



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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

OCT 25 2009

Ref: 8ENF-W

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

C T Corporation System, Registered Agent
Clean Harbors Aragonite, LLC
136 East South Temple, Ste. 2100
Salt Lake City, UT 84111

Re: Administrative Order
Clean Harbors – Aragonite
Public Water System
Docket No. SDWA 08-2009-0077
PWS ID # UTAH23067

Dear Madame/Sir:

Enclosed is an Administrative Order (Order) issued by the Environmental Protection Agency (EPA) under the authority of the Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq. Among other things, the Order alleges that Clean Harbors Aragonite, LLC, (the company) has violated the National Primary Drinking Water Regulations (the 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 the company 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 company to notify the public of having violated the drinking water regulations. Enclosed please find a public notice template to assist in providing that notice.

To submit information or to request an informal conference with EPA, please contact Mario Mérida at the above address (with the mailcode 8ENF-W) or by phone at (800) 227-8917, extension 6297 or (303) 312-6297. Any questions from the company's attorney should be directed to Marc Weiner, Enforcement Attorney, who may be reached at the above address (with the mailcode 8ENF-L) or by phone at (800) 227-8917, extension 6913 or (303) 312-6913.

We urge your prompt attention to this matter.

Sincerely,



Darcy O'Connor, Acting Director
Water Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosures

Order
Public Notice template

cc: Tina Artemis, EPA Regional Hearing Clerk
Patti Fauver, UT DEQ DW
Chris Lilley, Senior Environmental Compliance Manager, Clean Harbors-
Aragonite Water System

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2009 OCT 26 PM 12: 55

FILED
EPA REGION VIII
HEARING CLERK

IN THE MATTER OF)	
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Clean Harbors Aragonite, LLC)	Docket No. SDWA 08-2009-0077
Aragonite, Utah,)	
)	
Respondent.)	ADMINISTRATIVE ORDER
)	

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. Clean Harbors Aragonite, LLC (Respondent), is a corporation that owns and/or operates the Clean Harbors-Aragonite Water System (the system) which provides piped water to the public in Tooele County, Utah, for human consumption.
3. The system is supplied by a groundwater source consisting of two wells. The water is treated by filtration, reverse osmosis and chlorination.
4. The system has 1 service connection and regularly serves an average of at least 165 of the same individuals daily for at least 6 months out of the year. Therefore, the system is a "public water system" as defined in § 1401(4) of the Act, 42 U.S.C. § 300f (4), and 40 C.F.R. § 141.2. The system is also a "non-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 § 1414(i) of the Act, 42 U.S.C. § 300g-3(i).
6. The Utah Department of Environmental Quality has primary enforcement authority for the public water system supervision provisions of the Act in the State of Utah (the State). EPA issued a notice of the system's violations to the State on August 11, 2009. The State elected not to commence an enforcement action against Respondent for the violations listed in the notice of violation within the thirty-day time frame set forth in § 1414(a) of the Act, 42 U.S.C. § 300g-3(a). EPA has provided a copy of this Order to the State and has provided the State the opportunity to confer with EPA regarding this Order.

VIOLATIONS

7. 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 2007 and 2008 and, therefore, violated this requirement.
8. Respondent is required to collect a set of total trihalomethane (TTHM) and haloacetic acid (HAA5) samples each year. 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 year in which samples are collected. 40 C.F.R. § 141.134. Respondent last monitored the system's water for TTHM and HAA5 on August 30, 2008, and the State placed the system on triennial monitoring requirements. However, Respondent failed to monitor the system's water for TTHM and HAA5 during 2007 and, therefore, violated this requirement.
9. Respondent is required to monitor the system's water for certain inorganic contaminants at least once every three years. 40 C.F.R. §§ 141.23(a) and (c). Respondent failed to monitor the system's water for inorganic contaminants during 2005 – 2007 and, therefore, violated this requirement.
10. Respondent is required to monitor the system's water triennially for lead and copper. 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(d). Respondent most recently monitored the system's water for lead and copper on December 31, 2008. However, lead and copper samples must be collected between June 1 and September 30. 40 C.F.R. § 141.86(d)(4)(iv). Respondent's lead and copper samples were collected outside of this required time frame and, therefore, Respondent 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, 121.204. Respondent failed to notify the public of the violations listed in paragraphs 7 through 9, above, and, therefore, violated this requirement. Public notice for the 2008 nitrate and lead and copper violations is not yet overdue.
12. 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 7 through 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):

13. Within 30 days of receipt of this Order, and per the regulations thereafter, Respondent shall monitor the system's water for nitrate. 40 C.F.R. § 141.23. Respondent shall report analytical results to EPA and the State within the first 10 days following the month in which sample results were received, as required by 40 C.F.R. § 141.31(a).
14. Respondent shall monitor the system's water for TTHM and HAA5 between 2009 and 2011, taking one sample during the months of warmest water temperature, and thereafter as required by 40 C.F.R. § 141.132(b). Respondent shall submit monitoring results for TTHM and HAA5 to EPA and the State within 10 days after the end of the monitoring period in which samples are collected, as required by 40 C.F.R. § 141.134.
15. Within 30 days of receiving this Order, and per the regulations thereafter, Respondent shall monitor the system's water for inorganic contaminants. 40 C.F.R. §§ 141.23(a) and (c). Respondent shall report analytical results to EPA and the State within the first 10 days following the month in which sample results were received, as required by 40 C.F.R. § 141.31(a).
16. Between June 1 and September 30, 2010, and as directed by the State thereafter, Respondent shall monitor the system's water for lead and copper, 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. 40 C.F.R. § 141.90.
17. Within 30 days of receiving this Order, Respondent shall notify the public of the violations cited in paragraphs 7 through 10, 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.
18. Except where a different reporting deadline is specified in the drinking water regulations, Respondent shall notify EPA and the State within 48 hours of any failure to comply with the drinking water regulations, as required by 40 C.F.R. § 141.31(b).

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

Mario E. Mérida, 8ENF-W
U. S. EPA Region 8
1595 Wynkoop Street
Denver, CO 80202-1129

AND

Patti Fauver, Rules Section
Manager
Utah Dept. of Environmental
Quality
P.O. Box 144830
Salt Lake City, UT 84114-4830

GENERAL PROVISIONS

20. 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.

21. 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: October 26, 2009



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



Darcy O'Connor, Acting Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Tier 3 Templates

Tier 3 notices are required for the following violations or situations:

- **Monitoring violations** (except for the following: failure to monitor for fecal coliform or *E. coli* when repeat samples are positive for coliform, failure to take a confirmation sample for nitrate or nitrite within 24 hours, and failure to take required samples for chlorine dioxide in the distribution system, which require Tier 1 notice; failure to collect 3 or more samples for *Cryptosporidium*, which requires Tier 2 notice; and any monitoring violations elevated to Tier 1 or 2 by the primacy agency);
- **Testing procedure violations**, except where elevated to Tier 2 by the primacy agency;
- Operation under a **variance or exemption**;
- Special notice for **availability of unregulated contaminant monitoring data**; and
- Special notice for **fluoride** secondary maximum contaminant level (SMCL) exceedances.

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 suggestions 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 as written with blanks filled in, is presented in italics (141.205(d)). All the language in the fluoride SMCL template (except the language discussed below) is mandatory (141.208).

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 3-1A

Monitoring Violations Annual Notice—Template 3-1B

Failure to Comply with a Testing Procedure Notice – Template 3-2

Operating Under an Exemption Notice – Template 3-3

Special Notice for Availability of Unregulated Contaminant Monitoring Data – Template 3-4

Fluoride SMCL Notice—Template 3-5

Instructions for Monitoring Violations Annual Notice – Template 3-1A

Template on Reverse

If you are required to provide Tier 3 notification, 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 seven days (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 Consumer Confidence Report (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. You can use the following language, if appropriate, 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)).

IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER

Monitoring Requirements Not Met for Clean Harbors - Aragonite

Our water system violated drinking water standards over the past two 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. During 2007 and 2008 we did not monitor or test for Nitrate, disinfection byproducts, inorganic contaminants or lead and copper 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 contaminants we did not properly test for during the period noted, how often we are supposed to sample for 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	Number of samples taken	When samples should have been taken	When samples were taken
Nitrate	2 samples every year	0	2007, 2008	
Disinfection Byproducts	1 sample every year	0	2007	08/30/2008
Inorganic Contaminants	every 3 years	0	2005 – 2007	
Lead and Copper	5 samples every 3 years, between June and Sept	0	June – September 2008	Dec 2008

What is being done?

For more information, please contact _____ at phone number _____ or by mail at _____.

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 Clean Harbors - Aragonite. State Water System ID#: UTAH23067.

Date distributed: _____.