

**§21.13**

approve or disapprove the State issued statement, in accordance with the requirements of §21.5.

(2) The Regional Administrator will periodically review State program performance. In the event of State program deficiencies the Regional Administrator will notify the State of such deficiencies.

(3) During that period that any State's program is classified as deficient, statements issued by a State shall also be sent to the Regional Administrator for review. The Regional Administrator shall notify the State, the applicant, and the SBA of any determination subsequently made, in accordance with §21.5, on any such statement.

(i) If within 60 days after notice of such deficiencies has been provided, the State has not taken corrective efforts, and if the deficiencies significantly affect the conduct of the program, the Regional Administrator, after sufficient notice has been provided to the Regional Director of SBA, shall withdraw the approval of the State program.

(ii) Any State whose program is withdrawn and whose deficiencies have been corrected may later reapply as provided in §21.12(a).

(g) Funds appropriated under section 106 of the Act may be utilized by a State agency authorized to receive such funds in conducting this program.

**§21.13 Effect of certification upon authority to enforce applicable standards.**

The certification by EPA or a State for SBA Loan purposes in no way constitutes a determination by EPA or the State that the facilities certified (a) will be constructed within the time specified by an applicable standard or (b) will be constructed and installed in accordance with the plans and specifications submitted in the application, will be operated and maintained properly, or will be applied to process wastes which are the same as described in the application. The certification in no way constitutes a waiver by EPA or a State of its authority to take appropriate enforcement action against the owner or operator of such facilities for violations of an applicable standard.

**40 CFR Ch. I (7-1-08 Edition)****PART 22—CONSOLIDATED RULES OF PRACTICE GOVERNING THE ADMINISTRATIVE ASSESSMENT OF CIVIL PENALTIES AND THE REVOCATION/TERMINATION OR SUSPENSION OF PERMITS****Subpart A—General**

## Sec.

- 22.1 Scope of this part.
- 22.2 Use of number and gender.
- 22.3 Definitions.
- 22.4 Powers and duties of the Environmental Appeals Board, Regional Judicial Officer and Presiding Officer; disqualification, withdrawal, and reassignment.
- 22.5 Filing, service, and form of all filed documents; business confidentiality claims.
- 22.6 Filing and service of rulings, orders and decisions.
- 22.7 Computation and extension of time.
- 22.8 *Ex parte* discussion of proceeding.
- 22.9 Examination of documents filed.

**Subpart B—Parties and Appearances**

- 22.10 Appearances.
- 22.11 Intervention and non-party briefs.
- 22.12 Consolidation and severance.

**Subpart C—Prehearing Procedures**

- 22.13 Commencement of a proceeding.
- 22.14 Complaint.
- 22.15 Answer to the complaint.
- 22.16 Motions.
- 22.17 Default.
- 22.18 Quick resolution; settlement; alternative dispute resolution.
- 22.19 Prehearing information exchange; prehearing conference; other discovery.
- 22.20 Accelerated decision; decision to dismiss.

**Subpart D—Hearing Procedures**

- 22.21 Assignment of Presiding Officer; scheduling the hearing.
- 22.22 Evidence.
- 22.23 Objections and offers of proof.
- 22.24 Burden of presentation; burden of persuasion; preponderance of the evidence standard.
- 22.25 Filing the transcript.
- 22.26 Proposed findings, conclusions, and order.

**Subpart E—Initial Decision and Motion to Reopen a Hearing**

- 22.27 Initial decision.
- 22.28 Motion to reopen a hearing.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

2008 SEP -2 10:11 AM

IN THE MATTER OF )

Southside Well Improvement and Service District )  
Gillette, Wyoming )

Respondent )

COMPLAINANT'S  
EXHIBIT NO. 2

ADMINISTRATIVE ORDER

Docket No. SDWA-08-2008-0097

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. Southside Well Improvement and Service District (Respondent) is a district that owns and/or operates the Southside Well Improvement and Service District Public Water System (the System) in Campbell County, Wyoming, which provides piped water to the public for human consumption. The System is supplied by a groundwater source consisting of one well, and serves approximately 75 people through 19 service connections year-round. 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. part 141.

VIOLATIONS

3. Respondent was required to initially monitor the System's water for four consecutive, quarterly samples during 2007 to determine compliance with the maximum contaminant level (MCL) for radionuclides. 40 C.F.R. § 141.26(a). Respondent sampled the water for contamination of radionuclides in the 1<sup>st</sup> (January-March) quarter in 2007, but failed to monitor the water for contamination of radionuclides for the remaining three quarters of 2007 and, therefore, violated this requirement.

4. Respondent is required to monitor the water at least once per month for compliance with the maximum contaminant level (MCL) for total coliform bacteria. 40 C.F.R. § 141.21(a). Respondent failed to monitor the System's water in November 2003, July 2006, November 2007, and January and February 2008, 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 February 2007 after a total coliform positive sample in the preceding month and, therefore, violated this requirement.

6. The law requires Respondent 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 July 2006 violation and February 2007 violation listed in paragraphs 4 and 5 above respectively and, therefore, violated the requirement. Public

notice for the 2007 failure to monitor radionuclides, and the November 2007 and January and February 2008 failure to monitor total coliform violations are not yet past due.

7. Respondent is required to report any failure to comply with a coliform monitoring requirement to the EPA within 10 days after learning of the violation. 40 C.F.R. § 141.21(g)(2). Respondent failed to report to EPA total coliform monitoring violations listed in paragraphs 4 and 5 above and, therefore, violated this requirement.

8. Respondent is required to report any failure to comply with any of the drinking water regulations (except where a different reporting period is specified) to EPA within 48 hours. 40 C.F.R. § 141.31(b). Respondent failed to report the violations listed in paragraphs 3 and 6 above to EPA and, therefore, violated this requirement.

### ORDER

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

9. Prior to September 30, 2008 and again between October 1, 2008 and December 31, 2008, and per the regulations thereafter, Respondent shall monitor for radionuclides. 40 C.F.R. § 141.26(a).

10. Upon receipt of this Order, Respondent shall monitor for total coliform bacteria once per month as defined in the regulations. 40 C.F.R. § 141.21.

11. 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.

12. Within 30 days of the effective date of this Order, Respondent must provide public notice of the violations specified in paragraphs 3 through 5 above, except for the November 2003 total coliform monitoring violation. 40 C.F.R. §§ 141.201, 141.202 and 141.205. This notice shall be given 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. Respondent must issue a repeat notice every three months for as long as the violation persists. Respondent shall notify the public of any future violations. Respondent shall submit a copy of the public notice to EPA within ten days of completion of the public notice. 40 C.F.R. § 141.31(d).

13. Upon the effective date of this Order, Respondent shall report all analytical results to EPA within the first 10 days following the month in which sample results are received, or within the first 10 days following the end of the monitoring period, whichever is shortest. 40 C.F.R. § 141.31(a).

14. Any violation of total coliform monitoring requirements shall be reported to EPA within 10 days after the Respondent learns of it. 40 C.F.R. § 141.21(g)(2).

15. Respondent shall report any violation of the National Primary Drinking Water Regulations (except as noted above) to EPA within 48 hours. 40 C.F.R. § 141.31(b).

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

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

GENERAL PROVISIONS

17. 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.

18. 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.

8/26/08  
Date

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

25 August 2008  
Date

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



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

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

COMPLAINANT'S  
EXHIBIT NO. 3  
2009 SEP 23 AM 9:30

FILED  
EPA REGION VIII  
HEARING CLERK

SEP 23 2009

Ref: 8 ENF-W

CERTIFIED MAIL #  
RETURN RECEIPT REQUESTED

Southside Well Improvement and Service District  
c/o Rex Markley, Chairman  
445 Carlisle Street  
Gillette, Wyoming 82718

Re: Violation of Administrative Order  
Docket No. SDWA-08-2008-0097  
Southside Well Improvement and  
Service District  
PWS ID # WY5600122

Dear Mr. Markley:

On September 2, 2008, the US Environmental Protection Agency (EPA) issued an Administrative Order (the Order), Docket No. SDWA-08-2008-0097, ordering Southside Well Improvement and Service District, owner and/or operator of the Southside Well Improvement and Service District Public Water System (the system) to comply with various drinking water regulations issued by EPA under the Safe Drinking Water Act (the Act), 42 U.S.C. Section 300f et seq.

Our records indicate that Southside Well Improvement and Service District is in violation of the Administrative Order. Among other things, the Order included the following requirements (quoted from items 10 and 14, of the Order section on pages 2 and 3 respectively of the Order):

1. Upon receipt of this Order, Respondent shall monitor for total coliform bacteria once per month as defined in the regulations. 40 C.F.R. § 141.21.

Southside Well Improvement and Service District did not monitor for total coliform bacteria at the system during June 2009.

2. Upon the effective date of this Order, any violation of total coliform monitoring requirements shall be reported to EPA within 10 days after the Respondent learns of it. 40 C.F.R. § 141.21(g)(2).

Southside Well Improvement and Service District did not report the failure to monitor total coliform violation that occurred during June 2009 to EPA.

EPA is considering additional enforcement action as a result of the non-compliance with the Order. Violating an administrative order may lead to (1) a penalty of up to \$37,500 per day per violation of the Order, and/or (2) a court injunction ordering compliance.

If you have any questions or wish to have an informal conference with EPA, you may contact Shawn McCaffrey at 1-800-227-8917, extension 6515 or (303) 312-6515. Any questions from your attorneys should be directed to David Rochlin, Senior Enforcement Attorney, at (303) 312-6892 or at the following address:

David Rochlin  
Senior Enforcement Attorney  
U.S. EPA, Region 8 (8-ENF-L)  
1595 Wynkoop Street  
Denver, Colorado 80202-1129

We urge your prompt attention to this matter.



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Lisa Kahn, Team Leader  
Drinking Water Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

cc: Bret Wolz, Operator  
Tina Artemis, EPA Regional Hearing Clerk  
Wyoming DEQ (via email)  
Wyoming DOH (via email)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

2009 JUN -2 10:10:00

IN THE MATTER OF )  
 )  
Southside Well Improvement and Service District )  
Gillette, Wyoming )  
 )  
Respondent )

ADMINISTRATIVE ORDER

Docket No. **SDWA-08-2009-0047**

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 et seq., as properly delegated to the undersigned officials.

2. Southside Well Improvement and Service District (Respondent) is a municipality that owns and/or operates the Southside Well Improvement and Service District Public Water System (the System) in Campbell County, Wyoming, which provides piped water to the public for human consumption. The System is supplied by a groundwater source consisting of one well, and serves approximately 75 persons through 19 service connections year-round. 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. part 141.

VIOLATIONS

3. Respondent is required to monitor the chlorine residual in the System's distribution system at the same time and same location as the System's monthly total coliform samples. 40 C.F.R. § 141.132(c)(1)(i). Respondent failed to monitor for chlorine in October 2008, and, therefore, violated this requirement.

4. Respondent is required to distribute an annual Consumer Confidence Report (CCR) to its customers and provide a copy of the report to EPA by July 1 of each year. 40 C.F.R. §§ 141.152(b) and 141.155(c). Respondent failed to submit a copy of its 2007 CCR to EPA by July 1, 2008, and, therefore, violated this requirement. Respondent submitted its 2007 CCR to EPA on September 30, 2008.

5. Respondent is required to monitor the System's water every three years to determine compliance with the action levels for lead and copper. 40 C.F.R. § 141.86(d). Based on the population served by Respondent's system, Respondent is required to collect at least 5 samples during each monitoring period. 40 C.F.R. § 141.86(c). Respondent most recently monitored for lead and copper on August 23, 2005, and the next sampling was to be taken between June 1, 2008 and September 30, 2008. Respondent failed to sample lead and copper between June 1, 2008 and September 30, 2008, and, therefore, violated this requirement.

6. 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 the drinking water regulations) to EPA within 48 hours. 40 C.F.R. § 141.31(b). Respondent failed to report the violations listed in paragraphs 3, 4, and 5 above to EPA and, therefore, violated this requirement.

#### ORDER

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

7. Upon receipt of this Order, Respondent shall monitor the chlorine residual in the System's distribution system at the same time and same location as the System's monthly total coliform samples and report the results to EPA as required by the drinking water regulations. 40 C.F.R. §§ 141.132(c)(1)(i) and 141.134(c)(1).

8. Upon receipt of this Order, Respondent shall complete and distribute an annual CCR for the System and provide EPA a copy of the CCR by July 1 of each year and a certification by October 1 of each year. 40 C.F.R. §§ 141.155(c) and 141.152(b).

9. Between June 1 and September 30, 2009, Respondent shall monitor the System's water for lead and copper. Respondent shall monitor for lead and copper as required by the regulations thereafter. Respondent shall collect 5 samples during each sampling event. 40 C.F.R. §§ 141.86(c) and 141.86(d). Respondent shall report analytical results to EPA within the first 10 days following the end of the monitoring period, as required by the drinking water regulations. 40 C.F.R. § 141.90.

10. Respondent shall report any violation of the National Primary Drinking Water Regulations (except as noted above) to EPA within 48 hours. 40 C.F.R. § 141.31(b).

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

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

#### GENERAL PROVISIONS

12. 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.



13. 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(g)(3); 40 C.F.R. part 19.

Issued this 2nd day of June, 2009.

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

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



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 Wynkoop Street  
DENVER, CO 80202-1129

Phone 800-227-8917

<http://www.epa.gov/region08>

COMPLAINANT'S  
EXHIBIT NO. 5

2009 DEC 21 PM 12:43

FILED  
EPA REGION VIII  
HEARING CLERK

DEC 21 2009

Ref: 8 ENF-W

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Southside Well Improvement and Service District  
c/o Rex Markley, Chairman  
445 Carlisle Street  
Gillette, Wyoming 82718

Re: Violation of Administrative Order  
Docket No. SDWA-08-2009-0047  
Southside Well Improvement and  
Service District  
PWS ID # WY5600122

Dear Mr. Markley:

On June 2, 2009, the US Environmental Protection Agency (EPA) issued an Administrative Order (the Order), Docket No. SDWA-08-2009-0047, ordering Southside Well Improvement and Service District, owner and/or operator of the Southside Well Improvement and Service District Water System to comply with various regulations issued by EPA under the Safe Drinking Water Act (the Act), 42 U.S.C. § 300f *et seq.*

Our records indicate that Southside Well Improvement and Service District is in violation of the Administrative Order. Among other things, the Order included the following requirements (quoted from items 9 and 10 of the Order section on page 2 of the Order):

1. Between June 1 and September 30, 2009, Respondent shall monitor the system's water for lead and copper. Respondent shall monitor for lead and copper as required by the regulations thereafter. Respondent shall collect 5 samples during each sampling event. 40 C.F.R. §§ 141.86(c) and 141.86(d). Respondent shall report analytical results to EPA within the first 10 days following the end of the monitoring period, as required by the drinking water regulations. 40 C.F.R. § 141.90.

Southside Well Improvement and Service District did not collect five lead and copper samples between June 1 and September 30, 2009. EPA does acknowledge that the system took one lead and copper sample on June 26, 2009 and another on September 29, 2009.

2. Respondent shall report any violation of the National Primary Drinking Water Regulations (except as noted above) to EPA within 48 hours. 40 C.F.R. § 141.31(b).

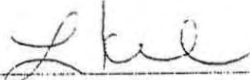
Southside Well Improvement and Service District did not report the failure to collect five lead and copper samples between June 1 and September 30, 2009 to EPA.

EPA is considering additional enforcement action as a result of the non-compliance with the Order. Violating an administrative order may lead to (1) a penalty of up to \$37,500 per day per violation of the Order, and/or (2) a court injunction ordering compliance.

If you have any questions or wish to have an informal conference with EPA, you may contact Shawn McCaffrey at 1-800-227-8917, extension 6515 or (303) 312-6515. If you are represented by an attorney who has questions, ask your attorney to contact Peggy Livingston Senior Enforcement Attorney, at 1-800-227-8917, extension 6858, or (303) 312-6858 or at the following address:

Peggy Livingston  
Senior Enforcement Attorney  
U.S. EPA, Region 8 (8-ENF-L)  
1595 Wynkoop Street  
Denver, Colorado 80202-1129

We urge your prompt attention to this matter.

  
-----  
Lisa Kahn, Team Leader  
Drinking Water Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

cc: Bret Wolz, Operator  
Tina Artemis, EPA Regional Hearing Clerk  
Wyoming DEQ (via email)  
Wyoming DOH (via email)