UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
http://www.epa.gov/region08

2014 SEP 30 PM 12:27
EPA REGION VIII
HEARING CLERK

Ref: 8ENF-W

SEP 30 2014

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Honorable Patricia Smith
Mayor, Town of Lusk
P.O. Box 390
Lusk, Wyoming 82225

Re: Administrative Order issued to the Town of Lusk, Wyoming, PWS ID # WY5600032, Docket No. **SDWA-08-2014-0056**

Dear Mayor Smith:

Enclosed is an Administrative Order (Order) issued by the United States 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 the Town of Lusk (Town), as owner and/or operator of the Town of Lusk 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 pertinent information you believe the EPA may not have (e.g., any monitoring that may have been done but not submitted, etc.). If the EPA does not hear from you, the EPA will assume this information is correct.

If the Town 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 Town 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.

Please be aware that you are required to submit to the EPA a plan and schedule for bringing the System into compliance with the Drinking Water Regulations. The EPA's approval of the Town's plan and schedule does not substitute for any other approval that may be required by any other governmental entity for modifying the System. The EPA encourages the Town to contact any such governmental agency or agencies regarding any applicable approval requirements.

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To submit information or request an informal conference with the EPA, please contact Olive Hofstader at the above address (with the mailcode 8ENF-W) or by phone at (800) 227-8917, extension 6467, or (303) 312-6467. Any questions from the Town's attorney should be directed to Mia Bearley, 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,

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

Enclosures:
Order
Public Notice Template

cc: Mr. John Eddy, operator
WY DEQ/DOH (via email)

Ms. Tina Artemis, EPA Regional Hearing Clerk

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SEP 30 2014

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Niobrara County Commissioners
Richard Ladwig, Chair
P.O. Box 1238
Lusk, WY 82225

Re: Notice of Safe Drinking Water Act Enforcement Action against the Town of Lusk Public Water System, PWS ID # WY5600032, Docket No. **SDWA-08-2014-0056**

Dear Commissioners:

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

An Administrative Order (Order) is being issued to the Town of Lusk, owner and operator of the Town of Lusk Public Water System (System) located in Niobrara County, Wyoming. This Order requires that the System take measures to return the System to compliance with the SDWA and the National Primary Drinking Water Regulations. The violations include: exceeding the maximum contaminant level for radionuclides.

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 Olive Hofstader at (303) 312-6467.

Sincerely,

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

Enclosure:
Order

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2014 SEP 30 PM 12:27

IN THE MATTER OF:	)	
	)	Docket No. **SDWA-08-2014-0056**
	)	
Town of Lusk, Wyoming,	)	**ADMINISTRATIVE ORDER**
	)	
	)	
Respondent.	)	

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. The Town of Lusk (Respondent) is a municipality that owns and/or operates the Town of Lusk Public Water System (System), which provides piped water to the public in Niobrara County, Wyoming, for human consumption.

3. The System is supplied by a ground water source consisting of 4 wells which provide water that is chlorinated.

4. The System has approximately 820 service connections used by year-round residents and/or regularly serves an average of approximately 1500 year-round residents. Therefore, the System is a "public water system" and a "community water system" as defined in 40 C.F.R. § 141.2 and section 1401 of the Act, 42 U.S.C. § 300f.

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. The maximum contaminant level (MCL) for gross alpha particle activity (gross alpha) is 15 picocuries per liter (pCi/L). 40 C.F.R. § 141.66(c). EPA has notified Respondent that it is required to monitor the System's water quarterly at each sample point for gross alpha. 40 C.F.R. § 141.26(a)(3)(v). If the running annual average determined after four consecutive quarterly samples at any sample point exceeds the MCL, this is a violation of the MCL. 40 C.F.R. § 141.26(c)(3)(i). Gross alpha monitoring results from the System's water during the 1st, 2nd and 3rd quarters of 2014, computed on a running annual average basis according to 40 C.F.R. § 141.26(c)(3)(i), exceeded the MCL for gross alpha and, therefore, Respondent violated 40 C.F.R. § 141.66(c).

8. Respondent is required to inform 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 violations cited in paragraph 7, above, and, therefore, violated this requirement. 40 C.F.R. § 141.203.

9. 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, 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):

10. Within 30 days of receipt of this Order, Respondent shall provide the EPA with a plan and schedule for the System to come into compliance with the gross alpha MCL in 40 C.F.R. § 141.66(c). 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 gross alpha MCL. The proposed schedule shall include specific milestone dates and a final compliance date (to be within six 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.

11. The schedule required by paragraph 10, above, shall be incorporated into this Order as an enforceable requirement upon written approval by the EPA.

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

13. The System shall achieve and maintain compliance with the gross alpha MCL in 40 C.F.R. § 141.66(c) by the final date specified in the EPA-approved schedule. If the plan fails to achieve permanent compliance, the EPA may order further steps and/or seek penalties for noncompliance.

14. Within 30 days after receipt of this Order, Respondent shall notify the public of the violations cited in paragraph 7, 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.

15. For any future violation of the Drinking Water Regulations for which this Order does not specify a reporting period, Respondent shall, within 48 hours report that violation to the EPA as required by 40 C.F.R. § 141.31(b). However, if the Drinking Water Regulations specify a different time period for reporting the particular violation, Respondent shall report the violation to the EPA within that different period.

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

17. 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.

18. 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

19. 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.

20. 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.

21. 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).

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

Issued: _____, 20__.

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

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Instructions for Chemical or Radiological MCLs Notice – Template 2-3

Template on Reverse

Chemical or radiological maximum contaminant level (MCL) violations require Tier 2 notification. You must provide public notice to persons served as soon as practical but within 30 days after you learn of the violation [40 CFR 141.203(b)]. You must issue a repeat notice every three months for as long as the violation persists. Your primacy agency may have more stringent requirements for MCL violations (e.g., it may require you to provide water from an alternate source). Check with your agency to make sure you meet all requirements. Use Template 2-4 for fluoride MCL violations.

Community systems must use one of the following methods [40 CFR 141.203(c)]:

- Hand or direct delivery
- Mail, as a separate notice or included with the bill

Noncommunity systems must use one of the following methods [40 CFR 141.203(c)]:

- Posting in conspicuous locations
- Hand delivery
- Mail

In addition, both community and noncommunity systems must use another method reasonably calculated to reach others if they would not be reached by the first method [40 CFR 141.203(c)]. Such methods could include newspapers, e-mail, or delivery to community organizations. If you mail, post, or hand deliver, print your notice on your system's letterhead, if available.

The notice on the reverse is appropriate for mailing, posting, or hand delivery. If you modify this notice, 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). This notice includes a placeholder for a specific contaminant's health effects language.

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.

Corrective Action

In your notice, describe corrective actions you are taking. Do not use overly technical terminology when describing treatment methods. Listed below are some steps commonly taken by water systems with chemical or radiological 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 working with [local/state agency] to evaluate the water supply and are researching options to correct the problem. These options may include treating the water to remove [contaminant] or connecting to [system]'s water supply.
- We have stopped using the contaminated well. We have increased pumping from other wells, and we are investigating drilling a new well.
- We have increased the frequency that we will test the water for [contaminant].
- We have since taken samples at this location and had them tested. These samples show that we meet the standards.

Repeat Notices

If this is an ongoing violation and/or you fluctuate above and below the MCL, you should give the history behind the violation, including the source of contamination, if known. List the date of the initial detection, as well as how levels have changed over time. If levels are changing as a result of treatment, you can indicate this.

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 public notification requirements within ten days after issuing the notice [40 CFR 141.31(d)].

IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER

The Town of Lusk Has Levels of Gross Alpha Above Drinking Water Standards

Our water system recently violated a drinking water standard. Although this is not an emergency, as our customers, you have a right to know what happened, what you should do, and what we are doing to correct this situation. We routinely monitor for the presence of drinking water contaminants. On March 20, 2014, we received notice that the sample collected on November 19, 2013, showed that our system exceeds the standard, or maximum contaminant level (MCL), for gross alpha. The standard for gross alpha is 15 picocuries per liter (pCi/L) The average level of gross alpha over the last 15 months has ranged from 15.475 pCi/L to 21 pCi/L.

What should I do?

- There is nothing you need to do. **You do not need to** boil your **water** or take other corrective actions**.** However, if you have specific health concerns, consult your doctor.
- If you have a severely compromised immune system, have an infant, are pregnant, or are elderly, you may be at increased risk and should seek advice from your health care providers about drinking this water.

What does this mean?

This is not an emergency. If it had been, you would have been notified within 24 hours. Some people who drink water containing gross alpha in excess of the MCL over many years may have an increased risk of getting cancer.

What is being done?

[Describe corrective action.] We anticipate resolving the problem within [estimated time frame].

For more information, please contact [name of contact] at [phone number] or [mailing 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 the Town of Lusk.
State Water System ID#: _WY5600032__.
Date distributed: _____.

Certification

After delivering this notice, enter the date delivered, sign below and send a copy to:

Olive Hofstader
Environmental Protection Agency
1595 Wynkoop Street, Attn: 8ENF-W
Denver, CO 80202

Date and method of delivery _____

Signature _____