



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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Denver, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

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MAR 01 2019

Ref: 8ENF-W-SDW

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ms. Layne Brown, Owner
P.O. Box 2972
Jackson, Wyoming 83001

Re: Administrative Order issued regarding Hoback RV Park Public Water System,
PWS ID #WY5600347, Docket No. **SDWA-08-2019-0011**

Dear Ms. Brown:

Enclosed is an Administrative Order (Order) issued by the U.S. Environmental Protection Agency under the authority of section 1414(g) of the Safe Drinking Water Act, 42 U.S.C. § 300g-3(g). Among other things, the Order alleges that Layne Brown, as owner and/or operator of the Hoback RV Park Public Water System (System), has violated the National Primary Drinking Water Regulations (Drinking Water Regulations) at 40 C.F.R. part 141.

This Order is effective upon the date received. Please review the Order and within 10 days provide the EPA with any information you believe the EPA may not have (for example, any monitoring that may have been done but not submitted, updates to the number of connections and/or individuals served). If the EPA does not hear from you, the EPA will assume the information in the Order is correct.

If you comply with the Order, the 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.

Please be aware that you are required to submit to the EPA a plan and schedule for bringing the System into compliance with the Drinking Water Regulations. The EPA's approval of your schedule does not substitute for any other approval that may be required by any other governmental entity for modifying the System. The EPA encourages you to contact any such governmental agency or agencies regarding any applicable approval requirements.

You are required to notify the public quarterly by completing a public notice (PN) until the nitrate maximum contaminant level violation is resolved. Please submit a copy of the completed PN to the EPA each quarter.

To submit information or request an informal conference with the EPA, please contact Christina Carballal at the above address (with the mail code 8ENF-W-SDW), via email at carballal-broome.christina@epa.gov, or by phone at (800) 227-8917, extension 6046 or (303) 312-6046. Any questions from your attorney should be directed to Mia Bearley, Enforcement Attorney, who may be reached at the above address (with the mail code 8ENF-L), via email at bearley.mia@epa.gov, or by phone at (800) 227-8917, extension 6554 or (303) 312-6554.

We urge your prompt attention to this matter.

Sincerely,



Aaron Urdiales, Acting Director
Water Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosures

cc: WY DEQ/ DOH (via email)
Melissa Haniewicz, EPA Regional Hearing Clerk
Teton County Commissioner (mnewcomb@tetonwyo.org)
Christopher Brown w/ WY DEQ, UIC Program (Christopher.Brown@wyo.gov)
Layne and Norris Brown (scpbrown03@yahoo.com)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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HEARING CLERK

IN THE MATTER OF: _____)
)
Layne Brown)
Hoback RV Park Public Water System)
WY5600347)
)
Respondent. _____)

Docket No. **SDWA-08-2019-0011**

ADMINISTRATIVE ORDER

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 (Act), 42 U.S.C. § 300g-3(g), as properly delegated to the undersigned officials.
2. Layne Brown (Respondent) is an individual who owns and/or operates the Hoback RV Park Public Water System (System), which provides piped water to the public in Teton County, Wyoming, for human consumption.
3. The System is supplied by a groundwater source accessed via two wells and is operated year-round. The System's water is treated by chlorination.
4. The System has approximately 25 service connections and regularly serves an average of approximately 50 individuals at least 60 days of the year. Therefore, the System is a "public water system" as defined in section 1401(4) of the Act, 42 U.S.C. § 300f(4), and 40 C.F.R. § 141.2. The System is also a "transient, non-community water system" as defined in 40 C.F.R. § 141.2.
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 section 1414(i) of the Act, 42 U.S.C. § 300g-3(i).

VIOLATIONS

6. The maximum contaminant level (MCL) for nitrate is 10 milligrams per liter (mg/l), to be based on the average of an initial and a confirmation sample. 40 C.F.R. §§ 141.23(f)(2) and (3) and 141.62(b). The initial sample taken February 5, 2019, was 13.4 mg/l and the confirmation sample taken February 19, 2019, was 15.8 mg/l. The average of the initial sample and the confirmation sample is 14.6 mg/l, and, therefore, Respondent violated the nitrate MCL.
7. Respondent is required to notify the public of certain violations of the Drinking Water Regulations and, within 10 days after completing public notice, provide a copy of the public notice to the EPA. 40 C.F.R. §§ 141.201-141.211. Respondent failed to notify the public of the violation cited in paragraph 6 and/or failed to submit a copy to the 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):

8. Within 30 days after receipt of this Order, Respondent shall submit to the EPA a proposed plan and schedule to bring the System into consistent compliance with the nitrate MCL in 40 C.F.R. § 141.62(b). The plan shall include proposed modifications to the System, estimated costs of the modifications, and a schedule for completion of the project and compliance with the nitrate MCL. The proposed schedule shall include specific milestone dates and a final compliance date (to be within 6 months of the date of the project start date). The schedule must be approved by the EPA before construction or modifications can begin.
9. Within 24 hours after receipt of this Order, Respondent shall notify the public of the violation cited in paragraph 6, above. Templates and instructions are available at: <https://www.epa.gov/region8-waterops/reporting-forms-drinking-water-systems-wyoming-and-tribal-lands-epa-region-8#pn>. Within 10 days after providing public notice, Respondent shall submit a copy of the notice to the EPA. Thereafter, following any future violation of the Drinking Water Regulations, Respondent shall comply with any applicable public notice provisions of 40 C.F.R. part 141, subpart Q.
10. The schedule required by paragraph 8, above, will be incorporated into this Order as an enforceable requirement upon written approval by the EPA.
11. Within 30 days after receipt of the EPA's approval of the schedule required by paragraph 8, above, Respondent shall begin to provide the EPA with quarterly reports on the progress made toward bringing the System into compliance with 40 C.F.R. § 141.62(b). Each quarterly report is due by the 10th day of the month following the end of the relevant quarter.
12. Within 10 days after completing all tasks included in the schedule required by paragraph 8 above, Respondent shall notify the EPA of the project's completion.
13. The System shall achieve and maintain compliance with the nitrate MCL by the final date specified in the EPA-approved schedule. If implementation of the plan fails to achieve permanent compliance, the EPA may order further steps and/or seek penalties for noncompliance.
14. For any future violation of the Drinking Water Regulations for which this Order does not specify a reporting period, Respondent shall report the violation to the EPA within 48 hours of the violation occurring, as required by 40 C.F.R. § 141.31(b). However, if the Drinking Water Regulations specify a different time period for reporting the particular violation, Respondent shall report the violation to the EPA within that different period.

15. This Order shall be binding on Respondent and his successors, assigns, and any person (e.g., employee, contractor or other agent) acting in concert with Respondent.

16. If Respondent (a) leases or sells the System to another person or entity, or (b) contracts with or hires any other person or entity to operate the System, Respondent shall, within ten days, provide a copy of this Order to the lessee, purchaser, or contractor and notify the EPA in writing of the change. Respondent shall remain obligated to comply with this Order even if Respondent leases or sells the System to another person or entity or contracts with or hires another person or entity to operate the System.

17. Respondent shall send all reporting and notifications required by this Order to the EPA via email to both:

R8DWU@epa.gov and Carballal-broome.christina@epa.gov

GENERAL PROVISIONS

18. This Order shall not constitute a waiver, suspension or modification of any requirement of the Act or the Drinking Water Regulations. Issuance of this Order is not an election by the EPA to forgo any civil or criminal action.

19. Violation of any part of this Order or the Drinking Water Regulations may subject Respondent to a civil penalty of up to \$57,317 (as adjusted for inflation) per day of violation. 42 U.S.C. § 300g-3; 40 C.F.R. part 19; 84 Fed. Reg. 2059 (February 6, 2019).

20. Respondent may seek federal judicial review of this Order pursuant to section 1448(a) of the Act, 42 U.S.C. § 300j-7(a).

Issued: March 1st, 2019.



Amy Swanson, Supervisory Attorney
Regulatory Enforcement Unit
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice



Aaron Urdiales, Acting Director
Water Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Instructions for Nitrate MCL Exceedance Notice – Template 1-1

Template on Reverse

Since exceeding the nitrate maximum contaminant level is a Tier 1 violation, 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 primacy agency. You should also coordinate with your local health department. This template is also applicable to nitrite and total nitrate and nitrite violations. You must use one or more of the following methods to deliver the notice to consumers [40 CFR 141.202(c)]:

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

You may need to use additional methods (e.g., newspaper, delivery of multiple copies to hospitals, clinics, or apartment buildings), since notice must be provided in a manner reasonably calculated to reach all persons served. If you post or hand deliver, print your notice on your system's letterhead, if available.

The notice on the reverse provides suggested public notice content and format and is appropriate for hand delivery or for publication in a newspaper. However, you may wish to modify it before using it for a radio or TV broadcast. If you do modify the notice on the reverse, 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 and with an asterisk on either end.

You must also include standard language to encourage the distribution of the public notice to all persons served, where applicable [40 CFR 141.205(d)]. This language is also presented in this notice in italics and with an asterisk on either end.

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 (FDA) and/or state bottled water safety standards.

Repeat Notices

If this is a repeat notice (as required by your primacy agency), or if your system's nitrate levels fluctuate around the MCL, you may wish to include an explanation similar to the following:

You were initially notified of high nitrate levels on [give date]. Since that time we have been monitoring the nitrate concentration every three months. Seasonal fluctuations in nitrate concentrations have been observed, due to nitrates contained in fertilizer. It appears that high nitrates occur during the later summer and fall. Note that prior to [give year] we were meeting drinking water standards for nitrate.

Corrective Action

In your notice, describe corrective actions you are taking. The bullet below describes one action commonly taken by water systems with nitrate/nitrite violations. You can use the following language, if appropriate, or develop your own:

- We are investigating water treatment and other options. These may include drilling a new well, mixing the water with low-nitrate water from another source, or buying water from another water system.

After Issuing the Notice

Send this copy and certification to EPA Region 8 within ten days from the time you issue the notice (141.31(d)) to the enforcement case manager and R8DWU@epa.gov. If you have questions about your Nitrate Rule violation, please call the Nitrate Rule Manager at 1-800-277-8917.

You should notify health professionals in the area of the violation. People may call their doctors with questions, and the doctors should have the information they need to respond appropriately. They also need to make sure the water is not provided to infants in their care.

It is also a good idea to issue a "problem corrected" notice when the violation is resolved. See Template 1-6.

Nitrate Maximum Contaminant Level Exceedance Notice

DRINKING WATER WARNING

_____ water has high levels of nitrate
(Insert Public Water System Name)

**DO NOT GIVE THE WATER TO INFANTS UNDER 6 MONTHS OLD OR
USE IT TO MAKE INFANT FORMULA**

On (insert date) _____, we received notice that the sample collected on (insert date) _____ showed nitrate levels of (insert result in mg/L) _____. This is above the federal nitrate maximum contaminant level (MCL). Nitrate in drinking water is a serious health concern for infants less than six months old.

Nitrate in drinking water can come from natural, industrial, or agricultural sources (including septic systems and run-off). Levels of nitrate in drinking water can vary throughout the year.

What should I do? What does this mean?

- **DO NOT GIVE THE WATER TO INFANTS.** **Infants below the age of six months who drink water containing nitrate in excess of the MCL could become seriously ill and, if untreated, may die. Symptoms include shortness of breath and blue baby syndrome.** Blue baby syndrome is indicated by blueness of the skin. Symptoms in infants can develop rapidly, with health deteriorating over a period of days. If symptoms occur, seek medical attention immediately.
- Water, juice, and formula for children under six months of age should not be prepared with tap water. Bottled water or other water low in nitrates should be used for infants until further notice.
- **DO NOT BOIL THE WATER.** Boiling, freezing, filtering, or letting water stand does not reduce the nitrate level. Excessive boiling can make the nitrates more concentrated, because nitrates remain behind when the water evaporates.
- Adults and children older than six months can drink the tap water (nitrate is a concern for infants because they can't process nitrates in the same way adults can). However, if you are pregnant or have specific health concerns, you may wish to consult your doctor.

What is being done?

(Describe corrective action and when system expects to return to compliance.) _____

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 Name) _____
Public Water System ID#: _____
Date distributed: _____

U.S. EPA Small Business Resources Information Sheet

The United States Environmental Protection Agency provides an array of resources to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

Office of Small and Disadvantaged Business Utilization (OSDBU)

www.epa.gov/aboutepa/about-office-small-and-disadvantaged-business-utilization-osdbu

EPA's OSDBU advocates and advances business, regulatory, and environmental compliance concerns of small and socio-economically disadvantaged businesses.

EPA's Asbestos Small Business Ombudsman (ASBO)

www.epa.gov/resources-small-businesses/asbestos-small-business-ombudsman or 1-800-368-5888

The EPA ASBO serves as a conduit for small businesses to access EPA and facilitates communications between the small business community and the Agency.

Small Business Environmental Assistance Program

<https://nationalsbeap.org>

This program provides a "one-stop shop" for small businesses and assistance providers seeking information on a wide range of environmental topics and state-specific environmental compliance assistance resources.

EPA's Compliance Assistance Homepage

www.epa.gov/compliance

This page is a gateway to industry and statute-specific environmental resources, from extensive web-based information to hotlines and compliance assistance specialists.

Compliance Assistance Centers

www.complianceassistance.net

EPA sponsored Compliance Assistance Centers provide information targeted to industries with many small businesses. They were developed in partnership with industry, universities and other federal and state agencies.

Agriculture

www.epa.gov/agriculture

Automotive Recycling

www.ecarcenter.org

Automotive Service and Repair

www.ccar-greenlink.org or 1-888-GRN-LINK

Chemical Manufacturing

www.chemalliance.org

Construction

www.cicacenter.org

Education

www.campuserc.org

Food Processing

www.fpeac.org

Healthcare

www.hercenter.org

Local Government

www.lgean.org

Surface Finishing

<http://www.sterc.org>

Paints and Coatings

www.paintcenter.org

Printing

www.pneac.org

Ports

www.portcompliance.org

Transportation

www.tercenter.org

U.S. Border Compliance and Import/Export Issues

www.bordercenter.org

EPA Hotlines and Clearinghouses

www.epa.gov/home/epa-hotlines

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Examples include:

Clean Air Technology Center (CATC) Info-line

www.epa.gov/catc or 1-919-541-0800

Superfund, TRI, EPCRA, RMP, and Oil Information Center

1-800-424-9346

EPA Imported Vehicles and Engines Public Helpline

www.epa.gov/otaq/imports or 1-734-214-4100

National Pesticide Information Center

www.npic.orst.edu or 1-800-858-7378

National Response Center Hotline to report oil and hazardous substance spills - <http://nrc.uscg.mil> or 1-800-424-8802

Pollution Prevention Information Clearinghouse (PPIC) -

www.epa.gov/p2/pollution-prevention-resources#ppic or 1-202-566-0799

Safe Drinking Water Hotline -

www.epa.gov/ground-water-and-drinking-water/safe-drinking-water-hotline or 1-800-426-4791

Toxic Substances Control Act (TSCA) Hotline

tsc hotline@epa.gov or 1-202-554-1404

Small Entity Compliance Guides

<https://www.epa.gov/reg-flex/small-entity-compliance-guides>

EPA publishes a Small Entity Compliance Guide (SECG) for every rule for which the Agency has prepared a final regulatory flexibility analysis, in accordance with Section 604 of the Regulatory Flexibility Act (RFA).

Regional Small Business Liaisons

www.epa.gov/resources-small-businesses/epa-regional-office-small-business-liaisons

The U.S. Environmental Protection Agency (EPA) Regional Small Business Liaison (RSBL) is the primary regional contact and often the expert on small business assistance, advocacy, and outreach. The RSBL is the regional voice for the EPA Asbestos and Small Business Ombudsman (ASBO).

State Resource Locators

www.envcap.org/statetools

The Locators provide state-specific contacts, regulations and resources covering the major environmental laws.

State Small Business Environmental Assistance Programs (SBEAPs)

<https://nationalsbeap.org/states/list>

State SBEAPs help small businesses and assistance providers understand environmental requirements and sustainable business practices through workshops, trainings and site visits.

EPA's Tribal Portal

www.epa.gov/tribalportal

The Portal helps users locate tribal-related information within EPA and other federal agencies.

EPA Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated, businesses may be eligible for penalty waivers or reductions. EPA has two such policies that may apply to small businesses:

EPA's Small Business Compliance Policy

www.epa.gov/enforcement/small-businesses-and-enforcement

EPA's Audit Policy

www.epa.gov/compliance/epas-audit-policy

Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established a SBREFA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System designation, number of employees or annual receipts, as defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247).

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

Your Duty to Comply

If you receive compliance assistance or submit a comment to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.