



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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

2009 MAR - 9 10:51

RECEIVED
MAR 9 2009

Ref: 8ENF-W

MAR - 9 2009

CERTIFIED MAIL LETTER
RETURN RECEIPT REQUESTED

Sublette County Commissioners
c/o Bill Cramer, Chairman
P.O. Box 250
Pinedale, WY 82941

Re: Notice of Safe Drinking Water Act
Enforcement Action against
Sylvan Bay Homeowners Association
PWS ID#WY5601111

Dear County 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.

An Administrative Order is being issued to the Sylvan Bay Homeowners Association, located in Pinedale, Wyoming. This Order requires that the Sylvan Bay Homeowners Association take measures to return its public water system to compliance with the SDWA and the National Primary Drinking Water Regulations (NPDWRs). These violations include: exceeding the maximum contaminant level for total coliform bacteria, failure to monitor for total coliform, and failure to provide public notice of the violations.

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 Shawn McCaffrey at (303) 312-6515.

Sincerely,

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

Enclosure



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MAR - 9 2009

Ref: 8ENF-W

CERTIFIED MAIL LETTER
RETURN RECEIPT REQUESTED

James Shepherd, President
Sylvan Bay Homeowners Association
238 Venenzio Lane
Centerville, UT 84014

Re: Administrative Order
Docket No. **SWA-08-2009-0037**
Sylvan Bay Homeowners Association
PWS ID #WY5601111

Dear Mr. Shepherd:

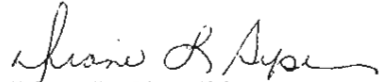
Enclosed is an Administrative Order issued by the Environmental Protection Agency (EPA) under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. §§ 300f et seq. Among other things, the Order describes how Sylvan Bay Homeowners Association violated the National Primary Drinking Water Regulations.

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 Sylvan Bay Homeowners Association 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.

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. For legal questions, the attorney assigned to this matter is Peggy Livingston, who can 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

cc: Kirk Shepherd, Operator
Craig Turlock, District Ranger, Pinedale Ranger District
WY DEQ (via email)
WY DOH (via email)
Tina Artemis, EPA Regional Hearing Clerk

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2009 MAR -9 AM 9:01

IN THE MATTER OF)
)
Sylvan Bay Homeowners Association)
Pinedale, Wyoming)
)
Respondent)

ADMINISTRATIVE ORDER

Docket No. **SDWA-08-2009-0037**

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. Sylvan Bay Homeowners Association (Respondent) is an association that owns and/or operates the Sylvan Bay Water System (the system) located in the Bridger-Teton National Forest in Sublette County, Wyoming which provides piped water to the public for human consumption. The system is supplied by a groundwater source consisting of a spring, is not treated, and serves approximately 25 people during the summer months (May – September) through 45 service connections. The system is a “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, during both 2nd (April – June) and 3rd (July – September) quarters of each year to determine compliance with the maximum contaminant level (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 during September 2008 exceeded the MCL for total coliform bacteria and, therefore, violated this requirement.

4. Respondent is required to monitor the system’s water at least once per quarter, during both the 2nd and 3rd quarters of each year to determine compliance with the 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 2006, and, therefore, violated this requirement.

5. Respondent is required to collect a set of four repeat samples within 24 hours of being notified of a total coliform positive routine sample. 40 C.F.R. § 141.21(b). Respondent failed to collect a set of repeat samples after the total coliform positive routine samples in September of 2007 and September of 2008 and, therefore, violated this requirement.

6. The drinking water regulations require public water systems that collect fewer than 5 routine samples per month and have one or more total coliform positive samples to collect at least 5 routine samples during the next month, or the first subsequent month in which they provide water to the public. 40 C.F.R. § 141.21(b)(5). Respondent failed to collect at least 5 routine samples following the September 2007 total coliform positive sample 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 3, 4, 5, and 6 above, and, therefore, violated this requirement. Public notice for the September 2008 violation in paragraph 5 is not yet past due.

8. Respondent is required to report any total coliform MCL violation 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 3 above and, therefore, violated this requirement.

9. Respondent is required to report any failure to comply with a total coliform monitoring requirement to the EPA within ten days after the system learned of the violation. 40 C.F.R. § 141.21(g)(2). Respondent failed to report to the EPA the failure to monitor total coliform violations listed in paragraphs 4, 5, and 6 above, and, therefore, violated this requirement.

10. Respondent is required to report any failure to comply with any of the drinking water regulations (except where a different reporting period is specified in the regulations, including those cited in paragraphs 8 and 9 above) to EPA within 48 hours. 40 C.F.R. § 141.31(b). Respondent failed to report the public notice 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:

11. Upon receipt of this Order, Respondent shall comply with the total coliform MCL. 40 C.F.R. § 141.63(a)(2). Any violation of this MCL shall be reported to EPA by the end of the next business day after Respondent learns of it. 40 C.F.R. § 141.21(g)(1).

12. If the system has a total coliform MCL while this Order is in effect, Respondent shall submit to EPA, within 30 days of the MCL violation, a compliance plan and schedule for bringing the system into compliance with the MCL for coliform bacteria. 40 C.F.R. § 141.63. 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 (to be within 180 days from the first MCL violation after this Order). The plan and schedule must be approved by EPA before construction or modifications can commence. 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 can be made to the system.

13. The plan and schedule required by paragraph 12, above, will be incorporated into this Order as enforceable requirements upon written approval by EPA.

14. If plans are required as stated in paragraph 12 above, Respondent shall notify EPA within 10 days of completion of the project.

15. Respondent must achieve and maintain compliance with the total coliform MCL by the final date specified in the approved plan and schedule required by paragraph 12 above. Respondent must meet that deadline even if the plan as approved does not achieve compliance. If the plan fails to achieve compliance, EPA may order further steps and/or seek penalties for noncompliance.

16. Upon receipt of this Order, Respondent shall monitor at least once per quarter, during both the 2nd and 3rd quarters of each year, for total coliform bacteria. 40 C.F.R. § 141.21. Any violation of total coliform monitoring requirements shall be reported to EPA within 10 days after the Respondent learns of it. 40 C.F.R. § 141.21(g)(2).

17. Upon receipt of this Order, Respondent shall comply with all total coliform repeat sampling requirements. 40 C.F.R. § 141.21(b). This requires that Respondent take no fewer than four repeat total coliform bacteria samples within 24 hours of being notified of a total coliform positive routine sample.

18. Upon receipt of this Order, Respondent shall comply with all total coliform 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 in which it provides water to the public after having one or more total coliform positive samples. Respondent must collect 5 additional routine samples within 30 days of opening for the 2009 season.

19. Within 30 days of opening for the season in May 2009, Respondent shall provide notice to the public of the violations listed in paragraphs 3, 4, 5, and 6 above by (1) posting the notice for as long as the violations persist, but no less than seven days in public locations where it can be seen by people served in the system OR (2) mailing or delivering the notice to each customer and connection, AND (3) any other effective method if people would not be notified by either of the first two notice options. 40 C.F.R. § 141.201 *et seq.* Respondent shall notify the public of any future violations. Respondent shall send a copy of the notice to EPA within 10 days after providing the notice.

20. Upon the effective date of this Order, Respondent shall report all analytical results to EPA within the first 10 days following the month in which sample results are received, or within the first 10 days following the end of the monitoring period, whichever is shortest. 40 C.F.R. § 141.31(a).

21. Reporting requirements specified in this Order shall be provided by certified mail to:

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

GENERAL PROVISIONS

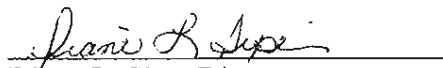
22. This Order does not constitute a waiver, suspension, or modification of any requirement of the Act or drinking water regulations. Issuance of this Order is not an election by EPA to forgo any civil or criminal action.

23. 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.

Issued this 5th day of March, 2009.



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