



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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

MAR 19 2007

Ref: 8ENF-W

CERTIFIED MAIL LETTER
RETURN RECEIPT REQUESTED

Sweetwater County Commissioners
c/o Wally Johnson, Chairman
80 West Flaming Gorge Way
Green River, WY 82935

Re: Notice of Safe Drinking Water Act
Enforcement Action against
Country Burgers
PWS ID#5601570

Dear County Commissioners:

Pursuant to Section 1414(a)(2)(B) of the Safe Drinking Water Act (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 Mr. William Lytle and Mrs. Shirley Lytle, owners of the Country Burgers water system located in Farson, 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 Code of Federal Regulations (C.F.R.) §§ 141.63(a)(2), 141.23(d), 141.201, 141.21(g)(1), and 141.31(b) for: exceedance of maximum contaminant levels (MCL) for total coliform bacteria, failure to monitor for nitrate, failure to notify public of above mentioned violations, 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



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MAR 19 2007

Ref: 8ENF-W

CERTIFIED MAIL LETTER
RETURN RECEIPT REQUESTED

William Lytle and Shirley A. Lytle, Owners
Country Burgers
5 Basco Road Box 141
Farson, WY 82932

Re: Administrative Order
Docket No. **SDWA-08-2007-0035**
Country Burgers
PWS ID #WY5601570

Dear Mr. and Mrs. Lytle:

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 as owner of the Country Burger Water System (the System), Mr. William Lytle and Mrs. Shirley Lytle (Respondents), are suppliers of water as defined by the Act and have violated the National Primary Drinking Water Regulations (NPDWRs) at 40 Code of Federal Regulations (C.F.R.) §§ 141.63(a)(2), 141.23(d), 141.201, 141.21(g)(1), and 141.31(b) for: exceedance of maximum contaminant levels (MCL) for total coliform bacteria, failure to monitor for nitrate, failure to notify public of above mentioned violations, and failure to notify EPA of above mentioned violations.

If the Country Burgers 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 Country Burgers to comply.

The NPDWRs require Respondents 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 Tom 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
SBREFA fact sheet

cc: Wyoming DEQ (via email)
Wyoming DOH (via email)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2007 MAR 19 AM 9:20

EPA REGION VIII
HEARING CLERK

IN THE MATTER OF)
)
Mr. William Lytle and Mrs. Shirley Lytle, owners)
Country Burgers)
Farson, WY)
Respondents)
)
Proceedings under Section 1414(g))
of the Safe Drinking Water Act,)
42 U.S.C. § 300g-3(g))
_____)

ADMINISTRATIVE ORDER

Docket No. **SDWA-08-2007-0035**

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. Mr. William Lytle and Mrs. Shirley Lytle (Respondents) are individuals and therefore “persons” within the meaning of 40 C.F.R. § 141.2.
2. Respondents own and/or operate a system, the Country Burger Water System (the System), located in Sweetwater 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 "transient, non-community water system" within the meaning of 40 C.F.R. § 141.2.
4. Respondents own and operate the System and therefore are "suppliers 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. Respondents are 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. Respondents operate a system that is supplied solely by a ground water source consisting of one well operating since 2002, which serves approximately 50 persons per day through 2 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 Respondents for the System during October 2005, and August and September 2006 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. Though Respondents monitored for nitrate in May 2006, they failed to monitor in 2005, in violation of 40 C.F.R. § 141.23(d).

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. Respondents have not provided public notice of the violations outlined in Sections I and II, in violation of 40 C.F.R. § 141.201.

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. Respondents failed to report to EPA the total coliform MCL violations 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 NPDWRs to EPA within 48 hours.
2. Respondents failed to report to EPA the noncompliance detailed in Sections II and III, 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. If the System has a total coliform MCL violation while this Order is in effect, Respondents shall, within 30 days of the violation, submit to EPA detailed plans for bringing Respondent's public water system into compliance with the MCL for coliform bacteria at 40 C.F.R. § 141.63. The plans shall include proposed system modifications, estimated costs of modifications, and a schedule for construction of the project and compliance with the MCL for coliform bacteria. The proposed schedule shall include specific milestone dates, a final compliance date (that shall be within 180 days from the date of the MCL violation) and shall be submitted to EPA for approval. The plans must be approved by EPA and the State before construction may commence.
2. The schedule for construction and completion of modifications will be incorporated into this Order upon written approval by EPA.

3. Within 60 days of the date of the System's next total coliform MCL violation, Respondents shall begin submitting to EPA monthly reports on the progress made toward bringing Respondent's system into compliance with the coliform bacteria MCL.
4. Upon the effective date of this Order, Respondents 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). Respondents 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).
5. Within 30 days from the effective date of this Order, Respondents must provide public notice of the violation(s) specified under the Findings of Violation items I and II in this Order, to return to compliance with 40 C.F.R. §§ 141.201, 141.204 and 141.205. Upon the effective date of this Order, Respondents shall comply with the public notification requirements at 40 C.F.R. § 141.201, et seq. following any future NPDWR violation. Respondents 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). This notice shall be given by (1) posting the notice in conspicuous location throughout the distribution system frequented by persons served by the System OR (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 required above, such as 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. If the public notice is posted, the notice must remain in place for as long as the violation or situation persists, but for no less than seven days. The public water system must repeat the notice every three months as long as the violation or situation persists.

6. Upon the effective date of this Order, Respondents 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 Respondents learn of the violation.
7. Upon the effective date of this Order, except where noted in Section 6 above, Respondents 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.
8. 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 19th day of March, 2007.

Lois M. Ross acting for D. Janik

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

L. Sipe for

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

