



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 Wynkoop Street
Denver, CO 80202-1129
Phone 800-227-8917
www.epa.gov/region08

APR 18 2016

2016 APR 18 PM 1:45

FILED
EPA REGION VIII
HEARING CLERK

Ref: 8ENF-W

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Shad Shimic, Registered Agent
B.H. Investment LLC
P.O. Box 537
Torrington, Wyoming 82240

Re: Administrative Order Violation #2, Buckinghorse Steak House and Lounge Public Water System, PWS ID #5601611, Docket No. SDWA-08-2012-0003

Dear Mr. Shimic:

On November 7, 2011, the U.S. Environmental Protection Agency (EPA) issued an Administrative Order (Order) ordering B.H. Investment LLC (Respondent), as owner and/or operator of the Buckinghorse Steak House and Lounge Public Water System (System), to comply with various regulations issued by the EPA under the Safe Drinking Water Act (SDWA), 42 U.S.C. Section 300f et seq. On February 11, 2014, the EPA issued a letter to Respondent providing notice that Respondent was in violation of the Order.

Our records indicate that Respondent is again in violation of the Order. Among other things, the Order included the following requirements (from paragraphs 10 and 11 on pages 2 and 3 of the Order) in which B.H. Investment LLC was named as Respondent and the Buckinghorse Steak House and Lounge Public Water System was named as the System:

1. Respondent shall monitor the System's water quarterly for total coliform bacteria and, if any sample is positive for total coliform, conduct repeat and additional routine monitoring, 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 after discovering the violation, as required by 40 C.F.R. § 141.21 (g) (2).

Respondent failed to collect additional routine total coliform samples during September 2015 after total coliform positive results in August 2015, and, furthermore, the EPA was not notified of this violation.

2. If Respondent's total coliform sample results exceed the MCL (maximum contaminant level) while this Order is in effect, within 30 days after learning of this violation, Respondent shall provide the 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 two months from the date of the EPA's approval of the plan and schedule. The proposed plan and schedule must be approved by the EPA before construction or modifications can begin. The EPA's approval of Respondent's plan and schedule does not substitute for any State of Wyoming approval of plans and specifications that may also be required before modifications may be made to the System.

Two or more samples collected during July and August 2015 at the System were analyzed as total coliform positive and, therefore, exceeded the MCL. These violations triggered the requirement to submit a compliance plan and schedule to the EPA by August 21, 2015. The EPA has not received a plan and schedule. Significant deficiencies identified in the EPA's July 10, 2014 sanitary survey sent to Respondent on November 18, 2014 (and referenced in the EPA's February 9, 2015 Notice of Violation letter sent to Respondent), have not been corrected and must be included in the plan and schedule. As noted in the EPA's notices to Respondent: 1) the well pit or vault shall be constructed with proper drainage, or a permanent or portable pump shall be provided; 2) the casing and/or well house must be protected from entrance by animals and their droppings must be removed; and 3) there is no emergency response plan (ERP).

3. Within 30 days after receipt of the Order, Respondent shall notify the public of the violations cited in paragraphs 7 and 8, of the order, 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 any applicable public notice provisions of 40 C.F.R. part 141, subpart Q. Within 10 days after providing public notice, Respondent shall submit a copy of the notice to the EPA.

The EPA has not received a copy of a completed public notice for the violations in the Order, the July and August 2015 total coliform MCL violations cited above, or for failure to timely complete the significant deficiency corrective actions. Signed copies of both public notice must be sent to the EPA within 10 days of receipt of this letter. Enclosed are public notices templates that have been updated to include the 2015 violations.

If you have any questions or concerns, please contact Metea Wright by phone at (800) 227-8917, extension 6023 or (303) 312-6023, by email at wright.metea@epa.gov, or at the above address (with the mailcode 8ENF-W) immediately. Any questions from Respondent's attorney should be directed to Mia Bearley, Enforcement Attorney, who may be reached at the above address (with the mailcode 8ENF-L) or by phone at (800) 227-8917, extension 6554 or (303) 312-6554, or by email at bearley.mia@epa.gov.

We urge your prompt attention to this matter.

Sincerely,



Kimberly Pardue-Welch, Team Leader
Drinking Water Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosures

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

DRINKING WATER NOTICE

Buckinghorse Steak House and Lounge Failed to Correct and/or Report Corrective Action of Significant Deficiencies AND Failed to Monitor for Total Coliform

Our water system was required to take corrective action of EPA-identified significant deficiencies by March 31, 2015, and to notify the EPA of the completion within 30 days. However, we failed to take all actions by the required date and/or failed to provide documentation to the EPA of their completion.

We also failed to monitor quarterly for total coliform bacteria during the 2nd quarter of 2011.

What This Means

This is not an emergency. If it had been, you would have been notified within 24 hours. We do not know of any cases of contamination. However, until the problem is corrected, there is an increased chance that disease-causing organisms could contaminate the water supply. The significant deficiencies included lack of proper drainage for well in pit or vault, a leak in the well house, and failure to maintain records at a convenient location.

Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches. These symptoms, however, are not caused only by organisms in drinking water. If you experience any of these symptoms and they persist, you may want to seek medical advice.

You may drink the water. However, if you have specific health concerns, consult your doctor.

If you have a severely compromised immune system, have an infant, are pregnant, or are elderly, you may be at increased risk and should seek advice from your health care providers about drinking this water.

Steps We Are Taking

For more information, please contact _____ at _____..

Please share this information with all the other people who drink this water, especially those who may not have received this notice. You can do this by posting this notice in a public place or distributing copies by hand or mail.

Certification

Issue a repeat notice every three months when the system is open to the public until the system has returned to compliance. Sign below, note the dates posted, and send a copy to the completed notice to the EPA at wright.metea@epa.gov or 1595 Wynkoop St., Attn: Wright, 8ENF-W, Denver, CO 80202.

..... Dates posted: _____ Signature _____

IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER

Tests Show Coliform Bacteria in Buckingham Steak House and Lounge

Our water system violated a drinking water standard. Although this is not an emergency, as our customers, you have a right to know what happened, what you should do, and what we are doing to correct this situation.

We routinely monitor for the presence of drinking water contaminants. We took samples for coliform bacteria during the months of February 2011 and July and August 2015 and more than one sample each month showed the presence of 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.
- If you have a severely compromised immune system, have an infant, are pregnant, or are elderly, you may be at increased risk and should seek advice from your health care providers about drinking this water. 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 within 24 hours. Total 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 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] _____

For more information, please contact Shad Shmic at (307)532-8500.

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.

Certification

After posting this notice for a minimum of 7 days, enter the dates posted, sign below and send a copy to: EPA 1595 Wynkoop Street, Attn: 8ENF-W M. Wright, Denver, CO 80202

Dates posted from _____ to _____ Date mailed, hand, or direct delivered _____

Signature and title _____

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 [40 CFR 141.203(b)]. Persistent total coliform problems can be serious. Some states have more stringent requirements for coliform violations. Check with your primacy agency to make sure you meet all requirements. You must issue a repeat notice every three months for as long as the violation persists.

Community systems must use one of the following methods [40 CFR 141.203(c)]:

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

Noncommunity systems must use one of the following methods [40 CFR 141.203(c)]:

- Posting in conspicuous locations
- Hand delivery
- Mail

In addition, both community and noncommunity systems must use another method reasonably calculated to reach others if they would not be reached by the first method [40 CFR 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 your system's letterhead, if available.

The notice on the reverse is appropriate for mailing, posting, or hand delivery. If you modify this notice, you must still include all required PN elements listed in 40 CFR 141.205(a) and leave the mandatory language unchanged (see below).

Mandatory Language

Mandatory language on health effects (from Appendix B to Subpart Q) must be included as written (with blanks filled in) and is presented in this notice in italics and with an asterisk on either end.

You must also include standard language to encourage the distribution of the public notice to all persons served, where applicable [40 CFR 141.205(d)]. This language is also presented in this notice in italics and with an asterisk on either end.

Description of the Violation

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 at Least 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 are taking. If you know what is causing the coliform problem, explain this in the notice. Listed below are some steps commonly taken by water systems with total coliform violations. Depending on the corrective action you are taking, you can use one or more of the following statements, if appropriate, or develop your own text:

- We are disinfecting and flushing the water system.
- We are increasing sampling for coliform bacteria.
- We are investigating the source of contamination.
- We are repairing the wellhead seal.
- We are repairing the storage tank.
- We will inform you when additional samples show no coliform bacteria.

After Issuing the Notice

Make sure to send a copy of each type of notice and a certification that you have met all the public notice requirements to your primacy agency within ten days after issuing the notice [40 CFR 141.31(d)]. It is a good idea to inform your consumers when the violation has been resolved. See Template 2-2 for a resolved notice template.