



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

MAR 22 2007

CERTIFIED MAIL LETTER  
RETURN RECEIPT REQUESTED

Sports Bar  
c/o Mr. James Scott Ostlund, Owner  
1400 North Highway 14-16  
Gillette, Wyoming 82716

Re: Administrative Order  
Docket No. **SDWA-08-2007-0039**  
PWS ID# WY5601522

Dear Mr. Ostlund:

Enclosed you will find an Administrative Order (Order), which the Environmental Protection Agency (EPA) has issued under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. section 300f et seq., and its implementing regulations. Among other things, the Administrative Order finds that the Sports Bar is a supplier of water as defined by the SDWA and has violated the National Primary Drinking Water Regulations (NPDWRs) at 40 C.F.R. §§ 141.63(a)(2), 141.21(a), 141.201, 141.21(g)(2), and 141.31(b) for exceeding the maximum contaminant level (MCL) for total coliform bacteria; failure to monitor quarterly for total coliform bacteria; failure to post public notice; failure to report total coliform monitoring violations to EPA; and failure to report National Primary Drinking Water violations to EPA.

If the Sports Bar complies with the terms of the Order for a period of at least twelve months, EPA may choose to close the Order. Violating the enclosed Order may lead to (1) a penalty of up to \$32,500 per day of violation of the Order, (2) a separate such penalty for violating the regulations themselves, and/or (3) a court injunction ordering compliance.

A Small Business Regulatory Enforcement and Fairness Act (SBREFA) information sheet, U.S. EPA Small Business Resources, containing information on compliance assistance resources and tools available to small businesses, is enclosed with this letter. SBREFA does not eliminate your responsibility to comply with the SDWA.

Please note that the effective date of the enclosed Order is the date of issuance. Within the next 10 days, please provide EPA with any new information that you believe the Agency is not aware of relating to the alleged violations in the Order. The information may be sent to Melanie Wasco at the address on the letterhead, including the mailcode 8ENF-W, or you may



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call Ms. Wasco at (800) 227-8917, extension 312-6540, or (303) 312-6540. If you wish to have an informal conference with EPA, you may also call or write Ms. Wasco. If you are represented by an attorney, please feel free to ask your attorney to call EPA Senior Enforcement Attorney Jessie Goldfarb at the above 800 number, extension 312-6926, or at (303) 312-6926.

We urge your prompt attention to this matter.

Sincerely,



Diane L. Sipe, Director  
Technical Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

Enclosure  
Order  
SBREFA

cc: (via email)  
Wyoming DEQ  
Wyoming DOH





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Ref: 8ENF-W

**MAR 22 2007**

CERTIFIED MAIL LETTER  
RETURN RECEIPT REQUESTED

Campbell County Commissioners  
c/o Craig G. Mader, Chair  
P.O. Box 92  
Gillette, WY 82717

Re: Notice of Safe Drinking Water Act  
Enforcement Action against  
Sports Bar, PWS ID# WY5601522

Dear County Commissioners:

Under the Safe Drinking Water Act (SDWA), the Environmental Protection Agency (EPA) administers a program for promoting the safety of public water supplies. In Wyoming, the EPA enforces this program directly, because Wyoming does not have primary authority for doing so. When EPA issues an administrative compliance order to a public water supply system in a state that does not have primary enforcement authority under the SDWA, EPA is required to notify an appropriate locally elected official. Accordingly, the purpose of this letter is to notify you that EPA is issuing an administrative compliance order to a public water supply system in your county.

An Administrative Order is being issued under section 1414 of the SDWA to the Sports Bar Public Water System, Gillette, Wyoming. This Order requires that the public water system take measures to return to compliance with the SDWA and the National Primary Drinking Water Regulations. The system is in violation of 40 C.F.R. §§ 141.63(a)(2), 141.21(a), 141.201, 141.21(g)(2), and 141.31(b) for exceeding the maximum contaminant level (MCL) for total coliform bacteria; failure to monitor quarterly for total coliform bacteria; failure to post public notice; failure to report total coliform monitoring violations to EPA; and failure to report National Primary Drinking Water violations to EPA.

A copy of the Order is enclosed for your information. The Order does not require any response or action by the County Commission. If you have any questions regarding this Order, please contact Melanie Wasco at (303) 312-6540.

Sincerely,

A handwritten signature in cursive script, appearing to read "Diane L. Sipe".

Diane L. Sipe, Director  
Technical Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

2007 MAR 22 AM 8:49

EPA REGION VIII  
HEARING CLERK

IN THE MATTER OF )  
)  
James Scott Ostlund, Owner )  
Sports Bar )  
Gillette, Wyoming )  
PWS ID# WY5601522 )  
)  
Respondent )  
)  
Proceedings under section 1414(g) )  
of the Safe Drinking Water Act, )  
42 U.S.C. § 300g-3(g) )  
\_\_\_\_\_ )

ADMINISTRATIVE ORDER

Docket No. **SDWA-08-2007-0039**

The following Findings are made and Order issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency ("EPA") by section 1414(g) of the Safe Drinking Water Act ("the Act"), 42 U.S.C. § 300g-3(g), and its implementing regulations, as properly delegated to the Supervisors of the Technical and Legal Enforcement Programs of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8.

FINDINGS

1. James Scott Ostlund ("Respondent") is an individual and therefore a "person" within the meaning of section 1401(12) of the Act, 42 U.S.C. § 300f(12) and of 40 C.F.R. § 141.2.
2. Respondent owns and/or operates a system, the Sports Bar Public Water System (the "System"), located in Campbell County, Wyoming for the provision to the public of piped water for human consumption.

3. The System has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year and is therefore a "public water system" within the meaning of section 1401(4) of the Act, 42 U.S.C. § 300f(4), and a "non-community water system" within the meaning of 40 C.F.R. § 141.2.
4. Respondent owns and/or operates a public water system and is therefore a "supplier of water" within the meaning of section 1401(5) of the Act, 42 U.S.C. § 300f(5) and 40 C.F.R. § 141.2. Respondent is therefore subject to the requirements of part B of the Act, 42 U.S.C. § 300g, and its implementing regulations, 40 C.F.R. part 141.
5. According to a December 8, 2003 sanitary survey by an agent for EPA, Respondent operates a system that is supplied solely by a ground water source. The System serves a transient population of approximately 40 persons per day through one service connection, and is open year-round.

#### FINDINGS OF VIOLATION

##### I.

1. 40 C.F.R. § 141.21 requires public water systems to monitor the water at least once per quarter for non-community groundwater public water systems with an average daily population of less than 1,001 to determine compliance with the MCL for total coliform bacteria as stated in 40 C.F.R. § 141.63.
2. 40 C.F.R. § 141.63(a)(2) imposes and defines the MCL for total coliform bacteria, applicable to public water systems collecting fewer than 40

samples per month, as no more than one sample collected during the month may be positive for total coliform bacteria.

3. Monitoring results submitted by the Respondent for the public water system during January 2003 exceeded the MCL for total coliform bacteria, in violation of 40 C.F.R. § 141.63(a)(2).

## II.

1. 40 C.F.R. § 141.21 requires the owner and/or operators of non-community public water systems to monitor the water at least once per quarter to determine compliance with the MCL for total coliform bacteria as stated in 40 C.F.R. § 141.63.
2. Respondent failed to monitor the System's water for contamination by total coliform bacteria during the fourth quarter (October through December) of 2004 and 2005, and the third quarter (July through September) of 2006, in violation of 40 C.F.R. § 141.21(a).

## III.

1. 40 C.F.R. § 141.201 requires owners and/or operators of public water systems to notify the public of any violations of the National Primary Drinking Water Regulations (NPDWR), including violations of the MCL, maximum residual disinfection level (MRDL), treatment technique (TT), monitoring requirements, and testing procedures in 40 C.F.R. part 141.
2. Respondent has not provided a Tier 3 public notice of the 2004 and 2005 noncompliance detailed in section II above, in violation of 40 C.F.R. §



141.201. Public notice for the 2006 violation is not yet due according to the regulation.

IV.

1. 40 C.F.R. § 141.21(g)(2) requires public water systems to report any failure to comply with a coliform bacteria monitoring requirement to EPA within 10 business days after the system discovers the violation.
2. Respondent failed to report to EPA instances of noncompliance detailed in section II above, in violation of 40 C.F.R. § 141.21(g)(2).

V.

1. 40 C.F.R. § 141.31(b) requires public water systems to report any failure to comply with any NPDWR (40 C.F.R. part 141) to EPA within 48 hours.
2. Respondent failed to report to EPA instances of noncompliance detailed in section III above, in violation of 40 C.F.R. § 141.31(b).

ORDER

Based on the foregoing Findings, and pursuant to section 1414(g) of the Act, IT IS ORDERED:

1. As of the effective date of this Order, Respondent shall comply with the total coliform monitoring requirements as stated in 40 C.F.R. § 141.21 to determine compliance with the total coliform MCL appearing at 40 C.F.R. § 141.63. Respondent shall comply with the MCLs as stated in 40 C.F.R. § 141.63. Respondent shall report analytical results to EPA within the first 10 days following the month in which sample results are received, as required by 40 C.F.R. § 141.31(a).

2. Within 30 days from the effective date of this Order, Respondent must provide public notice of the three violations detailed in section II of the Findings of Violation in this Order. This notice must be given by any one of the following methods: (1) posting the notice in conspicuous locations throughout the distribution system frequented by persons served by the System; (2) by mail or direct delivery to each customer and service connection; AND (3) any other method reasonably calculated to reach other persons served by the System, if they would not normally be reached by the notice described in (1) and (2), including publication in a local newspaper or newsletter distributed to customers; use of e-mail to notify employees or students; or, delivery of multiple copies in central locations. Upon the effective date of this Order, Respondent shall comply with the public notification requirements at 40 C.F.R. § 141.201 et seq. following any future NPDWR violation. Respondent shall submit a copy of the public notice to EPA within 10 days of completion of the public notice, as required by 40 C.F.R. § 141.31(d).
3. Upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.21(g)(2) by reporting any failure to comply with coliform monitoring requirements under 40 C.F.R. § 141.21 to EPA within ten days after the System discovers the violation.
4. Except where a different reporting period is specified above, upon the effective date of this Order, Respondent shall comply with 40 C.F.R.

§ 141.31(b) by reporting any failure to comply with any National Primary Drinking Water Regulation (40 C.F.R. part 141) to EPA within 48 hours.

5. Reporting requirements specified in this Order shall be provided by certified mail to:

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

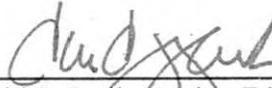
#### GENERAL PROVISIONS

1. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. § 141.1 et seq., or the Safe Drinking Water Act, which remain in full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or criminal action otherwise authorized under the Act.
2. Violation of any term of this Order may subject the Respondent to an administrative civil penalty of up to \$27,500, under section 1414(g)(3)(B) of the Act, 42 U.S.C. § 300g-3(g)(3)(B), or a civil penalty of not more than \$32,500 per day of violation, assessed by an appropriate U.S. District Court under section 1414(g)(3)(C) of the Act, 42 U.S.C. § 300g-3(g)(3)(C).
3. Violation of any requirement of the SDWA or its implementing regulations may subject Respondent to a civil penalty of not more than \$32,500 per day of violation, assessed by an appropriate U.S. District Court under section 1414(b) of the Act, 42 U.S.C. § 300g-3(b).



4. The effective date of this Order shall be the date of issuance of this Order.

Issued this 23<sup>rd</sup> day of March, 2007.



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David J. Janik, Acting Director  
Legal Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice



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Diane L. Sipe, Director  
Technical Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

