



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

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

MAY 04 2015

Ref: 8ENF-W

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Brush Creek, LLC
CT Corporation System, Registered Agent
1712 Pioneer Avenue, 120
Cheyenne, Wyoming 82001

Re: Administrative Order issued to Brush Creek, LLC, PWS ID # WY5601644, Docket No.
SDWA-08-2015-0012

Dear Sir/Madam:

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 Brush Creek, LLC (Company), as owner and/or operator of the Brush Creek Ranch Employee Housing 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, any significant deficiencies that have been corrected, etc.). If the EPA does not hear from you, the EPA will assume this information is correct.

If the Company 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 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.

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 Company'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 Company to contact any such governmental agency or agencies regarding any applicable approval requirements.

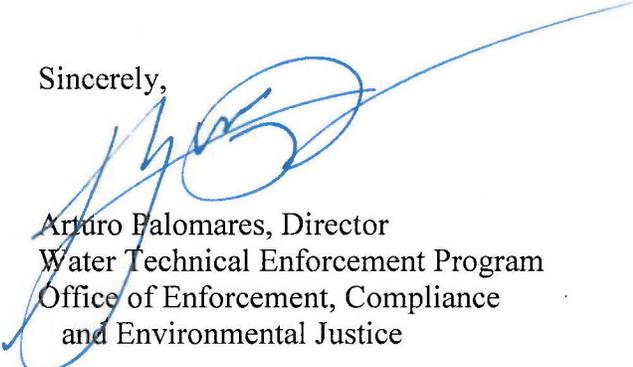


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To submit information or request an informal conference with the EPA, please contact Olive Hofstader at the above address (with the mailcode 8ENF-W) or by phone at (800) 227-8917, extension 6467, or (303) 312-6467. Any questions from the Company's 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
SBREFA Information Sheet

cc: Mr. Mike Williams, Executive Vice President
Mr. Ron Hawkins, Ranch Manager
Mr. Chris Branch, operator (via email)
WY DEQ/DOH (via email)

Tina Artemis, EPA Regional Hearing Clerk





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MAY 04 2015

Ref: 8ENF-W

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Carbon County Commissioners
Leo Chapman, Chair
P.O. Box 6
Rawlins, WY 82301

Re: Notice of Safe Drinking Water Act Enforcement Action against the Brush Creek Ranch
Employee Housing Public Water System, PWS ID # WY5601644, Docket No. **SDWA-08-2015-0012**

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 Brush Creek, LLC, owner and operator of the Brush Creek Ranch Employee Housing Public Water System (System) located in Carbon 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: failure to monitor for total coliform and nitrate, and failure to correct significant deficiencies of the water system.

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

2015 MAY -4 AM 8:46

IN THE MATTER OF:)
)
Brush Creek, LLC,)
)
)
Respondent.)

Docket No. **SDWA-08-2015-0012**
ADMINISTRATIVE ORDER

FILED
EPA REGION VIII
HEARING CLERK

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. Brush Creek, LLC (Respondent) is a Wyoming corporation that owns and/or operates the Brush Creek Ranch Employee Housing Public Water System (System), which provides piped water to the public in Carbon County, Wyoming, for human consumption.
3. The System is supplied by a groundwater source accessed via 1 well. The water is disinfected with sodium hypochlorite.
4. The System has approximately 4 service connections and regularly serves an average of approximately 60 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 Drinking Water Regulations include monitoring requirements. The 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. 40 C.F.R. § 141.23(d). Respondent failed to monitor the System’s water for nitrate during 2014, and, therefore, violated this requirement
8. Respondent is required to monitor the System’s water quarterly for total coliform bacteria. 40 C.F.R. § 141.21(a). If the System has one or more sampling results that are positive for total coliform, Respondent is required to collect at least 5 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 on May 14, 2014, July 1, 2014, and September 2, 2014, Respondent failed to take at least 5 routine samples of the System’s water in June, August and October 2014 and, therefore, violated this requirement.
9. Within 24 hours of being notified that any routine sample of the System’s water is positive for total coliform, Respondent is required to collect a set of 4 repeat samples. 40 C.F.R. § 141.21(b).

Respondent failed to take 4 repeat samples of the System's water within 24 hours of being notified on July 1 and September 2, 2014, of results that were positive for total coliform and, therefore, violated this requirement.

10. Respondent is required to consult with EPA within 30 days of receiving written notice of a significant deficiency. 40 C.F.R. § 141.404(a). Respondent failed to consult with EPA by October 26, 2014, after receiving written notice of significant deficiencies on September 26, 2014, and, therefore, violated this requirement.

11. Respondent is required to complete corrective action of a significant deficiency or be in compliance with an approved corrective action schedule within 120 days of receiving written notification from the EPA of the significant deficiency. 40 C.F.R. § 141.403(a)(5). The System received a letter from the EPA dated September 26, 2014, that detailed significant deficiencies regarding the storage tank. Respondent failed to complete corrective action of the significant deficiencies by January 24, 2015, and, therefore, violated this requirement.

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

13. 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 paragraphs 7, 10 and 11, above, to the 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 as required by the Drinking Water Regulations thereafter, Respondent shall monitor the System's water for nitrate. 40 C.F.R. § 141.23. Respondent shall report analytical results to the EPA within the first 10 days following the month in which Respondent received sample results, as required by 40 C.F.R. § 141.31(a). Respondent shall report any violation of the nitrate monitoring requirements to the EPA within 48 hours of the violation occurring, as required by 40 C.F.R. § 141.31(b).

15. Respondent shall monitor the System's water for total coliform quarterly, and, if any sample is positive for total coliform, conduct repeat and additional routine monitoring, as required by 40 C.F.R. § 141.21. Respondent shall report analytical results to the EPA within the first 10 days following the month in which Respondent receives sample results, as required by 40 C.F.R. § 141.31(a). Respondent



shall report any violation of coliform monitoring requirements in 40 C.F.R. part 141 to the EPA within 10 days after discovering the violation as required by 40 C.F.R. § 141.21(g)(2).

16. Respondent shall consult with EPA within 30 days of receiving written notice of any future significant deficiency. 40 C.F.R. § 141.404(a).

17. Within 10 days after receipt of this Order, Respondent shall consult with the EPA regarding appropriate corrective actions for addressing the following significant deficiencies AND within 60 days of receipt of this Order, submit a corrective action plan and schedule to the EPA. 40 C.F.R. §§ 141.403(a)(4) and 403(a)(5).

- a. **Storage tank not cleaned and inspected within the last ten years, and of unknown integrity.** The 5000 gallon tank(s) must be cleaned and inspected. Tanks need to be periodically cleaned and inspected to prevent the growth of potentially harmful pathogens in the accumulated sediments and to address construction issues before they require major repairs. Inspections and cleaning may be done by a third-party professional or appropriately trained in-house staff. After inspection and cleaning the tank must be disinfected according to AWWA standards (C652-92: Disinfection of Water Storage Facilities).
- b. **Unknown integrity of the 5000 gallon storage tank overflow.** The sanitary surveyor was unable to evaluate the 5000 gallon tank overflow, and the water system was not able to produce documentation of the condition of these components. Thus, all storage facilities that were not evaluated must be inspected by a third-party professional or appropriately trained in-house staff. Storage tanks may be a significant cause of distribution system contamination. Failure to maintain the structural and sanitary integrity of storage facilities can lead directly to illness and the loss of property. Each item that could not be inspected during the sanitary survey must be inspected and the structure of each component must be compared to the enclosed *Tech Tips for Finished Water Storage Access Hatches, Vents, Overflows and Drains* to determine if corrective action is needed.

18. The schedule required by paragraph 17, above, shall be incorporated into this Order as an enforceable requirement upon written approval by the EPA.

19. Within 10 days after completing all tasks included in the schedule required by paragraph 17, above, Respondent shall notify the EPA of the completion of the corrective actions, as required by 40 C.F.R. § 141.405(a)(2). Respondent shall provide evidence to the EPA, including photographs of the completed corrective actions and the following certification signed by a person of authority in the System that the corrective actions have been completed: "I certify under penalty of perjury that Brush Creek LLC has completed all corrective actions to address the significant deficiencies identified during the August 29, 2013, sanitary survey site visit."



20. For any future violation of the Drinking Water Regulations for which this Order does not specify a reporting period, Respondent shall report the violation to the EPA within 48 hours of the violation occurring, 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.

21. 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 in writing within 10 days.

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

23. 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.

24. Respondent shall send all reporting and notifications required by this Order in writing to:

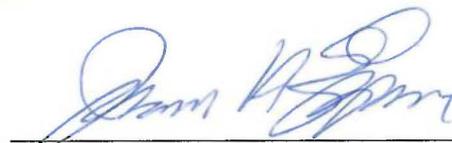
U.S. EPA Region 8 (8P-W-DW)
1595 Wynkoop
Denver, Colorado 80202-1129



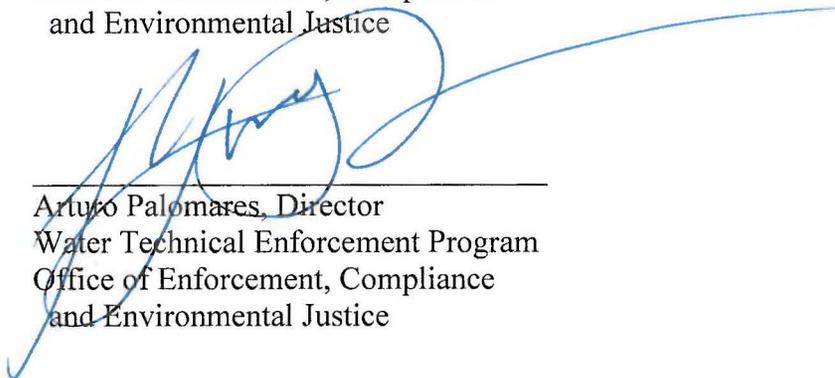
GENERAL PROVISIONS

25. 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.
26. 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.
27. 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).
28. This Order is effective upon receipt by Respondent and will continue to be in effect until closed by the EPA.

Issued: May 4, 2015



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



U.S. EPA Small Business Resources Information Sheet

The United States Environmental Protection Agency provides an array of resources, including workshops, training sessions, hotlines, websites and guides, to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

EPA's Small Business Websites

Small Business Environmental Homepage - www.smallbiz-enviroweb.org

Small Business Gateway - www.epa.gov/smallbusiness

EPA's Small Business Ombudsman - www.epa.gov/sbo or 1-800-368-5888

EPA's Compliance Assistance Homepage

[www.epa.gov/compliance/assistance/
business.html](http://www.epa.gov/compliance/assistance/business.html)

This page is a gateway to industry and statute-specific environmental resources, from extensive web-based information to hotlines and compliance assistance specialists.

EPA's Compliance Assistance Centers

www.assistancecenters.net

EPA's Compliance Assistance Centers provide information targeted to industries with many small businesses. They were developed in partnership with industry, universities and other federal and state agencies.

Agriculture

www.epa.gov/agriculture/

Automotive Recycling

www.ecarcenter.org

Automotive Service and Repair

www.ccar-greenlink.org or 1-888-GRN-LINK

Chemical Manufacturing

www.chemalliance.org

Construction

www.cicacenter.org or 1-734-995-4911

Education

www.campuserc.org

Food Processing

www.fpeac.org

Healthcare

www.hercenter.org

Local Government

www.lgean.org

Metal Finishing

www.nmfrf.org

Paints and Coatings

www.paintcenter.org

Printed Wiring Board Manufacturing

www.pwbrf.org

Printing

www.pneac.org

Ports

www.portcompliance.org

U.S. Border Compliance and Import/Export Issues

www.bordercenter.org

Hotlines, Helplines and Clearinghouses

www.epa.gov/epahome/hotline.htm

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Some examples are:

Antimicrobial Information Hotline

info-antimicrobial@epa.gov or
1-703-308-6411

Clean Air Technology Center (CATC) Info-line

www.epa.gov/ttn/catc or 1-919-541-0800

Emergency Planning and Community Right-To-Know Act

[www.epa.gov/superfund/resources/
infocenter/epcra.htm](http://www.epa.gov/superfund/resources/infocenter/epcra.htm) or 1-800-424-9346

EPA Imported Vehicles and Engines Public Helpline

www.epa.gov/otaq/imports or
734-214-4100

National Pesticide Information Center

www.npic.orst.edu/ or 1-800-858-7378

National Response Center Hotline -

to report oil and hazardous substance spills
www.nrc.uscg.mil or 1-800-424-8802

Pollution Prevention Information Clearinghouse (PPIC)

www.epa.gov/opptintr/ppic or
1-202-566-0799

Safe Drinking Water Hotline

[www.epa.gov/safewater/hotline/index.
html](http://www.epa.gov/safewater/hotline/index.html) or 1-800-426-4791

Stratospheric Ozone Protection Hotline

www.epa.gov/ozone or 1-800-296-1996

Toxic Substances Control Act (TSCA) Hotline

tsca-hotline@epa.gov or 1-202-554-1404

Wetlands Information Helpline

www.epa.gov/owow/wetlands/wetline.html or 1-800-832-7828

State and Tribal Web-Based Resources

State Resource Locators

www.envcap.org/statetools

The Locators provide state-specific contacts, regulations and resources covering the major environmental laws.

State Small Business Environmental Assistance Programs (SBEAPs)

www.smallbiz-enviroweb.org

State SBEAPs help small businesses and assistance providers understand environmental requirements and sustainable business practices through workshops, trainings and site visits. The website is a central point for sharing resources between EPA and states.

EPA's Tribal Compliance Assistance Center

www.epa.gov/tribalcompliance/index.html

The Center provides material to Tribes on environmental stewardship and regulations that might apply to tribal government operations.

EPA's Tribal Portal

www.epa.gov/tribalportal/

The Portal helps users locate tribal-related information within EPA and other federal agencies.

EPA Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated, businesses may be eligible for penalty waivers or reductions. EPA has two such policies that may apply to small businesses:

EPA's Small Business Compliance Policy

www.epa.gov/compliance/incentives/smallbusiness/index.html

This Policy offers small businesses special incentives to come into compliance voluntarily.

EPA's Audit Policy

www.epa.gov/compliance/incentives/auditing/auditpolicy.html

The Policy provides incentives to all businesses that voluntarily discover, promptly disclose and expeditiously correct their noncompliance.

Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established a SBREFA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System designation, number of employees or annual receipts, as defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247), or go to their website at www.sba.gov/ombudsman.

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

Your Duty to Comply

If you receive compliance assistance or submit a comment to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.