



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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

Ref: 8ENF-W

FEB - 2 2011

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Park County Commissioners
c/o Jill Shockley Siggins, Chairman
Park County Courthouse
1002 Sheridan Ave.
Cody, WY 82414

Re: Notice of Safe Drinking Water Enforcement
Action against Shoshone National Forest,
Three Mile CG East Public Water System
PWS ID # WY5680017

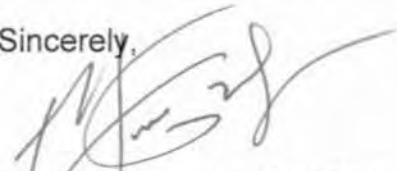
Dear Commissioners:

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

EPA has issued an Administrative Order (Order) to the Shoshone National Forest – Three Mile Camp Ground East, located in Park County, WY, directing it to comply with the National Primary Drinking Water Regulations. The violations alleged in the Order include: exceeding the maximum contaminant level for total coliform bacteria, failing to monitor for total coliform bacteria, and failing to monitor for total coliform bacteria at the water source.

For more details, a copy of the Order is enclosed. **The Order does not require any response or action by the County Commission.** If you have any questions regarding this Order, please contact Mario Mérida at (303) 312-6297.

Sincerely,



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

Enclosure
Order



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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

FEB -2 2011

Ref: 8ENF-W

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Joe Alexander, Forest Supervisor
USDA Forest Service, Shoshone National Forest
808 Meadow Lane Avenue
Cody, WY 82414

Re: Administrative Order
Three Mile CG East
Public Water System
Docket No. SDWA-08-2011-0018
PWS ID # WY5680017

Dear Mr. Alexander:

Enclosed is an Administrative Order issued by the Environmental Protection Agency (EPA) under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. § 300f *et seq.* Among other things, the Order alleges that the USDA Forest Service, Shoshone National Forest, has violated the National Primary Drinking Water Regulations (the drinking water regulations).

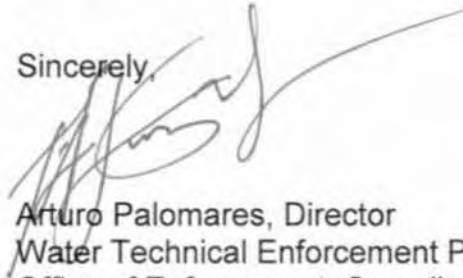
The Order is effective upon the date received. Please review the Order and within 10 days provide EPA with any information you believe EPA may not have. If the USDA Forest Service, Shoshone National Forest, complies with the Order, EPA may close the Order without further action. Failure to comply with the Order may lead to substantial civil penalties.

The Order requires the Shoshone National Forest to notify the public of having violated the drinking water regulations. Enclosed please find public notice templates explaining the public notice requirements in more detail.

To submit information or to request an informal conference with EPA, please contact Mario Mérida at the above address (with the mailcode 8ENF-W) or by phone at (800) 227-8917, extension 6297 or (303) 312-6297. Any questions from the U.S. Forest Service's attorneys should be directed to Eduardo Quintana, Enforcement Attorney, who may be reached at the above address (with the mailcode 8ENF-L) or by phone at (800) 227-8917, extension 6924 or (303) 312-6924.

We urge your prompt attention to this matter.

Sincerely,



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

Enclosures

Order
Public Notice Templates

cc: Tina Artemis, EPA Regional Hearing Clerk
WY DEQ (via e-mail)
WY DOH (via e-mail)
Justin Hawkins, Recreation Technician, Shoshone National Forest

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2011 FEB -2 PM 2: 06

IN THE MATTER OF:)
)
USDA Forest Service,)
Shoshone National Forest,)
)
Respondent)
_____)

Docket No. **SDWA-08-2011-0018**

FILED
EPA REGION VIII
HEARING CLERK

ADMINISTRATIVE ORDER

1. This Order is issued under the authority vested in the Administrator of the United States Environmental Protection Agency (EPA) by the Safe Drinking Water Act, 42 U.S.C. § 300f *et seq.* (the Act), as properly delegated to the undersigned officials.
2. The USDA Forest Service (Respondent) is a federal agency that owns and/or operates the Shoshone National Forest Three Mile Camp Ground East 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 a well. The well is normally chlorinated prior to reopening of the system, but the water is otherwise untreated.
4. The system has one service connection and/or regularly serves at least 25 individuals daily at least 60 days out of the year. Therefore, the system is a "public water system" as defined in § 1401(4) of the Act, 42 U.S.C. § 300f (4), and 40 C.F.R. § 141.2. The system is also a "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 § 1414(i) of the Act, 42 U.S.C. § 300g-3(i).
6. The drinking water regulations include monitoring requirements. EPA has sent Respondent annual notifications of the specific monitoring requirements that apply to the system.

VIOLATIONS

7. If two or more samples collected in any month from the system's water are positive for total coliform, then Respondent has violated the maximum contaminant level (MCL) for total coliform bacteria. 40 C.F.R. § 141.63(a)(2). During August 2010 one sample collected from the system on August 11 and four samples collected on August 19 were positive for total coliform, and, therefore, Respondent violated this requirement.

8. Respondent is required to monitor the system's water during the 2nd and 3rd quarters for total coliform bacteria. 40 C.F.R. § 141.21. Respondent failed to monitor the system's water for total coliform bacteria during the 2nd quarter (April – June) of 2008 and, therefore, violated this requirement.
9. Respondent is required to conduct triggered source monitoring, collecting at least one water sample for E. coli testing from each source in use, within 24 hours of notification that a regular, routine total coliform monitoring sample is total coliform-positive. 40 C.F.R. § 141.402 (a). The system received a total coliform-positive result for the routine water samples collected on August 11, 2010, but Respondent failed to collect any ground water source samples within the required 24 hour time-frame and, therefore, violated this requirement.
10. Respondent is required to notify the public of certain violations of the drinking water regulations. 40 C.F.R. §§ 141.201 et seq. Respondent did not notify the public of the violation cited in paragraph 8 and, therefore, violated this requirement. Note: Public notice for the violation cited in paragraph 9 is due July 2011.
11. Respondent is required to report any failure to comply with any coliform monitoring requirement to EPA within ten days of discovering the violation. 40 C.F.R. § 141.21(g)(2). Respondent failed to report the violations listed in paragraphs 8 and 9, above, to EPA and, therefore, violated this requirement.
12. Respondent is required to report any coliform MCL violation to EPA no later than the end of the first business day after learning of it. 40 C.F.R. § 141.21(g)(1). Respondent did not notify EPA of the MCL violation cited in paragraph 7, above, and, therefore, violated this requirement.
13. Respondent is required to report any failure to comply with any drinking water regulation to 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 violation cited in paragraph 10 to 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):

14. Respondent shall comply with the total coliform MCL. 40 C.F.R. § 141.63(a)(2).
15. If Respondent's total coliform sample results exceed the MCL while this Order is in



effect, within 30 days of that violation, Respondent shall provide EPA with a compliance plan and schedule for the system to come into compliance with the MCL for total coliform as stated in 40 C.F.R. § 141.63(a). The plan shall include proposed system modifications, estimated costs of modifications, and a schedule for completion of the project and compliance with the total coliform MCL. The proposed schedule shall include specific milestone dates and a final compliance date. The final compliance date shall be within four months from the date of EPA's approval of the plan and schedule. The proposed plan and schedule must be approved by EPA before any construction or system modifications may begin. EPA's approval of Respondent's plan and schedule does not substitute for any State of Wyoming approvals of plans and specifications that may also be required before modifications may be made to the system.

16. The plan and schedule required by paragraph 15, above, shall be incorporated into this Order as enforceable requirements upon written approval by EPA.

17. Within 10 days of completing all tasks included in the plan and schedule required by paragraph 15, above, Respondent shall notify EPA of the project's completion.

18. Respondent must achieve and maintain compliance with the total coliform MCL by the final date specified in the approved plan, or no later than four months after receiving EPA's approval of the plan and schedule required by paragraph 15, above, whichever is earliest. Respondent must meet that deadline even if the plan as approved does not achieve compliance. If the plan fails to achieve permanent compliance, EPA may order further steps and/or seek penalties for noncompliance.

19. Respondent shall monitor the system's water during the 2nd and 3rd quarters for total coliform bacteria, as required by 40 C.F.R. § 141.21. Respondent shall report any violation of the total coliform monitoring requirements to EPA within 10 days of discovery, as required by 40 C.F.R. § 141.21(g)(2).

20. Respondent shall comply with the triggered source monitoring requirements of the Ground Water Rule, as required by 40 C.F.R. § 141.402. Prior to opening the system to the public for the 2011 season, Respondent shall collect at least one water sample from its groundwater source for analysis of fecal indicators, as required by 40 C.F.R. §§ 141.402 (a) and (c).

21. Respondent shall report analytical results to EPA within the first ten days following the month in which Respondent received sample results, as required by 40 C.F.R. § 141.31(a).

22. Within 30 days of reopening the system for the 2011 season, Respondent shall notify the public of the violation cited in paragraph 9, above, as required by 40 C.F.R. part 141, subpart Q. Thereafter, following any future violation of the drinking water regulations, Respondent shall comply with the applicable public notice provisions of 40 C.F.R. part 141,



subpart Q. Within 10 days of providing public notice, Respondent shall submit a copy of the notice to EPA.

23. Respondent shall report any violation of the total coliform MCL requirements to EPA no later than the end of the first business day after learning of it, as required by 40 C.F.R. § 141.21(g)(1).

24. Respondent shall report any violation of the drinking water regulations to EPA within 48 hours of the violation occurring or, if another time period for reporting is specified in this Order or the drinking water regulations, within that other time period, as required by 40 C.F.R. § 141.31(b).

25. Respondent shall direct all reporting required by this Order to:

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

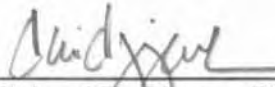
GENERAL PROVISIONS

26. This Order does 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 EPA to forgo any civil or criminal action.

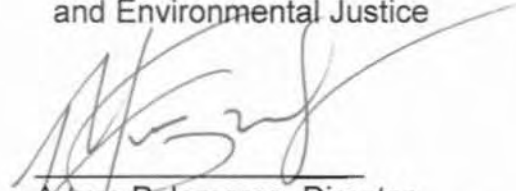


27. Violation of any part of this Order may subject Respondent to a civil penalty of up to \$32,500 per day of violation (as adjusted for inflation). Violation of the Act or the drinking water regulations may subject Respondent to a civil penalty of up to \$32,500 per day per violation (as adjusted for inflation). 42 U.S.C. §§ 300g-3, 300j-6, 300j-8; 40 C.F.R. part 19.

Issued: February 2, 2011.



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



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



Tier 3 Templates

Tier 3 notices are required for the following violations or situations:

- **Monitoring violations** (except for the following: failure to monitor for fecal coliform or *E. coli* when repeat samples are positive for coliform, failure to take a confirmation sample for nitrate or nitrite within 24 hours, and failure to take required samples for chlorine dioxide in the distribution system, which require Tier 1 notice; failure to collect 3 or more samples for *Cryptosporidium*, which requires Tier 2 notice; and any monitoring violations elevated to Tier 1 or 2 by the primacy agency);
- **Testing procedure violations**, except where elevated to Tier 2 by the primacy agency;
- Operation under a **variance or exemption**;
- Special notice for **availability of unregulated contaminant monitoring data**; and
- Special notice for **fluoride** secondary maximum contaminant level (SMCL) exceedances.

The pages that follow contain templates for Tier 3 violations and situations. Along with the templates are instructions, including the required method of delivery and suggestions for completing individual sections of the notices. These instructions are designed to supplement Chapter 7, so you may see much of the information repeated here.

Mandatory language on unknown risk for monitoring violations, which must be included as written with blanks filled in, is presented in italics (141.205(d)). All the language in the fluoride SMCL template (except the language discussed below) is mandatory (141.208).

You must also include the following italicized language in all notices, where applicable (141.205(d)). Use of this language does not relieve you of your obligation to take steps reasonably calculated to notify all persons served:

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.

Templates

Monitoring Violations Annual Notice—Template 3-1A
Monitoring Violations Annual Notice—Template 3-1B
Failure to Comply with a Testing Procedure Notice – Template 3-2
Operating Under an Exemption Notice – Template 3-3
Special Notice for Availability of Unregulated Contaminant Monitoring Data – Template 3-4
Fluoride SMCL Notice—Template 3-5

Template on Reverse

If you are required to provide Tier 3 notification, you must provide public notice to persons served within one year after you learn of the violation (141.204(b)). Multiple monitoring violations can be serious, and your privacy agency may have more stringent requirements. Check with your privacy agency to make sure you meet its requirements.

Community systems must use one of the following (141.204(c)):

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

Non-community systems must use one of the following (141.204(c)):

- Posting in conspicuous locations
- Hand delivery
- Mail

In addition, both community and non-community systems must use another method reasonably calculated to reach others if they would not be reached by the first method (141.204(c)). Such methods could include newspapers, e-mail, or delivery to community organizations. If you post the notice, it must remain posted until the violation is resolved. If the violation has been resolved, you must post the notice for at least seven days (141.204(b)). If you mail, post, or hand deliver, print your notice on letterhead, if available.

The notice on the reverse is appropriate for insertion in an annual notice or the Consumer Confidence Report (CCR), as long as public notification timing and delivery requirements are met (141.204(d)). You may need to modify the template for a notice for individual monitoring violations. This example presents violations in a table; however, you may write out an explanation for each violation if you wish. For any monitoring violation for volatile organic compounds (VOCs) or other groups, you may list the group name in the table, but you must provide the name of every chemical in the group on the notice, e.g., in a footnote.

You may need to modify the notice if you had any monitoring violations for which monitoring later showed a maximum contaminant level or other violation. In such cases, you should refer to the public notice you issued at that time.

Include in your notice the standard language for monitoring and testing procedure violations in italics (141.205(d)(2)). If you modify the notice, you may not alter this mandatory language.

Corrective Actions

In your notice, describe corrective actions you took or are taking. Listed below are some steps commonly taken by water systems with monitoring violations. You can use the following language, if appropriate, or develop your own:

- We have since taken the required samples, as described in the last column of the table above. The samples showed we are meeting drinking water standards.
- We have since taken the required samples, as described in the last column of the table above. The sample for [contaminant] exceeded the limit. [Describe corrective action; use information from public notice prepared for violating the limit.]
- We plan to take the required samples soon, as described in the last column of the table above.

After Issuing the Notice

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

IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER

Monitoring Requirements Not Met for Shoshone NF – Three Mile Camp Ground East Water System

Our water system violated drinking water standards. Even though these were not emergencies, as our customers, you have a right to know what happened and what we did to correct these situations.

We are required to monitor your drinking water for specific contaminants on a regular basis. Results of regular monitoring are an indicator of whether or not our drinking water meets health standards. During the 2nd quarter (March – June) of 2008 and during August 2010 we did not complete monitoring and reporting requirements for total coliform bacteria and therefore cannot be sure of the quality of our drinking water during that time.

What should I do?

There is nothing you need to do at this time.

The table below lists the contaminant(s) we did not properly test for during the last year, how often we are supposed to sample for [this contaminant/these contaminants] and how many samples we are supposed to take, how many samples we took, when samples should have been taken, and the date on which follow-up samples were (or will be) taken.

Contaminant	Required sampling frequency	Number of samples taken	When samples should have been taken	When samples were taken
Total Coliform Bacteria	1 sample each quarter	0	Between March and June	July 9, 2008
Total Coliform Bacteria	1 "triggered source" sample following a total coliform-positive routine sample	0	August 2010	N/A

What is being done?

[Describe corrective action.]

For more information, please contact _____ at _____ or _____.

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 Shoshone NF – Three Mile Camp Ground East water system.

State Water System ID#WY5680017

Date distributed: _____.