

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 8

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

JAN 2 2 2015

Ref: 8ENF-W

<u>CERTIFIED MAIL</u> RETURN RECEIPT REQUESTED

CT Corporation System, Registered Agent Encore Energy Partners Operating LLC 1712 Pioneer Avenue, Suite 120 Cheyenne, Wyoming 82001

Re: Administrative Order issued to Encore Energy Partners Operating LLC, PWS ID #5600906, Docket # SDWA-08-2015-0006

Dear Registered Agent:

Enclosed is an Administrative Order (Order) issued by the U.S. Environmental Protection Agency (EPA) 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 the Encore Energy Partners Operating LLC (Encore), as owner and/or operator of the Encore Energy Partners Operating LLC/Clarks Fork public water system (System), has violated the National Primary Drinking Water Regulations at 40 C.F.R. part 141 (Drinking Water Regulations).

The Order is effective upon the date received. Please review the Order and within 10 days provide the EPA with any information Encore believes the EPA may not have (e.g., any monitoring that may have been done but not submitted, any updates to the numbers of connections and/or individuals served, etc.). If the EPA does not hear from Encore, the EPA will assume this information is correct.

If Encore complies with the Order, the 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.

Please be aware that Encore is required to submit to the EPA a plan and schedule for bringing the System into compliance with the Drinking Water Regulations. The EPA encourages Encore to contact any other governmental agency or agencies that may require approval of the plan and/or schedule prior to modifying the System.

To submit information or to request an informal conference with the EPA, please contact Kathelene Brainich at the above address (with the mailcode 8ENF-W), via email at brainich.kathelene@epa.gov, or by phone at (800) 227-8917, extension 6481 or (303) 312-6481. Any questions from your 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 <u>bearley.mia@epa.gov</u>, 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

Enclosure

cc: Richard W. Fisher, Encore Energy Partners (via email)

WY DEQ/DOH (via email)

Tina Artemis, EPA Regional Hearing Clerk



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CERTIFIED MAIL LETTER
RETURN RECEIPT REQUESTED

Park County Commissioners c/o Bucky Hall, Chair 1002 Sheridan Avenue Cody, Wyoming 82414

Re: Notice of Safe Drinking Water Act Enforcement Action against Encore Energy Partners Operating LLC, PWS ID # 5600906

Dear Commissioners:

The Safe Drinking Water Act requires that the U.S. Environmental Protection Agency (EPA) notify locally elected officials of certain enforcement actions taken in their area.

An Administrative Order (Order) is being issued to Encore Energy Partners Operating LLC, as owner and/or operator of the Encore Energy Partners Operating/Clarks Fork Public Water System, located in Park County, Wyoming, directing it to comply with the National Primary Drinking Water Regulations. The violation alleged in the Order is non-compliance with the Long Term 2 Enhanced Surface Water Treatment Rule (*Cryptosporidium* treatment).

For more details, 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 Kathelene Brainich at (303) 312-6481.

Sincerely,

Arturo Palomares, Director

Water Technical Enforcement Program
Office of Enforcement, Compliance

and Environmental Justice

Enclosure



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 8 2015 JAN 22 AM 11: 26

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IN THE MATTER OF:)	CLY WEGION AIT
)	Docket No. SDWA-08-2015-000 EARING CLERK
Encore Energy Partners Operating LLC,)	
)	ADMINISTRATIVE ORDER
Respondent.	

- 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. Encore Energy Partners Operating LLC (Respondent) is a Delaware corporation that owns and/or operates the Encore Energy Partners Operating LLC/Clarks Fork public water system (the System), which provides piped water to the public in Park County, Wyoming, for human consumption.
- 3. The System is supplied by the Clarks Fork River, a surface water source. The System's water is treated by filtration and disinfection.
- 4. The System has approximately 10 service connections and regularly serves an average of approximately 60 of the same individuals daily for at least six months 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. § 300f(4), and 40 C.F.R. § 141.2. The System is also a "non-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 section 1414(i) of the Act, 42 U.S.C. § 300g-3(i).

VIOLATIONS

6. The Long Term 2 Enhanced Surface Water Treatment Rule (LT2ESWTR) required the System to either install and operate treatment that provides the maximum required *Cryptosporidium* treatment (5.5 logs total *Cryptosporidium* reduction) by October 1, 2014, or to conduct source water monitoring for *E. coli* beginning October 1, 2008, and install and operate any additional treatment required based upon the monitoring results by October 1, 2014. 40 C.F.R. part 141 subpart W. Although Respondent notified the EPA on May 14, 2008, of its intent to install maximum treatment and not conduct LT2ESWTR source water monitoring, Respondent failed to comply with either of these options and, therefore, violated this requirement.

ORDER

Based on the above violation, Respondent is ordered to perform the following actions upon Respondent's receipt of this Order (unless a different deadline is specified below):

- 7. Within 90 days after receipt of this Order, Respondent shall provide the EPA with a plan and schedule for the System to come into compliance with the LT2ESWTR at 40 C.F.R. part 141, Subpart W. The proposed schedule shall include a project start date, interim milestone deadlines, and a final compliance deadline along with an estimated cost of the project. The schedule must be approved by the EPA before the project can begin.
- 8. Each deadline in the schedule required by paragraph 7, above, shall be incorporated into this Order as an enforceable requirement upon written approval by the EPA.
- 9. Within 90 days after receipt of the EPA's approval of the schedule required by paragraph 7, above, Respondent shall provide the EPA with quarterly reports on the progress made toward bringing the System into compliance with the LT2ESWTR. Each quarterly report is due by the 10th day of the month following the end of the relevant quarter.
- 10. Within 10 days after completing all tasks included in the schedule required by paragraph 7, above, Respondent shall notify the EPA of the project's completion.
- 11. No later than the final date specified in the approved schedule, or no later than 2 years after receipt of the EPA's approval of the schedule required by paragraph 7, above, whichever is earlier, Respondent shall achieve and maintain compliance with the LT2ESWTR at 40 C.F.R. part 141, Subpart W. If Respondent's plan fails to achieve permanent compliance, the EPA may order further steps and/or seek penalties for noncompliance.
- 12. If the population or number of connections served by the System falls below 25 individuals, Respondent shall notify the EPA in writing within 10 days.
- 13. This Order shall be binding on Respondent, any of its successors and assigns, and any person (e.g., employee, contractor or other agent) acting in concert with Respondent.
- 14. 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 and, no later than 10 days thereafter, 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.

Encore Energy Partners Operating LLC Page 3 of 3

15. Respondent shall send all reporting and notifications required by this Order in writing to:

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

GENERAL PROVISIONS

- 16. This Order shall not constitute a waiver, suspension or modification of any requirement of the Act or drinking water regulations. Issuance of this Order is not an election by the EPA to forgo any civil or criminal action.
- 17. 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.
- 18. 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).
- 19. This Order is effective upon receipt by Respondent and will continue to be in effect until closed by the EPA.

Issued: Jan 32 , 2015.

James H. Eppers, Supervisory Attorney

Regulatory Enforcement Unit

Office of Enforcement, Compliance

and Environmental Justice

Arturo Palomares, Director

Water Technical Enforcement Program

Office of Enforcement, Compliance

and Environmental Justice