



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 15 2011

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Crook County Commissioners
c/o John A. Moline, Jr., Chairman
P.O. Box 37
Sundance, WY 82729

Re: Notice of Safe Drinking Water Act Enforcement
Action against Fort Devils Tower
PWS ID # WY5601411

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 Rick Nelson, who owns and/or operates Fort Devils Tower, located in Crook County, WY, directing him to comply with the National Primary Drinking Water Regulations. The violations alleged in the Order include failing to monitor for total coliform bacteria, and failing to report certain violations to EPA.

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,

A handwritten signature in cursive script, appearing to read "Arturo Palomares".

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

Enclosure:
Order



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FEB 16 2011

Ref: 8ENF-W

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Richard A. (Rick) Nelson, Owner
Fort Devils Tower
601 Highway 24
Devils Tower, WY 82714

Re: Administrative Order
Fort Devils Tower
Public Water System
Docket No. SDWA-08-2011- 0023
PWS ID #WY5601411

Dear Mr. Nelson:

Enclosed is an Administrative Order (Order) issued by the Environmental Protection Agency (EPA) under the authority of the Safe Drinking Water Act, 42 U.S.C. §§ 300f *et seq.* Among other things, the Order alleges that you, as owner and/or operator of the Fort Devils Tower public water system, have violated the National Primary Drinking Water Regulations (the drinking water regulations).

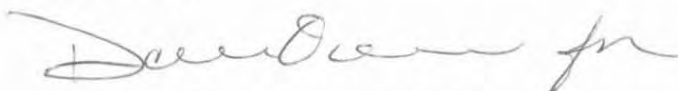
The Order is effective upon the date received. Please review the Order and within 10 days provide EPA with any information you believe EPA may not have. If you comply with the Order, EPA may close the Order without further action. Failure to comply with the Order may lead to substantial civil penalties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

The Small Business Regulatory Enforcement and Fairness Act (SBREFA) may apply to this situation. Enclosed is a small business information sheet, outlining compliance assistance resources available to small businesses and small governments, in case these are relevant. SBREFA does not eliminate the responsibility to comply with the Order or the drinking water regulations.

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 company's attorney should be directed to Peggy Livingston, Enforcement Attorney, who may be reached at the above address (with the mailcode 8ENF-L) or by phone at (800) 227-8917, extension 6858 or (303) 312-6858.

We urge your prompt attention to this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Arturo Palomares".

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

Enclosures:

Order
SBREFA Information Sheet

cc:

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

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2011 FEB 16 AM 9:10

IN THE MATTER OF:)
)
)
Richard A. (Rick) Nelson,)
)
)
Respondent.)

Docket No. ~~SDWA-08-2011-0023~~

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. Richard A. (also known as "Rick") Nelson (Respondent) is an individual who owns and/or operates the Fort Devils Tower Water System (the system), which provides piped water to the public in Crook County, Wyoming, for human consumption.
3. The system is supplied by a groundwater source consisting of one well, and the water is not treated.
4. The system has approximately 26 service connections and/or regularly serves an average of approximately 150 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. 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 failed to take 4 repeat samples of the system's water within 24 hours of being notified of a total coliform-positive sample on May 25, 2010, and again on September 28, 2010, and, therefore, violated this requirement.

8. If the system has one or more total coliform-positive samples, Respondent is required to collect at least 5 routine samples during the next month the system provides water to the public. 40 C.F.R. § 141.21(b)(5). After the system's water tested positive for total coliform on May 25, 2010 and September 28, 2010, Respondent failed to take at least 5 routine samples of the system's water in June 2010 and October 2010, respectively, and, therefore, violated this requirement.

9. Respondent is required to report any failure to comply with any coliform monitoring requirement to EPA within ten days after discovering the violation. 40 C.F.R. § 141.21(g)(2). Respondent failed to report the violations listed in paragraphs 7 and 8, above, 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):

10. 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.

11. If any routine sample for the system is total coliform positive, Respondent shall collect at least 5 routine samples during the next month in which the system provides water to the public, following the procedures in 40 C.F.R. § 141.21.

12. Respondent shall report analytical results to EPA within the first ten days following the month in which Respondent received sample results, as required by



Richard A. Nelson, Respondent
Fort Devils Tower Public Water System
Page 3 of 3

40 C.F.R. § 141.31(a). Respondent shall report any violation of the total coliform monitoring requirements to EPA within ten days after discovery, as required by 40 C.F.R. § 141.21(g)(2).

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

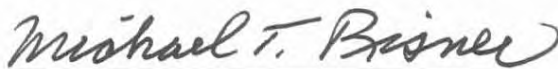
U.S. EPA Region 8 (8P-W-DW)
1595 Wynkoop
Denver, CO 80202-1129

GENERAL PROVISIONS

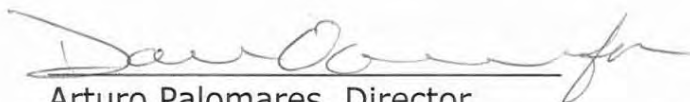
14. This Order shall not constitute a waiver, suspension, or modification of any requirement of the Act or drinking water regulations. Issuance of this Order is not an election by EPA to forgo any civil or criminal action.

15. 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: Feb. 16, 2011.



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



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

