



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

1595 Wynkoop Street  
DENVER, CO 80202-1129  
Phone 800-227-8917  
<http://www.epa.gov/region080>

Ref: 8ENF-W

AUG 22 2011

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Fremont County Commissioners  
c/o Douglas L. Thompson, Chairman  
Fremont County Courthouse  
450 North 2<sup>nd</sup> Street  
Lander, WY 82520

Re: Notice of Safe Drinking Water Act Enforcement  
Action against the Hudson Gas, Grill & Goods  
Public Water System  
PWS ID # WY5601441

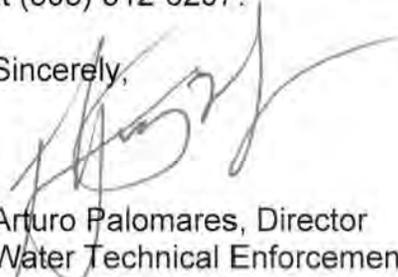
Dear Commissioners:

The Safe Drinking Water Act (SDWA) requires that the Environmental Protection Agency notify locally elected officials of certain enforcement actions taken in their area.

EPA has issued an Administrative Order (Order) to Hudson Gas, Grill and Goods, Inc., owner and/or operator of the Hudson Gas, Grill & Goods water system, located in Fremont County, WY, directing it to comply with the National Primary Drinking Water Regulations. The violations alleged in the Order include: failing to monitor for nitrate, failing to monitor for total coliform bacteria, failing to consult with EPA after receiving written notice of a significant deficiency, failing to report certain violations to EPA, and failing to provide public notice for certain violations.

For more details, a copy of the Order is enclosed. **The Order does not require any response or action by the County Commission.** If you have any questions regarding this Order, please contact Mario Mérida at (303) 312-6297.

Sincerely,



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

Enclosure:  
Order



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

1595 Wynkoop Street  
DENVER, CO 80202-1129  
Phone 800-227-8917  
<http://www.epa.gov/region0800>

AUG 22 2011

Ref: 8ENF-W

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Ronald Abernathy, Registered Agent  
Hudson, Gas, Grill and Goods, Inc.,  
c/o McKee, Marburger and Fagnant, PC  
185 South 5<sup>th</sup>  
Lander, WY, 82520

Re: Administrative Order  
Hudson Gas, Grill & Goods  
Public Water System  
Docket No. SDWA-08-2011-0060  
PWS ID #WY5601441

Dear Mr. Abernathy:

Enclosed is an Administrative Order (Order) issued by the Environmental Protection Agency (EPA) under the authority of section 1414 of the Safe Drinking Water Act, 42 U.S.C. § 300g-3. Among other things, the Order alleges that Hudson, Gas, Grill and Goods, Inc., also registered as HGGGC, LLC with the Wyoming Secretary of State, (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.

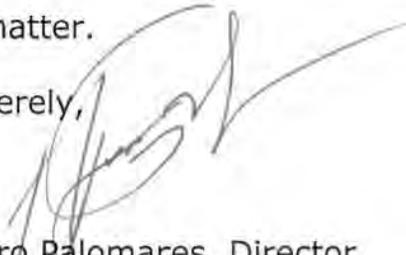
The Small Business Regulatory Enforcement and Fairness Act (SBREFA) may apply to this situation. Enclosed is a small business information sheet, outlining compliance assistance resources available to small businesses and small governments, in case these are relevant. SBREFA does not eliminate the responsibility to comply with the Order or the drinking water regulations.

The Order requires the company 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 EPA, the company may 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 Jean Belille, Enforcement Attorney, who may be reached at the above address (with the mailcode 8ENF-L) or by phone at (800) 227-8917, extension 6556 or (303) 312-6556.

We urge your prompt attention to this matter.

Sincerely,



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

Enclosures:

Order  
SBREFA Information Sheet  
Public Notice Template

cc:

WY DEQ/DOH (via email)  
Tina Artemis, EPA Regional Hearing Clerk  
Ron Abernathy, Registered Agent, HGGG, LLC

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

2011 AUG 22 PM 1:22

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IN THE MATTER OF: )  
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 )  
Hudson Gas, Grill & Goods, Inc. )  
 )  
 )  
Respondent. \_\_\_\_\_)

Docket No. SDWA-08-2011-0060

FILED  
EPA REGION VIII  
HEARINGS 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 of the Safe Drinking Water Act (the Act), 42 U.S.C. § 300g-3, as properly delegated to the undersigned officials.
2. Hudson Gas, Grill & Goods, Inc., (Respondent) is a Wyoming corporation that owns and/or operates the Hudson Gas, Grill & Goods Water System (the system), which provides piped water to the public in Fremont County, Wyoming, for human consumption.
3. The system is supplied by a groundwater source consisting of one well. The water is filtered and softened.
4. The system has approximately one service connection and/or regularly serves an average of approximately 30 individuals daily at least 60 days 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 "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 drinking water regulations include monitoring requirements. EPA has sent Respondent annual notifications of the specific monitoring requirements that apply to the system.

## VIOLATIONS

7. Respondent is required to monitor the system's water annually for nitrate and to report the results of testing to EPA no later than (1) the first 10 days following the month in which the result is received, or (2) the first 10 days following the end of the required monitored period, whichever is earlier. 40 C.F.R. §§ 141.23(d) and 141.31(a). Respondent failed to monitor the system's water for nitrate during 2010, and/or failed to submit the sample data to EPA for the 2010 monitoring period, and, therefore, violated these requirements.
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 2<sup>nd</sup> quarter (April – June) of 2009, and during the 2<sup>nd</sup> quarter of 2011, and, therefore, violated this requirement.
9. Respondent is required to report any failure to comply with any coliform monitoring requirement to EPA within 10 days after discovering the violation. 40 C.F.R. § 141.21(g)(2). Respondent failed to report the violation listed in paragraph 8, above, to EPA and, therefore, violated this requirement.
10. As a ground water system, Respondent is required to consult with EPA regarding the appropriate corrective action within 30 days of receiving written notice from EPA of a significant deficiency. 40 C.F.R. § 141.403(a)(4). In its letter of February 14, 2011, which was re-sent to Respondent on March 22, 2011, EPA advised Respondent of significant deficiencies identified during the sanitary survey performed at the system on September 21, 2010. Respondent did not consult with EPA regarding the appropriate corrective action to address the significant deficiencies identified in EPA's letter of February 14, 2011, and, therefore, violated this requirement.
11. Within 120 days of receiving written notification from EPA of a significant deficiency that requires corrective action, Respondent must either have completed corrective action in accordance with EPA review, guidance or direction, if any, or be in compliance with an EPA-approved corrective action plan and schedule. 40 C.F.R. § 141.403(a)(5). Respondent has not completed corrective action nor has it proposed a corrective action plan and schedule and, therefore, violated this requirement.



12. Respondent is required to notify the public of certain violations of the drinking water regulations. 40 C.F.R. §§ 141.201 *et seq.* Respondent did not notify the public of the violations cited in paragraphs 8 and 10, above, and, therefore, violated this requirement. Public notice for the violations cited in paragraphs 7 and 11 are not yet overdue.

13. Respondent is required to report any failure to comply with any drinking water regulation to 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 paragraphs 7, 10, 11, and 12 to 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):

14. Within 30 days after receipt of this Order, and per the regulations thereafter, Respondent shall monitor the system's water for nitrate. 40 C.F.R. § 141.23.

15. Respondent shall monitor the system's water quarterly for total coliform bacteria and, in the event of any result that is positive for total coliform, conduct repeat and additional routine monitoring, as required by 40 C.F.R. § 141.21. Respondent shall report any violation of the total coliform monitoring requirements to EPA within 10 days after discovering the violation, as required by 40 C.F.R. § 141.21(g)(2).

16. Unless a different reporting requirement is specified by the drinking water regulations or this Order, Respondent shall report each monitoring result to EPA within the first 10 days following either (1) the month in which the result is received or (2) the end of the required monitoring period as stipulated by EPA, whichever is earlier. 40 C.F.R. § 141.31(a).



17. Within seven days after receipt of this Order, Respondent shall consult with EPA regarding the appropriate corrective action for the significant deficiency of the system's lack of an emergency response plan, identified in EPA's letter of February 14, 2011, as required by C.F.R. § 141.403(a)(4). Within 60 days of receipt of this Order, Respondent must submit an emergency response plan to EPA. C.F.R. § 141.403(a)(5).

18. Within 30 days after receipt of this Order, Respondent shall notify the public of the violations cited in paragraphs 7, 8, 10, and 11, above, 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 after providing public notice, Respondent shall submit a copy of the notice to EPA.

19. Respondent shall report any violation of the drinking water regulations to 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.

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

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

### **GENERAL PROVISIONS**

21. 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 EPA to forgo any civil or criminal action.



Hudson Gas, Grill & Goods, Inc., Respondent  
Hudson Gas, Grill and Goods Water System  
Page 5 of 5

22. 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: August 22, 2011.

*Melany J. Shue*  
Acting Supervisory Attorney  
Legal Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

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



## 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 Hudson Gas, Grill and Goods Water System

Our water system violated drinking water standards over the past year. 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 August 2010 we did not complete monitoring and reporting requirements for total coliform bacteria, and during that calendar year we did not complete monitoring and reporting requirements for nitrate, and therefore cannot be sure of the quality of our drinking water during that time.*

*Further, our water system was required to consult with EPA within 30 days of receiving written notice of a significant deficiency, the lack of an emergency response plan. We failed to consult with EPA by April 25, 2011 on submitting an Emergency Response Plan, after receiving written notice of significant deficiencies on/about March 25, 2011. Our system was required to submit that plan within 120 days, but failed to do so by July 22, 2011.*

#### What should I do?

This is not an emergency. If it had been you would have been notified within 24 hours. There is nothing you need to do at this time.

The table below lists the contaminant(s) we did not properly test for during the last year, 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
Total Coliform Bacteria	1 sample quarterly	0	2 <sup>nd</sup> quarter of 2009 (April – June)	8/4/2009
Nitrate	1 sample annually	0	2010	

#### What is being done?

[Describe corrective action.]

For more information, please contact [NAME] at [TELEPHONE NUMBER].

*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 Hudson Gas, Grill and Goods water system.

State Water System ID#WY5601441

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