



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

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

FEB 13 2012

Ref: 8ENF-W

CERTIFIED MAIL LETTER  
RETURN RECEIPT REQUESTED

Park County Commissioners  
c/o Bucky Hall, Chairman  
Park County Courthouse  
1002 Sheridan Ave.  
Cody, WY 82414

Re: Notice of Safe Drinking Water Act  
Enforcement Action against  
XSR, Inc., Crossed Sabres Guest Ranch  
Public Water System  
PWS ID #WY5600443

Dear Commissioners:

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

EPA has issued an Administrative Order (Order) to XSR, Inc., located in Cody, Wyoming, directing it to comply with the National Primary Drinking Water Regulations. The violations include exceeding the total coliform maximum contaminant level (MCL); failing to take a source water sample within 24 hours; failing to report these violations to EPA; and failing to provide public notice of the violations.

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 Shawn McCaffrey at (303) 312-6515.

Sincerely,



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

Enclosure  
Order



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EPA REGION VIII  
RECORDING CLERK

Ref: 8ENF-W

CERTIFIED MAIL LETTER  
RETURN RECEIPT REQUESTED

XSR, Inc.  
Patrick Sweeney, Registered Agent  
100 North Center Street  
Suite 300  
Casper, WY 82601

Re: Administrative Order  
Docket No. **SDWA-08-2012-0010**  
Crossed Sabres Guest Ranch  
Public Water System  
PWS ID# WY5600443

Dear Mr. Sweeney:

Enclosed is an Administrative Order (Order) issued by the United States Environmental Protection Agency (EPA) under the authority of section 1414(g) of the Safe Drinking Water Act (SDWA), 42 U.S.C. § 300g-3(g). Among other things, the Order alleges that XSR, Inc. (the Company), owner and/or operator of the Crossed Sabres Guest Ranch public water system has violated the National Primary Drinking Water Regulations at 40 C.F.R. part 141 (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 Company 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.

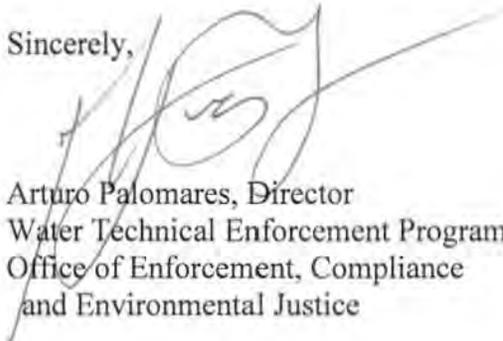
The Small Business Regulatory Enforcement and Fairness Act (SBREFA) may apply to this situation. Enclosed is a small business information sheet, outlining compliance assistance resources available to small businesses and small governments, in case these are relevant. SBREFA does not eliminate the responsibility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

The Order requires the Company to notify the public of having violated the Drinking Water Regulations. Enclosed please find a public notice template explaining the public notice requirements in more detail.

To submit information or request an informal conference with EPA, please contact Shawn McCaffrey at the above address (with the mailcode 8ENF-W) or by phone at (800) 227-8917, extension 6515 or (303) 312-6515. Any questions from the Company's attorney should be directed to Jean Belille, Enforcement Attorney, who may be reached at the above address (with the mailcode 8ENF-L) or by phone at (800) 227-8917, extension 6556 or (303) 312-6556.

We urge your prompt attention to this matter.

Sincerely,



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

Enclosure

Order  
SBREFA Information Sheet  
Public Notice Template

cc: Doug Hunter, Manager  
Tina Artemis, EPA Regional Hearing Clerk  
Wyoming DEQ/DOH (via email)



### VIOLATIONS

8. If two or more samples collected in any month from the System's water are positive for total coliform, then the System has not complied with the maximum contaminant level (MCL) for total coliform bacteria. 40 C.F.R. § 141.63(a)(2). During the months of June 2009, June 2011, July 2011, August 2011, and September 2011, two or more samples from the System were positive for total coliform, and, therefore, Respondent violated this requirement.

9. Respondent is required to conduct triggered source monitoring within 24 hours of being notified that a regular, routine total coliform monitoring sample is positive for total coliform. Respondent must sample each ground water source and have it analyzed for a fecal indicator. 40 C.F.R. § 141.402. Respondent was notified on or near June 7, 2011 that a routine sample (collected pursuant to 40 C.F.R. § 141.21(a) and not invalidated under 40 C.F.R. § 141.21(c)) was positive for total coliform. However, Respondent failed to collect any ground water source samples within 24 hours and, therefore, violated 40 C.F.R. § 141.402.

10. Respondent is required to notify the public of certain violations of the Drinking Water Regulations. 40 C.F.R. §§ 141.201-141.211. Respondent failed to notify the public of all the violations cited in paragraph 8 above, except for the June 2011 violation, and, therefore, violated this requirement. Public notice for the June 2011 failure to collect a triggered source water sample violation cited in paragraph 9 is not yet overdue.

11. Respondent is required to report any coliform MCL violation to the EPA no later than the end of the next business day after learning of it. 40 C.F.R. § 141.21(g)(1). Respondent did not notify the EPA of the MCL violations cited in paragraph 8, above, and, therefore, violated this requirement.

12. Respondent is required to report any failure to comply with any Drinking Water Regulation to the EPA within 48 hours (except where the Drinking Water Regulations specify a different time period). 40 C.F.R. § 141.31(b). Respondent failed to report the violations cited in paragraphs 9 and 10 above, to the 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):

13. If the System's water does not comply with the total coliform MCL in 40 C.F.R. § 141.63, Respondent, by the end of the business day after discovering the violation, shall report this violation to the EPA as required by 40 C.F.R. § 141.21(g)(1).



14. Prior to opening in 2012, Respondent shall begin manual chlorination or install chlorination equipment to continuously disinfect the spring water and maintain a chlorine residual of at least 0.2 mg/L throughout the distribution system in order to achieve compliance with the total coliform MCL. 40 C.F.R. § 141.63(a)(2). Respondent shall monitor the residual disinfectant level in the System's water in the distribution system at the same time and place it collects total coliform samples, as required by 40 C.F.R. §§ 141.132(c)(1) and 141.21. No later than 10 days after the end of each quarter, Respondent shall report residual disinfectant sample results and all information required by 40 C.F.R. § 141.132(c)(1) to the EPA, as required by 40 C.F.R. § 141.134.

15. By June 1, 2012, Respondent shall install a #24-mesh screen on its vent pipe to correct significant deficiencies identified by EPA in its sanitary survey of October 21, 2010. By June 1, 2012, Respondent shall send a photo to EPA that verifies the proper installation of the screen.

16. Respondent shall report any violation of the Drinking Water Regulations to the EPA within 48 hours of the violation occurring, as required by 40 C.F.R. § 141.31(b). However, if a different time period for reporting is specified in this Order or the Drinking Water Regulations, Respondent shall report within that different period.

17. Within 30 days after opening for the 2012 season, Respondent shall notify the public of the violations cited in paragraphs 8 and 9, above, except for the June 2011 violation, following the instructions provided with the public notice templates provided to Respondent with this Order. 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.

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

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

#### **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 the 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: February 13, 2012.



Eduardo Quintana, Acting 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



## TIER 3 TEMPLATES

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 instructions 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 exactly as written, is presented in *italics* (141.205(d)).**

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 NoticeBTemplate 3-1

## 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:

- X 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.
- X 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.]
- X 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 Crossed Sabres Guest Ranch**

Our water system violated a drinking water standard over the past year. Even though this was not an emergency, as our customers, you have a right to know what happened and what we did to correct the situation.

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 collect a source water sample following a TC positive within 24 hours in June 2011 as required by the Ground Water Rule.

**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.

| <b>Contaminant</b>  | <b>Required sampling frequency</b>        | <b>When all samples should have been taken</b> | <b>When samples were or will be taken</b> |
|---|---|--|---|
| We failed to collect a source water sample following a TC positive result within 24 hours as required by the Ground Water Rule. | As needed following a TC positive result. | June 7, 2011                                   | As needed following a TC positive result. |

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

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 **Crossed Sabres Guest Ranch**  
 State Water System ID#: WY5600443

Date distributed or dates posted: \_\_\_\_\_

## Instructions for Unresolved Total Coliform Notice –(Tier 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)). Check with the Division of Drinking Water to make sure you meet all the public notification requirements.

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

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

**Non-community systems must use one of the following methods (141.203(c)):**

- X Posting in conspicuous locations for at least 7 days
- X Hand delivery
- X 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:

- X We have increased sampling for coliform bacteria to catch the problem early if it recurs.
- X The well and/or distribution system has been disinfected and additional samples do not show 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 EPA and your Primacy Agency within ten days after issuing the notice (141.31(d)).

## IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER

### Tests Showed Coliform Bacteria in Crossed Sabres Guest Ranch Water

Our water system recently violated a drinking water standard. Although this incident was not an emergency, 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. In **June 2009, July 2011, August 2011, and September 2011**, we took samples to test for the presence of coliform bacteria and two or more of those samples 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.

#### What happened? What was done?

For more information, please contact \_\_\_\_\_ at \_\_\_\_ - \_\_\_\_ - \_\_\_\_ or [mailing 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 **Crossed Sabres Guest Ranch**  
Water System ID#: **WY5600443**

Date distributed: \_\_\_\_\_

**After Issuing the Notice**

**Make sure to send EPA Region 8 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)).**

Please send a copy of your notice and dates posted to:

Shawn McCaffrey  
US EPA Region 8  
8ENF-W  
1595 Wynkoop Street  
Denver, CO 80202-1129

Or, you may fax a copy to: Attn: Shawn McCaffrey at 303-312-7202.

**Certification of Public Notification**

I \_\_\_\_\_ certify that the attached public notification was issued from  
(PWS Operator / Responsible Party)

\_\_\_\_\_ To \_\_\_\_\_  
(Date) (Date)

The attached notice was issued by \_\_\_\_\_  
(Method of delivery)

Signature \_\_\_\_\_ Date \_\_\_\_\_