



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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

OCT 26 2009

Ref: 8ENF-W

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Kemp-Burdick CPA's & Advisors, Registered Agent
Harmony Farms Water Users Association
337 S. Main St
Cedar City, UT, 84720

Re: Administrative Order
Harmony Farms Water Users
Public Water System
Docket No. 08-2009-0078
PWS ID # UTAH27079

Dear Madame/Sir:

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 Harmony Farms Water Users Association (the Association) has violated the National Primary Drinking Water Regulations (the drinking water regulations).

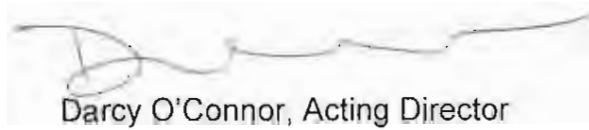
The Order is effective upon the date received. Please review the Order and within 10 days provide EPA with any information you believe EPA may not have. If the Association complies with the Order, EPA may close the Order without further action. Failure to comply with the Order may lead to substantial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

The Order requires the Association to notify the public of having violated the drinking water regulations. Enclosed please find a public notice template to assist in providing that notice.

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 Association's attorney should be directed to Marc Weiner, Enforcement Attorney, who may be reached at the above address (with the mailcode 8ENF-L) or by phone at (800) 227-8917, extension 6913 or (303) 312-6913.

We urge your prompt attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Darcy O'Connor", is written over a light gray rectangular background.

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

Enclosures

Order
Public Notice template

cc: Tina Artemis, EPA Regional Hearing Clerk
Patti Fauver, UT DEQ DW
James Lott, Harmony Farms Water Users Association

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2009 OCT 26 AM 9:05

FILED
EPA REGION VIII
HEARING CLERK

_____))
IN THE MATTER OF))
))
Harmony Farms Water Users Association))
Cedar City, UT,))
))
Respondent.))
_____))

Docket No. 08-2009-0078

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. Harmony Farms Water Users Association (Respondent) is a Utah corporation that owns and/or operates the Harmony Farms Water System (the system) which provides piped water to the public in Washington County, Utah, for human consumption.
3. The system is supplied by a groundwater source consisting of two wells. The water is treated by chlorination.
4. The system has approximately 107 service connections used by year-round residents and/or regularly serves at least 300 year-round residents. Therefore, the system is a "public water system" and a "community water system" as defined in 40 C.F.R. § 141.2 and § 1401 of the Act, 42 U.S.C. § 300f.
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 Utah Department of Environmental Quality has primary enforcement authority for the public water system supervision provisions of the Act in the State of Utah (the State). EPA issued a notice of the system's violations to the State on August 11, 2009. The State elected not to commence an enforcement action against Respondent for the violations listed in the notice of violation within the thirty-day time frame set forth in § 1414(a) of the Act, 42 U.S.C. § 300g-3(a). EPA has provided a copy of this Order to the State and has provided the State the opportunity to confer with EPA regarding this Order.

VIOLATIONS

7. If more than one sample 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). More than one total coliform sample collected in December 2005 and January 2006 from the system were positive for total coliform, and, therefore, Respondent 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 in January 2006, Respondent failed to take at least 5 routine samples of the system's water in February 2006 and, therefore, violated this requirement.

9. Respondent is required to monitor the system's water annually for nitrate at sampling points representative of each well after treatment. 40 C.F.R. §§ 141.23(a) and (d). Respondent failed to monitor the system's water for nitrate at Well No. 1 during 2004 and 2007, and failed to monitor for nitrate at its Harmony Farms No. 2 well in 2008 and, therefore, violated this requirement.

10. Respondent is currently required to monitor the system's water triennially for lead and copper. Prior to 2005, Respondent was required to monitor the system's water annually for lead and copper. 40 C.F.R. § 141.86(d)(4). Respondent failed to monitor the system's water for lead and copper during 2004 and, therefore, violated this requirement.

11. Respondent is required to monitor the system's water at least annually for volatile organic contaminants at sampling points representative of each well after treatment. 40 C.F.R. §§ 141.24(f)(1) and (5). Respondent failed to monitor the system's water for volatile organic contaminants at its Well No. 1 during 2004 and 2007, and failed to monitor for volatile organic contaminants at its Harmony Farms No. 2 well during 2008 and, therefore, violated this requirement.

12. Respondent is required to monitor the system's water for certain radionuclides every quarter at its Harmony Farms No. 2 well. 40 C.F.R. § 141.26(a). Respondent most recently monitored the system's water for Radium-228 on January 12, 2009 and April 9, 2009. However, Respondent failed to monitor the system's water for the complete set of radionuclides during the fourth quarter of 2008 and first and second quarters of 2009, and therefore, violated this requirement.

13. Respondent is required to notify the public of certain violations of the drinking water regulations. 40 C.F.R. §§ 141.201, 141.203 and 141.204. Respondent did not notify the public of the violations mentioned in paragraphs 7 through 12 above and, therefore, violated this requirement.

14. Respondent is required to report any failure to meet a coliform monitoring requirement to the State no later than ten days after learning of this violation. 40 C.F.R. § 141.21(g)(2). Respondent did not notify the State of the violations cited in paragraph 8 above and, therefore, violated this requirement.

15. Respondent is required to report any coliform MCL violation to the State 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 the State of the MCL violations cited in paragraph 7 above and, therefore, violated this requirement.

16. Respondent is required to report any failure to comply with any of the drinking water regulations to the State within 48 hours (except where a different period is specified in the drinking water regulations). 40 C.F.R. § 141.31(b). Respondent failed to report the violations listed in paragraphs 9 through 13 above to the State 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):

17. Respondent shall comply with the total coliform MCL, as required by 40 C.F.R. § 141.63(a)(2). Respondent shall report any violation of the total coliform MCL to EPA and the State no later than the end of the first business day after learning of it. 40 C.F.R. § 141.21(g)(1).

18. 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. Respondent shall report any violation of the total coliform monitoring requirements to EPA and the State within 10 days of discovery, as required by 40 C.F.R. § 141.21(g)(2).

19. Respondent shall monitor the system's water for nitrate at the sampling points representative of each well after treatment. 40 C.F.R. § 141.23(a) and (d).

20. Respondent shall monitor the system's water for lead and copper in accordance with 40 C.F.R. §§ 141.86(b), (c) and (d). 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. § 141.90.

21. Respondent shall monitor the system's water for volatile organic contaminants at all required sampling points annually in compliance with 40 C.F.R. §§ 141.24(f)(1) and (5).

22. Respondent shall monitor the system's water for radionuclides at its Harmony Farms No. 2 well by December 31, 2009, and again by March 31, 2010, and thereafter as instructed by the State, as required by 40 C.F.R. § 141.26(a).

23. Within 30 days of receiving this Order, Respondent shall notify the public of the violations cited in paragraphs 7 through 12, 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 and the State.

24. Respondent shall report analytical results to EPA and the State within the first 10 days following the month in which sample results were received, as required by 40 C.F.R. § 141.31(a)

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

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

Mario E. Mérida, 8ENF-W AND
U. S. EPA Region 8
1595 Wynkoop Street
Denver, CO 80202-1129

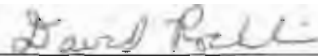
Patti Fauver, Rules Section
Manager
Utah Dept. of Environmental
Quality
P.O. Box 144830
Salt Lake City, UT 84114-4830

GENERAL PROVISIONS

27. 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.

28. 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: October 26, 2009



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



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

Instructions for Resolved Total Coliform Notice – Template 2-2

Template on Reverse

Since exceeding the total coliform bacteria maximum contaminant level is a Tier 2 violation, you must provide public notice to persons served as soon as practical but within 30 days after you learn of the violation (141.203(b)). Some states have more stringent requirements for coliform violations. Check with your primacy agency to make sure you meet all its requirements.

Community systems must use one of the following methods (141.203(c)):

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

Non-community systems must use one of the following methods (141.203(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 (141.203(c)). Such methods could include newspapers, e-mail, or delivery to community organizations. If you mail, post, or hand deliver, print your notice on letterhead, if available.

The notice on the reverse is appropriate for hand delivery or mail. However, you may wish to modify it before using it for posting. If you do, you must still include all the required elements and leave the health effects language in italics unchanged. This language is mandatory (141.205(d)).

Description of the Violation

Make sure that the notice is clear about the fact that the coliform problem has been resolved, and there is no current cause for concern. The description of the violation and the MCL vary depending on the number of samples you take. The following table should help you complete the second paragraph of the template.

<u>If You Take Less Than 40 Samples a Month</u>	<u>If You Take More Than 40 Samples a Month</u>
State the number of samples testing positive for coliform. The standard is that no more than one sample per month may be positive.	State the percentage of samples testing positive for coliform. The standard is that no more than five percent of samples may test positive each month.

Corrective Action

In your notice, describe corrective actions you have taken. Listed below are some steps commonly taken by water systems with total coliform violations. Use one or more of the following actions, if appropriate, or develop your own:

- We have increased sampling for coliform bacteria to catch the problem early if it happens again.
- The well and/or distribution system has been disinfected and additional samples do not show the presence of coliform bacteria.

After Issuing the Notice

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

IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER

Tests Showed Coliform Bacteria in [System] Water

In December 2005 and January 2006, our water system violated a drinking water standard. Although these incidents were not emergencies, as our customers, you have a right to know what happened and what we did to correct this situation.

We routinely monitor for drinking water contaminants. We took five samples in December 2005 and ten samples in January 2006 to test for the presence of coliform bacteria during those months. Two of our samples in December 2005 and six of our samples in January 2006 showed the presence of total coliform bacteria. The standard is that no more than 1 sample per month may do so.

What should I do?

- You do not need to boil your water or take other corrective actions. However, if you have specific health concerns, consult your doctor.
- People with severely compromised immune systems, infants, and some elderly may be at increased risk. These people should seek advice about drinking water from their health care providers. General guidelines on ways to lessen the risk of infection by microbes are available from EPA's Safe Drinking Water Hotline at 1-800-426-4791.

What does this mean?

This is not an emergency. If it had been, you would have been notified immediately. Coliform bacteria are generally not harmful themselves. *Coliforms are bacteria which are naturally present in the environment and are used as an indicator that other, potentially-harmful, bacteria may be present. Coliforms were found in more samples than allowed and this was a warning of potential problems.*

Usually, coliforms are a sign that there could be a problem with the system's treatment or distribution system (pipes). Whenever we detect coliform bacteria in any sample, we do follow-up testing to see if other bacteria of greater concern, such as fecal coliform or *E. coli*, are present. **We did not find any of these bacteria in our subsequent testing.**

What is being done?

[Describe corrective action.] Further testing shows that this problem has been resolved.

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

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 Harmony Farms water system.

State Water System ID#: UTAH27079.

Date distributed: _____.

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

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

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 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 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 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

Monitoring Requirements Not Met for Harmony Farms Water Users

Our water system violated 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. During the period of 2004 – 2008, we did not monitor or test or did not complete all monitoring or testing for nitrate, total coliform bacteria, lead and copper, radionuclides, inorganic contaminants and volatile organic contaminants 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
Nitrates	2 samples annually	1 of 2	2004, 2007 2008	1 sample, 4/9/2009
Total Coliform – Routine Samples	5 routine samples in month following coliform-positive result	0	February 2006	N/A
Lead and Copper	5 samples annually	0	2004	2005, 2008
Volatile organic contaminants	1 sample annually at each well	0	2004, 2007 (Well No. 1) 2008 (Well No. 2)	4/9/2009 (Well No. 1) 1/12/2009 (Well No. 2), as required
Radionuclides	Well No. 2: Quarterly	0	Q4 2008 (first quarterly sample), Q1 2009, and Q2 2009	N/A

What is being done?

[Describe corrective action.]

IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER (cont.)

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

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 Harmony Farm Water Users. State Water System ID#: UTAH27079.

Date distributed: _____.