



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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

JUN - 1 2007

Ref: 8ENF-W

CERTIFIED MAIL LETTER
RETURN RECEIPT REQUESTED

Mr. Don Myers, Mayor
Town of Burns
P.O. Box 66
Burns, WY 82053

Re: Administrative Order
Docket No. **SDWA-08-2007-0056**
Burns Board of Public Utilities
PWS ID #WY5600188

Dear Mayor Myers:

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 (the Act), 42 U.S.C. Section 300f, *et seq.*, and its implementing regulations. Among other things, the Order finds that the Town of Burns is a supplier of water as defined by the Act and that it has violated the National Primary Drinking Water Regulations (NPDWRs) at 40 Code of Federal Regulations (C.F.R.) §§ 141.63(a)(2), 141.23(d), 141.21(g)(1), and 141.31(b) for: exceedance of maximum contaminant levels (MCL) for total coliform bacteria, failure to monitor for nitrate, and failure to notify EPA of above mentioned violations.

If the Town of Burns water system complies with the enclosed 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.

The NPDWRs require Respondent to provide a public notification of violations of the Act. For your convenience, we have enclosed some template forms to assist you in providing the required public notice. If you have any questions or comments concerning the form of public notice, please do not hesitate to contact Kimberly Pardue Welch of EPA, whose telephone number is provided below.

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 Kimberly Pardue Welch at the address on the letterhead, include the mailcode 8ENF-W, or you may call Ms. Pardue Welch at (800) 227-8917, extension 6983, or (303) 312-6983. If you wish to have an informal conference with EPA, you may also call or write Ms. Pardue Welch. If you are represented by an attorney or have legal questions, please call Thomas Sitz at the above 800 number, extension 6918, or at (303) 312- 6918.

We urge your prompt attention to this matter.

Sincerely,



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

Enclosures

Administrative Order
Public Notice template

cc: Wyoming DEQ (via email)
Wyoming DOH (via email)
Mr. Eric Metzger, Utilities Commissioner, Burns Board of Public Utilities





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JUN - 1 2007

Ref: 8ENF-W

CERTIFIED MAIL LETTER
RETURN RECEIPT REQUESTED

Laramie County Commissioners
c/o Jeff Ketcham, Chairman
310 W. 19th Street, Suite 300
Cheyenne, WY 82001

Re: Notice of Safe Drinking Water Act
Enforcement Action against
Town of Burns, owner of
Burns Board of Public Utilities
PWS ID#5600188

Dear County Commissioners:

Pursuant to Section 1414(a)(2)(B) of the Safe Drinking Water Act (the Act), the Environmental Protection Agency (EPA) is required to notify an appropriate locally elected official of any action taken in a State that does not have primary enforcement authority for public water systems. The State of Wyoming does not have primary enforcement authority for public water systems under the Act.

An Administrative Order is being issued under Section 1414 of the Act to The Town of Burns, owner of the Burns Board of Public Utilities water system, located in Burns, Wyoming. This Order requires that the public water system take measures to return to compliance with the Act and the National Primary Drinking Water Regulations (NPDWRs). The system is in violation of 40 C.F.R. §§ 141.63(a)(2), 141.23(d), 141.21(g)(1), and 141.31(b) for: exceedance of maximum contaminant levels (MCL) for total coliform bacteria, failure to monitor for nitrate, and failure to notify EPA of above mentioned violations.

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 Kimberly Pardue Welch at (303) 312-6983.

Sincerely,



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

Enclosure
Administrative Order



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2007 JUN -1 AM 9: 21

IN THE MATTER OF)
The Town of Burns)
Burns, WY)
Respondent)
)
Proceedings under Section 1414(g))
of the Safe Drinking Water Act,)
42 U.S.C. § 300g-3(g))
_____)

FILED
EPA REGION VIII
HEARING CLERK

ADMINISTRATIVE ORDER

Docket No. **SDWA-08-2007-0056**

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. The Town of Burns, Wyoming (Respondent) is a municipality and therefore a "person" within the meaning of 40 C.F.R. § 141.2.
2. Respondent owns and/or operates a system, the Town of Burns Water System (the System), located in Laramie County, Wyoming for the provision to the public of piped water for human consumption.
3. The System has at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents 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 "community water system" within the meaning of 40 C.F.R. § 141.2.

4. Respondent owns and operates the System and therefore is 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. Respondent operates a system that is supplied solely by a ground water source consisting of four wells, which serves approximately 285 persons per day through 127 service connections and is in operation year-round.

FINDINGS OF VIOLATION

I

1. 40 C.F.R. § 141.21(a) requires non-community public water systems to monitor the water at least once per quarter that the system serves water to the public to determine compliance with the Maximum Contaminant Level (MCL) for total coliform bacteria as stated in 40 C.F.R. § 141.63(a)(2).
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 Respondent for the System during August 2002 and October 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. § 141.23(d) requires public water systems to monitor annually for nitrate to determine compliance with the nitrate MCL as stated in 40 C.F.R. § 141.62(b).
2. Respondent failed to monitor for nitrate in 2006, in violation of 40 C.F.R. § 141.23(d).

III

1. 40 C.F.R. § 141.31(a) requires public water systems to report analytical results to EPA within the first 10 days following the month in which sample results are received.
2. Respondent failed to submit analytical results for nitrate to EPA within the first 10 days following the month in which sample results were received in 2005. Respondent sampled for nitrate on October 17, 2005 and received results on October 19, 2005 but failed to submit analytical results to EPA until March 14, 2006, in violation of C.F.R. § 141.31(a).

IV

1. 40 C.F.R. 141.21(g)(1) requires a public water system that has exceeded the MCL for total coliforms in 40 C.F.R. § 141.63 to report the violation to EPA no later than the end of the next business day after it learns of the violation.
2. Respondent failed to report to EPA the August 2002 total coliform MCL violation detailed in Section I, in violation of 40 C.F.R. § 141.21(g)(1).

V

1. 40 C.F.R. § 141.31(b) requires public water systems to report any failure to comply with any National Primary Drinking Water Regulations (NPDWRs) to EPA within 48 hours.
2. Respondent failed to report to EPA the noncompliance detailed in Sections II, 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. Upon the effective date of this Order, Respondent shall comply with the total coliform MCL as stated in 40 C.F.R § 141.63(a)(2).
2. Within 30 days of the effective date of this Order, Respondent shall comply with the nitrate monitoring requirements as stated in 40 C.F.R. § 141.23(d) to determine compliance with the nitrate MCL appearing at 40 C.F.R. § 141.62(b). 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).
3. Upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.21(g)(1) by reporting any total coliform MCL violation under 40 C.F.R. § 141.63 to EPA no later than the end of the next business day after Respondent learns of the violation.

4. Upon the effective date of this Order, except where noted in Section 3 above, Respondent shall comply with 40 C.F.R. § 141.31(b) by reporting any failure to comply with any National Primary Drinking Water Regulations (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, CO 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 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 Respondents 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 Act or its implementing regulations may subject Respondents 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 1st day of June, 2007.



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



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

