



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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

2010 MAR -8 PM 12:45

FILED
EPA REGION VIII
HEARING CLERK

Ref: 8ENF-W

MAR - 8 2010

CERTIFIED MAIL LETTER
RETURN RECEIPT REQUESTED

Bryan Kott, Superintendant
Lame Deer Public Schools
PO Box 96
Lame Deer, MT 59043

Re: Administrative Order
Lame Deer High School
Public Water System
Docket No. SDWA-0802010-0019
PWS ID # 083090067

Dear Mr. Lantis:

Enclosed is an Administrative Order (Order) issued by the Environmental Protection Agency (EPA) under the authority of the Safe Drinking Water Act (the Act), 42 U.S.C. § 300f *et seq.* Among other things, the Order describes how Lame Deer Public Schools, as owner and operator of the Lame Deer High School public water system, has violated the National Primary Drinking Water Regulations.

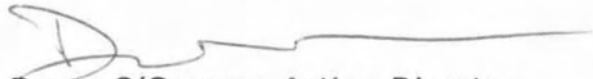
The Order is effective upon the date received. Please review the Order and within 10 days provide EPA with any information you believe EPA may not have. If Lame Deer Public Schools complies with the Order for at least twelve months, EPA may close the Order without further action. Failure to comply with the Order may lead to substantial civil penalties and/or a Federal court injunction ordering compliance.

To submit information or request an informal conference with EPA, contact Kimberly Pardue Welch at the above address (with the mailcode 8ENF-W) or by phone at (800) 227-8917, extension 6983 or (303) 312-6983. For legal questions, the attorney assigned to this matter is

Amy Swanson, who may be reached at the above address (with the mailcode 8ENF-L) or by phone at (800) 227-8917, extension 6906 or (303) 312-6906.

We urge your prompt attention to this matter.

Sincerely,



Darcy O'Connor, Acting Director
Water Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosures

Order
Public notice samples/templates

cc:

Wilbur Spang, Operator (via certified mail w/ return receipt)
Leroy Spang, President, Northern Cheyenne Tribe
Charlene Alden, Environmental Director, Northern Cheyenne Tribe
Tina Artemis, EPA Regional Hearing Clerk

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8
2/27/2010 3:44 PM

IN THE MATTER OF:

Lame Deer Public Schools,

Respondent.

) FILED
) EPA REGION 8
) DOCKET No. SDWA -08-2010-0019
) 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. Lame Deer Public Schools (Respondent) is a municipality that owns and/or operates the Lame Deer High School Water System (the system), which provides piped water to the public on the Northern Cheyenne Indian Reservation in Rosebud County, Montana, for human consumption.

3. The system is supplied by a groundwater source consisting of two wells. The water is first treated with ion exchange softening followed by sodium hypochlorite disinfection and then reverse osmosis.

4. The system has 1 service connection and/or regularly serves at least 175 individuals daily at least 6 months 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 "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 § 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. Respondent is required to monitor the residual disinfectant level in the system's water, at the same time and place in the system's distribution as total coliforms are to be sampled as specified in 40 C.F.R. § 141.21. 40 C.F.R. § 141.132(c)(1). Respondent failed to monitor the system's water

for residual disinfectant during the 2nd, 3rd, and 4th quarters of 2008 and the 1st quarter of 2009 and, therefore, violated this requirement.

8. Within 24 hours of being notified of any total-coliform positive routine sample of the system's water, Respondent is required to collect a set of 4 repeat samples. 40 C.F.R. § 141.21(b). Respondent collected one additional total coliform sample on August 25, 2008, however, failed to take all 4 repeat samples of the system's water within 24 hours of being notified of a total coliform-positive sample on August 6, 2008 and, therefore, violated this requirement.

9. Respondent is required to monitor the system's water for certain inorganic contaminants at least once every three years. 40 C.F.R. § 141.23(a). Respondent failed to monitor the system's water for cyanide during the 2005 – 2007 monitoring period and, therefore, violated this requirement. Respondent monitored for all other inorganic contaminants during the 2005 – 2007 monitoring period.

10. Respondent is required to notify the public of certain violations of the drinking water regulations. 40 C.F.R. §§ 141.201, 141.204. Respondent did not notify the public of the violations mentioned in paragraphs 7 through 9 and, therefore, violated this requirement. Public notice for the 1st quarter 2009 failure to monitor residual disinfectant violation is not yet overdue.

11. Respondent is required to report any failure to comply with any of the drinking water regulations to EPA within 48 hours (except where a different reporting period is specified in the drinking water regulations). 40 C.F.R. § 141.31(b). Respondent failed to report the violations listed in paragraphs 7, 9, and 10 above, to EPA and, therefore, violated this requirement.

12. 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 did not notify EPA of the violation cited in paragraph 8, above, 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):

13. Respondent shall monitor the residual disinfectant level in the system's water each month, as required by 40 C.F.R. § 141.132(c)(1). Respondent shall report sample results and all information required by 40 C.F.R. § 141.132(c)(1) quarterly to EPA no later than 10 days after the end of each quarter, as required by 40 C.F.R. § 141.134(c)(1).

14. If any total coliform routine sample for the system is total coliform positive, Respondent shall collect a set of 4 repeat samples within 24 hours of being notified of a positive result, following the procedures in 40 C.F.R. § 141.21. Respondent shall report analytical results to EPA within the first 10 days following the month in which sample results were received, as required by 40 C.F.R. § 141.31(a). 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).

15. Respondent shall monitor the system's water for inorganic contaminants, including cyanide. 40 C.F.R. § 141.23(a), (c). Respondent last sampled for all inorganic contaminants on February 2, 2009. Respondent's next inorganic contaminant sampling is due between 2011 and 2013. Respondent shall report any 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).

16. Within 30 days of receiving this Order, Respondent shall notify the public of the violations cited in paragraphs 7 through 9, 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.

17. Except where a different reporting deadline is specified in the drinking water regulations or this Order, Respondent shall notify EPA within 48 hours of any failure to comply with the drinking water regulations, as required by 40 C.F.R. § 141.31(b).

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

U.S. EPA, Region 8
10 West 15th St, Suite 3200
Helena, MT 59626

GENERAL PROVISIONS

19. 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.

20. 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.

Issued: March 8, 2010.

David Rochlin

David Rochlin, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Darcy O'Connor

Darcy O'Connor, Acting Director
Technical Water Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Instructions for Monitoring Violations Annual Notice--Template 3-1

Template on Reverse

Since most monitoring violations are included in Tier 3, 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 primacy agency may have more stringent requirements. Check with your primacy 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 one week (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 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. Choose the appropriate language, 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.

IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER

Monitoring Requirements Not Met for Lame Deer High School

Our water system violated several drinking water standards over the past several years. 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. We failed to monitor the system's water for residual disinfectant during the 2nd, 3rd, and 4th quarters of 2008 and the 1st quarter of 2009. We also failed to collect a set of 4 repeat samples following the August 6, 2008 total coliform positive sample and we also failed to monitor the system's water for cyanide during the 2007 – 2007 monitoring period 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 previous years, 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	When all samples should have been taken	When samples were or will be taken
Failure to collect 4 repeat total coliform samples following a total coliform positive sample	4 repeat total coliform samples within 24 hours of being notified of a positive total coliform sample.	August 2008	
Failure to monitor for chlorine disinfectant at the same time and place as the monthly total coliform sample	Monthly, at the same time and place as the monthly total coliform sample	2 nd , 3 rd , and 4 th quarter 2008 and the 1 st Q 2009	
Failure to monitor cyanide (inorganic contaminants)	1 sample every three years	2005 – 2007 (System sampled for all other required IOC contaminants)	

What happened? What is being done? [Include a description of how the system will return to compliance]

For more information, please contact [name and number of contact person] _____ or
[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 **Lame Deer Public Schools**
State Water System ID#: **083090067**
Date distributed or dates posted: _____