



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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

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EPA REGION VIII
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Ref: 8ENF-W

CERTIFIED MAIL AND VIA EMAIL
RETURN RECEIPT REQUESTED

National Registered Agents, Inc., Registered Agent
Yogi LLC
2349 East Richards Street
Douglas, WY 82633

Sanjay V. Patel
2409 East Pikes Peak Ave.
Apt. 168
Colorado Springs, CO 80909

RE: Emergency Administrative
Order under Section 1431 SDWA
Docket No. **SDWA-08-2012-0002**
PWS ID #WY5600375

Dear Registered Agent and Mr. Patel:


Enclosed is an Emergency Administrative Order (Order) issued by the U.S. Environmental Protection Agency (EPA) under section 1431 of the Safe Drinking Water Act (Act), 42 U.S.C. § 300i. On October 31, 2011, EPA was notified that the First Interstate Inn water system (the System) obtained total coliform and E. coli positive samples from monitoring conducted on October 28, 2011 at the System. This situation may pose an imminent and substantial health endangerment to persons served by the System.

Pursuant to its authority set forth at section 1431 of the Act, 42 U.S.C. § 300i, EPA is authorized to take whatever actions are necessary to protect human health. This Order and the requirements set forth herein are necessary to ensure adequate protection of public health based on EPA's primary enforcement responsibility for the Act in the State of Wyoming.

The enclosed Order sets forth the compliance actions that must be taken to ensure that the people served by the water supply are provided with safe drinking water. The Order requires, in part, that the System provide bottled water and issue public notice until notified by EPA to discontinue, take additional total coliform bacteria and source water samples, and submit a plan for long-term compliance. The penalties for failing to comply are set forth in the Order.

If you have any questions or wish to discuss this Order, please contact Shawn McCaffrey at (800) 227-8917 X 6515 or 303-312-6515. If you are represented by an attorney or have legal questions, please call Jean Belille at the above 800 number, extension 6556, or at (303) 312-6556.

Sincerely,



Arturo Palomares, Director
Technical Enforcement Program
Office of Enforcement,
Compliance and
Environmental Justice

Enclosure
Emergency Administrative Order

cc: Tina Artemis, EPA Regional Hearing Clerk
Shelly Rutten, Manager, First Interstate Inn (via email)
WY DOH & DEQ (via email)
Converse County Commissioners (FYI only)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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IN THE MATTER OF:

Yogi LLC and Sanjay V. Patel
PWS ID# WY5600375

Respondents.

FILED
EPA REGION 8
HEADING CLERK
EMERGENCY ADMINISTRATIVE

ORDER

Docket No. SDWA-08-2012-0002

AUTHORITY AND FINDINGS

1. This Emergency Administrative Order (Order) is issued by the Environmental Protection Agency pursuant to the authority of section 1431(a) of the Public Health Service Act (also known as the Safe Drinking Water Act or Act). 42 U.S.C. § 300i(a). The undersigned officials have been properly delegated this authority.

2. Failure to comply with this Order may result in civil penalties of up to \$16,500 per day. 42 U.S.C. § 300i(b) and 40 C.F.R. part 19.

3. EPA may issue such Orders when certain conditions exist which may present an imminent and substantial endangerment to human health, and other state or local authorities have not acted to protect human health. 42 U.S.C. § 300i(a).

4. Yogi LLC and Sanjay V. Patel (Respondents) are a corporation and individual respectively and therefore "persons" as that term is defined in the Act. 42 U.S.C. § 300f(12).

5. Respondents own and/or operate the First Interstate Inn drinking water system (the System), located in Converse County, Wyoming, which provides water to the public for human consumption.

6. Systems that have at least 15 service connections or regularly serve at least 25 people per day at least 60 days per year or at least 25 year-round residents are subject to the requirements of the Act and its implementing regulations, 40 C.F.R. part 141 (also known as the Drinking Water Regulations).

7. The System has approximately 3 service connections and/or regularly serves an average of approximately 80 individuals daily at least 60 days out of the year and is therefore a "public water system" as defined in the Act.

8. EPA has determined that conditions exist at the System that may present an imminent and substantial endangerment to human health. EPA has made this determination based on five water samples collected on October 28, 2011, by the operator, five of which were determined to be total coliform positive and one which was E. coli positive. Coliforms are bacteria that are naturally present in the environment and are used as an indicator that other, potentially-harmful, bacteria may be present. Fecal coliforms and E. coli are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Microbes in these wastes can cause short-term health effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a special health risk for infants, young children, and people with severely compromised immune systems.

9. Prior to issuing this Order, EPA consulted with the System and state or local governmental authorities to confirm the facts and the potential endangerment, and has determined that this Order is necessary to protect human health.

ORDER

INTENT TO COMPLY

10. Within 24 hours of receipt of this Order, Respondents shall notify EPA in writing of their intention to comply with the terms of this Order.

BOTTLED WATER REQUIREMENT AND PUBLIC NOTICE

11. Within 24 hours of receipt of this Order, Respondents shall notify the public of the problem described in this Order by distributing the attached drinking water warning. This public notice must be completed and posted continuously near the sink in each unit and in the hotel lobby. Respondents shall submit a copy of the notice to EPA within 24 hours of its distribution. Respondents shall continue the public notice until EPA provides written notification to discontinue. Respondents must carry out the public notice and other notice requirements that EPA directs. Respondents must comply with this requirement upon any future similar emergency situation.

12. Using the public notice required in paragraph 11 above, Respondents shall notify the public that bottled water is available. This water shall be purchased bottled water and shall be made available at no cost to all users of the System as needed for drinking, tooth brushing, etc. until Respondents receive written notification from EPA that bottled water is no longer necessary.

COMPLIANCE MEASURES

13. If not already completed, within 24 hours after receipt of this Order, Respondents shall collect at least one water sample from the System's ground water source for fecal indicator analysis. Respondents shall report that result to the EPA immediately. Thereafter, Respondents shall comply with all source water monitoring and related requirements in 40 C.F.R. § 141.402. When reporting any triggered source water sample result to the EPA, Respondents shall specify that it is a triggered source water sample.

14. Within 7 days after receipt of this Order, Respondents shall provide EPA with a compliance plan and schedule for the System to come into compliance with the MCL for total coliform as stated in 40 C.F.R. § 141.63(a). Respondents may submit an interim plan and a long term compliance plan if needed. The plan shall include proposed system modifications, estimated costs of modifications, and a schedule for completion of the project and compliance with the total coliform MCL. The proposed schedule shall include specific milestone dates and a final compliance date. The final compliance date or interim compliance date shall be within one month from the date of EPA's approval of the plan and schedule. The proposed plan and schedule must be approved by EPA before construction or modifications may begin. EPA's approval of Respondents' plan and schedule does not substitute for any State of Wyoming approvals of plans and specifications that may also be required before modifications may be made to the System.

15. The plan and schedule required by paragraph 14, above, shall be incorporated into this Order as enforceable requirements upon written approval by EPA.

16. Within 10 days after completing all tasks included in the plan and schedule required by paragraph 14, above, Respondents shall notify EPA of the project's completion.

17. Respondents shall achieve and maintain compliance with the total coliform MCL by the final date specified in the approved plan. Respondents shall meet that deadline even if the plan as approved does not achieve compliance. If the plan fails to achieve permanent compliance, EPA may order further steps and/or seek penalties for noncompliance.

DISTRIBUTION SYSTEM DISINFECTION AND MONITORING REQUIREMENTS

18. If Respondents have not already done so since October 29, 2011, Respondents shall, within 24 hours of receipt of this Order, clean, flush, and disinfect the system, including disinfection of the System's distribution system and any storage tanks that are part of the System.

19. Once the interim and/or final compliance plan has been completed, Respondents shall collect consecutive daily (1 sample per day) special purpose total coliform samples from sites that are representative of water throughout the distribution system.

20. After Respondents receive written notification from EPA that Respondents may discontinue daily total coliform sampling based on EPA's determination that a sufficient number of daily total coliform sample results from the System have been negative, Respondents shall collect weekly special purpose bacteriological samples (1 sample per week).

21. After Respondents receive written notification from EPA that Respondents may discontinue weekly total coliform sampling based on EPA's determination that a sufficient number of weekly total coliform sample results from the system have been negative, Respondents shall collect monthly special purpose bacteriological samples (1 sample per month).

22. After Respondents receive written notification from EPA that Respondents may discontinue monthly total coliform sampling based on EPA's determination that a sufficient number of monthly total coliform sample results from the system have been negative, Respondents shall resume quarterly total coliform sampling to determine compliance with the total coliform MCL. 40 C.F.R. §§ 141.21 and 141.63.

23. Respondents shall report all coliform sampling results to EPA by telephone or fax immediately upon receiving the results.

24. For the total coliform sampling in paragraph 21 above, Respondents shall, before having that sample analyzed, designate one sample as the quarterly compliance sample to determine compliance with the MCL for total coliform. 40 C.F.R. §141.63.

25. EPA may require Respondents to increase and/or decrease total coliform sampling at any time while the Order is in effect.


REPORTING

26. All contact with EPA on this matter shall be to:


Shawn McCaffrey, 8ENF-W
US Environmental Protection Agency
1595 Wynkoop Street
Denver, Colorado 80202-1129
Telephone (800)227-8917 X 6515 or (303) 312-6515
Fax (303) 312-7202
e-mail: mccaffrey.shawn@epa.gov

27. This Order does not affect any legal requirement or EPA's legal enforcement options in this matter. This Order constitutes final agency action.

Issued and effective this 1st day of November, 2011.



Matthew Cohn, Director
Jim Eppers, Acting Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice



Arturo Palomares, Director
Water Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

DRINKING WATER WARNING

DO NOT DRINK THE WATER

Fecal coliform [or *E. coli*] bacteria were found in the water supply on

_____.

Bottled water is available from _____.

Possible Health Effects

Fecal coliforms and *E. coli* are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Microbes in these wastes can cause diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a special health risk for infants, young children, and people with severely compromised immune systems.

People at increased risk should seek advice from their health care providers about drinking this water.

Steps We Are Taking

[Describe corrective action.] _____

We will inform you when additional samples show no [fecal coliform/*E. coli*] bacteria and you may drink the water. We anticipate resolving the problem within [estimated time frame]. For more information, please contact [name of contact] of [system] at [phone number] or [location/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 TCR Fecal Coliform or *E. coli* Notice – Template NC-4

Template on Reverse

This template is intended for systems where consumers will not be able to boil water. See the suggestions below on how you can modify this template for other situations. Since exceeding the fecal coliform or *E. coli* maximum contaminant level requires a Tier 1 notification, you must provide public notice to persons served as soon as practical but no more than 24 hours from learning of the violation [40 CFR 141.202(b)]. During this time period you must also contact your state. You must use one or more of the following methods to deliver the notice to consumers [40 CFR 141.202(c)]:

- Posting in conspicuous locations
- Hand or direct delivery
- Radio
- Television

You may need to use additional methods if needed to reach all persons served.

If you modify the notice, you must still include all required PN elements from 40 CFR 141.205(a) and leave the mandatory language unchanged (see below).

Mandatory Language

Mandatory language on health effects (from Appendix B to Subpart Q) must be included as written (with blanks filled in) and is presented in this notice in italics with an asterisk on either end.

This template also includes mandatory language encouraging further distribution to persons who may not have received the notice [40 CFR 141.205(d)] and is presented in this notice in italics and with an asterisk on either end. However, if you post the notice such that all possible users have access to the notice, this language is not applicable and can be omitted.

Instructions to Consumers

You may need to modify the instructions in the public notice based on your system type. For instance, at a campground, you might tell consumers to boil the water before drinking or using for food preparation.

Alternative Sources of Water

If you are selling or providing bottled water, your notice should say where it can be obtained. Remember that bottled water can also be contaminated. If you are providing bottled water, make sure it meets US Food and Drug Administration and state bottled water standards for bacteria and other contaminants.

Corrective Action

In your notice, describe corrective actions you are taking. Listed below are some steps commonly taken by water systems with fecal coliform or *E. coli* violations. You can use one or more of the following statements, if appropriate, or develop your own text:

- We are chlorinating and flushing the water system.
- We are increasing sampling for coliform bacteria to identify the source of contamination.
- We are repairing the wellhead seal.
- We are repairing, cleaning, and disinfecting the storage tank.

After Issuing the Notice

Make sure to send your state a copy of each type of notice and a certification that you have met all the public notification requirements within ten days after issuing the notice [40 CFR 141.31(d)].

It is a good idea to inform your consumers when the violation has been resolved, especially if you have regular customers. See Template NC-7 for a "problem corrected" notice template.