



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

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

Ref: 8ENF-W

JAN 26 2012

CERTIFIED MAIL LETTER  
RETURN RECEIPT REQUESTED

Park County Commissioners  
c/o Bucky Hall, Chairman  
Park County Courthouse  
1002 Sheridan Ave.  
Cody, WY 82414

Re: Notice of Safe Drinking Water Act  
Enforcement Action against  
Cary Enterprises, Incorporated  
Hunter Peak Ranch Public Water System  
PWS ID #WY560044

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 Cary Enterprises Incorporated, located in Cody, Wyoming, directing it to comply with the National Primary Drinking Water Regulations. The violations include exceeding the total coliform maximum contaminant level (MCL); failing to monitor for total coliform; failing to take a source water sample within 24 hours; failing to report these violations to EPA; and failing to provide public notice of the 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 Shawn McCaffrey at (303) 312-6515.

Sincerely,

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

Enclosure  
Order



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

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JAN 26 2012

Ref: 8ENF-W

CERTIFIED MAIL LETTER  
RETURN RECEIPT REQUESTED

Cary Enterprises, Incorporated  
Garnet Cary, Registered Agent  
375 North Bent Street  
Powell, WY 82435

Re: Administrative Order  
Docket No. **SDWA-08-2012-0009**  
Hunter Peak Ranch  
Public Water System  
PWS ID# WY5600446

Dear Mr. Cary:

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 (SDWA), 42 U.S.C. § 300g-3(g). Among other things, the Order alleges that Cary Enterprises, Incorporated (the Company), owner and/or operator of the Hunter Peak Ranch public water system, has violated the National Primary Drinking Water Regulations and 40 C.F.R. part 141 (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 under 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 request an informal conference with EPCRA, 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 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

Enclosure

Order  
SBREFA Information Sheet  
Public Notice Template

cc: Louis Cary, Operator  
Tina Artemis, EPA Regional Hearing Clerk  
Wyoming DEQ/DOH (via email)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

2012 JAN 26 PM 2: 14

IN THE MATTER OF: )  
 )  
Cary Enterprises, Incorporated, WY, )  
 )  
Respondent. )

Docket No. SDWA-01

2012-0009

FILED  
REGION VIII  
TRAINING 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(g) of the Safe Drinking Water Act (the Act), 42 U.S.C. § 300g-3(g), as properly delegated to the undersigned officials.
2. Cary Enterprises, Incorporated (Respondent) is a Wyoming corporation that owns and/or operates the Hunter Peak Ranch Water System (the System), which provides piped water to the public in Park County, Wyoming, for human consumption.
3. The System is supplied by one ground water source (Garnet Cary well) that provides water that is not treated.
4. The System has approximately 10 service connections 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 section 1401(4) of the Act, 42 U.S.C. § 3007(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. If two or more samples collected in any month from the System's water are positive for total coliform, then the System has not complied with the maximum contaminant level (MCL) for total coliform bacteria. 40 C.F.R. § 141.63(a)(2). During the month of August 2011, two or more samples from the System were positive for total coliform, and, therefore, Respondent violated this requirement.

8. Respondent is required to conduct triggered source monitoring within 24 hours of being notified that a regular, routine total coliform monitoring sample is positive for total coliform. Respondent must sample each ground water source and have it analyzed for a fecal indicator. 40 C.F.R. § 141.402. Respondent was notified on or near August 24, 2011 that a routine sample (collected pursuant to 40 C.F.R. § 141.21(a) and not invalidated under 40 C.F.R. § 141.21(c)) was positive for total coliform. However, Respondent failed to collect a ground water source sample within 24 hours and, therefore, violated this requirement.

9. In 2007 and 2008, Respondent was required to monitor the System's water for total coliform bacteria during the 2<sup>nd</sup> (April – June), 3<sup>rd</sup> (July – September), and 4<sup>th</sup> (October – December) quarters. 40 C.F.R. § 141.21(a). Respondent failed to monitor the System's water for total coliform bacteria during the 4<sup>th</sup> quarter of 2007 and 2008, and, therefore, violated this requirement.

10. Respondent is required to notify 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 paragraphs 7 and 9 above, and, therefore, violated this requirement. Public notice for the August 2011 failure to collect a triggered source water sample violation cited in paragraph 8 is not yet overdue.

11. Respondent is required to report any coliform MCL violation to the EPA no later than the end of the next business day after learning of it. 40 C.F.R. § 141.21(g)(1). Respondent did not notify EPA of the MCL violation cited in paragraph 7, above, 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 listed in paragraph 9, above, to the 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 8 and 10 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. If the System's water does not comply with the total coliform MCL in 40 C.F.R. § 141.63, Respondent, by the end of the business day after discovering this violation, shall report this violation to EPA as required by 40 C.F.R. § 141.21(g)(1).

15. Within 48 hours of opening in 2012, Respondent shall collect at least one water sample from its ground water source for fecal indicator analysis. If the sample is negative, Respondent shall report that result to the EPA no later than 10 days after the end of the month in which the sample is taken. If the sample is positive, Respondent shall notify the EPA immediately for appropriate assistance in meeting the requirement of 40 C.F.R. § 141.402 to provide public notice within 24 hours as required by 40 C.F.R. § 141.202. Thereafter, Respondent shall comply with all source water monitoring and related requirements in 40 C.F.R. § 141.402. When reporting any triggered source water sample result to the EPA, Respondent shall specify that it is a triggered source water sample.

16. Respondent shall monitor the System's water quarterly for total coliform bacteria during its operating season 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).

17. Respondent shall report any violation of the Drinking Water Regulations to the 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.

18. Within 30 days after receipt of this Order, Respondent shall notify the public of the violations cited in paragraphs 7, 8, and 9, 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.

19. 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**

20. 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 a selection by EPA to forgo any civil or criminal action.

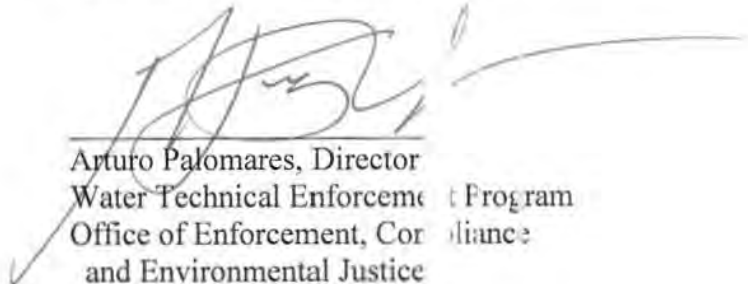


21. Violation of any part of this Order or the Drinking Water Regulations may subject Respondent to a civil penalty of up to \$37,500 (as adjusted for inflation) per day of violation. 42 U.S.C. § 300g-3; 40 C.F.R. part 19.

Issued: January 26, 2012.



Eduardo Quintana, Acting 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