

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

2014 SEP -5 AM 9:59

IN THE MATTER OF: )

Western Cooperative Company )

Respondent. )

Docket No. SDWA-08-2014-0039

**ADMINISTRATIVE ORDER**

RECEIVED REGION VIII  
NEPA/MDL CLEAR

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. Western Cooperative Company (Respondent) is a corporation registered in Wyoming and Nebraska that owns and/or operates the Frontier Mart Public Water System (System), which provides piped water to the public in Goshen County, Wyoming, for human consumption.
3. The System is supplied by a groundwater source consisting of one well; the water is not treated.
4. The System has approximately 1 service connection and/or regularly serves an average of approximately 140 individuals daily at least 60 days out 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).
6. The Drinking Water Regulations include monitoring requirements. The EPA has sent the System annual notifications of the specific monitoring requirements that apply to the System.

**VIOLATIONS**

7. If any sample of the System's water has a nitrate concentration of at least five milligrams per liter (mg/l), Respondent is required to monitor quarterly for nitrate. 40 C.F.R. § 141.23(d)(2). Although nitrate in the System's water exceeded 5 mg/L in two separate samples collected on January 2, 2013, and January 10, 2013, and the EPA advised Respondent of revised nitrate monitoring requirements via email on June 19, 2013, the Respondent failed to monitor the System's water for nitrate during the 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> quarters of 2013, and during the 1<sup>st</sup> quarter of 2014, and, therefore, violated this requirement.
8. The maximum contaminant level (MCL) for nitrate is 10 mg/l, with compliance to be based on the average of an initial and a confirmation sample. 40 C.F.R. § 141.23(f) and § 141.62(b). The average of nitrate samples during the 2<sup>nd</sup> quarter of 2014 exceeded 10 mg/l, and, therefore, Respondent violated the nitrate MCL.

9. Respondent is required to notify the public of certain violations of the Drinking Water Regulations. 40 C.F.R. §§ 141.201-141.211. Respondent failed to notify the public of the 2<sup>nd</sup> quarter 2014 violation cited in paragraph 8, above, and, therefore, violated this requirement. Public notice for the 3<sup>rd</sup> and 4<sup>th</sup> quarter 2013 and 1<sup>st</sup> quarter 2014 violations cited in paragraph 7 are due no later than one year after the Respondent learned of the violations.

10. Respondent is required to report any failure to comply with any Drinking Water Regulation to the EPA within 48 hours (except where the Drinking Water Regulations specify a different time period). 40 C.F.R. § 141.31(b). Respondent failed to report the violations cited in paragraph 7, above, 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):

11. Respondent shall monitor the System's water for nitrate within 30 days after the date of this Order and quarterly thereafter until notified by the EPA in writing of a different monitoring schedule. 40 C.F.R. § 141.23(d). Respondent shall report analytical results to the EPA within the first 10 days following the month in which sample results are received. 40 C.F.R. § 141.31(a). Respondent shall report any violation of the nitrate monitoring requirements to the EPA within 48 hours of the violation occurring, as required by 40 C.F.R. § 141.31(b).

12. Within 30 days after receipt of this Order, Respondent shall provide the EPA with a plan and schedule for Respondent to come into 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 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 from the date of the EPA's approval of the plan and schedule). The plan and schedule must be approved by the EPA before construction or modifications can begin.

13. The schedule required by paragraph 12, above, shall be incorporated into this Order as an enforceable requirement upon written approval by the EPA.

14. Within 30 days after receipt of the EPA's approval of the schedule required by paragraph 12, above, Respondent shall provide the EPA with quarterly reports on the progress made toward bringing the System into compliance with the nitrate MCL. Each quarterly report is due by the 10<sup>th</sup> day of the month following the relevant quarter.



15. Within 10 days after completing all tasks included in the schedule required by paragraph 12, above, Respondent shall notify the EPA of the project's completion.

16. The System shall achieve compliance with the nitrate MCL by the final compliance deadline specified in the EPA-approved schedule. If the Respondent's plan fails to achieve permanent compliance, the EPA may order further steps and/or seek penalties for noncompliance.

17. Within 30 days after receipt of this Order, Respondent shall notify the public of the violations cited in paragraphs 7 and 8, above, following the instructions provided with the public notice templates enclosed with this Order. 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. Within 10 days after providing public notice, Respondent shall submit a copy of the notice to the EPA.

18. Respondent shall report any violation of the Drinking Water Regulations to the EPA within 48 hours of the violation occurring, as required by 40 C.F.R. § 141.31(b). However, if a different time period for reporting is specified in this Order or the Drinking Water Regulations, Respondent shall report within that different period.

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

20. 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, no later than the date of such lease, sale, or other contract, provide a copy of this Order to the lessee, purchaser, or contractor. No later than 10 days thereafter, Respondent shall notify the EPA in writing of the lease, sale, or other contract, with such notification to include the name and contact information of the person who has leased, bought, or contracted to operate the System. Respondent shall remain obligated to comply with this Order even if Respondent leases the System to another person or entity or hires another person or entity to operate the System.

21. Respondent shall send all reporting and notifications required by this Order in writing to:

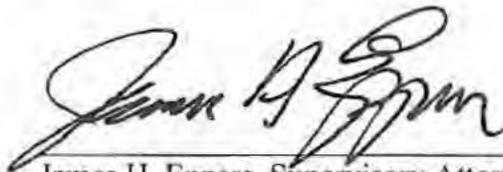
U.S. EPA Region 8 (8P-W-DW)  
1595 Wynkoop  
Denver, Colorado 80202-1129



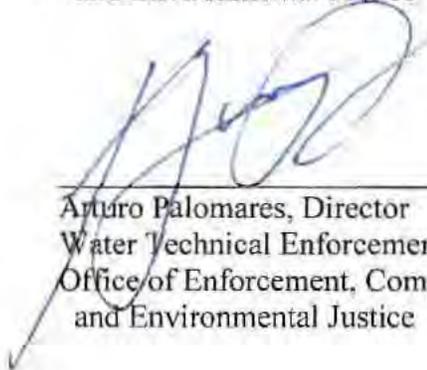
**GENERAL PROVISIONS**

22. 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.
23. 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.
24. Respondent may seek federal judicial review of this Order pursuant to section 1448(a) of the Safe Drinking Water Act, 42 U.S.C. § 300j-7(a).
25. This Order is effective upon receipt by Respondent and will continue to be in effect until closed by the EPA.

Issued: September 5, 2014.



James H. Eppers, 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



## Template on Reverse

Since exceeding the nitrate maximum contaminant level of 10 mg/l requires 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. This template can also be used for 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)]:

- 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 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.

### **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, you may wish to include an explanation similar to the following:

As you may recall, on [give date], you were also notified of high nitrate levels that occurred during the [give quarter e.g., first, second, third or fourth] of the year. Since that time the water system has been monitoring the nitrate concentration every three months. Seasonal fluctuations in nitrate concentrations have been observed due to nitrates contained in fertilizer. It appears the high nitrates occur during the later summer and fall. Note that previous tests prior to [give year] show that we were meeting drinking water standards for nitrate.

### **Corrective Action**

In your notice, describe corrective actions you are taking. Listed below is some sample language describing steps 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 or mixing the water with low-nitrate water from another source.

### **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.

## DRINKING WATER WARNING

### FOR PARENTS OF INFANTS 6 MONTHS AND YOUNGER

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

**High nitrate levels were detected on April 17, 2014.**

**Bottled water should be used for infants. [We are providing bottled water for infants and their families at \_\_\_\_\_].**

**Adults and children older than 6 months can drink the water.**

On April 17, 2014, we received notice that the sample collected on April 2, 2014, showed a nitrate concentration in the drinking water of 12.4 milligrams/liter (mg/l). This is above the nitrate standard, or maximum contaminant level, of 10 mg/l.

### **Possible Health Effects**

*\*Infants below the age of six months who drink water containing nitrate in excess of the maximum contaminant level 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. Nitrate is a concern for infants because they can't process nitrates in the same way adults can.

Symptoms in infants can develop rapidly, with health deteriorating over a period of days. If symptoms occur in a child less than 6 months old, seek medical attention immediately. If you are pregnant or have specific health concerns, you may wish to consult your doctor.

### **Steps We Are Taking**

[Describe corrective action.]

We anticipate resolving the problem within [estimated time frame]. We will inform you when this problem has been corrected. 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 Frontier Mart. State Water System ID#: WY5601419.

Date distributed: \_\_\_\_\_.

## DRINKING WATER NOTICE

### Monitoring Requirements Not Met for Frontier Mart

We violated a drinking water requirement. Even though this is not an emergency, as our customers, you have the right to know what happened and what we are doing to correct this situation.

*\*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. During the 2<sup>nd</sup> (April – June), 3<sup>rd</sup> (July – September), and 4<sup>th</sup> (October – December) quarters of 2013 and the 1<sup>st</sup> quarter (January – March) of 2014 we did not monitor for nitrate and therefore cannot be sure of the quality of our drinking water during that time.\**

#### What This Means

There is nothing you need to do at this time. The table below lists the contaminant(s) we did not properly test for, how often we are supposed to sample (frequency) 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	Number of samples taken	When samples should have been taken	When samples were (or will be) taken
Nitrate	One sample quarterly	0	2 <sup>nd</sup> , 3 <sup>rd</sup> and 4 <sup>th</sup> quarters (2013) and 1 <sup>st</sup> quarter (2014)	April 2, 2014

#### Steps We Are Taking

[Describe corrective action.]

For more information, please contact Brent Fullmer of Western Cooperative Company at 308-760-3112 or P.O. Box H, Alliance, NE 69301.

*\*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 the Frontier Mart Public Water System.

State Water System ID#: WY5601419.

Date distributed: \_\_\_\_\_.

## U.S. EPA Small Business Resources Information Sheet

The United States Environmental Protection Agency provides an array of resources, including workshops, training sessions, hotlines, websites and guides, 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.

### EPA's Small Business Websites

Small Business Environmental Homepage - [www.smallbiz-enviroweb.org](http://www.smallbiz-enviroweb.org)

Small Business Gateway - [www.epa.gov/smallbusiness](http://www.epa.gov/smallbusiness)

EPA's Small Business Ombudsman - [www.epa.gov/sbo](http://www.epa.gov/sbo) or 1-800-368-5888

### EPA's Compliance Assistance Homepage

[www.epa.gov/compliance/assistance/  
business.html](http://www.epa.gov/compliance/assistance/business.html)

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

### EPA's Compliance Assistance Centers

[www.assistancecenters.net](http://www.assistancecenters.net)

EPA's 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/](http://www.epa.gov/agriculture/)

### Automotive Recycling

[www.ecarcenter.org](http://www.ecarcenter.org)

### Automotive Service and Repair

[www.ccar-greenlink.org](http://www.ccar-greenlink.org) or 1-888-GRN-LINK

### Chemical Manufacturing

[www.chemalliance.org](http://www.chemalliance.org)

### Construction

[www.cicacenter.org](http://www.cicacenter.org) or 1-734-995-4911

### Education

[www.campuserc.org](http://www.campuserc.org)

### Food Processing

[www.fpeac.org](http://www.fpeac.org)

### Healthcare

[www.hercenter.org](http://www.hercenter.org)

### Local Government

[www.lgean.org](http://www.lgean.org)

### Metal Finishing

[www.nmfrc.org](http://www.nmfrc.org)

### Paints and Coatings

[www.paintcenter.org](http://www.paintcenter.org)

### Printed Wiring Board Manufacturing

[www.pwbrc.org](http://www.pwbrc.org)

### Printing

[www.pneac.org](http://www.pneac.org)

### Ports

[www.portcompliance.org](http://www.portcompliance.org)

### U.S. Border Compliance and Import/Export Issues

[www.bordercenter.org](http://www.bordercenter.org)

### Hotlines, Helplines and Clearinghouses

[www.epa.gov/epahome/hotline.htm](http://www.epa.gov/epahome/hotline.htm)

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Some examples are:

### Antimicrobial Information Hotline

[info-antimicrobial@epa.gov](mailto:info-antimicrobial@epa.gov) or  
1-703-308-6411

### Clean Air Technology Center (CATC) Info-line

[www.epa.gov/ttn/catc](http://www.epa.gov/ttn/catc) or 1-919-541-0800

### Emergency Planning and Community Right-To-Know Act

[www.epa.gov/superfund/resources/  
infocenter/epcra.htm](http://www.epa.gov/superfund/resources/infocenter/epcra.htm) or 1-800-424-9346

### EPA Imported Vehicles and Engines Public Helpline

[www.epa.gov/otaq/imports](http://www.epa.gov/otaq/imports) or  
734-214-4100

### National Pesticide Information Center

[www.npic.orst.edu/](http://www.npic.orst.edu/) or 1-800-858-7378

### National Response Center Hotline -

to report oil and hazardous substance spills  
[www.nrc.uscg.mil](http://www.nrc.uscg.mil) or 1-800-424-8802

### Pollution Prevention Information Clearinghouse (PPIC)

[www.epa.gov/opptintr/ppic](http://www.epa.gov/opptintr/ppic) or  
1-202-566-0799

### Safe Drinking Water Hotline

[www.epa.gov/safewater/hotline/index.  
html](http://www.epa.gov/safewater/hotline/index.html) or 1-800-426-4791

### Stratospheric Ozone Protection Hotline

[www.epa.gov/ozone](http://www.epa.gov/ozone) or 1-800-296-1996

## Toxic Substances Control Act (TSCA) Hotline

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

## Wetlands Information Helpline

www.epa.gov/owow/wetlands/wetline.html or 1-800-832-7828

## State and Tribal Web-Based Resources

### 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)

www.smallbiz-enviroweb.org

State SBEAPs help small businesses and assistance providers understand environmental requirements and sustainable business practices through workshops, trainings and site visits. The website is a central point for sharing resources between EPA and states.

### EPA's Tribal Compliance Assistance Center

www.epa.gov/tribalcompliance/index.html

The Center provides material to Tribes on environmental stewardship and regulations that might apply to tribal government operations.

### 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/compliance/incentives/smallbusiness/index.html

This Policy offers small businesses special incentives to come into compliance voluntarily.

#### EPA's Audit Policy

www.epa.gov/compliance/incentives/auditing/auditpolicy.html

The Policy provides incentives to all businesses that voluntarily discover, promptly disclose and expeditiously correct their noncompliance.

### 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), or go to their website at [www.sba.gov/ombudsman](http://www.sba.gov/ombudsman).

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's action 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 comment 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 action or communications. The assistance information and commercial processes do not give you any new rights or defenses in an 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 where 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.*