



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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OCT 19 2010

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Boyd Potts, Owner/Operator
B & K Mobile Home Park
1315 S. Federal Blvd. #55
Riverton, WY 82501

Re: Administrative Order
B & K Mobile Home Park Water System
Docket No. sdwa-08-2010-0059

Dear Mr. Potts:

This letter is in response to your letter dated August 19, 2010, concerning the contents of the Administrative Order issued to you on July 7, 2010.

Items #7, 8, and 14- failure to monitor for lead and copper.

EPA laboratory certification is awarded for successfully analyzing samples and using approved analytical methods. Not for proficiency in providing the proper number of bottles to customers for analysis. Ultimately, proper sampling is the system operator's responsibility. If you are dissatisfied with the services provided by a laboratory, there are others you may use instead. A list of certified laboratories can be found at www.epa.gov/region8/waterops/docs/certifiedlabs.pdf

EPA received your lead and copper samples taken in August 2010. Thank you. It is your responsibility to submit lead and copper monitoring results to EPA. (See 40 C.F.R. §§ 141.86(c) and (d)) When EPA receives the analysis the lead and copper rule manager reviews the results and determines if a monitoring or action level exceedance violation has occurred. The document is then given to the data entry clerk who enters it into the database. The document is then filed in your system file.

Monitoring period is the length of time allowed for sampling. In your case, the monitoring period for total coliform is a month, therefore, in September, for example, the monitoring period is September 1-30 and the results are due to EPA by October 10. (See 40 C.F.R. § 141.21(a)(2)) For nitrate the monitoring period is one year, January 1 through December 31, and the results are due to EPA by January 10 of the following year. (See 40 C.F.R. § 141.23(d)) Pursuant to 40 C.F.R. § 141.31(a), a system must report to EPA the results of any test measurement or analysis required by the National Primary Drinking Water Regulations within the first ten (10) days following the end of the monitoring period.

Items #9 and 15 - failure to monitor bacteriological quality.

August 2006. It is the public water system's responsibility to contract with a laboratory to provide testing bottles and analyses. Providing EPA with an explanation of the circumstances is helpful, but does not invalidate the violation.

October 2009. The month in which a sample is taken by the public water system is the monitoring date, not the date it is analyzed by the laboratory, so it is immaterial what month the sample bottle is labeled. A letter dated May 21, 2007, was sent to you explaining this when you sent EPA a letter after receiving a March 2007 total coliform monitoring violation letter. The rule manager invalidated the violation and accepted your February 28th sample for March as a one time courtesy. EPA again exercised its discretion by using a sample you took on August 31, 2009, for the September 2009 total coliform sample.

July 2009 – you should have received from the laboratory an analysis slip that was marked “not analyzed.” Upon notification that a sample was unable to be analyzed, or if you do not receive an analytical result for total coliform within one week of submittal of the sample to the laboratory, it is your responsibility to contact the laboratory and to resample and submit the sample to a laboratory to be analyzed as may be necessary. Sampling at the beginning of the month as you did avoids running out of time and incurring a violation if there is a problem necessitating additional sampling. It also is best to sample the first of the week so that a backlog or holiday does not prevent the lab from being able to promptly complete the analysis. Again, if you are dissatisfied with the services provided by a laboratory, there are others you may use instead.

December 2009 – EPA did not receive a total coliform sample result for December 2009 and, therefore, a violation occurred. You are right; you are generally required to take one sample monthly for total coliform. The form violation letter you received from EPA was incorrect in content. I apologize for the error and confusion. It is important to note that in addition to sampling monthly for total coliform, a system is required to take at least five routine total coliform samples the month following a total coliform positive sample. (See 40 C.F.R. § 21(b)(5) Your system had a total coliform positive sample in May 2010 and you did not take five samples the following month in June. The one sample you took June 16 was not analyzed by the laboratory, so your system incurred a violation for the month of June 2010.

Items #10, 11, 16, 17 Public Notice/Consumer Confidence Report (CCR) violations

Public notice must contain certain language specific to the type of violation; posting EPA violation letters and/or your response to these letters does not meet this requirement. (See 40 C.F.R. Part 141 Subpart Q, §§ 141.201, et seq.) Enclosed with each violation letter is a template for the public notice for your use. You also may use a web-based tool to create public notices at www.pniwriter.com. Detailed public notice requirements can be found at www.epa.gov/region8/waterops/reporting/pn.html. The completed public notice must be submitted to EPA within 10 days of completion with your signature and the dates the notice was posted to document compliance. Violations occurring during the period covered by the annual (CCR) are required to be included in the CCR regardless if you provided posted public notice or not. Alternatively, you can skip posting violations and instead use the annual CCR for the public notice requirement. There is specific language that must be included in the CCR. (See 40 C.F.R. § 141.152-155)

It is the system's responsibility to fully complete the CCR, including listing any violations that occurred during the year. EPA notifies systems of violations via mail and you may also access a listing of the violations incurred at your system, along with additional information, at www.epa.gov/region8/waterops/dww/index.html. You may also use the web tool at www.ccriwriter.com to generate a CCR that includes all the required wording and will prompt you to add contact names and telephone numbers, sample results, description of violations (if any), and other system-specific information.

The violation for failure to provide public notice for the 2006 violation was included in the Order. The 2009 violations were not because you have a year to complete public notice for monitoring violations so the public notice for the 2009 violations were not yet past due at the time the Order was issued. Since you did not have the 2006 or 2009 violations in your CCR, you must provide public notice via posting or any other acceptable method and send a copy to EPA as described above.

Items #12 and 13 Reporting violations to EPA

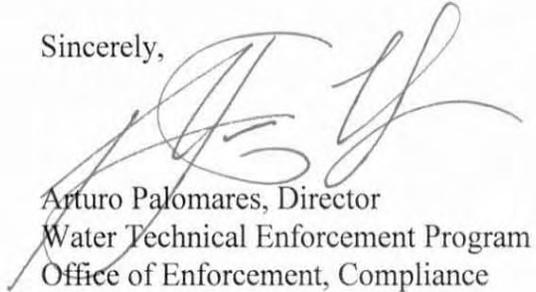
You are required to report to EPA, via a telephone call, email, or fax, any violation of drinking water regulation (with the exception of total coliform violations) within 48 hours. (See 40 C.F.R. § 141.31(b) Thus, if you fail to monitor for lead and copper due to insufficient sample containers provided by the laboratory or the laboratory does not analyze your samples for any reason, you are to call EPA and let us know a violation has occurred. You are required to report to EPA any total coliform violations within 10 days. (See 40 C.F.R. § 141.21(g)(2))

EPA provides considerable compliance assistance to educate and remind systems of their drinking water requirements. A package detailing the monitoring and public notice requirements for your system was mailed to you on February 17, 2006. An on-site visit (know as a sanitary survey) was conducted with you on September 12, 2008, at which time monitoring requirements were discussed. At the beginning of each year a monitoring schedule is sent to you detailing your system's monitoring requirements and providing the name and telephone number of staff contacts for each rule. It is the responsibility of the public water system owner and/or operator to know the regulatory requirements and ensure proper sampling, analysis, and submittal of results to EPA. Enclosed are instructions for two websites, Drinking Water Watch and Drinking Water on-line, that provide regulatory requirements and technical assistance to system operators.

Because the system is providing water to the public, it is imperative that you ensure the safe quality of the drinking water through monitoring and reporting. It is apparent based on your letter and past effort that while you take these responsibilities seriously, you are not doing so in accordance with the applicable drinking water regulations set forth at 40 C.F.R. Part 141. Under separate cover, you will be receiving an Amended Administrative Order that includes additional violations. To prevent this matter from escalating to a penalty action or referral to the Department of Justice for civil judicial action, I urge you to work with my staff and the governing regulations to ensure compliance.

Please contact Kathelene Brainich at the above address (with the mailcode 8ENF-W) or by phone at (800) 227-8917, extension 6481 or (303) 312-6481 should you have any further questions. Any questions from your attorney should be directed to Amy Swanson, Enforcement Attorney, at the letterhead address (with the mailcode 8ENF-L) or by phone at (800) 227-8917, extension 6906, or (303) 312-6906.

Sincerely,



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