



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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Denver, CO 80202-1129
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www.epa.gov/region08

2018 APR -4 AM 9:50

FILED
EPA REGION VIII
HEARING CLERK

APR 04 2018

Ref: 8ENF-W-SDW

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Rex Groves, Board President
Lance Creek Water and Sewer District
P.O. Box 133
Lance Creek, WY 82222

Re: Administrative Order issued to Lance Creek Public Water System,
PWS ID #WY5600109, Docket No. **SDWA-08-2018-0010**

Dear Mr. Groves:

Enclosed is an Administrative Order (Order) issued by the United States Environmental Protection Agency 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 Lance Creek Water and Sewer District (District), as owner and/or operator of the Lance Creek Public Water System (System), has violated the National Primary Drinking Water Regulations (Drinking Water Regulations) at 40 C.F.R. part 141.

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 (any monitoring that may have been done but not submitted, any public notices posted but not submitted, any updates to the number of service connections and/or individuals served, *etc.*). If the EPA does not hear from you, the EPA will assume this information is correct.

If the District complies with the Order, the EPA may close the Order without further action. Failure to comply with the Order may lead to substantial civil administrative 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.

The Order requires the District 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.

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

If you have any questions or to request an informal conference with the EPA, please contact Jill Minter at the above address (with the mailcode 8ENF-W-SDW), via email at minter.jill@epa.gov, or by phone at (800) 227-8917, extension 6084, or (303) 312-6084. Any questions from the District's attorney should be directed to Mia Bearley, Enforcement Attorney, who may be reached at the above address (with the mailcode 8ENF-L), via email at bearley.mia@epa.gov 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

cc: WY DEQ/DOH (via email)
Melissa Haniewicz, EPA Regional Hearing Clerk
Mr. Brad Kant, Chief Operator, Lance Creek Public Water System (bradkant@gmail.com)
Ms. Sue McGuire, Office Manager, Lance Creek Public Water System
(smmwgm13@gmail.com)
Niobrara County Commissioners (niocc@qwestoffice.net)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

2018 APR -4 AM 9:50

IN THE MATTER OF:)
)
Lance Creek Water and Sewer District,)
)
Respondent.)

Docket No. SDWA-08-2018-0010

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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 (Act), 42 U.S.C. § 300g-3(g), as properly delegated to the undersigned officials.
2. Lance Creek Water and Sewer District (Respondent) is a public body created by or pursuant to Wyoming law that owns and/or operates the Lance Creek Public Water System (System), which provides piped water to the public in Niobrara County, Wyoming, for human consumption.
3. The System is supplied by a groundwater source currently accessed via one well, the State #2 Well. A second well, the State #1 Well, is a backup source only and is no longer used due to high arsenic levels. The water is disinfected with chlorine bleach. Excess water is stored in a 200,000-gallon storage tank then gravity fed to distribution.
4. The System has approximately 33 service connections used by year-round residents and/or regularly serves an average of approximately 45 year-round residents. Therefore, the System is a “public water system” and a “community water system” as defined in 40 C.F.R. § 141.2 and section 1401 of the Act, 42 U.S.C. § 300f.
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. The maximum contaminant level (MCL) for combined radium-226 and radium-228 is 5 picocuries per liter (pCi/L), with compliance based on the running annual average (RAA) of four consecutive quarterly samples collected at the entry point to the distribution system. 40 C.F.R. §141.26(a) and (c) and 40 C.F.R. §141.66(b). The RAA of combined radium-226 and radium-228 samples collected from the System was 6 pCi/L for the four quarters ending the 4th Quarter 2016, 6 pCi/L for the four quarters ending the 1st Quarter 2017, 7 pCi/L for the four quarters ending the 2nd Quarter 2017, 8 pCi/L for the four quarters ending the 3rd Quarter 2017, and 7 pCi/L for the four quarters ending the 4th Quarter 2017. 40 C.F.R. §141.26(a). Therefore, Respondent violated this requirement.

8. Respondent is required to notify the public of certain violations of the Drinking Water Regulations and, within 10 days after providing public notice, submit a copy of the public notice to the EPA. 40 C.F.R. §§ 141.201-141.211. Respondent failed to notify the public of three of the four violations cited in paragraph 7, above and therefore violated this requirement. Respondent did notify the public of the violation for the four quarters ending the 4th Quarter 2016 and submitted a copy of the public notice to the EPA.

9. 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 paragraph 7, 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):

10. Within 60 days after receipt of this Order, Respondent shall submit to the EPA a proposed plan and schedule to bring the System into consistent compliance with the combined radium-226 and radium-228 MCL as identified in 40 C.F.R. §141.66(b). The plan should draw from options in the Lance Creek Water Supply Study, Level I of 2011 and the Lance Creek Well Level II Study of April 2013. The plan shall include proposed modifications to the System and estimated costs of such modifications. The schedule shall include a project start date, interim milestone deadlines, and a final compliance deadline (to be within 12 months from the date of the EPA's approval of the schedule). The Respondent shall not begin construction or modifications to the System before the EPA has approved Respondent's compliance schedule. Please note that certain compliance technologies for radionuclides (including combined radium-226 and radium-228) have important use limitations and requirements per 40 C.F.R. §141.66(h). For this reason, the EPA suggests Respondent consult with the EPA prior to submission of its proposed plan and schedule. The EPA's approval of the Respondent's schedule does not substitute for any State of Wyoming approval of plans and specifications that may also be required before modifications may be made to the System.

11. The schedule required by paragraph 10, above, shall be incorporated into this Order as an enforceable requirement upon written approval by the EPA.

12. Within 30 days after receipt of the EPA's approval of the schedule required by paragraph 10, above, Respondent shall begin to provide the EPA with quarterly reports on the progress made toward bringing the System into compliance with the combined radium-226 and radium-228 MCL. Each quarterly report is due by the 10th day of the month following the relevant quarter (*i.e.*, 1st Quarter report due April 10th, 2nd Quarter report due July 10th, 3rd Quarter report due October 10th, and 4th Quarter report due January 10th).

13. Within 10 days after completing all tasks included in the schedule required by paragraph 10, above, Respondent shall notify the EPA of the project's completion.

14. Respondent shall achieve and maintain compliance with the combined radium-226 and radium-228 MCL by the final date specified in the approved schedule, or no later than 12 months after receipt of the EPA's approval of the schedule required by paragraph 10 above, whichever is earliest. Respondent shall complete all scheduled work items by this deadline. If the plan fails to achieve permanent compliance, the EPA may order further steps and/or seek penalties for noncompliance.

15. 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.

16. Within 30 days after receipt of this Order, Respondent shall notify the public of the violations cited in paragraphs 7, above. Templates and instructions are available at: <https://www.epa.gov/region8-waterops/reporting-forms-and-instructions-reporting-forms%23new#pn>.

17. 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.

18. If the population or number of connections served by the System falls below 25 individuals and 15 connections, Respondent shall notify the EPA in writing within 10 days by completing and providing to the EPA the basic information form available at: <https://www.epa.gov/region8-waterops/reporting-forms-and-instructions-reporting-forms#new>.

19. 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.

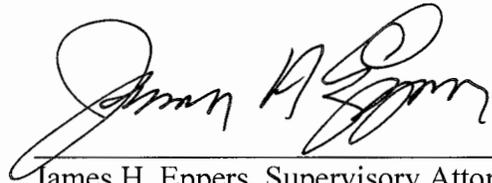
20. Respondent shall send all reporting and notifications required by this Order to the EPA at:

Email: R8DWU@epa.gov, and
Minter.jill@epa.gov

GENERAL PROVISIONS

21. 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.
22. Violation of any part of this Order or the Drinking Water Regulations may subject Respondent to a civil penalty of up to \$55,907 (as adjusted for inflation) per day of violation. 42 U.S.C. § 300g-3, 40 C.F.R. part 19, 83 Fed. Reg. at 1193 (January 10, 2018).
23. 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).
24. This Order is effective upon receipt by Respondent and will continue to be in effect until closed by the EPA.

Issued: April 4, 2018.



James H. Eppers, Supervisory Attorney
Regulatory Enforcement Unit
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice



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

Instructions for Chemical or Radiological MCLs Notice – Template 2-3

Template on Reverse

Chemical or radiological maximum contaminant level (MCL) violations require Tier 2 notification. You must provide public notice to persons served as soon as practical but within 30 days after you learn of the violation [40 CFR 141.203(b)]. You must issue a repeat notice every three months for as long as the violation persists. Your primacy agency may have more stringent requirements for MCL violations (e.g., it may require you to provide water from an alternate source). Check with your agency to make sure you meet all requirements. Use Template 2-4 for fluoride MCL violations.

Community systems must use one of the following methods [40 CFR 141.203(c)]:

- Hand or direct delivery
- Mail, as a separate notice or included with the bill

Noncommunity systems must use one of the following methods [40 CFR 141.203(c)]:

- Posting in conspicuous locations
- Hand delivery
- Mail

In addition, both community and noncommunity systems must use another method reasonably calculated to reach others if they would not be reached by the first method [40 CFR 141.203(c)]. Such methods could include newspapers, e-mail, or delivery to community organizations. If you mail, post, or hand deliver, print your notice on your system's letterhead, if available.

The notice on the reverse is appropriate for mailing, posting, or hand delivery. If you modify this notice, you must still include all required PN elements from 40 CFR 141.205(a) and leave the mandatory language unchanged (see below).

Mandatory Language

Mandatory language on health effects (from Appendix B to Subpart Q) must be included as written (with blanks filled in). This notice includes a placeholder for a specific contaminant's health effects language.

You must also include standard language to encourage the distribution of the public notice to all persons served, where applicable [40 CFR 141.205(d)]. This language is also presented in this notice in italics and with an asterisk on either end.

Corrective Action

In your notice, describe corrective actions you are taking. Do not use overly technical terminology when describing treatment methods. Listed below are some steps commonly taken by water systems with chemical or radiological violations. Depending on the corrective action you are taking, you can use one or more of the following statements, if appropriate, or develop your own text:

- We are working with [local/state agency] to evaluate the water supply and are researching options to correct the problem. These options may include treating the water to remove [contaminant] or connecting to [system]'s water supply.
- We have stopped using the contaminated well. We have increased pumping from other wells, and we are investigating drilling a new well.
- We have increased the frequency that we will test the water for [contaminant].
- We have since taken samples at this location and had them tested. These samples show that we meet the standards.

Repeat Notices

If this is an ongoing violation and/or you fluctuate above and below the MCL, you should give the history behind the violation, including the source of contamination, if known. List the date of the initial detection, as well as how levels have changed over time. If levels are changing as a result of treatment, you can indicate this.

After Issuing the Notice

Make sure to send your primacy agency a copy of each type of notice and a certification that you have met all public notification requirements within ten days after issuing the notice [40 CFR 141.31(d)].

IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER

[System] Has Levels of [Contaminant] Above Drinking Water Standards

Our water system recently violated a drinking water standard. Although this is not an emergency, as our customers, you have a right to know what happened, what you should do, and what we did (are doing) to correct this situation.

We routinely monitor for the presence of drinking water contaminants. On [give date], we received notice that the sample collected on [give date] showed that our system exceeds the standard, or maximum contaminant level (MCL), for [contaminant]. The standard for [contaminant] is [MCL]. The average level of [contaminant] over the last year has been [provide level]. **OR** [Contaminant] was found at [provide level].

What should I do?

- There is nothing you need to do. **You do not need to** boil your **water** or take other corrective actions. However, if you have specific health concerns, consult your doctor.
- If you have a severely compromised immune system, have an infant, are pregnant, or are elderly, you may be at increased risk and should seek advice from your health care providers about drinking this water.

What does this mean?

This is not an emergency. If it had been, you would have been notified within 24 hours. However, [Insert relevant health effects language for the contaminant from Appendix B to Subpart Q or Appendix B of this document.]

What is being done?

[Describe corrective action.] We anticipate resolving the problem within [estimated time frame].

For more information, please contact [name of contact] at [phone number] or [mailing address].

Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.

This notice is being sent to you by [system]. State Water System ID#: _____.

Date distributed: _____.

U.S. EPA Small Business Resources Information Sheet

The United States Environmental Protection Agency provides an array of resources 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.

Office of Small and Disadvantaged Business Utilization (OSDBU)

www.epa.gov/aboutepa/about-office-small-and-disadvantaged-business-utilization-osdbu

EPA's OSDBU advocates and advances business, regulatory, and environmental compliance concerns of small and socio-economically disadvantaged businesses.

EPA's Asbestos Small Business Ombudsman (ASBO)

www.epa.gov/resources-small-businesses/asbestos-small-business-ombudsman or 1-800-368-5888

The EPA ASBO serves as a conduit for small businesses to access EPA and facilitates communications between the small business community and the Agency.

Small Business Environmental Assistance Program

<https://nationalsbeap.org>

This program provides a "one-stop shop" for small businesses and assistance providers seeking information on a wide range of environmental topics and state-specific environmental compliance assistance resources.

EPA's Compliance Assistance Homepage

www.epa.gov/compliance

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

Compliance Assistance Centers

www.complianceassistance.net

EPA sponsored 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

Education

www.campuserc.org

Food Processing

www.fpeac.org

Healthcare

www.hercenter.org

Local Government

www.lgean.org

Surface Finishing

<http://www.sterc.org>

Paints and Coatings

www.paintcenter.org

Printing

www.pneac.org

Ports

www.portcompliance.org

Transportation

www.tercenter.org

U.S. Border Compliance and Import/Export Issues

www.bordercenter.org

EPA Hotlines and Clearinghouses

www.epa.gov/home/epa-hotlines

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Examples include:

Clean Air Technology Center (CATC) Info-line

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

Superfund, TRI, EPCRA, RMP, and Oil Information Center

1-800-424-9346

EPA Imported Vehicles and Engines Public Helpline

www.epa.gov/otaq/imports or 1-734-214-4100

National Pesticide Information Center

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

National Response Center Hotline to report oil and hazardous substance spills - <http://nrc.uscg.mil> or 1-800-424-8802

Pollution Prevention Information Clearinghouse (PPIC) -

www.epa.gov/p2/pollution-prevention-resources#ppic or 1-202-566-0799

Safe Drinking Water Hotline -

www.epa.gov/ground-water-and-drinking-water/safe-drinking-water-hotline or 1-800-426-4791

Toxic Substances Control Act (TSCA) Hotline

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

Small Entity Compliance Guides

<https://www.epa.gov/reg-flex/small-entity-compliance-guides>

EPA publishes a Small Entity Compliance Guide (SECG) for every rule for which the Agency has prepared a final regulatory flexibility analysis, in accordance with Section 604 of the Regulatory Flexibility Act (RFA).

Regional Small Business Liaisons

www.epa.gov/resources-small-businesses/epa-regional-office-small-business-liaisons

The U.S. Environmental Protection Agency (EPA) Regional Small Business Liaison (RSBL) is the primary regional contact and often the expert on small business assistance, advocacy, and outreach. The RSBL is the regional voice for the EPA Asbestos and Small Business Ombudsman (ASBO).

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)

<https://nationalsbeap.org/states/list>

State SBEAPs help small businesses and assistance providers understand environmental requirements and sustainable business practices through workshops, trainings and site visits.

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/enforcement/small-businesses-and-enforcement

EPA's Audit Policy

www.epa.gov/compliance/epas-audit-policy

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).

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.