



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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

JAN 23 2007

Ref: 8ENF-W

CERTIFIED MAIL LETTER
RETURN RECEIPT REQUESTED

Scott Jorgenson
Lake Powell Management
400 South Main
Alpine, UT 84004

Re: Administrative Order
Docket No. SDWA-08-2007-0001
Lake Powell Management
PWS ID #UTAH09084

Dear Mr. Jorgenson:

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 Lake Powell Management Water System 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.) §§ 141.21(a), 141.21(b), 141.21(b)(5), 141.23(d), 141.201, 141.31(b), and 141.21(g)(2) for: failure to monitor for bacteriological quality, failure to take four repeat samples following a total coliform positive result, failure to take five routine samples following a total coliform positive sample the preceding month, failure to monitor for nitrate, failure to provide public notice, and failure to notify the State of the violations.

If Lake Powell Management 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.

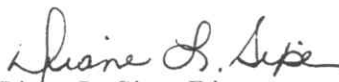
Among other things, the Order requires Lake Powell Management to provide a public notification of violations of the Act. For your convenience, we have enclosed some template forms to assist in providing the required public notice. If you have any questions or comments concerning the form of public notice,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

Also enclosed for the benefit of the System is a copy of EPA's Small Business Regulatory Enforcement and Fairness Act (SBREFA) fact sheet containing information on compliance assistance resources and tools available to small businesses. EPA has agreed to notify small businesses of their right to comment on regulatory enforcement activities at the same time of an Agency enforcement action. SBREFA does not eliminate the responsibility to comply with the Act.

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 Amy Swanson at the above 800 number, extension 6906, or at (303) 312-6906.

We urge your prompt attention to this matter.

Sincerely,



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

Enclosures

Order
Public Notice template
SBREFA fact sheet

cc: Patti Fauver, UT DEQ



Printed on Recycled Paper

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to: *Doc# SDWH-08-2007-001*

Scott Jorgenson
Lake Powell Management
400 South Main
Alpine, UT 84004

G

MAR 19 2007

8ENF-W

2. Article Number
(Transfer from service label)

7004 1350 0001 5668 7555

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature

[Handwritten Signature]

Agent

Addressee

B. Received by (Printed Name)

SCOTT JORGENSEN

C. Date of Delivery

3/21/07

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type

Certified Mail Express Mail

Registered Return Receipt for Merchandise

Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

2007 JAN 23 PM 1:18

IN THE MATTER OF)
Lake Powell Management)
Alpine, Utah)
Respondent)
)
Proceedings under Section 1414(g))
of the Safe Drinking Water Act,)
42 U.S.C. § 300g-3(g))
_____)

EPA REGION VIII
HEARING CLERK

ADMINISTRATIVE ORDER

Docket No. SDWA-08-2007-0001

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. Lake Powell Management (Respondent) is a corporation and therefore a "person" within the meaning of 40 C.F.R. § 141.2.
2. Respondent owns and/or operates a system, the Lake Powell Management Water System, located in Garfield County, Utah, for the provision to the public of piped water for human consumption.

3. The Lake Powell Management Water System (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 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 the Public Water System Inventory Report obtained from the Utah Department of Environmental Quality, Division of Drinking Water, Respondent operates a system that is supplied solely by a ground water source consisting of one well. The public water system serves approximately 25 persons daily through 76 service connections and is operational year-round.
6. The Utah Department of Environmental Quality, Division of Drinking Water (the "State"), has primary enforcement authority for the Act in the State of Utah. On October 27, 2006, EPA issued a Notice of Violation to the State and Respondent pursuant to Section 1414(a) of the Act, 42 U.S.C. § 300g- 3(a), regarding the violations at the public water system. The State elected not to commence an appropriate enforcement action against Respondent for the violations within the thirty day time frame set forth in Section 1414(a) of the Act, 42 U.S.C. § 300g- 3(a).

7. EPA has provided the State with an opportunity to confer with EPA regarding this Order pursuant to Section 1414(g)(2) of the Act, 42 U.S.C. § 300g-3(g)(2).
8. EPA has provided a copy of this Order to the State pursuant to Section 1414(g)(2) of the Act, 42 U.S.C. § 300g-3(g)(2).

FINDINGS OF VIOLATION

I

1. 40 C.F.R. § 141.21(a) requires a non-community public water system 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. Respondent failed to monitor the water for contamination by total coliform bacteria during the 2nd (April – June) and 3rd (July – September) quarters 2002, 2nd and 4th (October – December) quarters 2003, 2nd, 3rd, and 4th quarters 2005, and 1st (January – March), 2nd, and 3rd quarters 2006, in violation of 40 C.F.R. § 141.21(a).

II

1. 40 C.F.R. § 141.21(b) requires public water systems to collect a set of repeat samples within 24 hours of being notified of a total coliform positive routine sample.
2. Respondent failed to collect a set of repeat samples for the June 2004 total coliform positive routine sample, in violation of 40 C.F.R. § 141.21(b).

III

1. 40 C.F.R. § 141.21(b)(5) requires public water systems that collect fewer than 5 routine samples per month and have one or more total coliform positive samples to collect at least 5 routine samples during the next month the system provides water to the public.
2. Respondent failed to collect at least 5 routine samples in July 2004 (System incorrectly took 4 samples) after a total coliform positive sample in the preceding month, in violation of 40 C.F.R. § 141.21(b)(5).

IV

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 last monitored the water for nitrate in December 2002, but failed to monitor in 2003, 2004, and 2005, in violation of 40 C.F.R. § 141.23(d).

V

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 public notice of the violations outlined in Sections I through IV, in violation of 40 C.F.R. § 141.201.

VI

1. 40 C.F.R. § 141.21(g)(2) requires public water systems that have failed to comply with a coliform monitoring requirement under 40 C.F.R. § 141.21 to report the violation to the State within ten days after the system discovers the violation.
2. Respondent failed to report to the State the noncompliance detailed in Sections I through III, in violation of 40 C.F.R. § 141.21(g)(2).

VII

1. 40 C.F.R. § 141.31(b) requires public water systems to report any failure to comply with any NPDWR to the State within 48 hours.
2. Respondent failed to report to the State the noncompliance detailed in Sections IV and V, 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 requirements of 40 C.F.R. § 141.21(a) to perform quarterly bacteriological monitoring to determine compliance with the MCLs as stated in 40 C.F.R. § 141.63(a)(2). Respondent shall report analytical results to EPA and to the State within the first 10 days of the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).
2. Upon the effective date of this Order, Respondent shall comply with all repeat sampling requirements specified in 40 C.F.R. § 141.21(b). This requires that

Respondent take no fewer than 4 repeat samples within 24 hours of being notified of a total coliform positive routine sample. Each repeat sample is to be analyzed for total coliform bacteria. At least one repeat sample must be taken from each of the following: a) the tap where the original total coliform positive sample was taken, b) from within 5 service connections upstream of the original total coliform positive tap, and c) from within 5 service connections downstream from the original total coliform positive tap. The fourth repeat sample is to be taken anywhere within 5 service connections upstream or downstream of the original total coliform positive tap. Respondent shall report analytical results to EPA and the State within the first 10 days following the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).

3. Upon the effective date of this Order, Respondent shall comply with all sampling requirements specified in 40 C.F.R. § 141.21(b)(5). If Respondent's water system has one or more total coliform positive samples in a month, Respondent shall collect at least 5 routine samples during the next month the system provides water to the public. Respondent shall report analytical results to EPA and the State within the first 10 days following the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).
4. Within 30 days from the effective date of this Order, and annually thereafter, 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 and the

State 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, Respondent must provide public notice of the violation(s) specified under the Findings of Violation, Sections I through IV, 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, 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 and the State 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 locations 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, Respondent shall comply with 40 C.F.R. § 141.31(b) by reporting any failure to comply with any NPDWR to EPA and the State within 48 hours.
7. Reporting requirements specified in this Order shall be provided by certified mail to:

Kimberly Pardue Welch
U.S. EPA Region 8 (8ENF-W)
1595 Wynkoop Street
Denver, CO 80202-1129

AND

Patti Fauver
UT Dept. of Environmental Quality
POB 144830 (Division of Drinking Water)
Salt Lake City, UT 84114-4830

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 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 Act 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 its date of issuance.

Issued 23rd day of January, 2007.



Michael T. Risner, Director
David J. Janik, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice



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

