



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

MAY - 5 2008

CERTIFIED MAIL LETTER
RETURN RECEIPT REQUESTED

Converse County Commissioners
c/o Jim Willox, Chairman
107 No. 5th St., Suite 114
Douglas, WY 82633-2448

Re: Notice of Safe Drinking Water Act
Enforcement Action against
Fairway Estates Homeowners Association
PWS ID#WY5600918

Dear County 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.

An Administrative Order is being issued to Fairway Estates Homeowners Association, located in Douglas, Wyoming. This Order requires that Fairway Estates Homeowners Association take measures to return its public water system to compliance with the SDWA and the National Primary Drinking Water Regulations (NPDWRs). The violations include: exceedances of the total coliform and arsenic maximum contaminant levels (MCL), failure to monitor for total coliform, nitrates, and radionuclides, and failure to post public notice.

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 Shawn McCaffrey at (303) 312-6515.

Sincerely,

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

Enclosure



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Ref: 8ENF-W

CERTIFIED MAIL LETTER
RETURN RECEIPT REQUESTED

Robert Keeler, Board President
Fairway Estates Homeowners Association
P.O. Box 37
Douglas, Wyoming 82633

Re: Administrative Order
Docket No. ~~SDWA~~-08-2008-0044
Fairway Estates Homeowners Association
PWS ID #WY5600918

Dear Mr. Keeler:

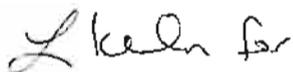
Enclosed is an Administrative Order issued by the Environmental Protection Agency (EPA) under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. §§ 300f et seq. Among other things, the Order describes how Fairway Estates Homeowners Association violated the National Primary Drinking Water 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 Fairway Estates Homeowners Association 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.

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. For legal questions, the attorney assigned to this matter is Marc Weiner, who can 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 cursive script, appearing to read "Diane L. Sipe for".

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

Enclosures
Order

cc: Peter Leath, Chief Operator
WY DEQ (via email)
WY DOH (via email)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

2008 MAY -5 AM 10:24

IN THE MATTER OF)
)
Fairway Estates Homeowners Association)
Douglas, Wyoming)
)
Respondent)

ADMINISTRATIVE ORDER

Docket No. SDWA-08-2008-0044

1. This Order is issued under the authority vested in the Administrator of the United States Environmental Protection Agency (EPA) in the Public Health Service Act (as amended by and hereafter referred to as the "Safe Drinking Water Act" or the "Act"), 42 U.S.C. § 300f, as properly delegated to the undersigned officials.

2. Fairway Estates Homeowners Association (Respondent) is an association that owns and/or operates the Fairway Estates Water System (the System) in Converse County, Wyoming, which provides piped water to the public for human consumption. According to the May 7, 2004 Sanitary Survey, the System is supplied by a groundwater source consisting of four wells, is not treated, and serves approximately 100 people through 45 service connections all year. The System is a "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. § 141.

VIOLATIONS

3. Respondent is required to monitor the System's water at least once per month to determine compliance with the maximum contaminant level (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 September 2006 exceeded the MCL for total coliform bacteria and therefore violated this requirement.

4. Respondent is required to collect a set of four repeat samples within 24 hours of being notified of a total coliform positive routine sample. 40 C.F.R. § 141.21(b). Respondent failed to collect a set of repeat samples after the September 2007 and November 2007 total coliform positive routine samples, and therefore violated this requirement.

5. The drinking water regulations require public water systems that collect fewer than 5 routine samples per month and have one or more total coliform positive samples to collect at least 5 routine samples during the next month they provide water to the public. 40 C.F.R. § 141.21(b)(5). Respondent failed to collect at least 5 routine samples in October, November, and December 2007 after a total coliform positive sample in the preceding month, and therefore violated this requirement.

6. 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 2004, and therefore violated this requirement. Respondent has sampled for nitrate from 2005 through 2007.

7. Respondent is required to initially monitor the System's water for four consecutive, quarterly samples during 2007 to determine compliance with the MCL for radionuclides. 40 C.F.R. § 141.26(a). Respondent monitored the water for contamination of radionuclides in March and June of 2007, but failed to monitor during the 3rd (July-September) and 4th (October-December) quarters of 2007, and therefore violated this requirement.

8. Respondent is required to monitor the System's water quarterly for arsenic to determine compliance with the arsenic MCL. 40 C.F.R. § 141.23. If the running annual average determined after four consecutive quarterly samples exceeds the MCL, it is a violation of the MCL. 40 C.F.R. § 141.23(i)(1). Respondent monitored for arsenic during each of the four quarters in 2007, resulting in a running annual average of .0175 mg/L. This result exceeded the MCL for arsenic as of November 14, 2007 and therefore violated this requirement.

9. Respondent is required 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, 6, and 8 above and therefore violated this requirement. Public notice for failure to monitor total coliform and failure to monitor radionuclides is not yet overdue.

10. The drinking water regulations require public water systems that have exceeded the MCL for total coliform to report the violation to EPA no later than the end of the next business day after learning of the violation. 40 C.F.R. § 141.21(g)(1). Respondent failed to report to EPA instances of noncompliance detailed in paragraph 3 above and therefore violated this requirement.

11. Respondent is required to report any failure to comply with a coliform monitoring requirement to the EPA within ten days after the system learned of the violation. 40 C.F.R. § 141.21(g)(2). Respondent failed to report to the EPA the failure to monitor total coliform violations listed in paragraphs 4 and 5 above and therefore violated this requirement.

12. Respondent is required to report any failure to comply with any of the drinking water regulations (except where a different reporting period is specified in paragraphs 10 and 11 above) to EPA within 48 hours. 40 C.F.R. § 141.31(b). Respondent failed to report the violations listed in paragraphs 6, 7, 8, and 9 above to EPA and therefore violated this requirement.

ORDER

Based on the above violations, Respondent is ordered to perform the following actions:

13. Upon receipt of this Order, Respondent shall comply with the total coliform MCL. 40 C.F.R. § 141.63(a)(2). Respondent shall report any total coliform MCL violation to EPA no later than the end of the next business day after Respondent learns of the violation. 40 C.F.R. § 141.21(g)(1).

14. If the System has a total coliform MCL while this Order is in effect, Respondent shall submit to EPA, within 30 days of the MCL violation, detailed plans for bringing the System into compliance with the MCL for coliform bacteria. 40 C.F.R. § 141.63. The plans shall include proposed system modifications, estimated costs of modifications, and a schedule for construction of the project and compliance with the MCL for coliform bacteria. The proposed schedule shall include specific milestone dates, a final compliance date (that shall be within 180 days from the first MCL violation after this Order) and shall be submitted to EPA for approval. The plans must be approved by EPA before construction can commence. Please note that approval from the Wyoming Department of Environmental Quality (DEQ) may be required for any changes to the System.

15. The schedule for construction and completion of modifications will be incorporated into this Order upon written approval by EPA.

16. If plans are required as stated in paragraph 14 above, Respondent shall submit to EPA monthly reports on the progress made toward bringing Respondent's system into compliance with the coliform bacteria MCL. 40 C.F.R. § 141.63.

17. Upon receipt of this Order, Respondent shall comply with all total coliform repeat sampling requirements. 40 C.F.R. § 141.21(b). This requires that Respondent take no fewer than four repeat total coliform bacteria samples within 24 hours of being notified of a total coliform positive routine sample. Respondent shall report any analytical results to the EPA within the first 10 days following the end of the monitoring period. 40 C.F.R. § 141.31(a). Any violation of total coliform monitoring requirements shall be reported to EPA within ten days after the Respondent learns of it. 40 C.F.R. § 141.21(g)(2).

18. Upon receipt of this Order, Respondent shall comply with all total coliform routine sampling requirements. 40 C.F.R. § 141.21(b)(5). This requires that Respondent take no fewer than five routine total coliform bacteria samples during the next month after having one or more total coliform positive samples.

19. Upon receipt of this Order, Respondent shall monitor for nitrate annually and per the regulations thereafter. 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 or other NPDWR requirements shall be reported to EPA within 48 hours. 40 C.F.R. § 141.31(b).

20. Prior to June 30, 2008 and again between July 1, 2008 and September 30, 2008, and per the regulations thereafter, Respondent shall monitor for radionuclides. 40 C.F.R. § 141.26(a). 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 water regulations. 40 C.F.R. § 141.31(a).

21. Within 120 days of the date of this Order, Respondent shall submit to EPA detailed plans for bringing the System into compliance with the MCL for arsenic. The plans shall include proposed system modifications, estimated costs of modifications, and a schedule for construction of the project and compliance with the MCL for arsenic. The proposed schedule shall include specific milestone dates, a final compliance date (that shall be within 18 months from the date of the Order) and shall be submitted to EPA for approval. The plans must be approved by EPA before construction can commence. Please note that approval from the Wyoming Department of Environmental Quality (DEQ) may be required for any changes to the System.

22. The schedule for construction and completion of modifications will be incorporated into this Order upon written approval by EPA.

23. Within 150 days of the date of this Order, Respondent shall begin submitting to EPA quarterly reports on the progress made towards bringing the System into compliance with the arsenic MCL. Reports shall be due to EPA within 10 days after the end of each calendar quarter. Respondent shall notify EPA when all improvements have been completed.

24. Upon receipt of this Order, Respondent shall sample quarterly for arsenic and comply with the arsenic MCL. 40 C.F.R. § § 141.62(b)(16), 40 C.F.R. § 141.23. Respondent shall report any analytical results to the EPA within the first 10 days following the end of the monitoring period. 40 C.F.R. § 141.31(a).

25. Within 30 days of this Order, the Respondent must provide notice of the violations in paragraphs 3, 6, and 8 of this Order. 40 C.F.R. § § 141.201, 141.202, 141.203 and 141.205. Respondent shall submit a copy of the public notice to EPA within 10 days of completion of the public notice, as required by 40 C.F.R. § 141.31(d). Respondent shall notify the public of these and any future violations by 1.) Mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered by the System; and 2.) Any other method reasonably calculated to reach other persons served by the system, if they would not normally be reached by the notice, such as publication in a local newspaper; delivery of multiple copies for distribution by customers that provide their drinking water to others; posting in public places or on the Internet; or delivery to community organizations. 40 C.F.R. § 141.201 et seq. Please note that all violations that occurred in 2007, including the arsenic MCL, must also be included in Respondent's Consumer Confidence Report for 2007, which is due to be delivered to the Fairway Estates Homeowners Association community by July 1, 2008.

26. Reporting requirements specified in this Order shall be provided by certified mail to:

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

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, 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.

5/1/08
Date

Matthew Cohn
David J. Janik, Acting Director
Matthew Cohn, Acting Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

4/23/08
Date

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