



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 WYNKOOP STREET
DENVER, COLORADO 80202-1129
Phone 800-227-8917

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

MAR 9 2009

Ref: 8ENF-W

CERTIFIED MAIL LETTER
RETURN RECEIPT REQUESTED

Teton County Commissioners
c/o Andy Schwartz, Chair
P.O. Box 3594
Jackson, WY 83001-3594

Re: Notice of Safe Drinking Water Act
Enforcement Action against
Nora's Fish Creek Inn, Inc.
PWS ID# WY5600903

Dear Commissioners:

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

An Administrative Order is being issued to Nora's Fish Creek Inn, Inc. located in Wilson, 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 are failure to monitor for total coliform bacteria, exceeding the total coliform maximum contaminant level, and failure to report the violations to EPA and the public.

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 David D. Nguyen at (303) 312-6954.

Sincerely,

A handwritten signature in cursive script, appearing to read "Diane L. Sipe".

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

Enclosure
Order



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MAR 9 2009

Ref: 8ENF-W

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Kenneth S. Cohen, Registered Agent
Nora's Fish Creek Inn, Inc.
160 S Cache St
P.O. Box 2467
Jackson, WY 83001

Re: Administrative Order
Docket No. SDWA-08-2009-0039
PWS ID # WY5600903

Dear Mr. Cohen:

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 Nora's Fish Creek Inn, Inc. has violated the National Primary 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 Nora's Fish Creek Inn, Inc. complies with the Order for twelve months, 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.

Also enclosed is a small business resources information sheet, outlining compliance assistance resources and tools available to small businesses and small governments, in case these resources apply to your situation.

To submit information or request an informal conference with EPA, contact David D. Nguyen at the above address (with the mail code 8ENF-W) or by phone at (800) 227-8917, extension 6954 or (303) 312-6954. For legal questions, the attorney

assigned to this matter is Marc Weiner, who can be reached at the above address (with the mail code 8ENF-L) or by phone at (800) 227-8917, extension 6913 or (303) 312-6913.

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

Order
Information sheet
Public notice samples/templates

cc: Tina Artemis, EPA Regional Hearing Clerk
WY DEQ (via email)
WY DOH (via email)
Nora Tygum, Nora's Fish Creek Inn



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IN THE MATTER OF)

Nora's Fish Creek Inn, Inc.)
Wilson, Wyoming)

Respondent.)

ADMINISTRATIVE ORDER

Docket No. SDWA-08-2009-0039

1. This Order is issued under the authority vested in the Administrator of the United States Environmental Protection Agency (EPA) by section 1414(g) of the Safe Drinking Water Act (the Act), 42 U.S.C. § 300g-3(g), as properly delegated to the undersigned officials.

2. Nora's Fish Creek Inn, Inc. (Respondent) is a corporation that owns and/or operates Nora's Fish Creek Inn Water System (the system) in Teton County, Wyoming, which provides piped water to the public for human consumption. The system is supplied by a groundwater source consisting of one well and serves approximately 400 people through one service connection year round. The system is a "transient, non-community" water system as defined in 40 C.F.R. § 141.2. Respondent is subject to the requirements of the Act and the National Primary Drinking Water Regulations (drinking water regulations), at 40 C.F.R. part 141.

VIOLATIONS

3. Respondent is required to monitor the system's water at least once per quarter to determine compliance with the maximum contaminant level (MCL) for total coliform bacteria. 40 C.F.R. § 141.21. Respondent failed to monitor the water for contamination of total coliform bacteria during the 3rd quarter of 2008, and, therefore, violated this requirement.

4. Respondent is required to monitor the system's water at least once per quarter to determine compliance with the MCL for total coliform bacteria. 40 C.F.R. § 141.21. If more than one sample collected during a month tests positive for such bacteria, it is a violation of the MCL. 40 C.F.R. § 141.63. Respondent's sampling results in October of 2008 exceeded the MCL for total coliform bacteria and, therefore, violated this requirement.

5. Respondent is required to collect five routine total coliform samples the month after the system has one or more total coliform positive samples. 40 C.F.R. § 141.21(b)(5). Respondent failed to collect at least five routine samples in July 2006 after a total coliform positive sample in the preceding month and, therefore, violated this requirement.

6. Respondent is required to report any total coliform MCL to EPA by the end of the next business day after it learned of the violation. 40 C.F.R. § 141.21(g)(1). Respondent failed to report to EPA the MCL violation listed in paragraph 4 above and, therefore, violated this requirement.

7. The law requires Respondent to notify the public of certain violations of the drinking water regulations, in the manner specified by the regulations. 40 C.F.R. §§ 141.201 *et seq.* Respondent failed to notify the public of the violations listed in paragraphs 4 and 5 above and, therefore, violated this requirement.

8. Respondent is required to report any failure to comply with a coliform monitoring requirement to EPA within 10 days after learning of the violation. 40 C.F.R. § 141.21(g)(2). Respondent failed to report to EPA total coliform monitoring violations listed in paragraphs 3 and 5 above and, therefore, violated this requirement.

9. Respondent is required to report any other failure to comply with any of the drinking water regulations to EPA within 48 hours. 40 C.F.R. § 141.31(b). 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 receipt of this Order by Respondent:

10. Respondent shall monitor quarterly for total coliform bacteria. 40 C.F.R. § 141.21. Respondent shall report analytical results to EPA within the first 10 days following the month in which sample results were received, as required by the drinking regulations. 40 C.F.R. § 141.31(a).

11. Respondent shall comply with the total coliform MCL. 40 C.F.R. § 141.63. Respondent shall report any violation of the total coliform MCL to EPA by the end of the next business day after Respondent learns of it. 40 C.F.R. § 141.21(g)(1).

12. Respondent shall comply with all total coliform bacteria routine sampling requirements. 40 C.F.R. § 141.21(b)(5). This requires that Respondent take no fewer than five routine total coliform bacteria samples during the next month after having one or more total coliform positive samples. Respondent shall report any analytical result to EPA within the first 10 days following the end of the monitoring period. 40 C.F.R. § 141.31(a)

13. Within 30 days, Respondent must provide public notice of the violations specified in paragraphs 3 through 5 above. 40 C.F.R. §§ 141.201 *et seq.* Respondent 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. Respondent shall comply with the public notification requirements following any future drinking water regulations violation. 40 C.F.R. §§ 141.201 *et seq.*

14. 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 10 days of discovery.

15. Respondent shall report any other violation of the drinking water regulations to EPA within 48 hours of discovery. 40 C.F.R. § 141.31(b).

16. All reporting required by this Order shall be directed to:

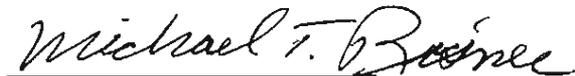
U.S. EPA Region 8 (8P-W-DW)
1595 Wynkoop Street
Denver, CO 80202-1129

GENERAL PROVISIONS

17. 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.

18. Violation of any part of this Order, the Act, 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(g)(3); 40 C.F.R. part 19.

Dated: 3/5/09



Michael T. Risner, 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

Instructions for Unresolved Total Coliform Notice – Template 2-1

Template on Reverse

Since exceeding the total coliform bacteria maximum contaminant level is a Tier 2 violation, you must provide public notice to persons served as soon as practical but within 30 days after you learn of the violation (141.203(b)). Persistent total coliform problems can be serious. Some states have more stringent requirements for coliform violations. Check with your primacy agency to make sure you meet all requirements. You must issue a repeat notice every three months for as long as the violation persists.

Community systems must use one of the following methods (141.203(c)):

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

Non-community systems must use one of the following methods (141.203(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 (141.203(c)). Such methods could include newspapers, e-mail, or delivery to community organizations. If you mail, post, or hand deliver, print your notice on letterhead, if available.

The notice on the reverse is appropriate for hand delivery or mail. If you modify the notice, you must still include all the required elements and leave the health effects language in italics unchanged. This language is mandatory (141.205(d)).

Description of the Violation

The description of the violation and the MCL vary depending on the number of samples you take. The following table should help you complete the second paragraph of the template.

| <u>If You Take Less Than 40 Samples a Month</u> | <u>If You Take More Than 40 Samples a Month</u> |
|--|--|
| State the number of samples testing positive for coliform. The standard is that no more than one sample per month may be positive. | State the percentage of samples testing positive for coliform. The standard is that no more than five percent of samples may test positive each month. |

Corrective Action

In your notice, describe corrective actions you are taking. If you know what is causing the coliform problem, explain this in the notice. Listed below are some steps commonly taken by water systems with total coliform violations. Use one or more of the following actions, if appropriate, or develop your own:

- We are chlorinating and flushing the water system.
- We are increasing sampling for coliform bacteria.
- We are investigating the source of contamination.
- We are repairing the wellhead seal.
- We are repairing the storage tank.
- We will inform you when additional samples show no coliform bacteria.

Make sure to send a copy of each type of notice and a certification that you have met all the public notice requirements to your primacy agency within ten days after issuing the notice (141.31(d)). It is a good idea to inform your consumers when the violation has been resolved. See Template 1-8 for a "problem corrected" notice template.

IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER

Tests Show Coliform Bacteria in [System] Water

Our water system recently violated a drinking water standard. Although this is not an emergency, as our customers, you have a right to know what happened, what you should do, and what we are doing to correct this situation.

We routinely monitor for the presence of drinking water contaminants. We took [number] samples for coliform bacteria during [month]. [Number/percentage] of those samples showed the presence of coliform bacteria. The standard is that no more than [1 sample per month/5 percent of our samples] may do so.

What should I do?

- **You do not need to boil your water or take other corrective actions.** However, if you have specific health concerns, consult your doctor.
- People with severely compromised immune systems, infants, and some elderly may be at increased risk. These people should seek advice about drinking water from their health care providers. General guidelines on ways to lessen the risk of infection by microbes are available from EPA's Safe Drinking Water Hotline at 1-800-426-4791.

What does this mean?

This is not an emergency. If it had been you would have been notified immediately. Total coliform bacteria are generally not harmful themselves. *Coliforms are bacteria which are naturally present in the environment and are used as an indicator that other, potentially-harmful, bacteria may be present. Coliforms were found in more samples than allowed and this was a warning of potential problems.*

Usually, coliforms are a sign that there could be a problem with the treatment or distribution system (pipes). Whenever we detect coliform bacteria in any sample, we do follow-up testing to see if other bacteria of greater concern, such as fecal coliform or *E. coli*, are present. **We did not find any of these bacteria in our subsequent testing.** If we had, we would have notified you immediately. However, we are still finding coliforms in the drinking water.

What is being done?

[Describe corrective action.]

We are still detecting coliform bacteria. We will inform you when our sampling shows that no bacteria are present. We anticipate resolving the problem within [estimated time frame].

For more information, please contact [name of contact] at [phone number] or [mailing 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 [system]. State Water System ID#: _____.

Date distributed: _____.

Instructions for Failure to Comply with a Testing Procedure Notice – Template 3-2

Template on Reverse

Failure to comply with a testing procedure requires Tier 3 notification. You must provide public notice to persons served within one year after you learn of the violation (141.204(b)). Multiple testing 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 seven days (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 Consumer Confidence Report (CCR), as long as public notification timing and delivery requirements are met (141.204(d)).

This example is for a holding time violation. It will need to be modified for other types of testing violations. However, you must 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 is a step commonly taken by water systems with a holding time violation. You can use the following language, if appropriate, or develop your own that is specific to your testing violation:

- On (date) we collected (will collect) a new sample of our finished water in order to have it analyzed for (contaminant). We sent (will send) the sample to the certified laboratory via courier to ensure that the sample arrived within the allowed holding time.

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)).

IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER

Monitoring Requirements Not Met for [System]

Our water system violated 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 [compliance period] we [did not monitor or test' or 'did not complete all monitoring or testing'] for [contaminant(s)] 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 last year, 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 | Number of samples taken | When samples should have been taken | When samples were taken |
|-----------------------------|-----------------------------|-------------------------|-------------------------------------|-------------------------|
| VOCs ¹ (example) | 1 sample every three years | 0 | 2000-2002 | February 2003 |
| | | | | |
| | | | | |

What is being done?

[Describe corrective action.]

For more information, please contact [name of contact] at [phone number] or [mailing 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 [system]. State Water System ID#: _____.

Date distributed: _____.

¹ VOCs, also known as volatile organic compounds, are tested by collecting one sample and testing that sample for all the VOCs. VOCs are commonly used in industrial and manufacturing processes. VOCs include benzene, carbon tetrachloride, chlorobenzene, 1,2-dichlorobenzene, 1,4-dichlorobenzene, 1,2-dichloroethane, cis-dichloroethane, trans-dichloroethane, dichloromethane, 1,2-dichloropropane, ethylbenzene, styrene, tetrachloroethylene, 1,1,1-trichloroethane, trichloroethylene, toluene, 1,2,4-trichlorobenzene, 1,1-dichloroethylene, 1,1,2-trichloroethane, vinyl chloride, and xylene.