



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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

SEP 19 2013

Ref: 8ENF-W

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Rosemarie Johanna Milligan, Registered Agent
Dreaming Tree, LLC
1223 N. Highway 40
Heber, UT 84032

Re: Administrative Order
The Other End Public Water System
Docket No. SDWA-08-2013-0038
PWS ID # UTAH26050

Dear Ms. Milligan:

Enclosed is an Administrative Order (Order) issued by the U.S. Environmental Protection Agency (EPA) 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 Dreaming Tree, LLC (LLC), as owner and/or operator of The Other End public water system (System), has violated the National Primary Drinking Water Regulations at 40 C.F.R. part 141 (Drinking Water Regulations).

The 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 (e.g., any monitoring that may have been done but not submitted, any updates to the numbers of connections and/or individuals served, etc.). If the EPA does not hear from the LLC, the EPA will assume this information is correct.

If the LLC complies 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.

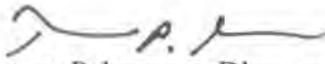
The Order requires the LLC to notify the public of having violated the Drinking Water Regulations. Enclosed please find a public notice template explaining the public notice requirements in more detail.

To submit information or to request an informal conference with the EPA, please contact Kathelene Brainich at the above address (with the mailcode 8ENF-W) or by phone at (800) 227-8917, extension 6481 or (303) 312-6481. Any questions from the LLC'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 6554 or (303) 312-6554.

We urge your prompt attention to this matter.

Sincerely,


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

Enclosures

1. Order
2. Public Notice Templates

cc: Daniel McCarthy, Vice President, Big Cottonwood Pine Tree (danielmccarthy@xmission.com)
Patti Fauver, UT DEQ Drinking Water Rule Section Manager
Tina Artemis, EPA Regional Hearing Clerk

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

2013 SEP 19 AM 8:47

IN THE MATTER OF:)
)
Dreaming Tree, LLC)
)
Respondent.)

Docket No. SDWA-08-2013-0038

FILED
EPA REGION VIII
HEARING CLERK

ADMINISTRATIVE ORDER

1. This Order is issued under the authority vested in the Administrator of the United States Environmental Protection Agency (EPA) by 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. Dreaming Tree, LLC (Respondent) is a Utah corporation that owns and/or operates The Other End Water System (the System), which provides piped water to the public in Wasatch County, Utah, for human consumption.

3. The System is supplied by a groundwater source consisting of two wells. The System's water is untreated.

4. The System regularly serves an average of approximately 70 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 Utah Department of Environmental Quality (DEQ) has primary enforcement authority for the public water system supervision provisions of the Act in the State of Utah (State). The EPA issued a notice of the System's violations to the State on June 24, 2013. The State elected not to commence an enforcement action against Respondent for the violations listed in the notice of violation within the 30-day time frame set forth in section 1414(a) of the Act, 42 U.S.C. § 300g-3(a). The EPA has provided a copy of this Order to the State and has provided the State the opportunity to confer with the EPA regarding this Order

VIOLATIONS

7. If any routine or repeat sample of the System's water tests positive for total coliform, the Respondent is required to test that sample for fecal coliform or *E. coli*. 40 C.F.R. § 141.21(e). If any repeat sample is positive for fecal coliform or for *E. coli*, this is a violation of the acute MCL for total coliform. 40 C.F.R. § 141.63(b). Routine and repeat samples of the System's water tested positive for total coliform and *E. coli* in July 2012 and, therefore, Respondent violated the acute MCL for total coliform.

8. Respondent is required to monitor the System's water quarterly for total coliform bacteria. 40 C.F.R. § 141.21(a). Respondent failed to monitor the System's water for total coliform bacteria during the 1st (January-March) and 2nd (April-June) quarters of 2013, the 1st, 2nd and 4th (October-December) quarters of 2012, the 2nd and 3rd (July-September) quarters of 2011, and the 4th quarter of 2010 and, therefore, violated this requirement.

9. If the System has one or more sampling results that are positive for total coliform, Respondent is required to collect at least five routine samples during the next month the System provides water to the public. 40 C.F.R. § 141.21(b)(5). After the System's water tested positive for total coliform in July 2012, Respondent failed to take at least five routine samples of the System's water in August 2012 and, therefore, violated this requirement.

10. Respondent is required to monitor the System's water annually for nitrate. 40 C.F.R. § 141.23(d). Respondent failed to monitor the System's water for nitrate during 2011 and 2012 and, therefore, violated this requirement.

11. 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 violation cited in paragraph 7, the 2010, 2011, and the 1st and 2nd quarter 2012 violations cited in paragraph 8, the violation cited in paragraph 9, and the 2011 violation cited in paragraph 10, above, and, therefore, violated this requirement.

12. Respondent is required to report any coliform MCL violation to the State no later than the end of the next business day after learning of it. 40 C.F.R. § 141.21(g)(1). Respondent did not notify the State of the MCL violation cited in paragraph 7, above, and, therefore, violated this requirement.

13. Respondent is required to report any failure to comply with any coliform monitoring requirement to the State within 10 days after discovering the violation. 40 C.F.R. § 141.21(g)(2). Respondent failed to report the violations listed in paragraphs 8 and 9, above, to the State and, therefore, violated this requirement.

14. Respondent is required to report any failure to comply with any Drinking Water Regulation to the State 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 violation cited in paragraphs 10 and 11 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):

15. If Respondent's total coliform sample results exceed the MCL while this Order is in effect, Respondent shall, within 30 days after learning of this violation, provide the EPA and the State with a compliance plan and schedule for the System to come into compliance with the MCL for total coliform as stated in 40 C.F.R. § 141.63(a) and (b). The proposed schedule shall include specific milestone dates and a final compliance date to be within 3 months from the date of the EPA's approval of the schedule. The schedule must be approved by the EPA before construction or modifications can begin. The EPA's approval of Respondent's schedule does not substitute for any State of Utah approval of plans and specifications that may also be required before modifications may be made to the System.

16. The schedule required by paragraph 15, above, shall be incorporated into this Order as enforceable requirements upon written approval by the EPA.

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

18. Respondent shall achieve and maintain compliance with the total coliform MCL by the final date specified in the approved plan, or no later than 3 months after receipt of the EPA's approval of the schedule required by paragraph 15 above, whichever is earliest. Respondent shall meet that deadline even if the plan as approved does not achieve compliance. If the plan fails to achieve permanent compliance, the EPA may order further steps and/or seek penalties for noncompliance.

19. Respondent shall monitor the System's water quarterly for total coliform bacteria and, if any sample is positive for total coliform, conduct repeat and additional routine monitoring, as required by 40 C.F.R. § 141.21. Within the first 10 days following the month in which sample results are received, Respondent shall (a) report any analytical results to the State, as required by 40 C.F.R. § 141.31(a), and (b) provide the EPA with a copy of the results.

20. Within 30 days after receipt of this Order, and as required by the Drinking Water Regulations thereafter, Respondent shall monitor the System's water for nitrate as required by 40 C.F.R. § 141.23. Within the first 10 days following the month in which sample results are received, Respondent shall (a) report any analytical results to the State, as required by 40 C.F.R. § 141.31(a), and (b) provide the EPA with a copy of the results.

21. Within 30 days after receipt of this Order, Respondent shall notify the public of the violations cited in paragraphs 7 through 10, above, following the instructions provided with the public notice templates provided to Respondent 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 and the State.

22. If the System's water does not comply with the total coliform MCL in 40 C.F.R. § 141.63, Respondent, by the end of the next business day after learning of the violation, shall (a) report this violation to State, as required by 40 C.F.R. § 141.21(g)(1), and (b) provide the EPA with a copy of this notification.
23. If Respondent does not comply with any coliform monitoring requirement in 40 C.F.R. part 141, Respondent, within 10 days after discovering the violation, shall (a) report this violation to State, as required by 40 C.F.R. § 141.21(g)(2), and (b) provide the EPA with a copy of this notification.
24. For any future violation of the Drinking Water Regulations for which this Order does not specify a reporting period, Respondent shall within 48 hours (a) report that violation to the State, as required by 40 C.F.R. § 141.31(b), and (b) provide the EPA a copy of this notification. However, if the Drinking Water Regulations specify a different time period for reporting the particular violation, Respondent shall report to the EPA and the State within that different period.
25. If the number of individuals served by the System falls below an average of 25 daily at least 60 days of the year, Respondent shall notify the EPA and the State in writing within 10 days.
26. This Order shall be binding on Respondent, successors and assigns, and any person (e.g., employee, contractor, or other agent) acting in concert with Respondent.
27. 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 and, no later than 10 days thereafter, notify the EPA and the State in writing of the lease, sale, or other contract with such notification to include the name and contract 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.
28. Respondent shall direct all reporting required by this Order in writing to BOTH:
- | | | |
|--|-----|--|
| Kathelene Brainich
U.S. EPA Region 8 (8ENF-W)
1595 Wynkoop Street
Denver, CO 80202-1129 | AND | Patti Fauver, Rules Section Manager
Utah DEQ Drinking Water
P.O. Box 144830
Salt Lake City, UT 84114-4830 |
|--|-----|--|

GENERAL PROVISIONS

29. This Order shall 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 the EPA to forgo any civil or criminal action.

30. 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.

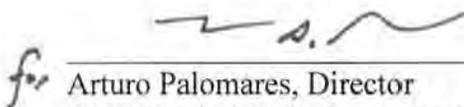
31. Respondent may seek federal judicial review of this Order pursuant to section 1448(a) of the Safe Drinking Water Act, 42 U.S.C. § 300j-7(a).

32. This Order is effective upon receipt by Respondent and will continue to be in effect until closed by the EPA.

Issued: 9/19, 2013



James H. Eppers, Supervisory Attorney
Regulatory Enforcement Unit
Office of Enforcement, Compliance
and Environmental Justice



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

IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER

THE OTHER END

DRINKING WATER MONITORING REQUIREMENTS NOT MET IN 2010 - 2013

We are required to monitor the 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 2010-2013 we did not timely complete all monitoring or testing for total coliform bacteria contamination and nitrate and therefore cannot be sure of the quality of our drinking water during that time.

What This Means

This is not an emergency. If it had been, you would have been notified within 24 hours. We do not know of any cases of contamination. However, until the problems are corrected, there is an increased chance that disease-causing organisms could contaminate the water supply. *These organisms include bacteria, viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea and associated headaches.* These symptoms, however, are not caused only by organisms in drinking water. If you experience any of these symptoms and they persist, you may want to seek medical advice.

What should I do? There is nothing you need to do at this time.

The table below lists the contaminants we did not properly test for, how often we are supposed to sample for these contaminants and how many samples we are supposed to take, how many we took, when samples should have been taken, and the date when the situation was corrected.

Contaminant	Required sampling frequency	Number of samples taken	When all samples should have been taken	When samples were or will be taken
Total coliform bacteria	Each quarter	0	4 quarter 2010 2 nd & 3 rd qtrs 2011 1 st , 2 nd & 4 th qtrs 2012 1 st & 2 nd qtrs 2013	All other required quarters
Total coliform bacteria additional routine	5 samples the month after a total coliform positive result	0	August 2012	After future total coliform positive results
Nitrate	Annual	0	2011 and 2012	Will take in 2013

What happened? What is being done? _____

Call Rosemarie Milligan at 801-652-3596 if you have questions.

Certification

After posting this notice for a minimum of 7 days, enter the dates posted, sign below and send a copy to UT DEQ and to the EPA: 1595 Wynkoop Street, Attn: 8ENF-W K. Brainich, Denver, CO 80202

Dates posted from _____ to _____

Signature _____

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)).

Certification

After posting this notice for a minimum of 7 days, enter the dates posted, sign below and send a copy to UT DEQ and to the EPA: 1595 Wynkoop Street, Attn: 8ENF-W K. Brainich, Denver, CO 80202

Dates posted from _____ to _____

Signature _____

DRINKING WATER WARNING

Fecal coliforms or /E. coli present in The Other End Bar & Grill 's water

Fecal coliform or *E. coli* bacteria were found in the water supply in July 2012. These bacteria can make you sick, and are a particular concern for people with weakened immune systems. Bacterial contamination can occur when increased run-off enters the drinking water source (for example, following heavy rains). It can also happen due to a break in the distribution system (pipes) or a failure in the water treatment process.

What should I do? What does this mean?

You should have been notified within 24 hours of the system learning of the contamination to NOT DRINK THE WATER WITHOUT BOILING IT FIRST or to use bottled water for drinking, making ice, brushing teeth, washing dishes, and food preparation

Fecal coliforms and E. coli are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Microbes in these wastes can cause diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a special health risk for infants, young children, and people with severely compromised immune systems.

The symptoms above are not caused only by organisms in drinking water. If you experience any of these symptoms and they persist, you may want to seek medical advice. People at increased risk should seek advice from their health care providers about drinking this water.

What is being done?

Describe corrective action:

For more information, please contact Rosemarie Milligan at 801-652-3596. General guidelines on ways to lessen the risk of infection by microbes are available from the EPA Safe Drinking Water Hotline at 1-800-426-4791.

.....

Certification

After posting this notice for a minimum of 7 days, enter the dates posted, sign below and send a copy to UT DEQ and to the EPA: 1595 Wynkoop Street, Attn: 8ENF-W K. Brainich, Denver, CO 80202

Dates posted from _____ to _____

Signature _____

Template on Reverse

Since exceeding the fecal coliform or *E. coli* 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, you must also contact your primacy agency. You should also coordinate with your local health department. You may also have to modify the template if you also have high nitrate levels or other coliform MCL 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 you have it.

The notice on the reverse 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.

Corrective Action

In your notice, describe corrective actions you are taking. Listed below are some steps commonly taken by water systems with fecal coliform or *E. coli* violations. Depending on the corrective action you are taking, you can use one or more of the following statements, if appropriate, or develop your own text:

- We are chlorinating and flushing the water system.
- We are switching to an alternate drinking water source.
- We are increasing sampling for coliform bacteria to determine the source of the contamination.
- We are repairing the wellhead seal.
- We are repairing the storage tank.
- We are restricting water intake from the river/lake/reservoir to prevent additional bacteria from entering the water system and restricting water use to emergencies.

After Issuing the Notice

Send a copy of each type of notice and a certification that you have met all the public notice requirements to your primacy agency within ten days after you issue the notice [40 CFR 141.31(d)].

It is recommended that you notify health professionals in the area of the violation. People may call their doctors with questions about how the violation may affect their health, and the doctors should have the information they need to respond appropriately. In addition, health professionals, including dentists, use tap water during their procedures and need to know of potential microbial contamination so they can use bottled water.

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