



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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

SEP 9 2010

Ref: 8ENF-W

CERTIFIED MAIL LETTER
RETURN RECEIPT REQUESTED

Campbell County Commissioners
c/o Roy Edwards, Chairman
500 South Gillette Avenue
Suite #1100
Gillette, WY 82716

Re: Notice of Safe Drinking Water Act
Enforcement Action against
Bennor Estates Phase I Improvement
and Service District
PWS ID #WY5601596

Dear 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.

EPA has issued an Administrative Order (Order) to Bennor Estates Phase I Improvement and Service District, located in Gillette, Wyoming, directing it to comply with the National Primary Drinking Water Regulations. The violations alleged in the Order include: exceedance of the combined radium maximum contaminant level; failing to provide public notice of the violations; and failing to report these violations to EPA.

For more details, a copy of the Order is enclosed. **The Order does not require any response or action by the County Commission.** If you have any questions regarding this Order, please contact Shawn McCaffrey at (303) 312-6515.

Sincerely,

A handwritten signature in black ink, appearing to read "Arturo Palomares".

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

U.S. Environmental Protection Agency-Region 8

Enclosure
Order



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SEP 9 2010

Ref: 8ENF-W

CERTIFIED MAIL LETTER
RETURN RECEIPT REQUESTED

Terra Hepp, President
Bennor Estates Phase I Improvement
and Service District
P.O. Box 2544
Gillette, WY 82717

Re: Administrative Order
Bennor Estates Phase I Improvement
and Service District
Public Water System
Docket No. **SDWA-08-2010-0074**
PWS ID# WY5601596

Dear Ms. Hepp:

Enclosed is an Administrative Order (Order) issued by the United States Environmental Protection Agency (EPA) under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. §§ 300f *et seq.* Among other things, the Order alleges that the Bennor Estates Phase I Improvement and Service District (District) has violated the National Primary Drinking Water Regulations (the drinking water regulations).

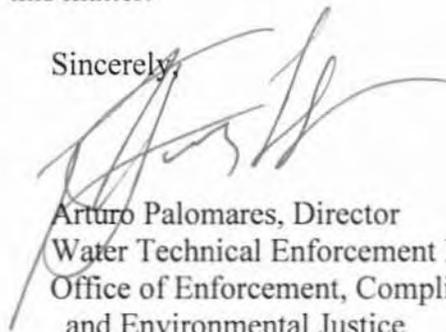
The Order is effective upon the date received. Please review the Order and within 10 days provide EPA with any information you believe EPA may not have. If the Bennor Estates Phase I Improvement and Service District complies with the Order, EPA may close the Order without further action. Failure to comply with the Order may lead to substantial civil penalties and/or a Federal court injunction ordering compliance.

The Small Business Regulatory Enforcement and Fairness Act (SBREFA) may apply to this situation. Enclosed is a small business information sheet, outlining compliance assistance resources available to small businesses and small governments, in case these are relevant. SBREFA does not eliminate the responsibility to comply with the Order or the drinking water regulations.

To submit information or request an informal conference with EPA, please contact Shawn McCaffrey at the above address (with the mailcode 8ENF-W) or by phone at (800) 227-8917, extension 6515 or (303) 312-6515. Any questions from the District's attorney should be directed to Marc Weiner, Senior Enforcement Attorney, who may be reached at the above address (with the mailcode 8ENF-L) or by phone at (800) 227-8917, extension 6913 or (303) 312-6913.

We urge your prompt attention to this matter.

Sincerely,



Arturo Palomares, Director
Water Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice
U.S. Environmental Protection Agency-Region 8

Enclosures:

Order
SBREFA Information Sheet

cc:

Tina Artemis, EPA Regional Hearing Clerk
Wyoming DEQ/DOH (via email)
Therese Hinshaw, Operator

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2010 SEP -9 AM 9:18

IN THE MATTER OF:)
)
Bennor Estates Phase I Improvement)
and Service District,)
)
)
Respondent.)

Docket No. SDWA-08-2010-0074

FILED
EPA REGION VIII
HEARING CLERK

ADMINISTRATIVE ORDER

1. This Order is issued under the authority vested in the Administrator of the United States Environmental Protection Agency (EPA) by the Safe Drinking Water Act, 42 U.S.C. §§ 300f *et seq.* (the Act), as properly delegated to the undersigned officials.
2. Bennor Estates Phase I Improvement and Service District (Respondent) is a municipality under Wyoming law that owns and/or operates the Bennor Estates Phase I Improvement and Service District Water System (the system), which provides piped water to the public in Campbell County, Wyoming, for human consumption.
3. The system is supplied by a ground water source consisting of one well which provides water that is treated.
4. The system has approximately 43 service connections used by year-round residents and/or regularly serves an average of approximately 174 year-round residents. Therefore, the system is a "public water system" and a "community water system" as defined in 40 C.F.R. § 141.2 and § 1401 of the Act, 42 U.S.C. § 300f.
5. Respondent is subject to the Act and the National Primary Drinking Water Regulations (drinking water regulations) at 40 C.F.R. part 141. The drinking water regulations are "applicable requirements" as defined in § 1414(i) of the Act, 42 U.S.C. § 300g-3(i).
6. The drinking water regulations include monitoring requirements. EPA has sent Respondent annual notifications of the specific monitoring requirements that apply to the system, and other notices including the Notice of Violation letter dated January 6, 2009.

VIOLATIONS

7. Respondent is required to monitor the system's water for combined radium once every quarter per 40 C.F.R. § 141.26(a)(3)(v). Combined radium monitoring results during the 1st, 2nd, and 3rd quarters of 2010, computed on a running annual average basis according to 40 C.F.R. § 141.26(c)(3), exceeded the combined radium maximum contaminant level (MCL) of 5 piC/L as established by 40 C.F.R. § 141.66(b). Respondent therefore violated this requirement. Note: While Respondent did not assume ownership of the system until November 1, 2009, combined radium monitoring at the system also exceeded the MCL during the first three quarters of 2009, and all four quarters in 2008.

8. Respondent is required to report any failure to comply with any of the drinking water regulations to EPA within 48 hours (except where the drinking water regulations specify a different reporting period). 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 Respondent's receipt of this Order (unless a different deadline is specified below):

9. Upon receipt of this Order, Respondent shall sample for radionuclides during the 4th (October-December) quarter of 2010, and quarterly thereafter until a different sampling frequency is determined by EPA, to determine compliance with the combined radium MCL. 40 C.F.R. § 141.66(b). Respondent shall report any analytical results to the EPA within the first 10 days following the end of the monitoring period. 40 C.F.R. § 141.31(a).
10. Within 30 days of receipt of this Order, Respondent shall provide EPA with a compliance plan and schedule for the system to come into compliance with the MCL for combined radium as stated in 40 C.F.R. § 141.66(b). The plan shall include proposed system modifications, estimated costs of modifications, and a schedule for completion of the project and compliance with the combined radium MCL. The proposed schedule shall include specific milestone dates and a final compliance date. The final compliance date shall be within 6 months 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 Respondent's 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.
11. The plan and schedule required by paragraph 10, above, will be incorporated into this Order as enforceable requirements upon written approval by EPA.
12. Within 10 days of completing all tasks included in the plan and schedule required by paragraph 10, above, Respondent shall notify EPA of the project's completion.
13. Respondent must achieve and maintain compliance with the combined radium MCL by the final date specified in the approved plan, or no later than 6 months after receiving EPA's approval of the plan and schedule required by paragraph 10 above, whichever is earliest. Respondent must 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.



14. Respondent shall report any violation of the drinking water regulations to EPA within 48 hours of the violation occurring or, if another time period for reporting is specified in this Order or the drinking water regulations, within that other time period.
15. Respondent shall direct all reporting required by this Order to:

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

GENERAL PROVISIONS

16. 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.
17. Violation of any part of this Order 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; 40 C.F.R. part 19.

Issued: September 9, 2010.

David Rochlin

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

Arturo Palomares

Arturo Palomares, Director
Water Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice
U.S. Environmental Protection Agency-Region 8

