



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 WYNKOOP STREET

DENVER, COLORADO 80202-1129

Phone 800-227-8917

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

Ref: 8ENF-W

CERTIFIED MAIL LETTER
RETURN RECEIPT REQUESTED

JUN 16 2008

Johnson County Commissioners
c/o Gerald E. Fink, Chair
76 N. Main Street
Buffalo, WY 82834

Re: Notice of Safe Drinking Water Act
Enforcement Action against
South Fork Mountain Resort, LLC
PWS ID# 5601068

Dear Commissioners:

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

An Administrative Order is being issued to the South Fork Mountain Resort located in Buffalo, Wyoming. This Order requires that the public water system take measures to return to compliance with the SDWA and the National Primary Drinking Water Regulations. These violations include: exceeding the maximum contaminant level for total coliform bacteria, failure to monitor for total coliform bacteria (quarterly, additional routine and repeat) and failure to provide public notice of the violations.

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 Kathelene Brainich at (303) 312-6481.

Sincerely,

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

Enclosure



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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DENVER, CO 80202-1129
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Ref: 8ENF-W

JUN 16 2008

CERTIFIED MAIL LETTER
RETURN RECEIPT REQUESTED

Wayne Jones, Registered Agent
South Fork Mountain Resort, LLC
POB 389
Buffalo, WY 82834

Re: Administrative Order
Docket No. **SDWA-08-2008-0069**
PWS ID #WY5601068

Dear Mr. Jones:

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. section 300f et seq. Among other things, the Order describes how South Fork Mountain Resort, LLC has 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 the South Fork Mountain Resort 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.

Also enclosed is a small business resources information sheet, outlining compliance assistance resources and tools available to small businesses and small governments, in case these resources apply to your situation.

To submit information or request an informal conference with EPA, contact Kathelene Brainich at the above address (with the mailcode 8ENF-W) or by phone at (800) 227-8917, extension 6481 or (303) 312-6481. 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,



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

Enclosures

Order
Information sheet

cc: Gayle Laurent, Bighorn National Forest (via email glaurent@fs.fed.us)
WY DEQ (via email)
WY DOH (via email)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2008 JUN 15 PM 2:13

IN THE MATTER OF)
)
South Fork Mountain Resort, LLC)
Buffalo, WY)
)
Respondent)

ADMINISTRATIVE ORDER
Docket No. **SDWA-08-2008-0069**

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. South Fork Mountain Resort, LLC (Respondent) is a limited liability company under the laws of the State of Wyoming as of October 22, 1999, that owns and/or operates the South Fork Mountain Resort Water System (the system) in Johnson County, Wyoming which provides piped water to the public for human consumption. The system is supplied by a groundwater source consisting of one untreated well. The system installed a new well, distribution system and septic system in 2004. The system serves an average of approximately 70 people per day through 6 service connections and is open mid-May through the end of October. The system's operating period was changed from all year to seasonal in EPA records as of April 30, 2007. The system is a "non-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 quarter 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 test positive for such bacteria, it is a violation of the MCL. 40 C.F.R. § 141.63. Respondent's sampling results in September 2007 exceeded the MCL for total coliform bacteria and therefore violated this requirement. 40 C.F.R. § 141.63(b).

4. Respondent is required to monitor the system's water at least once per quarter to determine compliance with the MCL for total coliform bacteria. 40 C.F.R. § 141.21. Respondent failed to monitor the water for contamination of total coliform bacteria during 3rd quarter (July-September) 2006, and 2nd quarter (April-June) 2005 and therefore violated this requirement.

5. Respondent collects fewer than 5 routine samples per month and is required, if one or more total coliform samples are positive, to collect at least five routine total coliform samples during the next month the system provides water to the public. 40 C.F.R. § 141.21(a)(5). Respondent failed to collect at least 5 routine samples (none were taken) in October 2007 after a total coliform positive sample in the preceding month, and therefore violated this requirement.

6. 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 total coliform positive routine sample, and therefore violated this requirement.

7. Respondent is required to notify the public of certain violations of the drinking water regulations, in the manner specified by the regulations and submit a copy to EPA. 40 C.F.R. § 141.201 *et seq.* Respondent failed to notify the public and/or submit a copy of the notice to EPA of the violations listed in paragraphs 3, 4, 5 and 6 above and therefore violated this requirement.

8. Respondent is required to report any sampling results that exceed the MCL for total coliform to EPA no later than the end of the next business day after it learns of the violation. 40 C.F.R. § 141.21(g)(1). Respondent failed to report to EPA the total coliform MCL violation listed in paragraph 3 above and therefore violated this requirement.

9. Respondent is required to report any failure to comply with a coliform monitoring requirement to EPA within ten days after the system learned of the violation. 40 C.F.R. § 141.21(g)(2). Respondent failed to report to EPA the failure to monitor total coliform violations listed in paragraphs 4, 5 and 6 above and therefore violated this requirement.

10. 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 7, 8 and 9 above) to EPA within 48 hours. 40 C.F.R. § 141.31(b). Respondent failed to report the violation listed in paragraph 7 above to EPA and therefore violated this requirement.

ORDER

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

11. Within 30 days of the effective date of this Order, Respondents shall provide EPA with a compliance plan for the system to come into consistent compliance with the total coliform MCL. 40 C.F.R. § 141.63. The plan shall include proposed system modifications, estimated costs of modifications, and a final compliance date within 30 days from the date of EPA's approval of the plan. The plan must be approved by EPA before construction or modifications can commence. EPA's approval of Respondents' plan and schedule does not substitute for any State of Wyoming approvals of plans and specifications that may also be required before modifications can be made to the system.

12. Respondent must achieve and maintain compliance with the total coliform MCL by the final date specified in the plan. 40 C.F.R. § 141.63. If implementation of the plan fails to achieve permanent compliance, EPA may order further steps and/or seek penalties for noncompliance. Any violation of the total coliform MCL shall be reported to EPA no later than the end of the next business day after it learns of the violation. 40 C.F.R. § 141.21(g)(1).

13. Upon receipt of this Order, Respondent shall monitor for total coliform bacteria during 2nd, 3rd and 4th quarters each year, 40 C.F.R. §§ 141.21, 141.63. 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 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).

14. 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. Respondent shall report any analytical result to the EPA within the first 10 days following the end of the monitoring period. 40 C.F.R. § 141.31(a).

15. 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)

16. Within 30 days of the effective date of this Order, Respondent shall provide notice to the public of the violations listed above in paragraphs 3, 4, 5 and 6 above by (1) posting the notice for no less than seven days in public locations where it will be seen by people served by the system, OR (2) mailing or delivering the notice to each customer and connection, AND (3) any other effective method if people would not be notified by either of the first two notice options. 40 C.F.R. § 141.201 *et seq.* If public notice was performed at the time of the violations, Respondent may submit a copy of the public notice that was previously completed. Respondent shall notify the public of any future violations. Respondent shall send a copy of the notice to EPA within 10 days after providing the notice, 40 C.F.R. § 141.21(g)(2).

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

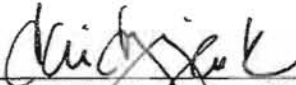
U. S. EPA Region 8 (8P-W-DW)
1595 Wynkoop Street
Denver, CO 80202-1129

GENERAL PROVISIONS


18. 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.

19. 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.

6/11/08
Date


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

6/11/08
Date


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