



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8**

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

JAN 14 2009

Ref: 8ENF-W

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Joni Upsher, Registered Agent  
Upsher Limited Liability Company  
Camp Creek Inn  
P.O. Box 906  
Jackson, WY 83001

Re: Administrative Order  
Docket No. **SDWA-08-2009-0024**  
PWS ID # WY5600896

Dear Ms. Upsher:

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. section 300f *et seq.* Among other things, the Order describes how the Upsher Limited Liability Company has violated the National Primary Drinking Water Regulations at the Upsher Camp Creek Inn public water system.

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 Upsher complies with the Order for 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.

Also enclosed is a small business resources information sheet, outlining compliance assistance resources and tools available to small businesses and small governments, in case these resources apply to your situation.

To submit information or request an informal conference with EPA, contact David D. Nguyen at the above address (with the mail code 8ENF-W) or by phone at (800) 227-8917, extension 6954 or (303) 312-6954. For legal questions, the attorney

assigned to this matter is Amy Swanson, who can 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,



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

Enclosures

Order  
Information sheet  
Public notice samples/templates

cc: WY DEQ (via email)  
WY DOH (via email)  
Tina Artemis, EPA Regional Hearing Clerk



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DENVER, COLORADO 80202-1129

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Ref: 8ENF-W

CERTIFIED MAIL LETTER  
RETURN RECEIPT REQUESTED

Teton County Commissioners  
c/o Andy Schwartz, Chair  
P.O. Box 3594  
Jackson, WY 83001-3594

Re: Notice of Safe Drinking Water Act  
Enforcement Action against  
Upsher Limited Liability Company.  
PWS ID# WY5600896

Dear Commissioners:

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

An Administrative Order is being issued to the Upsher Limited Liability Company (Camp Creek Inn) located in Jackson, Wyoming. This Order requires that the public water system take measures to return to compliance with the SDWA and the National Primary Drinking Water Regulations. The violations are failure to monitor for total coliform bacteria quarterly, failure to monitor for nitrate and failure to report the violations to EPA.

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 David D. Nguyen at (303) 312-6954.

Sincerely,

A handwritten signature in cursive script, appearing to read "Diane L. Sipe", is positioned above the typed name.

Diane L. Sipe, Director  
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  
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2009 JAN 13 PM 1:50

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IN THE MATTER OF )  
 )  
 Upsher Limited Liability Company )  
 Camp Creek Inn )  
 Jackson, Wyoming )  
 )  
 Respondent. )

**ADMINISTRATIVE ORDER**

Docket No. **SDWA-08-2009-0024**

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. The Upsher Limited Liability Company (Respondent) is a corporation that owns and/or operates the Camp Creek Inn Water System (the system) in Teton County, Wyoming which provides piped water to the public for human consumption. The system is supplied by a groundwater source consisting of one well and serves approximately 90 people through eleven service connections year-round. The system is a transient, non-community water system as defined in 40 C.F.R. § 141.2. Respondent is subject to the requirements of the Act and the National Primary Drinking Water Regulations (drinking water regulations), at 40 C.F.R. part 141.

**VIOLATIONS**

3. Respondent is required to monitor the system's water at least once per quarter to determine compliance with the maximum contaminant level (MCL) for total coliform bacteria. 40 C.F.R. § 141.21. Respondent failed to monitor the water for contamination of total coliform bacteria during the 2<sup>nd</sup> quarter of 2008, 4<sup>th</sup> quarter of 2007, and 4<sup>th</sup> quarter of 2005 and, therefore, violated this requirement.

4. Respondent is required to monitor the system's water at least once per quarter to determine compliance with the MCL for total coliform bacteria. 40 C.F.R. § 141.21. If more than one sample collected during a month tests positive for such bacteria, it is a violation of the MCL. 40 C.F.R. § 141.63. Respondent's sampling results in August 2004 exceeded the MCL for total coliform bacteria and, therefore, violated this requirement.

5. Respondent is required to monitor the system's water annually for nitrate to determine compliance with the nitrate MCL. 40 C.F.R. § 141.23(d). Respondent failed to monitor the water for nitrate contamination in 2005 and, therefore, violated the requirement.

6. Respondent was required to report any total coliform MCL to EPA by the end of the next business day after it learned of the violation. 40 C.F.R. § 141.21(g)(1). Respondent failed to report to EPA the MCL violation listed in paragraph 4 above and, therefore, violated this requirement.

7. The law requires Respondent to notify the public of certain violations of the drinking water regulations, in the manner specified by the regulations. 40 C.F.R. § 141.201 *et seq.* Respondent failed to notify the public of the violations listed in paragraphs 3 through 5 above and, therefore, violated this requirement. Public notice for failing to monitor for total coliform contamination during the 2<sup>nd</sup> quarter of 2008 is not yet overdue.

8. Respondent is required to report any failure to comply with a coliform monitoring requirement to the EPA within 10 days after learning of the violation. 40 C.F.R. § 141.21(g)(2). Respondent failed to report to EPA the total coliform monitoring violations listed in paragraph 3 above and, therefore, violated this requirement.

9. Respondent is required to report any other failure to comply with any of the drinking water regulations (with some exceptions noted above) to EPA within 48 hours. 40 C.F.R. § 141.31(b). Respondent failed to report the violations listed in paragraphs 5 and 7 above to EPA and, therefore, violated this requirement.

## **ORDER**

Based on the above violations, Respondent is ordered to perform the following actions, upon receipt of this Order by Respondent:

10. Respondent shall monitor quarterly for total coliform bacteria. 40 C.F.R. §§ 141.21, 141.63. Respondent shall report analytical results to EPA within the first 10 days following the month in which sample results are received, as required by the drinking regulations. 40 C.F.R. § 141.31(a). Any violation of total coliform monitoring requirements shall be reported to EPA within 10 days after the Respondent learns of it. 40 C.F.R. § 141.21(g)(2).

11. Respondent shall monitor annually for nitrate. 40 C.F.R. § 141.23(d). Respondent shall report analytical results to EPA within the first 10 days following the month in which sample results were received, as required by the drinking water regulations. 40 C.F.R. § 141.31(a). Any violation of nitrate monitoring requirements shall be reported to EPA within 48 hours. 40 C.F.R. § 141.31(b)

12. Respondent shall report any violation of the total coliform MCL to EPA by the end of the next business day after Respondent learns of it. 40 C.F.R. § 141.21(g)(1).

13. Within 30 days of receiving this Order, Respondent shall provide notice to the public of the violations listed in paragraphs 3 through 5 above by (1) posting the notice for at least 7 days in public locations where it will be seen by people served by the system, (2) mailing or delivering the notice to each customer and connection, or (3) any other effective method if people would not be notified by either of the first two notice options. 40 C.F.R. § 141.201 *et seq.* Specific notice requirements can be found in the attached template. Respondent shall send a copy of the notices to EPA within 10 days after providing the notice. Respondent shall comply with the public notification requirements following any future drinking water regulations violation. 40 C.F.R. § 141.201 *et seq.*

14. Respondent shall report any other violation of the drinking water regulations to EPA within 48 hours of discovery. 40 C.F.R. § 141.31(b).

15. All reporting required by this Order shall be directed to:

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

### **GENERAL PROVISIONS**

16. 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.

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

1/12/09  
Date

Michael T. Risner  
Michael T. Risner, Director  
Legal Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

10 January 2009  
Date

Diane L. Sipe  
Diane L. Sipe, Director  
Technical 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.

### After Issuing the Notice

Make sure to send your primacy 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**  
**CAMP CREEK INN**

**SOME DRINKING WATER MONITORING REQUIREMENTS NOT MET IN 2004-2007**

*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 2005 through 2008, we did not complete all monitoring or testing for bacteriological quality and nitrate 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 contaminants we did not properly test for, how often we are supposed to sample for these contaminants and how many samples we are supposed to take, how many we took, when samples should have been taken, and the date when the situation was corrected.

<b>Contaminant</b>	<b>Required sampling frequency</b>	<b>Number of samples taken</b>	<b>When all samples should have been taken</b>	<b>When samples were or will be taken</b>
bacteriological routine	one sample quarterly	0	4 <sup>th</sup> Qtr 2005, 2007 2 <sup>nd</sup> Qtr 2008	All other quarters
Nitrate	annually	0	2005	2006, 2007

**What happened? What is being done?**

Will sample as required in future. Call Joni Upsher at 307-732-2222 if you have questions.

*Please share this information with all the other people who drink this water. You can do this by posting this notice in a public place or distributing copies by hand or mail. Note: send copy to EPA after public notice is complete with the date distributed and signature.*