



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

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

SEP 15 2009

Ref: 8ENF-W

CERTIFIED MAIL LETTER
RETURN RECEIPT REQUESTED

Stewart Leith, Commission Chair
Daggett County
95 North 1st West
P.O. Box 219
Manila, UT 84046

Re: Administrative Order
Dutch John Public Water System
Docket No. SDWA-08-2009-0065
PWS ID #UTAH05001

Dear Mr. Leith:

Enclosed is an Administrative Order (Order) issued by the Environmental Protection Agency (EPA) under the authority of the Safe Drinking Water Act (the Act), 42 U.S.C. § 300f *et seq.* Among other things, the Order alleges that Daggett County has violated the National Primary Drinking Water Regulations (drinking water regulations).

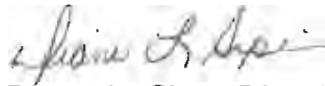
The Order is effective upon the date received. Please review the Order and within 10 days provide EPA with any information you believe EPA may not have. If Daggett County complies with the Order, EPA may close the Order without further action. Failure to comply with the Order may lead to substantial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

The Order requires the County to notify the public of having violated the drinking water regulations. EPA has provided paper copies of forms and instructions for providing public notice as an attachment to this document. Future public notices can easily be accomplished with the assistance of the automated system available at the www.pniwriter.org website.

To submit information or request an informal conference with EPA, please 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. Any questions from the county's attorney should be directed to Peggy Livingston, Enforcement Attorney, who may be reached at the above address (with the mailcode 8ENF-L) or by phone at (800) 227-8917, extension 6858 or (303) 312-6858.

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

Public notice samples/templates

cc:

Patti Fauver, Utah Division of Drinking Water
Tina Artemis, EPA Regional Hearing Clerk

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2009 SEP 15 PM 1:06

<u>IN THE MATTER OF</u>)	
)	Docket No. SDWA-08-2009-0065
Daggett County, UT,)	
)	ADMINISTRATIVE ORDER
<u>Respondent.</u>)	

FILED
EPA REGION VIII
HEARING CLERK

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. Daggett County (Respondent) is a municipality that owns and/or operates the Dutch John Water System (the system), which provides piped water to the public in Daggett County, Utah, for human consumption.

3. The system is supplied by a surface water source that is treated with filtration and chlorination.

4. The system has approximately 45 service connections used by year-round residents and/or regularly serves at least 185 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 Respondent has received annual notifications from the Utah Department of Environmental Quality (UDEQ or the State) regarding the system's monitoring requirements.

7. The UDEQ has primary enforcement authority for the public water supply protection provisions of the Act in the State of Utah. EPA issued notices of the system's violations to the State on July 21, 2009, July 30, 2009, and August 14, 2009. The State elected not to commence an enforcement action against the Respondent for the violations within the thirty-day time frame set forth in section 1414(a) of the Act, 42 U.S.C. § 300g-3(a). EPA has provided a copy of this Order to UDEQ and has provided the State, through UDEQ, with an opportunity to confer with EPA

regarding this Order pursuant to section 1414(g)(2) of the Act, 42 U.S.C. § 300g-3(g)(2).

VIOLATIONS

8. Respondent was required to submit a Long Term 2 Enhanced Surface Water Treatment Rule (LT2ESWTR) source water sampling schedule to the State by July 1, 2008. 40 C.F.R. § 141.702. Respondent failed to submit its sampling schedule to the State by the July 1, 2008, deadline and, therefore, violated this requirement. On July 6, 2009, EPA was notified by UDEQ that Dutch John had submitted an LT2ESWTR source water sampling schedule to the State.

9. Respondent was required to begin the first round of source water monitoring for *E. coli* no later than October 1, 2008. 40 C.F.R. § 141.701(c). Respondent failed to begin the first round of source water monitoring by the October 1, 2008, deadline and, therefore, violated this requirement. According to information provided to EPA by UDEQ on August 20, 2009, it appears that on July 6, 2009 and July 20, 2009, Respondent began source water monitoring for *E. coli*. Respondent's source water monitoring schedule indicates that future source water monitoring for *E. coli* will be conducted on the 1st and 3rd Monday of each month.

10. Respondent is required to monitor the system's water triennially for lead and copper. 40 C.F.R. § 141.86(d). Based on the population served by the system, Respondent is required to collect at least 5 samples during each 3-year monitoring period. 40 C.F.R. § 141.86(c). Respondent failed to monitor for lead and copper during the 2006 - 2008 monitoring period and, therefore, violated this requirement.

11. Respondent is required to monitor the residual disinfectant concentration in the water entering the system's distribution system and to record the lowest value each day. Monitoring must be continuous or by grab samples consisting of at least one grab sample per day. If Respondent uses grab sampling in lieu of continuous monitoring and the residual disinfectant falls below 0.2 milligrams per liter (mg/l), Respondent must take a grab sample every 4 hours until the residual disinfectant concentration reaches at least 0.2 mg/l. 40 C.F.R. § 141.74(c)(2). Respondent failed to monitor the system's residual disinfectant level by collecting at least one grab sample per day during 3rd quarter 2006, 1st quarter 2007, 2nd quarter 2007, 3rd quarter 2007, and 4th quarter 2007 and, therefore, violated these requirements.

12. Respondent is required to monitor the system's water for turbidity at representative points in the system's distribution system at least every 4 hours that the system serves water to the public. 40 C.F.R. § 141.74(c)(1). Respondent failed to monitor the system's water for turbidity every 4 hours during August 2007, September 2007, October 2007, November 2007, December 2007, and January 2008 and, therefore, violated this requirement.

13. Respondent is required to collect a set of total trihalomethane (TTHM) and haloacetic acid (HAA5) samples each quarter. 40 C.F.R. § 141.132(b)(1)(i). Respondent is required to submit monitoring results for TTHM and HAA5 to the State within 10 days after the end of each quarter in which samples are collected. 40 C.F.R. § 141.134. Respondent failed to monitor the system's water for TTHM and HAA5 during the 4th quarter 2008 and, therefore, violated this requirement.

14. Respondent is required to notify the public of certain violations of the drinking water regulations. 40 C.F.R. §§ 141.201, 141.203 and 141.204. Respondent did not notify the public of the violations mentioned in paragraphs 8, 9, 11, and 12 and, therefore, violated this requirement. Public notice for the violations cited in paragraphs 10 and 13 is not yet overdue.

15. Respondent is required to report any failure to comply with any of the drinking water regulations to the State within 48 hours (except where a different reporting period is specified in the drinking water regulations). 40 C.F.R. § 141.31(b). Respondent failed to report the violations listed in paragraphs 8 through 14, above, to the State 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):

16. Within 10 days of receipt of this Order, Respondent shall submit to EPA a copy of its source water sampling schedule. Source water monitoring for *E. coli* shall be conducted on the 1st and 3rd Mondays of each month, in accordance with the regulations, and as specified in Respondent's source water sampling schedule. 40 C.F.R. §§ 141.701, 141.702, 141.703, and 141.704. Respondent shall report all source water analytical results to EPA

and the State no later than the first 10 days after the end of the first month following the month when the sample is collected. 40 C.F.R. § 141.706.

17. Prior to September 30, 2009, Respondent shall monitor the system's water for lead and copper, and thereafter as directed by the State in accordance with 40 C.F.R. § 141.86(b), (c) and (d). Respondent shall report analytical results to EPA and the State within the first 10 days following the end of the monitoring period, as required by the drinking water regulations. 40 C.F.R. § 141.90.

18. Respondent shall monitor the residual disinfectant concentration of the water entering the distribution system. Monitoring shall be either continuous or based on grab samples consisting of at least one grab sample per day. If at any time the Respondent is using grab sampling, the residual disinfectant falls below 0.2 mg/l, Respondent must take a grab sample every 4 hours until the residual disinfectant concentration reaches at least 0.2 mg/l. 40 C.F.R. § 141.74(c)(2). Within 10 days of the end of each month Respondent shall report results to EPA and the State as required by 40 C.F.R. § 141.75(b)(2).

19. At least once every 4 hours that the system provides water to the public, Respondent shall monitor the system's water for turbidity as required by 40 C.F.R. § 141.74(c)(1). Respondent shall report results to the EPA and the State within 10 days following the end of the monitoring period as required by 40 C.F.R. § 141.75(b)(1).

20. Respondent shall monitor for TTHM and HAA5 quarterly as required by 40 C.F.R. § 141.132(b)(1)(i). Respondent shall submit monitoring results for TTHM and HAA5 to EPA and the State within 10 days after the end of each quarter in which samples are collected, as required by 40 C.F.R. § 141.134.

21. Within 30 days of receiving this Order, Respondent shall notify the public of the violations cited in paragraphs 8 through 13, as required by 40 C.F.R. part 141, subpart Q. Thereafter, following any future violation of the drinking water regulations, Respondent shall comply with the applicable public notice provisions of 40 C.F.R. part 141, subpart Q. Within 10 days of providing public notice, Respondent shall submit a copy of the notice to EPA and the State.

22. Respondent shall direct all reporting required by this Order to:

Kimberly Pardue Welch
U.S. EPA Region 8 (8ENF-W)
1595 Wynkoop Street
Denver, CO 80202-1129

AND

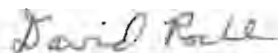
Patti Fauver
UT Dept. of Environmental Quality
P.O. Box 144830
Division of Drinking Water
Salt Lake City, UT 84114-4830

GENERAL PROVISIONS

23. 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.

24. 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 15, 2009.



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



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

Instructions for LT2ESWTR Failure to Conduct Source Water Monitoring (Initial or Second Round) Notice –Template 2-9d

Template on Reverse

A system's failure to conduct an initial or second round of *Cryptosporidium* monitoring by the required date is a monitoring violation that requires Tier 2 notification. 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)). You must issue a repeat notice every three months for as long as the violation persists. Your primacy agency may have more stringent requirements for this monitoring violation; e.g., it may require you to provide water from an alternate source. Check with your agency to make sure you meet all requirements.

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. However, you may wish to modify it before using it for posting. If you do, you must still include all the required elements and leave the health effects language in italics unchanged. This language is mandatory (141.205(d)).

Corrective Action

In your notice, describe corrective actions you are taking. Listed below are some steps commonly taken by water systems with LT2ESWTR monitoring violations. You can use one or more of the following actions, if appropriate, or develop your own:

- We will begin collecting the required source water monitoring samples on [give date].
- We have since taken the required samples for initial monitoring and will begin collecting our second round of sampling on [give date].

Repeat Notices

For repeat notices, you should state how long the violation has been ongoing and remind consumers of when you sent out the previous notice. If you are making progress in installing treatment, describe it. Alternatively, if funding or other issues are delaying installation of treatment, let consumers know.

After Issuing the Violation

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

IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER

Monitoring and Reporting Requirements Not Met for Dutch John

We are required to monitor the source of your drinking water for *E. coli*. Results of the monitoring are to be used to determine whether the Dutch John treatment plant is sufficient to adequately treat the water for *Cryptosporidium*. We are required to start this monitoring and make this determination by October 1, 2008. We did not monitor or test on schedule and, therefore, we may not be able to determine by the required date what treatment modifications, if any, must be made. Missing this deadline may, in turn, jeopardize our ability to have the required treatment modifications, if any, completed by the deadline required.

What should I do?

There is nothing you need to do. You do not need to boil your water or take other corrective actions. You may continue to drink the water. If a situation arises where the water is no longer safe to drink, you will be notified within 24 hours. We will announce any emergencies on [give TV and/or radio stations where they can get additional information].

What does this mean?

This is not an emergency. If it had been, you would have been notified within 24 hours. Some people may be more vulnerable to contaminants in drinking water than the general population. Immuno-compromised persons such as persons with cancer undergoing chemotherapy, persons who have undergone organ transplants, people with HIV/AIDS or other immune system disorders, some elderly, and infants can be particularly at risk from infections. These people should seek advice about drinking water from their health care providers. EPA/CDC guidelines on appropriate means to lessen the risk of infection by *Cryptosporidium* and other microbial contaminants are available from the Safe Drinking Water Hotline (1-800-426-4791).

What is being done?

[Describe corrective action.]

For more information, please contact [provide contact name] at [provide contact phone number] or write to [provide 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 Dutch John. State Water System ID# UTAH05001.
Date distributed: _____

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

AND

Patti Fauver
UT Dept. of Environmental Quality
P.O. Box 144830
Division of Drinking Water
Salt Lake City, UT 84114-4830

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 _____

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

AND

Patti Fauver
UT Dept. of Environmental Quality
P.O. Box 144830
Division of Drinking Water
Salt Lake City, UT 84114-4830

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 Dutch John

Our water system violated several drinking water standards over the past several years. 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 lead and copper during the 2006 - 2008 sampling. We failed to monitor for chlorine residual during the 3rd quarter 2006, 1st quarter 2007, 2nd quarter 2007, 3rd quarter 2007, and 4th quarter 2007. We failed to monitor for turbidity during August 2007, September 2007, October 2007, November 2007, December 2007, and January 2008. And finally, we failed to monitor for disinfection by products during the 4th quarter 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
Lead and Copper	5 samples every three years	2008	
Chlorine residual	At least one grab sample per day	3 rd quarter 2006, 1 st quarter 2007, 2 nd quarter 2007, 3 rd quarter 2007, and 4 th quarter 2007	
Turbidity	At least every 4 hours the system is providing water to public.	August 2007, September 2007, October 2007, November 2007, December 2007, and January 2008	
Disinfection byproducts.	1 sample per quarter	4 th quarter 2008	

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 **Dutch John**

State Water System ID#: **UTAH05001**

Date distributed or dates posted: _____

IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER

Monitoring and Reporting Requirements Not Met for Dutch John

Our water system recently failed to submit a source water monitoring schedule 3 months before the date we were required to begin the monitoring. Although this incident was not an emergency, as our customers, you have a right to know what happened and what we did to correct the situation.

What should I do?

There is nothing you need to do. You do not need to boil your water or take other corrective actions. You may continue to drink the water. If a situation arises where the water is no longer safe to drink, you will be notified within 24 hours. We will announce any emergencies on [include name of channel or radio station].

What was done?

[Describe corrective action.]

We failed to meet the July 1, 2008 deadline for submitting a source water sampling plan. On July 6, 2009, we developed and submitted to the State a monitoring schedule. On July 6, 2009, we began monitoring and reporting as required.

For more information, please contact [provide contact name] at [provide contact phone number] or write to [provide 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 **Dutch John**. State Water System ID# **UTAH05001**.
Date distributed: _____

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

AND

Patti Fauver
UT Dept. of Environmental Quality
P.O. Box 144830
Division of Drinking Water
Salt Lake City, UT 84114-4830

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 _____