacteria; failing to monitor for nitrate; failing to provide public notice of above mentioned violations; and failing to report such violations to EPA.

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 Kimberly Pardue Welch at (303) 312-6983.

Sincerely,



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

Enclosure
Administrative Order





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JUN 16 2009

Ref: 8ENF-W

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ron and Jodi Newkirk, Owners
Arlington Outpost
Arlington Route,
HC 64 P.O. Box 95
McFadden, WY 82083

Re: Administrative Order
Arlington Outpost
Public Water System
Docket No. SDWA-08-2009-0049
PWS ID #WY5600068

Dear Mr. and Mrs. Newkirk:

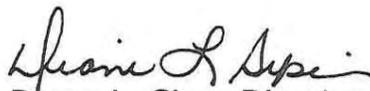
Enclosed is an Administrative Order issued by the Environmental Protection Agency (EPA) under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. section 300f et seq. Among other things, the Order describes how you have violated the National Primary Drinking Water Regulations at the Arlington Outpost Public Water System (the system) in Carbon County, Wyoming.

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 you comply 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, contact Kimberly Pardue Welch at the above address (with the mailcode 8ENF-W) or by phone at (800) 227-8917, extension 6983, or (303) 312-6983. For legal questions, the attorney assigned to this matter is Amy Swanson, who may be reached at the above 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,



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

Enclosures

Administrative Order
Small Business Regulatory Enforcement Fairness Act (SBREFA) Office
of Enforcement and Compliance Assurance Information Sheet
Public Notice

cc:

Tina Artemis, EPA Regional Hearing Clerk
WY DEQ/DOH (via email)

public of the total coliform violations listed in paragraph 1 above and the 2006 failure to monitor nitrate violation listed in paragraph 2 above and, therefore, violated this requirement. Public notice for the 2008 failure to monitor nitrate violation is not yet past due.

4. Respondents are required to report any failure to comply with a coliform monitoring requirement to the EPA within 10 days after learning of the violation. 40 C.F.R. § 141.21(g)(2). Respondents failed to report to the EPA the total coliform monitoring violations listed in paragraph 1 above and, therefore, violated this requirement.

5. Respondents are required to report any failure to comply with any of the drinking water regulations (except where a different reporting period is specified in the drinking water regulations) to EPA within 48 hours. 40 C.F.R. § 141.31(b). Respondents failed to report the violations listed in paragraphs 2 and 3 above to EPA and, therefore, violated this requirement.

ORDER

Based on the above violations, Respondents are ordered to perform the following actions upon receipt of this Order:

6. Respondents shall monitor for total coliform bacteria during the 2nd and 3rd quarters of each year. 40 C.F.R. § 141.21. Respondents shall report analytical results to EPA within the first 10 days following the month in which sample results are received, as required by the drinking regulations. 40 C.F.R. § 141.31(a). Any violation of total coliform monitoring requirements shall be reported to EPA within 10 days after the Respondents learn of it. 40 C.F.R. § 141.21(g)(2).

7. Respondents shall monitor the system's water for nitrate as required by the drinking water regulations. 40 C.F.R. § 141.23(d). Respondents shall report analytical results to EPA within the first 10 days following the month in which sample results are received, as required by the drinking water regulations. 40 C.F.R. § 141.31(a).

8. Within 30 days of the effective date of this Order, Respondents must provide public notice of the violations specified in Paragraphs 1 and 2 in this Order. 40 C.F.R. §§ 141.201, 141.202 and 141.205. Respondents shall submit a copy of the public notice to EPA within ten days of completion of the public notice. 40 C.F.R. § 141.31(d). This notice shall be given by (1) posting the notice in conspicuous locations throughout the distribution system frequented by persons served by the system OR (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 notice required above, such as 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. If the public notice is posted, the notice must remain in place for as long as the violation or situation persists, but for no less than seven days. The public water system must repeat the notice every three months as long as the violation or situation persists. Upon the effective date of this Order, Respondents shall comply with the public notification requirements following any future drinking water regulations violation. 40 C.F.R. §§ 141.201 et seq.

9. Respondents shall report any violation of the drinking water requirements (except where a different reporting period is specified in the drinking water regulations) to EPA within 48 hours. 40 C.F.R. § 141.31(b).

10. 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, CO 80202-1129

GENERAL PROVISIONS

11. 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.

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

Issued this 16th day of June, 2009.

David Rochlin

David Rochlin, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Diane L. Sipe

Diane L. Sipe, Director
Technical Water 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
1595 Wynkoop Street
Denver, CO 80202-1129

Or, you may fax a copy to: Attn: Kimberly Pardue Welch at 303-312-7518.

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 _____

IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER
Monitoring Requirements Not Met for Arlington Outpost

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. We failed to monitor for total coliform during the 2nd quarter 2005 and 2nd quarter 2007, and we failed to monitor for nitrate during 2006 and 2008 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.

| Contaminant | Required sampling frequency | When all samples should have been taken | When samples were or will be taken |
|---------------------------------------|--|---|---|
| Failure to monitor for total coliform | 2 nd and 3 rd quarters each year | 2 nd quarter 2005 and 2 nd quarter 2007 | As required since July 2007 |
| Failure to monitor nitrate | Annually | 2006 and 2008 | January 2009 |

What happened? What is being done?

For more information, please contact [name and number of contact person] _____ or
 [Address] _____

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 **Arlington Outpost**
 State Water System ID#: **WY5600068**

Date distributed or dates posted: _____