



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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

MAY 3 2010

Ref: 8ENF-W

CERTIFIED MAIL LETTER
RETURN RECEIPT REQUESTED

Carbon County Commissioners
c/o Terry Weickum, Chairman
P.O. Box 6
Rawlins, WY 82301

Re: Notice of Safe Drinking Water Act
Enforcement Action against
Cody Resources LP
PWS ID #WY5600334

Dear 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.

EPA has issued an Administrative Order (Order) to Cody Resources LP, located in Encampment, Wyoming, directing it to comply with the National Primary Drinking Water Regulations. The violations alleged in the Order include: failing to monitor the water for total coliform; failing to monitor the water for nitrate; and failing to report these violations to EPA.

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 Shawn McCaffrey at (303) 312-6515.

Sincerely,

A handwritten signature in black ink, appearing to read "Darcy O'Connor".

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

Enclosure
Order



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MAY 3 2010

Ref: 8ENF-W

CERTIFIED MAIL LETTER
RETURN RECEIPT REQUESTED

Diane Wallach, Registered Agent
Cody Resources LP
3575 Cherry Creek North Drive
Denver, CO 80209

Re: Administrative Order
Docket No. **SDWA-08-2010-0041**
A Bar A Ranch
Public Water System
PWS ID# WY5600334

Dear Ms. Wallach:

Enclosed is an Administrative Order (Order) issued by the United States 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 alleges that Cody Resources LP (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 Cody Resources LP 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.

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. Any questions from the company's attorney should be directed to Peggy Livingston, Senior Enforcement Attorney, who may 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,



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

Enclosures:

Order
SBREFA Information Sheet

cc:

Tina Artemis, EPA Regional Hearing Clerk
Wyoming DEQ/DOH (via email)
Justin Howe, General Manager
Tim Vogelzang, Cody Resources LP

8. Respondent is required to monitor the system's water annually for nitrate by taking a minimum of one sample at every entry point to the distribution system which is representative of each well after treatment. 40 C.F.R. § 141.23(a)(1). Respondent failed to monitor the system's water for nitrate during 2009 at sampling point number one (Tee House), and, therefore, violated this requirement. Respondent did sample for nitrate at sampling point number two (Show Barn Bath) on October 14, 2009.

9. Respondent is required to report any failure to meet a coliform monitoring requirement to EPA no later than 10 days after learning of this violation. 40 C.F.R. § 141.21(g)(2). Respondent did not notify EPA of the violation cited in paragraph 7, above, and, therefore, violated this requirement.

10. Respondent is required to report any failure to comply with any of the drinking water regulations to EPA 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 violation listed in paragraph 8, above, 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):

11. Respondent shall monitor the system's water for total coliform bacteria during the 2nd and 3rd quarter of each year, as required by 40 C.F.R. § 141.21. Respondent shall report analytical results to EPA within the first 10 days following the month in which sample results were received, as required by 40 C.F.R. § 141.31(a). Respondent shall report any violation of the total coliform monitoring requirements to EPA within 10 days of discovery, as required by 40 C.F.R. § 141.21(g)(2).

12. Within 30 days of opening for the 2010 season, and per the regulations thereafter, Respondent shall monitor the system's water annually for nitrate by taking a minimum of one sample at every entry point to the distribution system which is representative of each well after treatment. 40 C.F.R. § 141.23(a)(1). Respondent shall report analytical results to EPA within the first 10 days following the month in which sample results were received, as required by 40 C.F.R. § 141.31(a). Respondent shall notify EPA within 48 hours of any violation of the nitrate monitoring requirements, as required by 40 C.F.R. § 141.31(b).

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

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



GENERAL PROVISIONS

14. 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.

15. 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: May 3, _____, 2010.



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



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

